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**SPECIAL COURT FOR SIERRA LEONE**

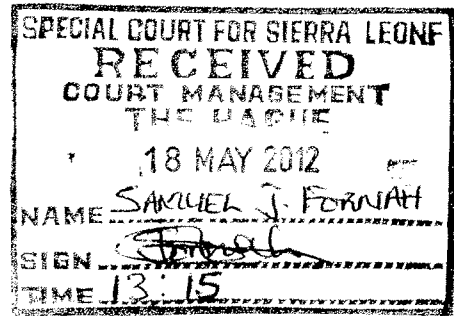
**TRIAL CHAMBER II**

**Before:** Justice Richard Lussick, Presiding Judge  
Justice Teresa Doherty  
Justice Julia Sebutinde

**Registrar:** Binta Mansaray

**Date:** 18 May 2012

**Case No.:** SCSL-03-01-T



**PROSECUTOR** v. **Charles Ghankay TAYLOR**

**JUDGEMENT**

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## I. INTRODUCTION

1. The Special Court for Sierra Leone (“Special Court” or “Court”) was established to prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996.<sup>1</sup> It is an international court<sup>2</sup> established under an Agreement between the United Nations<sup>3</sup> and the Government of Sierra Leone (“Agreement”),<sup>4</sup> and independent from the domestic legal system of Sierra Leone. The Statute of the Special Court (“Statute”)<sup>5</sup> empowers the Court to prosecute persons who committed crimes against humanity, serious violations of Article 3 Common to the 1949 Geneva Conventions for the Protection of War Victims and of Additional Protocol II, other serious violations of international humanitarian law and specified crimes under Sierra Leonean law.<sup>6</sup> The Special Court is governed by the Agreement, the Statute and by its Rules of Procedure and Evidence (“Rules”).<sup>7</sup>

2. This Judgement is rendered by Trial Chamber II of the Special Court for Sierra Leone,<sup>8</sup> pursuant to the mandate granted to the Special Court by the United Nations and the Republic of Sierra Leone and in accordance with Article 18 of the Statute and Rule 88 of the Rules.

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<sup>1</sup> Statute of the Special Court for Sierra Leone, Article 1(1) (“Statute”).

<sup>2</sup> *Prosecutor v. Taylor*, SCSL-03-01-I-059, Decision on Immunity from Jurisdiction, 31 May 2004, para. 57.

<sup>3</sup> Authorised pursuant to United Nations Security Council Resolution 1315 (2000) of 14 August 2000, UN Doc. S/RES/1315 (2000).

<sup>4</sup> Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone, signed on 16 January 2002.

<sup>5</sup> Statute of the Special Court for Sierra Leone, annexed to the Agreement.

<sup>6</sup> Articles 2 to 5 of the Statute.

<sup>7</sup> Rules of Procedure and Evidence of the Special Court for Sierra Leone (“Rules”).

<sup>8</sup> Composed of Justice Teresa Doherty (Northern Ireland), appointed by the Secretary General of the United Nations; Justice Richard Lussick (Samoa), appointed by the Government of Sierra Leone; Justice Julia Sebutinde (Uganda), appointed by the Secretary General of the United Nations; Justice El Hadji Malick Sow (Senegal) appointed as Alternate Judge by the Secretary General of the United Nations and by the Government of Sierra Leone.

**A. The Accused**

3. The Accused, Charles Ghankay Taylor,<sup>9</sup> was born on 28 January 1948 in Arthington in the Republic of Liberia. Taylor was the third eldest of eleven children and by his own testimony came from a ‘humble’ background.<sup>10</sup>

4. Taylor completed his high school studies to become a teacher in 1967, and went on to become an accountant.<sup>11</sup> In 1972, he went to the United States and graduated with an associate degree in accounting in May 1974 from Chamberlayne Junior College in Boston, Massachusetts. In 1976, he graduated with a BSc degree in economics with specialisation in development from Bentley College in Waltham, Massachusetts.<sup>12</sup>

5. When Taylor arrived in the United States in 1972, he, along with others, founded the Union of Liberian Associations in the Americas (“ULAA”) with the aim to bring about peace, as well as political and democratic changes, in Liberia. In 1979, Taylor became chairman of ULAA.<sup>13</sup>

6. In that capacity Taylor visited Liberia in January 1980.<sup>14</sup> During that visit, in April 1980, Samuel Doe successfully staged a coup d’etat to become the President of Liberia. Taylor joined Doe’s government as a Director General of the General Services Administration and Deputy Minister of Commerce until he fled to the United States in late 1983 following embezzlement allegations by the Doe Government.<sup>15</sup> Taylor was arrested in

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<sup>9</sup> The Accused is also known as “Dankpannah Dr Charles Ghankay Taylor” and “Dankpannah Charles Ghankay Macarthur Taylor” and has operated under the alias “Jean-Michel Some” (see Charles Ghankay Taylor, Transcript 9 November 2009, p. 31427; Transcript 1 December 2009, p. 32697). “Dankpannah” is a traditional title given to the most senior chief in Liberia who serves as the chairman of the chiefs and elders and as the “father of the land”, see Defence Exhibit D-421, Affidavit of Chief Jalloh Loon. This title has been spelled in a variety of ways, such as “Dah Kpannah” (Exhibit D-421), “Dahkpanah” (as used by the Accused himself, see SCSL-03-01-T-292,) or “Dankpannah”.

<sup>10</sup> Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24354-24356, 24361.

<sup>11</sup> Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24368, 24372-24374.

<sup>12</sup> Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24374-24379; Exhibit P-031, “Report for the Special Court for Sierra Leone, Charles Taylor and the War in Sierra Leone, Stephen Ellis, 5 December 2006”, p. 2. Mr Taylor received honorary doctorate degrees from the University of China and University of Liberia see Charles Ghankay Taylor, Transcript 14 July 2009, p. 24355.

<sup>13</sup> Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24385-24387; Exhibit P-031, “Report for the Special Court for Sierra Leone, Charles Taylor and the War in Sierra Leone, Stephen Ellis, 5 December 2006”, p. 2.

<sup>14</sup> Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24423-24424.

<sup>15</sup> Charles Ghankay Taylor, Transcript 15 July 2009, pp. 24467-24468, 24489-24491, 24501-24502; Exhibit P-031, “Report for the Special Court for Sierra Leone, Charles Taylor and the War in Sierra Leone, Stephen Ellis, 5 December 2006”, p. 2.







June 1984 in the United States pursuant to an extradition request on the Liberian embezzlement charges by Liberia.<sup>16</sup> He was detained on remand pending extradition in Plymouth County House of Correction in Massachusetts, and was able to escape in November 1985.<sup>17</sup>

7. Following his escape from prison in the United States Taylor travelled back to West Africa and in 1986 formed an armed opposition group in Côte d'Ivoire, the National Patriotic Front of Liberia ("NPFL").<sup>18</sup> The NPFL received military training in Libya in 1987.<sup>19</sup> Following the training in Libya, Taylor returned to West Africa in order to plan his insurgency and incursion into Liberia. In December 1989, Taylor led the NPFL insurgency into Liberia from Côte d'Ivoire and a civil war ensued. Taylor established the National Patriotic Reconstruction Assembly Government ("NPRAG") in the NPFL held territories, which he headed.<sup>20</sup> He remained the leader of the NPFL throughout the Liberian civil war until its official end in 1996, following the peace agreement amending and supplementing the Cotonou Accord, the Akosombo Agreement and its Accra Clarification, commonly referred to as the Abuja Peace Accord.<sup>21</sup>

8. As part of the peace process, Taylor, along with all the warring factional leaders, formed and became a member of the interim government known as the Council of State.<sup>22</sup> Taylor resigned from the Council of State in January 1997 in order to be eligible to stand as a candidate for the 1997 general election.<sup>23</sup> He won the election,<sup>24</sup> which was declared "free and fair" by governmental organisations and international observers,<sup>25</sup> to become the 21<sup>st</sup>

<sup>16</sup> Charles Ghankay Taylor, Transcript 15 July 2009, p. 24508; Exhibit P-031, "Report for the Special Court for Sierra Leone, Charles Taylor and the War in Sierra Leone, Stephen Ellis, 5 December 2006", p. 3.

<sup>17</sup> Charles Ghankay Taylor, Transcript 15 July 2009, p. 24509; Exhibit P-031, "Report for the Special Court for Sierra Leone, Charles Taylor and the War in Sierra Leone, Stephen Ellis, 5 December 2006", p. 3.

<sup>18</sup> Charles Ghankay Taylor, Transcript 15 July 2009, pp. 24534-24535.

<sup>19</sup> Charles Ghankay Taylor, Transcript 15 July 2009, pp. 24539, 24553-24554.

<sup>20</sup> Charles Ghankay Taylor, Transcript 16 July 2009, p. 24690-24691; Stephen Ellis, Transcript 18 January 2008, p. 1550.

<sup>21</sup> Exhibit P-031, "Report for the Special Court for Sierra Leone, Charles Taylor and the War in Sierra Leone, Stephen Ellis, 5 December 2006", p. 3; Exhibit P-478, "Excerpts From: US Department of State Liberia Country Report on Human Rights for 1998, Bureau of Democracy, Human Rights and Labor, February 26, 1999;" Edward Zaymay, Transcript 6 May 2010, pp. 40606-40607.

<sup>22</sup> Charles Ghankay Taylor, Transcript 22 July 2009, pp. 25015-25016.

<sup>23</sup> Charles Ghankay Taylor, Transcript 1 December 2009, p. 32764.

<sup>24</sup> Exhibit D-385, "Official Journal of the Economic Community of West African States (ECOWAS), Volume 22, Special Edition", pp. 185-190.

<sup>25</sup> Exhibit D-338, "Letter Dated 24 July 1997 from the Secretary General Addressed to the President of the Security Council, UN Doc. S/1997/581, 24 July 1997", p. 3 (stating that "[o]n behalf of the United Nations and

President of Liberia on 2 August 1997 for a six-year term.<sup>26</sup> In that capacity he was involved and held positions in regional organisations, such as the Economic Community of West African States (“ECOWAS”).<sup>27</sup>

9. In 1999, Taylor’s Government came under military pressure by an armed rebellion which reached the outskirts of Monrovia by January 2002. Given this military pressure, combined with the political pressure following the unsealing of his Indictment and Warrant of Arrest on 4 June 2003, Taylor stepped down from the Presidency on 11 August 2003.<sup>28</sup> Taylor went into exile in Nigeria and remained there until his arrest by Nigerian authorities on 29 March 2006, following a request by Liberian President Johnson-Sirleaf to the Nigerian authorities that he be surrendered to the Special Court pursuant to the Warrant of Arrest issued by the Special Court.<sup>29</sup>

10. On the same day, Taylor was transferred into the custody of the Special Court in Freetown. He was arraigned and pleaded not guilty to all counts in the Indictment on 3 April 2006.<sup>30</sup> Following security concerns about holding the trial in West Africa, UN Security Council Resolution 1688 (2006) and agreements with the Government of The Netherlands and the International Criminal Court, the President of the Special Court ordered his transfer to The Netherlands in June 2006 in order to stand trial in The Hague.<sup>31</sup>

11. Taylor is currently held in the detention centre of the International Criminal Court (“ICC”) located in The Hague under the authority of the Special Court.

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ECOWAS, the elections were certified as having been free and fair”.); Exhibit D-385, “Official Journal of the Economic Community of West African States (ECOWAS), Volume 22, Special Edition”, pp. 185, 186 (where Nigerian Foreign Minister Tom Ikimi states before the release of the election results that he did not observe and did not receive any reports of “intimidation, harassment and hostility” and the Independent Election Commission states that ECOWAS, the UN, the OAU, European Union and the Carter Centre have been unanimous that the elections were “peaceful, free, fair and transparent”); Exhibit D-126, “The Carter Center Report, ‘Observing the 1997 Special Elections Process in Liberia’”, p. 9.

<sup>26</sup> Exhibit D-141, “Presidential Papers 2 August 1997- 31 December 1998”, p. 14; Charles Ghankay Taylor, Transcript 31 August 2009, p. 28056.

<sup>27</sup> Exhibit D-171, “New African, No. 358, ‘Taylor’s Triumph Liberia’s 100 Days,’ December 1997”, pp. 8-9.

<sup>28</sup> Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24344-24347.

<sup>29</sup> Exhibit D-410, “Security Council Approves Trial Transfer of Former Liberian President Charles Taylor to Netherlands, UN Doc. SC/8755”, 16 June 2006.

<sup>30</sup> Transcript 3 April 2006, p. 14.

<sup>31</sup> Exhibit D-410, “Security Council Approves Trial Transfer of Former Liberian President Charles Taylor to Netherlands, UN Doc. SC/8755, 16 June 2006”.

**B. Summary of the Charges**

12. The Accused faces an 11 count indictment.<sup>32</sup> Five of these counts charge the Accused with crimes against humanity, punishable under Article 2 of the Statute, in particular: murder (Count 2); rape (Count 4); sexual slavery (Count 5); other inhumane acts (Count 8); and enslavement (Count 10). Five additional counts charge the Accused with violations of Article 3 Common to the Geneva Conventions (“Common Article 3”) and of Additional Protocol II, punishable under Article 3 of the Statute, in particular: acts of terrorism (Count 1); violence to life, health and physical or mental well-being of persons, in particular murder (Count 3); outrages upon personal dignity (Count 6); violence to life, health and physical or mental well-being of persons, in particular cruel treatment (Count 7); and pillage (Count 11). The remaining count charges the Accused with conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities (Count 9), a serious violation of international humanitarian law punishable under Article 4 of the Statute.

13. The Indictment charges that “[m]embers of the RUF, AFRC, AFRC/RUF Junta or alliance and/or Liberian fighters, including members and ex-members of the NPFL (Liberian fighters), assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused”<sup>33</sup> committed the crimes underlying the 11 charged counts spanning over a period of 61 months and 19 days, i.e. from 30 November 1996 to 18 January 2002, in named locations within six districts of Sierra Leone, as follows:

(i) *From 30 November 1996 to 24 May 1997: rape, sexual slavery, outrages upon personal dignity, physical violence and enslavement in Kailahun District.*

(ii) *From 25 May 1997 to 31 January 1998: unlawful killings and enslavement in Kenema District; unlawful killings, rape, sexual slavery, outrages upon personal dignity, physical violence and enslavement in Kono District; unlawful killings, rape, sexual slavery, outrages upon personal dignity, physical violence and enslavement in Kailahun District.*

(iii) *From 1 February 1998 to 31 December 1998: unlawful killings and enslavement in Kenema District; pillage in Port Loko and Bombali Districts; burnings as acts of terrorism,*

<sup>32</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-263, Prosecution’s Second Amended Indictment, 29 May 2007 (“Indictment”).

unlawful killings, rape, sexual slavery, outrages upon personal dignity, physical violence, enslavement and pillage in Kono District; unlawful killings, rape, sexual slavery, outrages upon personal dignity, physical violence and enslavement in Kailahun District; burnings of civilian property as acts of terrorism in Freetown and Western Area.

(iv) *From 1 January 1999 to 28 February 1999*: unlawful killings and enslavement in Kono District; rape, sexual slavery, outrages upon personal dignity, physical violence and enslavement in Kailahun District; burnings of civilian property as acts of terrorism, unlawful killings, rape, sexual slavery, outrages upon personal dignity, physical violence, enslavement and pillage in Freetown and Western Area.

(v) *From 1 March 1999 to 18 January 2002*: unlawful killings and enslavement in Kono District; rape, sexual slavery, outrages upon personal dignity, physical violence and enslavement in Kailahun District.

14. The indictment charges as follows:

(vi) that “[m]embers of the RUF, AFRC, AFRC/RUF Junta or alliance and/or Liberian fighters, including members and ex-members of the NPFL (Liberian fighters), assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused” routinely conscripted, enlisted and/or used boys and girls under the age of 15 to participate in active hostilities, throughout the period of the indictment – from 30 November 1998 to 18 January 2002 –and throughout the territory of Sierra Leone;<sup>34</sup>

(vii) that “[m]embers of the RUF, AFRC, AFRC/RUF Junta or alliance and/or Liberian fighters, including members and ex-members of the NPFL (Liberian fighters), assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused” burned civilian property, and committed each of the forgoing crimes, as part of a campaign to terrorise the civilian population of the Republic of Sierra Leone.<sup>35</sup>

(viii) that the Accused, by his acts or omissions, is individually criminally responsible pursuant to Article 6(1) of the Statute for the crimes as alleged in the Indictment, which

<sup>33</sup> Indictment, paras 5, 9, 14, 18, 22, 23, 28.

<sup>34</sup> Indictment, para. 22.

<sup>35</sup> Indictment, para. 5.

crimes the Accused planned, instigated, ordered, committed, or in whose planning, preparation or execution the Accused otherwise aided and abetted, or which crimes amounted to or were involved within a common plan, design or purpose in which the Accused participated, or were a reasonably foreseeable consequence of such common plan, design or purpose.<sup>36</sup>

(ix) that in addition or alternatively, pursuant to Article 6(3) of the Statute, the Prosecution alleges that the Accused, while holding positions of superior responsibility and exercising command and control over subordinate members of the RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters, is individually criminally responsible for the crimes as alleged in the Indictment. It charges that the Accused is responsible for the criminal acts of his subordinates in that he knew or had reason to know that the subordinate was about to commit such acts or had done so and the Accused failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.<sup>37</sup>

### C. Summary of the Defence Case

15. The Accused pleaded not guilty to all counts in the Indictment.<sup>38</sup>

16. The Defence accepts that crimes against humanity and war crimes were committed in the armed conflict in Sierra Leone during the Indictment period, but denies that the Accused is responsible for them.<sup>39</sup> The Defence submits that the burden of proof is upon the Prosecution to prove each and every count of the Indictment.<sup>40</sup> Specifically, the Defence submits that the Prosecution must prove beyond reasonable doubt (i) that the crimes were actually committed; (ii) that the crimes fulfil all the legal – contextual and specific – elements of Article 2, 3 and 4 of the Statute; and (iii) that there is a nexus between the alleged crimes and the Accused.<sup>41</sup>

<sup>36</sup> Indictment, para. 33.

<sup>37</sup> Indictment, para. 34.

<sup>38</sup> Transcript 3 April 2006, p. 14.

<sup>39</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1229, Defence Final Trial Brief, 9 March 2011 (“Defence Final Trial Brief”), para. 1557; *Prosecutor v. Taylor*, SCSL-03-01-PT-229, Defence Pre-Trial Brief, 26 April 2007, (“Defence Pre-Trial Brief”), para. 43.

<sup>40</sup> Defence Final Trial Brief, para. 27.

<sup>41</sup> Defence Pre-Trial Brief, para. 42.

17. In addition to denying responsibility for crimes committed, the Defence also maintains that:

- (i) the Accused did not have the means to support the war in Sierra Leone because he was President of a country that was “effectively bankrupt” and subject to an arms embargo;<sup>42</sup>
- (ii) the Accused had no reason to have gone into Sierra Leone to take its natural resources as alleged when “he had vast amounts of untapped natural resources in Liberia”;<sup>43</sup>
- (iii) the Accused did not support the war in Sierra Leone because he had a justifiable apprehension that a major war in Sierra Leone would lead to regional instability and so it is “incredulous” that the Accused “would have been in cahoots with the Junta”;<sup>44</sup>
- (iv) contrary to the Prosecution’s submissions, the Accused, through his diplomatic efforts, played a substantial role in fostering peace and security in Sierra Leone and that his contribution to the peace process was significant;<sup>45</sup>
- (v) the Prosecution adduced a considerable amount of evidence outside the temporal and geographical scope of the Indictment and that this evidence is so prejudicial to the Accused that it contravenes the Accused’s right to a fair trial and its admission would bring the administration of justice into serious disrepute;<sup>46</sup>
- (vi) much of the Prosecution’s case has in large measure been “shrouded in secrecy” as some insider witnesses have testified with protective measures;<sup>47</sup>
- (vii) the Prosecution provided financial inducements to potential witnesses and sources in exchange for cooperation and testimony, that these were made independent of and distinct from those made by the Witnesses and Victims Section and are a case of prosecutorial abuse of process depriving the Accused of a fair trial;<sup>48</sup>

<sup>42</sup> Defence Final Trial Brief, paras 461-471, 707.

<sup>43</sup> Defence Final Trial Brief, para. 468.

<sup>44</sup> Defence Final Trial Brief, para. 859

<sup>45</sup> Defence Final Trial Brief, paras 87-102.

<sup>46</sup> Defence Final Trial Brief, paras 28-37, 42-46, 1558-1567.

<sup>47</sup> Defence Closing Arguments, Transcript 9 March 2011, pp. 49408-49409.

<sup>48</sup> Defence Final Trial Brief, paras 23-26.

- (viii) some of the Prosecution's witnesses, particularly the linkage witnesses, were so lacking in credibility that the Trial Chamber should completely put aside several Prosecution witnesses altogether;<sup>49</sup>
- (ix) the Prosecution failed to call key individuals as witnesses, resulting in the Prosecution's case being largely focused on hearsay, circumstantial evidence and broad assumptions;<sup>50</sup>
- (x) much of the Prosecution's evidence was uncertain, contradictory and implausible;<sup>51</sup>
- (xi) the Prosecution's cross-examination of the Accused was unfocused, disjointed and generally ineffective in discrediting his evidence-in-chief;<sup>52</sup>
- (xii) procedural irregularities surrounding the pleading and adjudication of issues relating to the joint criminal enterprise ("JCE") and the delay in rendering a decision on a Defence motion<sup>53</sup> had a prejudicial and irremediable impact on the Accused's fair trial rights;<sup>54</sup>
- (xiii) under international criminal law, the Accused cannot be individually criminal responsible under the third form of JCE for participating in a JCE that had as its primary purpose the commission of a specific intent crime, such as terrorism,<sup>55</sup> and, moreover, there is a lack of Prosecution evidence to sustain a JCE as a mode of liability;<sup>56</sup> and
- (xiv) the prosecution of the Accused is "selective and vindictive in nature" and that the Accused was "singled out and prosecuted on the basis of [the United States Government's] political motives and interests".<sup>57</sup>

<sup>49</sup> Defence Final Trial Brief, paras 1377-1556, Defence Closing Arguments, Transcript 10 March 2011, pp. 49473, 49518.

<sup>50</sup> Defence Final Trial Brief, paras 72-81; Defence Closing Arguments, Transcript 9 March 2011, p. 49401.

<sup>51</sup> Defence Final Trial Brief, paras 385, 418, 490, 548, 589-596.

<sup>52</sup> Defence Final Trial Brief, paras 82-86.

<sup>53</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-378, Public Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, 14 December 2007.

<sup>54</sup> Defence Final Trial Brief, paras 47-71.

<sup>55</sup> Defence Rebuttal to Prosecution's Closing Arguments, Transcript 11 March 2011, pp. 49615-49617.

<sup>56</sup> Defence Rebuttal to Prosecution's Closing Arguments, Transcript 11 March 2011, p. 49580.

<sup>57</sup> Defence Final Trial Brief, paras 1-22.

## II. CONTEXT

18. The Sierra Leone Civil War commenced on 23 March 1991 when armed fighters known as the Revolutionary United Front (“RUF”) launched an insurgency from Liberia’s Lofa County into Sierra Leone’s Kailahun District.<sup>58</sup> The conflict continued until President Ahmad Tejan Kabbah of Sierra Leone announced the cessation of hostilities on 18 January 2002.<sup>59</sup> The Prosecution alleges that the Accused is responsible for crimes committed throughout the Indictment period – that is, from the signing of the Abidjan Accord on 30 November 1996 until the formal declaration of the end of the war on 18 January 2002.<sup>60</sup> The Accused is indicted for crimes alleged to have been committed in six of Sierra Leone’s thirteen districts.<sup>61</sup>

19. The 11-year civil war was complex, featuring a number of armed groups. Some of these groups formed alliances and some also experienced internal divisions and fracturing. In order to explain these complex events and relationships, an overview of the conflict in Sierra Leone is necessary. Further, as the Accused is alleged to have participated in the civil war without being physically present on the territory of Sierra Leone, it is necessary to provide a brief outline of the broader geopolitical context in which the civil war took place. In this section, the Trial Chamber provides an introduction to the politics, personalities and events necessary to understand the allegations against the Accused. The Trial Chamber also highlights the major areas of dispute between the parties and briefly summarises the parties’ submissions on these issues, reserving its findings for later in the judgement.<sup>62</sup>

<sup>58</sup> *Prosecutor v Taylor*, SCSL-03-1-T, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007 [Decision on Judicial Notice], Annex A, Facts C and N; DCT-190, Transcript 7 June 2010, pp. 42182-42183; DCT-025, Transcript 12 March 2010, pp. 37252-37255; Exhibit P-431, “Excerpts from: News Article, IPS – Inter Press Service/Global Information Network, Politics – Sierra Leone: No Lawyer Willing to Defend Rebel Leader (Lexis Nexis), 7 September 1998”, p. 1; Exhibit P-497, “Witness to the Truth: Report of the Sierra Leone Truth and Reconciliation Commission Report, Vol. 2”, p. 41; Fayia Musa, Transcript 13 April 2010, pp. 38839- 38840; Sam Kolleh, Transcript 1 November 2010, pp. 48369-48370, 48377; John Vincent, Transcript 25 March 2010, pp. 38008-38011.

<sup>59</sup> *Prosecutor v Taylor*, SCSL-03-01-PT-227, Joint Filing by the Prosecution and Defence Admitted Facts & Law, 26 April 2007 [Admitted Facts and Law], Agreed Fact 35; Decision on Judicial Notice, Annex A, Fact C.

<sup>60</sup> Prosecution Final Trial Brief, para. 1.

<sup>61</sup> The Accused is charged with crimes alleged to have been committed in Kailahun, Kenema, Kono, Bombali, Port Loko and Freetown and the Western Area.

<sup>62</sup> The issues and submissions highlighted in this Chapter are not exhaustive of all the issues raised by the parties.



A. **Origins of the Sierra Leone Civil War**

1. Sierra Leone and the Rise of Pan-Africanism

20. A former British colony, Sierra Leone achieved independence on 27 April 1961. In the decades following independence, Sierra Leone experienced several military coups until 21 April 1971 when Siaka Stevens assumed the Presidency under the All People's Congress ("APC"). In 1978 he established a one-party state. Major-General Joseph Saidu Momoh succeeded Stevens as President in 1985.<sup>63</sup> Despite its rich natural resources, including alluvial diamonds, Sierra Leone experienced economic decline during the 1980s as a result of corruption and nepotism under the APC regime.<sup>64</sup> Disenchanted by the political and economic decadence, a dissident group known as the RUF was formed in the late 1980s/early 1990s with the aim of forcibly removing the APC Government and restoring democracy and good governance to Sierra Leone.<sup>65</sup>

21. During the 1980s, Pan-Africanism became increasingly popular in West Africa and within Sierra Leone this movement was promoted by Fourah Bay College student Ali Kabbah.<sup>66</sup> Sierra Leonean students with connections to the Pan-African movement, including Abu Kanu, Rashid Mansaray, Mohammed Dabo and Cleo Hanciles, travelled to Libya to train with other supporters of the Pan-African ideology and to prepare for a revolution in Sierra Leone.<sup>67</sup> While in Libya, Ali Kabbah formed the Sierra Leone Pan African Revolutionary Movement ("SLPARM"), a dissident group which he led from 1987 until his departure from Libya in 1989.<sup>68</sup>

<sup>63</sup> Stephen Ellis, Transcript 18 January 2008, p. 1555; DCT-068, Transcript 11 March 2010, p. 37013; Exhibit D-062, "How Diamonds Fuelled the Conflict, Chronology of Sierra Leone, Sierra Leone Diamonds, Africa Confidential, April 1998", p. 1.

<sup>64</sup> D-006 (Confidential) ERN 16493-16494; Ngulu Kpakai, Transcript 11 March 2010, pp. 37014-37016.

<sup>65</sup> Exhibit D-336, "Footpaths to Democracy, Toward a New Sierra Leone, Volume One, 1995", pp. 19-21; TF1-371, Transcript 29 January 2008, pp. 2545-2549 (CS).

<sup>66</sup> Charles Ghankay Taylor, Transcript 16 July 2009, p. 24645; DCT-068, Transcript 11 March 2010, pp. 37111, 37157; Transcript 12 February 2008, p. 3675.

<sup>67</sup> Exhibit P-277 (Confidential), ERN 18108-18109; Charles Ghankay Taylor, Transcript 15 July 2009, p. 24568; Transcript 20 July 2009, pp. 24748-24749; Transcript 10 September 2009, p. 28568; TF1-168, Transcript 2009, pp. 23393-23394 (CS).

<sup>68</sup> Charles Ghankay Taylor, Transcript 20 July 2009, p. 24748; Transcript 10 September 2010, p. 28568; Charles Ghankay Taylor, Transcript 18 November 2009, p. 32076; Yanks Smythe, Transcript 22 February 2010, p. 35609; DCT-125, Transcript 9 March 2010, p. 36849; Issa Sesay, Transcript 17 August 2010, p. 46427.

## 2. Training of Dissident Revolutionaries in Libya

22. During the late 1980s, the training of members of SLPARM in Libya was organised by an institution known as the Mathaba Alimia (“the Mathaba”), a military and ideological organisation that promoted Pan-Africanism.<sup>69</sup> The Mathaba organised military training in Libyan camps such as “Tinning March” and “Tajura”.<sup>70</sup> A number of other West African revolutionaries were trained in Libya, including Charles Taylor from Liberia, Foday Sankoh from Sierra Leone and Kukoi Samba Sanyang (a.k.a. Dr Manneh) from the Gambia.<sup>71</sup> The Accused was the leader of the National Patriotic Front of Liberia (“NPFL”), a group that had been formed in order to remove President Samuel Kanyon Doe’s regime from power, citing concerns about corruption.<sup>72</sup> Members of the RUF who trained in Libya were called Special Forces and held the highest status within the RUF.<sup>73</sup>

23. The Prosecution submits that the origins of the Sierra Leone Civil War can be traced back to “a common cause” formed between the Accused, Sankoh and Manneh in which they agreed to assist each other in waging war in Liberia, Sierra Leone and the Gambia.<sup>74</sup> The Defence denies the existence of an alleged common plan between the Accused and Foday Sankoh to wage war in Sierra Leone.<sup>75</sup> It maintains that the Accused was based in Burkina Faso during this period and occasionally visited the Mathaba, interacting only with the Liberian group and other leaders such as Ali Kabbah and Dr Manneh.<sup>76</sup> The Defence further maintains that the Accused did not even know Sankoh while in Libya and that the two men did not have any contact until 1991 in Liberia when they agreed to cooperate strategically against the United Liberation Movement of Liberia for Democracy (ULIMO).<sup>77</sup>

<sup>69</sup> DCT-125, Transcript 4 March 2010, pp. 36665-36668, p. 36681 (CS); DCT-068, Transcript 11 March 2010, p. 37111.

<sup>70</sup> Exhibit D-115A, “Untitled Map of Libya”; Moses Blah, Transcript 14 May 2008, pp. 9802-9803; DCT-125, Transcript 4 March 2010, pp. 36672-36673; Yanks Smythe, Transcript 22 February 2010, pp. 35571-35577.

<sup>71</sup> Charles Ghankay Taylor, Transcript 15 July 2009, p. 24568; Transcript 20 July 2009, pp. 24748-24749; Transcript 10 September 2009, p. 28568; TF1-168, Transcript 2009, pp. 23393-23394 (CS).

<sup>72</sup> Exhibit P-031, “Report for the Special Court for Sierra Leone, Charles Taylor and the War in Sierra Leone, Stephen Ellis, 5 December 2006”, p. 3, ERN 26606; Exhibit D-383, “Statement by Charles Ghankay Taylor, Leader of the National Patriotic Front of Liberia, 1 January 1990”.

<sup>73</sup> TF1-371, Transcript 25 January 2008, pp. 2211-2212 (CS); Perry Kamara, Transcript 4 February 2008, p. 3042; Dauda Aruna Fornie, Transcript 1 December 2008, p. 21317; TF1-579, Transcript 5 November 2008, p. 19787; Issa Sesay, Transcript 5 July 2010, pp. 43606, 43609.

<sup>74</sup> Prosecution Final Trial Brief, paras 51-52.

<sup>75</sup> Defence Final Trial Brief, paras 306, 736-770.

<sup>76</sup> Defence Final Trial Brief, para. 745.

<sup>77</sup> Defence Final Trial Brief, para. 815.

### 3. Formation of the Revolutionary United Front and Training in Liberia (1989-1990)

24. By August 1990, the RUF had been formed and were training in Liberia.<sup>78</sup> The NPFL, following its incursion into Liberia on 24 December 1989, seized control of Gbarnga and the Camp Naama training base.<sup>79</sup> From August 1990, Camp Naama was used as a training base for both NPFL and RUF fighters.<sup>80</sup> Approximately 300 RUF fighters comprising Sierra Leoneans and Liberians were trained at Camp Naama, including persons who later became senior members of the RUF, such as Sam Bockarie, Issa Sesay, Morris Kallon, Philip Palmer, Augustine Gbao and Mike Lamin.<sup>81</sup> Members of the RUF who trained in Liberia were called Vanguardians and held the second highest status within the RUF.<sup>82</sup>

25. The Prosecution submits that, in furtherance of the common cause alleged to have been formed between Taylor and Sankoh in the late 1980s, the NPFL and RUF trained alongside each other at Camp Naama and were “carbon copies” modelled by Taylor.<sup>83</sup> It further submits that the Accused was the “father” or “godfather” of the RUF<sup>84</sup> in the sense that he created the RUF as a viable organised armed force;<sup>85</sup> nurtured and sustained it by providing a secure training environment,<sup>86</sup> supplies,<sup>87</sup> instructors<sup>88</sup> and new recruits;<sup>89</sup> ensured its continued survival; taught it how to terrorise civilians;<sup>90</sup> directed it in its first

<sup>78</sup> DCT-025, Transcript 12 March 2010, pp. 37226-37228.

<sup>79</sup> DCT-292, Transcript 1 June 2010, pp. 41838-41839.

<sup>80</sup> Exhibit P-031, “Report for the Special Court for Sierra Leone, Charles Taylor and the War in Sierra Leone, Stephen Ellis, 5 December 2006”, pp. 3-4; Exhibit D-006 (Confidential); DCT-125, Transcript 4 March 2010, pp. 36696-36697; Exhibit P-414, “Liberian Truth and Reconciliation Commission Diaspora Project – Appendix D, Key events in Liberian History from 1979-2003”; Decision on Judicial Notice, para. 66; Defence Final Trial Brief, para. 395; DCT-025, Transcript 12 March 2010, pp. 37226-37228.

<sup>81</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5666-5667; Foday Lansana, Transcript 20 February 2008, p. 4374; TF1-371, Transcript 24 January 2008, pp. 2204, 2206-2208 (CS); DCT-025, Transcript 17 March 2010, p. 37411; TF1-168, Transcript 21 January 2009, pp. 23203-23204 (CS); TF1-362, Transcript 27 February 2008, p. 4805 (CS); TF1-367, Transcript 20 August 2008, p. 14096.

<sup>82</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21301-21302; TF1-371, Transcript 25 January 2008, pp. 2230-2231 (CS); Jabaty Jaward, Transcript 8 July 2008, pp. 13234-13235; Perry Kamara, Transcript 4 February 2008, pp. 3042-3043; TF1-168, Transcript 21 January 2009, pp. 23157-23160 (CS); Issa Sesay, Transcript 5 July 2010, pp. 43606, 43609; Charles Ngebeh, Transcript 1 April 2010, p. 38609.

<sup>83</sup> Prosecution Final Trial Brief, para. 61.

<sup>84</sup> Prosecution Final Trial Brief, para. 58.

<sup>85</sup> Prosecution Final Trial Brief, paras 60, 65.

<sup>86</sup> Prosecution Final Trial Brief paras 66-67.

<sup>87</sup> Prosecution Final Trial Brief, para. 75.

<sup>88</sup> Prosecution Final Trial Brief, paras 71-73.

<sup>89</sup> Prosecution Final Trial Brief, paras 68-70.

<sup>90</sup> Prosecution Final Trial Brief, para. 74.

endeavours, protected it from outside threats to its existence, and strengthened the basic unity of the group”.<sup>91</sup>

26. The Defence denies that the Accused played any role in creating or supporting the RUF and submits that the RUF forged its own identity separate from the NPFL and was a “self-reliant struggle”.<sup>92</sup> While it accepts that the NPFL and RUF fighters were trained at Camp Naama at the same time, the Defence maintains that the two forces were segregated in that they trained separately, had separate command structures<sup>93</sup> and that the RUF fighters were strictly confined to their area, known as “Crab Hole” or “Sokoto”.<sup>94</sup>

#### 4. Insurgency into Sierra Leone (1991-1992)

27. In late February 1991, Foday Sankoh issued an ultimatum to President Momoh to resign from the Presidency within 90 days or else face a revolt.<sup>95</sup> On 23 March 1991, prior to the expiration of the 90-day deadline, about 150 RUF and NPFL<sup>96</sup> fighters from Camp Naama launched an insurgency into eastern Sierra Leone, signifying the commencement of the civil war.<sup>97</sup> The armed forces of Sierra Leone, commonly known as the Sierra Leone Army (“SLA”) fought to repel the RUF’s offensives. As the RUF spread throughout the country, they set up bases and captured civilians who were trained in fighting techniques, war tactics and ideology of the RUF.<sup>98</sup> Those trained in Sierra Leone were called Junior Commandos and were considered junior in rank to the Vanguarders.<sup>99</sup>

<sup>91</sup> Prosecution Final Trial Brief, para. 60.

<sup>92</sup> Defence Final Trial Brief, para. 391.

<sup>93</sup> Defence Final Trial Brief, para. 398.

<sup>94</sup> Defence Final Trial Brief, paras 392-393.

<sup>95</sup> Martin George, Transcript 22 April 2010, pp. 39642, 39645-39646.

<sup>96</sup> Prosecution Final Trial Brief, paras 78-79, 256; Defence Final Trial Brief, para. 423.

<sup>97</sup> DCT-190, Transcript 7 June 2010, pp. 42182, 42183; DCT-025, Transcript 12 March 2010 pp. 37252-37255; Exhibit P-431, “Excerpts from: News Article, IPS – Inter Press Service/Global Information Network, Politics – Sierra Leone: No Lawyer Willing to Defend Rebel Leader (Lexis Nexis), 7 September 1998”, p. 1; Exhibit P-497, “Witness to the Truth: Report of the Sierra Leone Truth and Reconciliation Commission Report, Vol. 2”, p. 41; Fayia Musa, Transcript 13 April 2010, pp. 38839- 38840; Sam Kolleh, Transcript 1 November 2010, pp. 48369-48370, 48377; John Vincent, Transcript 25 March 2010, pp. 38008-38011; Decision on Judicial Notice, Annex A, Facts C and N.

<sup>98</sup> TF1-371, Transcript 25 January 2008, pp. 2228-2232, 2248-2255 (CS); DCT-025, Transcript 17 March 2010, pp. 37428-37433; Jabaty Jaward, Transcript 8 July 2008, pp. 13222-13224.

<sup>99</sup> TF1-371, Transcript 25 January 2008, pp. 2253-2255 (CS); Perry Kamara, Transcript 4 February 2008, pp. 3042-3043; DCT-025, Transcript 17 March 2010, pp. 37434-37435; Jabaty Jaward, Transcript 8 July 2008, pp. 13234-13235.

28. The Prosecution alleges that the Accused, Sankoh and NPFL commanders planned the March 1991 invasion of Sierra Leone at a meeting chaired by the Accused in Voinjama in Liberia's Lofa County in March 1991.<sup>100</sup> The Prosecution further claims that the NPFL commanders and fighters under the command of the Accused were the primary participants of the initial invasion into Sierra Leone and during the early stages of the conflict until they were withdrawn in about June 1992.<sup>101</sup> Further, it claims that about 300 novice RUF fighters trained at Camp Naama were integrated into the NPFL battalions which led the invasion into Sierra Leone "in order to gain experience as the invasion continued";<sup>102</sup> and that during the period 1991-1992 the Accused regularly sent NPFL fighters to Sierra Leone to reinforce the RUF.<sup>103</sup>

29. The Defence maintains that the Accused was not present at the Voinjama meeting<sup>104</sup> and neither planned nor had knowledge of the alleged plan to attack Sierra Leone.<sup>105</sup> Whilst the Defence does not deny that the invasion force did include members of the NPFL, or the fact that the majority of RUF recruits were Liberian, it maintains that these men were not sent to invade Sierra Leone by the Accused.<sup>106</sup>

## B. Civil War in Sierra Leone (1991-1996)

### 1. 1991-1992

30. In fighting against the RUF, the SLA cooperated with ULIMO, an armed group that was initially formed to fight against the NPFL in Liberia.<sup>107</sup> In addition, in early 1991 the Sierra Leone Government created the Special Task Force ("STF"), an armed group consisting of mainly Liberian recruits who were former ULIMO members, in order to assist the SLA in repelling the rebels.<sup>108</sup>

<sup>100</sup> Prosecution Final Trial Brief, para. 77.

<sup>101</sup> Prosecution Final Trial Brief, paras 78-80.

<sup>102</sup> Prosecution Final Trial Brief, paras 78-81.

<sup>103</sup> Prosecution Final Trial Brief, paras 82-84.

<sup>104</sup> Defence Final Trial Brief, paras 415-417.

<sup>105</sup> Defence Final Trial Brief, para. 417.

<sup>106</sup> Defence Final Trial Brief, para. 423.

<sup>107</sup> Exhibit P-031, "Report for the Special Court for Sierra Leone, Charles Ghankay Taylor and the War in Sierra Leone, Stephen Ellis, 5 December 2006", p. 7; Varmuyan Sherif, Transcript 9 January 2008, pp. 796-799; Exhibit D-026, "Submissions to the Sierra Leone Truth and Reconciliation Commission, Appendix 2, Statement by His Excellency the President Alhaji Dr Ahmad Tejan Kabbah, 4 August 2003".

<sup>108</sup> Exhibit D-469, "Letter from Brigadier General David L M Bropleh to Acting CDs, DHQ, Request for

31. From at least August 1991 until at least May 1992, the RUF cooperated with the NPFL in fighting against ULIMO and the SLA.<sup>109</sup> In early 1992, however, at a time when the RUF was seeking peace talks with President Momoh's APC Government, a group of young military officers led by 26-year-old Captain Valentine Strasser overthrew the APC Government in a coup and established a ruling military council known as the National Provisional Ruling Council ("NPRC").<sup>110</sup> While many in the RUF saw this as the culmination of their struggle to rid Sierra Leone of the APC's one-party state,<sup>111</sup> the Strasser regime refused to pursue negotiations with the RUF and instead mounted a crushing offensive that drove the RUF towards and over the border into Liberia by the end of 1992/early 1993.<sup>112</sup>

32. In early 1992, tensions emerged between the RUF and the NPFL over the way in which the latter were treating Sierra Leonean civilians.<sup>113</sup> Fighting erupted between the two groups resulting in the execution of at least 30 Vanguardians and escalating into a series of three military operations code-named "Top 20", "Top 40" and "Top Final"<sup>114</sup> respectively, in which the NPFL withdrew from Sierra Leone and returned to Liberia after June 1992.<sup>115</sup> Some NPFL members remained in Sierra Leone and assumed senior roles within the RUF,

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Redress on the Twenty-Six (26) Liberians Rejected at BTC BSTTT 4 Training Program on Constitutional Grounds, November 30 2000"; TF1-371, Transcript 28 January 2008, pp. 2387-2388 (CS); Exhibit D-462 (Confidential); Exhibit D-026, "Submissions to the Sierra Leone Truth and Reconciliation Commission, Appendix 2, Statement by His Excellency the President Alhaji Dr Ahmad Tejan Kabbah, 4 August 2003".

<sup>109</sup> Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24328-24329; Transcript 20 July 2009, pp. 24796-24797; Transcript 10 September 2009, pp. 28535-28536, 28563-28564; Transcript 22 September 2009, pp. 29296, 29298-29299; Transcript 15 September 2009, pp. 28939-28940; Transcript 25 November 2009, pp. 32367-32369.

<sup>110</sup> Exhibit P-031, "Report for the Special Court for Sierra Leone, Charles Ghankay Taylor and the War in Sierra Leone, Stephen Ellis;" Stephen Ellis, Transcript 22 September 2008, p. 16906; Charles Ngebeh, Transcript 22 March 2010, p. 37781.

<sup>111</sup> Fayia Musa, Transcript 14 April 2010, pp. 38928-38929.

<sup>112</sup> Exhibit D-062, "How Diamonds Fuelled the Conflict, Chronology of Sierra Leone, Sierra Leone Diamonds, Africa Confidential, April 1998", p. 2; Fayia Musa, Transcript 14 April 2010, p. 38929.

<sup>113</sup> TF1-561, Transcript 14 May 2008, p. 9862; TF1-371, Transcript 25 January 2008, pp. 2235-2237 (CS); TF1-168, Transcript 21 January 2009, p. 23167 (CS); Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24812, 24839.

<sup>114</sup> TF1-168, Transcript 23 January 2009, pp. 23437-23438 (CS); Fayia Musa, Transcript 14 April 2010, pp. 38897, 38900; Foday Lansana, Transcript 20 February 2008, pp. 4371-4373.

<sup>115</sup> Fayia Musa, Transcript 14 April 2010, pp. 38908-38909, 38913-38914; Exhibit P-277 (Confidential), pp. 00018120-00018121; Jabaty Jaward, Transcript 14 July 2008, p. 13670; TF1-168, Transcript 21 January 2009, pp. 23212-23213 (CS); Isaac Mongor, Transcript 3 April 2008, pp. 6615-6617.

including Denis Mingo (a.k.a. Superman),<sup>116</sup> Isaac Mongor<sup>117</sup> and Foday Lansana (a.k.a. CO Nya).<sup>118</sup>

33. The Prosecution claims that after the initial attack in March 1991, the Accused sent NPFL troops including radio operators and commandos from Liberia to reinforce the RUF forces fighting on the front lines in Sierra Leone, and created and equipped a special unit known as “Black Gadaffa” tasked with regaining the border areas of Sierra Leone and preventing ULIMO from cutting off the Liberia-Sierra Leone supply channels.<sup>119</sup> The Prosecution further claims that Taylor’s forces remained in Sierra Leone, directing and participating in the fighting and the crimes committed against civilians,<sup>120</sup> and that even after the NPFL’s withdrawal from Sierra Leone in June 1992, the Accused continued his involvement, participation and concerted action within the RUF<sup>121</sup> and was in contact with Sankoh through radio communication, checking on the situation within the RUF.<sup>122</sup> The Prosecution further alleges that the Accused ordered the RUF to capture Sierra Leone’s diamondiferous areas and thereafter provided the RUF with arms and ammunition in exchange for diamonds.<sup>123</sup>

34. The Defence argues that Charles Taylor’s involvement in the initial stages of the Sierra Leone conflict was not intended to aid Sankoh’s revolution but rather was “a strategic expansion that would create a frontier buffer zone behind which the revolution in Liberia could be adequately protected” against ULIMO.<sup>124</sup> It submits further that while the RUF obtained “some ammunition” from Taylor in this early part of the war, his contribution was negligible and not sufficient to support an RUF military victory.<sup>125</sup> It submits further that by May/June 1992, about a year after the launch of the invasion into Sierra Leone, Taylor cut back his support to Foday Sankoh and ultimately withdrew all the NPFL forces from Sierra

<sup>116</sup> TF1-371, Transcript 25 January 2008, pp. 2258-2259 (CS); TF1-567, Transcript 2 July 2008, p. 12873.

<sup>117</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5712, 5722-5723; TF1-371, Transcript 25 January 2008, pp. 2258-2259 (CS);

<sup>118</sup> TF1-567, Transcript 2 July 2008, pp. 12830-12831; Dauda Aruna Fornie, Transcript 1 December 2008, p. 21351.

<sup>119</sup> Prosecution Final Trial Brief, paras 82-83

<sup>120</sup> Prosecution Final Trial Brief, para. 84.

<sup>121</sup> Prosecution Final Trial Brief, paras 84-94.

<sup>122</sup> Prosecution Final Trial Brief, paras 85, 93-101.

<sup>123</sup> Prosecution Final Trial Brief, paras 86-87, 206, 349.

<sup>124</sup> Defence Final Trial Brief, paras 428, 814-820.

<sup>125</sup> Defence Final Trial Brief, para. 428.

Leone in mid-1992 during Operation Top Final.<sup>126</sup> The Defence also maintains that Operation Top Final and the NPFL's withdrawal caused a rift between the Accused and Foday Sankoh, with the two men ceasing all contact from mid-1992 until 1999.<sup>127</sup> The Defence denies that the Accused maintained radio communications with Foday Sankoh or the RUF from mid-1992 to the time of the Junta in 1997,<sup>128</sup> or that he provided the RUF with arms and ammunition after May 1992,<sup>129</sup> or that the RUF provided the Accused with diamonds.<sup>130</sup> The Defence submits that it would not have been possible for the Accused to supply the RUF with arms and ammunition because ULIMO controlled the Liberian-Sierra Leonean border from late 1992 until 1996.<sup>131</sup>

## 2. 1993-1995

35. Throughout the early period of the civil war, the RUF were scattered throughout the jungles of Sierra Leone, from where fighters launched guerrilla attacks on towns in order to capture arms, ammunition and other supplies. In late 1993, after the capture of Kono, the RUF retreated from Kono District and crossed into Kailahun District, where they maintained control over many of the major towns until early 1994.<sup>132</sup> The RUF then moved to Kenema District, capturing the Tongo mining area and establishing their main base at "Camp Zogoda", in the Kambui Hills.<sup>133</sup> In late 1994 or early 1995, the RUF attacked the international mining company Sierra Rutile in Bonthe District, holding the site until a counter-attack by SLA forces in January 1995.<sup>134</sup>

<sup>126</sup> Defence Final Trial Brief, paras 429-430.

<sup>127</sup> Defence Final Trial Brief, para. 431; Charles Ghankay Taylor, Transcript 10 September 2009, pp. 28669-28670; Transcript 26 October 2009, pp. 30245-30254, 30255-30256; Transcript 7 September 2009, p. 28192; Fayia Musa, Transcript 14 April 2010, p. 38915.

<sup>128</sup> Defence Final Trial Brief, para. 820.

<sup>129</sup> Defence Final Trial Brief, paras 430-431.

<sup>130</sup> Defence Response to Prosecution Final Trial Brief, paras 73-81.

<sup>131</sup> Defence Final Trial Brief, paras 434-436.

<sup>132</sup> Martin George, Transcript 22 April 2010, pp. 39702-39704; TF1-168, Transcript 21 January 2009, pp. 23228-23230(CS); Exhibit P-277 (Confidential), p. 31.

<sup>133</sup> Martin George, Transcript 22 April 2010, pp. 39704-39706; TF1-567, Transcript 2 July 2008, pp. 12874-12875; TF1-168, Transcript 21 January 2009, pp. 23233-23236; Charles Ngebeh, Transcript 22 March 2010, pp. 37790-37791; Martin George, Transcript 22 April 2010, pp. 39708-39712. For the fact that Camp Zogoda was located in the Kambui Hills, see TF1-371, Transcript 25 January 2008, p. 2251; TF1-516, Transcript 8 April 2008, p. 6839; Dauda Aruna Fornie, Transcript 4 December 2008, p. 21762; TF1-168, Transcript 21 January 2009, p. 23488.

<sup>134</sup> TF1-567, Transcript 2 July 2008, p. 12876; Perry Kamara, Transcript 4 February 2008, pp. 3053-3054; Charles Ngebeh, Transcript 12 April 2010, p. 38653; Martin George, Transcript 22 April 2010, pp. 39712-39716; Issa Sesay, Transcript 6 July 2010, p. 43747.



36. In March 1995, some RUF fighters launched several ambushes near Freetown, prompting Strasser's NPRC government to invite a South African private security firm known as Executive Outcomes to assist in repelling the RUF.<sup>135</sup> Executive Outcomes trained the SLA and local militia groups, including Donsos, Gbethis, Tamboros and Kamajors. These combined forces repelled the RUF fighters that were located near the Freetown Peninsula, forcing them to withdraw to Fogbo and then Makoot.<sup>136</sup> This defeat prompted the RUF to initiate peace talks with the NPRC. In early 1995, preliminary talks were held between the two groups in Yamoussoukro, Côte d'Ivoire.<sup>137</sup>

37. The Prosecution submits that RUF personnel remained in Liberia until late 1992 or early 1993 and that Gbarnga, Taylor's Headquarters, continued to be the transit point through which Sankoh and the RUF fighters would transit to and from Sierra Leone;<sup>138</sup> and that until access to the Sierra Leone/Liberian border was significantly reduced, Taylor regularly provided the RUF with arms, ammunition, food and medicines from various areas in Liberia within his control,<sup>139</sup> as well as communication equipment,<sup>140</sup> training support,<sup>141</sup> and a safe haven,<sup>142</sup> in order to sustain the RUF war in Sierra Leone. The Prosecution further alleges that in late 1992, Sankoh and Taylor planned the capture of diamond-rich Kono District, Taylor provided the arms and ammunition for that attack and that after Kono was captured, Sankoh took diamonds to the Accused in exchange for more ammunition.<sup>143</sup> It further alleges that during this period and throughout the conflict in Sierra Leone, the Accused continued to provide the leaders of the RUF and AFRC/RUF with strategic instruction, direction and guidance in relation to a range of political, military and other

<sup>135</sup> Exhibit D-062, "How Diamonds Fuelled the Conflict, Chronology of Sierra Leone, Sierra Leone Diamonds, Africa Confidential, April 1998", p. 4; Charles Ngebeh, Transcript 23 March 2010, pp. 37825-37827.

<sup>136</sup> Exhibit D-062, "How Diamonds Fuelled the Conflict, Chronology of Sierra Leone, Sierra Leone Diamonds, Africa Confidential, April 1998", p. 4; Stephen Smith, Transcript 22 September 2008, pp. 16911-16914; Charles Ngebeh, Transcript 23 March 2010, pp. 37825-37827; Charles Ngebeh, Transcript 23 March 2010, pp. 37834-37835.

<sup>137</sup> Exhibit P-277 (Confidential), p. 43; TF1-168, Transcript 22 January 2009, p. 23270; Issa Sesay, Transcript 6 July 2010, pp. 43738-43739. Exhibit P-567, "Sierra Leone Web, Sierra Leone News, March 1996"; Exhibit D-062, "How Diamonds Fuelled the Conflict, Chronology of Sierra Leone, Sierra Leone Diamonds, Africa Confidential, April 1998", pp. 4-5; Stephen Smith, Transcript 22 September 2008, pp. 16913-16916.

<sup>138</sup> Prosecution Final Trial Brief, para. 86.

<sup>139</sup> Prosecution Final Trial Brief, paras 88-94.

<sup>140</sup> Prosecution Final Trial Brief, paras 93-101.

<sup>141</sup> Prosecution Final Trial Brief, paras 102-110.

<sup>142</sup> Prosecution Final Trial Brief, paras 111-113.

<sup>143</sup> Prosecution Final Trial Brief, paras 86 – 88.

matters<sup>144</sup> including advising the RUF to set up “jungles” from which to launch attacks,<sup>145</sup> advising the RUF to attack “a major place” in order to capture the attention of the international community and to force the Strasser Government into agreeing to a peace deal<sup>146</sup> and advising the RUF to set up an “external delegation” that would handle diplomatic relations.<sup>147</sup>

38. The Defence argues that from late 1992 or early 1993 until 1996, the border between Sierra Leone and Liberia was effectively closed by the activities of ULIMO and that it remained closed during the 1996 Sierra Leone elections.<sup>148</sup> The Defence maintains that after the RUF were pushed to the border by the NPRC regime forces, the former changed their tactics by waging a “self-reliant struggle” in which they set up bases in various jungles in Sierra Leone and obtained arms and ammunition principally from ambushes and battles, but not from Liberia.<sup>149</sup> The Defence specifically denies that the Accused was in radio contact with Sankoh or the RUF after 1992 or that he ordered the Sierra Rutile attack.<sup>150</sup>

### 3. Elections in Sierra Leone and “Operation Stop Election” (1996-1997)

39. Strasser announced that elections were to be held in Sierra Leone but, before these could take place, he was overthrown as leader of the NPRC government by his deputy, Brigadier General Julius Maada Bio.<sup>151</sup> Peace talks between the NPRC Government and the RUF were scheduled to take place in Côte d’Ivoire but despite calls from the latter for peace before democratic elections,<sup>152</sup> presidential elections were held in Sierra Leone on 26 and 27 February 1996 before any peace agreement was signed. However, as no candidate won the necessary percentage of the vote, it was necessary to hold a second round of voting.<sup>153</sup> Before the second round of voting could commence, Sankoh called an RUF forum in

<sup>144</sup> Prosecution Final Trial Brief, paras 119-120.

<sup>145</sup> Prosecution Final Trial Brief, para. 121.

<sup>146</sup> Prosecution Final Trial Brief, paras 122-124.

<sup>147</sup> Prosecution Final Trial Brief, para. 125.

<sup>148</sup> Defence Final Trial Brief, paras 434-436.

<sup>149</sup> Defence Final Trial Brief, paras 435-436.

<sup>150</sup> Defence Final Trial Brief, paras 820-835.

<sup>151</sup> Exhibit D-062, “How Diamonds Fuelled the Conflict, Chronology of Sierra Leone, Sierra Leone Diamonds, Africa Confidential, April 1998”, p. 4; Exhibit P-329, “Human Rights Watch Report, Sierra Leone: Getting Away with Murder, Mutilation and Rape, New Testimony from Sierra Leone, Vol. 11, No.3, Part III, July 1999”, p. 1.

<sup>152</sup> TF1-168, Transcript 22 January 2009, pp. 23265-23267 (CS).

<sup>153</sup> Exhibit D-062, “How Diamonds Fuelled the Conflict, Chronology of Sierra Leone, Sierra Leone Diamonds, Africa Confidential, April 1998”, p. 4.

Zogoda and ordered “Operation Stop Election”<sup>154</sup> during which the disgruntled RUF attacked several towns, including Bo, Magburaka and Kenema<sup>155</sup> and committed numerous atrocities against civilians, including carving “RUF” on the chests of civilians and the amputation of the fingers and/or hands of those who attempted to vote.<sup>156</sup>

40. On 15 March 1996, Ahmad Tejan Kabbah was elected President of Sierra Leone and was inaugurated two weeks later, on 29 March 1996.<sup>157</sup> Kabbah continued peace negotiations with the RUF and on 30 November 1996, the Abidjan Peace Accord was signed<sup>158</sup> wherein Foday Sankoh agreed to a ceasefire, the RUF was granted the status of a “political movement” and its members an amnesty against prosecution for their past crimes.<sup>159</sup> The temporary cessation of active hostilities brought about by the Abidjan Accord was short-lived and the civil war in Sierra Leone continued.<sup>160</sup> In November 1996, the SLA and the Kamajors attacked the RUF base in Zogoda, forcing the RUF from their stronghold and into Kailahun and Pujehun Districts.<sup>161</sup> In March 1997 while returning to Sierra Leone from Côte d’Ivoire, Sankoh was detained by Nigerian authorities for possession of arms and ammunition<sup>162</sup> and kept under house arrest. He was however, permitted to remain in contact with the RUF by radio.<sup>163</sup> Members of the RUF’s External Delegation, who did not support Sankoh’s lack of respect for the peace negotiations at Abidjan, took advantage of Sankoh’s

<sup>154</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20104-20106.

<sup>155</sup> Exhibit P-277 (confidential), p. 42; Issa Sesay, Transcript 6 July 2010, p. 43746; Transcript 17 August 2010, p. 46494; Augustine Mallah, Transcript 12 November 2008, pp. 20107-20108; Samuel Kargbo, Transcript 21 May 2008, pp. 10422-10423; Isaac Mongor, Transcript 10 March 2008, pp. 5697-5698.

<sup>156</sup> Issa Sesay, Transcript 6 July 2010, p. 43746; Transcript 17 August 2010, p. 46494; Isaac Mongor, Transcript 10 March 2008, pp. 5697-5698; Samuel Kargbo, Transcript 21 May 2008, pp. 10422-10423; Augustine Mallah, Transcript 12 November 2008, pp. 20107-20108; TF1-375, Transcript 23 June 2010, p. 12483.

<sup>157</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, p. 8677; Alice Pyne, Transcript 20 June 2008, p. 12347; Exhibit P-567, “Sierra Leone Web, Sierra Leone News, March 1996”.

<sup>158</sup> Fayia Musa, Transcript 14 April 2010, p. 39014; Exhibit P-277 (confidential), p. 43; Exhibit D-087, “Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front”; Decision on Judicial Notice, Annex A, Fact O; Exhibit D-199, “Special ECOWAS Report on Successful Peace Talks in Lomé, 1999”, pp. 35-36; Exhibit D-087, “Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front (RUF/SL)”, Articles 13 and 14.

<sup>159</sup> Exhibit D-199, “Special ECOWAS Report on Successful Peace Talks in Lomé, 1999”, pp. 35-36; Exhibit D-087, “Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front (RUF/SL)”, Articles 13 and 14.

<sup>160</sup> Decision on Judicial Notice, Annex A, Fact T; Admitted Facts and Law, Agreed Fact 28.

<sup>161</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20108-20112; Charles Ngebeh, Transcript 23 March 2010, pp. 37842-37846; Martin George, Transcript 23 April 2010, pp. 39748-39750.

<sup>162</sup> Exhibit P-078, “Sierra Leone 1998, A Year of Atrocities Against Civilians, Amnesty International Report”, p. 2; Fayia Musa, Transcript 15 April 2010, p. 39098; Issa Sesay, Transcript 6 July 2010, p. 43737.

<sup>163</sup> Fayia Musa, Transcript 15 April 2010, p. 39100.

absence to advocate for change of leadership of the RUF.<sup>164</sup> Bockarie, however, remained loyal to Sankoh and on 29 March 1997 ordered the arrest of the External Delegation, accusing them of attempting to take over control of the RUF.<sup>165</sup>

41. The Prosecution claims that Taylor convinced Sankoh to take part in the peace talks in Côte d'Ivoire in 1996, to negotiate a peace deal which would allow the RUF to end its isolation in Sierra Leone. The Prosecution further alleges that Taylor convinced the RUF to participate in the peace talks in order to ensure that the RUF would survive to continue its fight to control the Sierra Leonean people and territory and to pillage the resources of Sierra Leone.<sup>166</sup> It submits that although the plan to disrupt the elections by terrorising civilians was not devised by the Accused, the RUF leadership sought his approval and guidance before implementing Operation Stop Election, and that the Accused approved of it, telling Sankoh that the plan "was not a bad one".<sup>167</sup> The Defence denies this allegation and maintains that the Accused was not in contact with Sankoh at this time.<sup>168</sup> It submits that Foday Sankoh bears full responsibility for the failure of the Abidjan Peace Accord and for the continuation of the war thereafter.<sup>169</sup>

### C. AFRC/RUF Junta Period (1997-1998)

#### 1. AFRC Coup

42. Disillusionment grew within SLA ranks as a result of Kabbah's support for the local militias rather than the professional army and, on 25 May 1997, a group of SLA soldiers overthrew the Kabbah Government in a coup d'état.<sup>170</sup> On 28 May 1997, the group

<sup>164</sup> Issa Sesay, Transcript 6 July 2010, pp. 43707-43711; Mohamed Kabbah, Transcript 15 September 2008, pp. 16268-16269; Exhibit P-277 (confidential), pp. 18144-18148; Fayia Musa, Transcript 15 April 2010, pp. 39056-39058, 39081, 39101; TF1-168, Transcript 22 January 2009, pp. 23296-29302 (CS); Exhibit P-531, "Article, Sierraleone.org, Sierra Leone Web, Sierra Leone News, March 1997"; Exhibit D-083, "Expo Times Gazette, Vol. 1, No. 44, Kabbah Hails New RUF, 17 March 1997".

<sup>165</sup> Fayia Musa, Transcript 15 April 2010, pp. 39110-39112; TF1-168, Transcript 22 January 2009, pp. 23313-23316 (CS); Issa Sesay, Transcript 7 July 2010, pp. 43881-43892; Exhibit P-067, "RUF People's Army, Situation Report to Foday Sankoh from the Black Guard Commander", pp. 9672-9681; Exhibit P-277 (confidential), pp. 18160-18161; Exhibit P-531, "Article, Sierraleone.org, Sierra Leone Web, Sierra Leone News, March 1997".

<sup>166</sup> Prosecution Final Trial Brief, para. 136.

<sup>167</sup> Prosecution Final Trial Brief, paras 130-133.

<sup>168</sup> Defence Final Trial Brief, paras 820, 836-841.

<sup>169</sup> Defence Final Trial Brief, para. 447.

<sup>170</sup> Admitted Facts and Law, Agreed Fact 17; Decision on Judicial Notice, Annex A, Fact D; *Prosecutor v Taylor*, SCSL-03-1-T-765, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the AFRC Trial Judgement pursuant to Rule 94(B), 23 March 2009 [Decision on Judicial Notice of AFRC

announced that they had formed the Armed Forces Revolutionary Council (“AFRC”) and that they had assumed the governance of Sierra Leone.<sup>171</sup> Koroma assumed the leadership of the AFRC, while President Kabbah went into exile in neighbouring Guinea.<sup>172</sup> While in exile, Kabbah united the local militias into a single armed force, known as the Civil Defence Forces (“CDF”).<sup>173</sup>

43. Shortly after the AFRC seized power, the RUF joined the AFRC in governing Sierra Leone.<sup>174</sup> As the founders of the AFRC belonged to the Sierra Leonean Army and had therefore been fighting the RUF since 1991, the coalition between the two factions was not based on longstanding common interests; both factions officially declared that they were joining forces to bring peace and political stability to Sierra Leone. On 18 June 1997, the RUF issued an official apology for its crimes, and praised Koroma’s government.<sup>175</sup>

44. The coup was widely condemned by the international community.<sup>176</sup> On 26 August 1997, members of the Economic Community of West African States (“ECOWAS”) agreed to an almost total embargo against Sierra Leone and raised the possibility of using armed force.<sup>177</sup> A Ministerial Committee of Four, comprising the foreign ministers of Nigeria, Guinea, Côte d’Ivoire and Ghana, was charged with the responsibility of implementing the ECOWAS initiatives.<sup>178</sup> On 29 August 1997, the Economic Community of West African States Cease-fire Monitoring Group (“ECOMOG”), a Nigerian-led West African

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Adjudicated Facts], Annex A, Fact 1.

<sup>171</sup> Exhibit P-100, “Supplement to the Sierra Leone Gazette No. 34, 28 May 1997, Public Notice No. 3 of 1997”, Proclamation Administration of Sierra Leone; Decision on Judicial Notice, Annex A, Fact D.

<sup>172</sup> Admitted Facts and Law, Agreed Fact 18; Exhibit P-329, “Human Rights Watch Report, Sierra Leone: Getting Away with Murder, Mutilation and Rape, New Testimony from Sierra Leone, Vol. 11, No.3, Part III, July 1999”, p. 2.

<sup>173</sup> Exhibit D-169, “UN Security Council, Second Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/960, 16 October 1998”, p. 00012371; Exhibit D-443, “Report To the United Nations Secretary General, Mr Kofi Annan, New York, From Interim Leader-RUF/SL, General Issah H. Sesay, Detail Information About The RUF and Her Position on the Ongoing Peace Process, April 6 2001”, p. 00025662; Charles Ghankay Taylor, Transcript 29 July 2009, p. 25559.

<sup>174</sup> Joint Filing by the Prosecution and Defence: Admitted Facts and Law, No. 30.

<sup>175</sup> Decision on Defence Application for Judicial Notice of Adjudicated Facts from the AFRC Trial Judgement Pursuant to Rule 94(B), Fact 1.

<sup>176</sup> Exhibit D-135, “ECOWAS, Report of the Committee of Four on the Situation in Sierra Leone, Abuja, Nigeria, 26 August 1997”, pp. 1-2; Exhibit P-078, “Sierra Leone 1998, A Year of Atrocities Against Civilians, Amnesty International Report”, p. 2.

<sup>177</sup> Decision on Judicial Notice, Annex A, Fact AC; Exhibit D-135, “ECOWAS, Report of the Committee of Four on the Situation in Sierra Leone, Abuja, Nigeria, 26 August 1997”, p. 3; Exhibit P-078, “Sierra Leone 1998, A Year of Atrocities Against Civilians, Amnesty International Report”, p. 2; Exhibit P-034, “Profile: Economic Community of West African States (ECOWAS)”.

<sup>178</sup> Exhibit D-135, “ECOWAS, Report of the Committee of Four on the Situation in Sierra Leone, Abuja,

intervention force that had previously fought in Liberia, had its mandate extended to cover the civil war in Sierra Leone.<sup>179</sup> In October 1997, the United Nations Security Council adopted Resolution 1132 which imposed mandatory sanctions on Sierra Leone.<sup>180</sup> The United Nations Security Council also expressed its full support for the efforts and role of the ECOWAS Committee to resolve the political crisis and restore lasting peace and stability to Sierra Leone.<sup>181</sup>

45. By this time, peace had been realised in Liberia after seven years of conflict and, on 19 July 1997, the Accused was elected as President.<sup>182</sup> ECOWAS invited the Liberian Government to join the Committee of Four for Sierra Leone, thereby transforming it into a Committee of Five.<sup>183</sup> On 23 October 1997, the Committee of Five met in Conakry and agreed to a peace plan for Sierra Leone.<sup>184</sup> The Conakry Accord called for the cessation of hostilities, humanitarian assistance for refugees and the reinstatement of President Kabbah

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Nigeria, 26 August 1997", p. 3.

<sup>179</sup> Decision on Judicial Notice, Annex A, Fact Z; Exhibit P-031, "Report for the Special Court for Sierra Leone – Charles Taylor and the War and Sierra Leone, Report and Corrigenda, Stephen Ellis, p. 4.

<sup>180</sup> Exhibit P-329, "Human Rights Watch Report, Sierra Leone: Getting Away with Murder, Mutilation and Rape, New Testimony from Sierra Leone, Vol. 11, No.3, Part III, July 1999", p. 2; Exhibit P-069, "United Nations Security Council Resolution 1132, S/RES/1132 (1997), 8 October 1997"; Exhibit P-305, "United Nations Security Council Resolution 1181, S/RES/1181 (1998), 13 July 1998"; Exhibit P-311, "United Nations Security Council Resolution 1231, S/RES/1231 (1999), 11 March 1999", paras 1-4, 7-12; Exhibit D-135, "ECOWAS, Report of the Committee of Four on the Situation in Sierra Leone, Abuja, Nigeria, 26 August 1997", p. 3.

<sup>181</sup> Exhibit P-069, "United Nations Security Council Resolution 1132, S/RES/1132 (1997), 8 October 1997"; Exhibit P-305, "United Nations Security Council Resolution 1181, S/RES/1181 (1998), 13 July 1998"; Exhibit P-311, "United Nations Security Council Resolution 1231, S/RES/1231 (1999), 11 March 1999", paras 1-4, 7-12.

<sup>182</sup> Decision on Judicial Notice, Annex A, Fact L; Exhibit D-127, "New African, No. 358, "Taylor's Triumph, Liberia's 100 Days, December 1997".

<sup>183</sup> Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24331-24332; Transcript 27 July 2009, pp. 25299-25300; Exhibit D-136, "ECOWAS, Final Report, Sixteenth Meeting of ECOWAS Chiefs of State, Abuja, Nigeria, 26-27 August 1997", pp. 3, 10.

<sup>184</sup> Exhibit D-339, "ECOWAS, Communiqué, Sixth Meeting of the Foreign Affairs Ministers of the Committee of Five on Sierra Leone, Conakry, 22-23 October 1997"; Exhibit P-036, "ECOWAS Six-Month Peace Plan for Sierra Leone 23 October 1997 – 22 April 1998"; Exhibit D-342, "ECOWAS, Second Report of the ECOWAS Committee of Five on Sierra Leone to the United Nations Security Council Pursuant to Resolution S/RES/1132 (1997) of 8 October 1997", p. 2.

by 22 April 1998.<sup>185</sup> Hostilities continued, however, notwithstanding the signing of the Conakry Accord.<sup>186</sup>

46. The Prosecution maintains that during the Junta and throughout its existence, Taylor provided invaluable instruction, direction and guidance to the leaders of the AFRC/RUF alliance and that this was often crucial to the continued survival of the alliance as a viable entity with the ability to continue carrying out the campaign of terror against the civilian population of Sierra Leone, encompassing all the crimes alleged in the Indictment.<sup>187</sup> The Prosecution further claims that in violation of a UN arms embargo against the AFRC/RUF Junta, Taylor provided vital arms and ammunition to the Junta in exchange for diamonds.<sup>188</sup>

47. The Defence refutes the Prosecution allegations, arguing that the Accused had no communication with any members of the Junta Government nor did he provide the Junta with arms and ammunition.<sup>189</sup> The Defence argues that the Accused was not in a position to provide support for the Junta, because at the time he had neither the time nor the means to provide support as he had just assumed the Presidency and Liberia was bankrupt and subject to an arms embargo.<sup>190</sup> The Defence further argues that the Accused supported the restoration of the Kabbah Government and sought to use his position on the Committee of Five to secure peace in Sierra Leone.<sup>191</sup> The Defence denies that the Accused organised the Magburaka arms shipment and instead submits that the arms were purchased by Sankoh from Burkina Faso, prior to his arrest in Nigeria.<sup>192</sup>

## 2. ECOMOG Intervention (1998-1999)

48. On 5 February 1998, ECOMOG commenced a major offensive against the AFRC/RUF forces and, by 14 February 2008, had succeeded in expelling the Junta from

<sup>185</sup> Exhibit P-078, "Sierra Leone 1998, A Year of Atrocities Against Civilians, Amnesty International Report", p. 2; Exhibit D-339, "ECOWAS, Communiqué, Sixth Meeting of the Foreign Affairs Ministers of the Committee of Five on Sierra Leone, Conakry, 22-23 October 1997"; Exhibit D-342, "ECOWAS, Second Report of the ECOWAS Committee of Five on Sierra Leone to the United Nations Security Council Pursuant to Resolution S/RES/1132 (1997) of 8 October 1997", p. 2.

<sup>186</sup> Decision on Judicial Notice of AFRC Adjudicated Facts, Annex A, Fact 5.

<sup>187</sup> Prosecution Final Trial Brief, para. 139.

<sup>188</sup> Prosecution Final Trial Brief, paras 223-237.

<sup>189</sup> Defence Final Trial Brief, paras 842-868, 1042-1062.

<sup>190</sup> Defence Final Trial Brief, paras 461-471, 707.

<sup>191</sup> Defence Final Trial Brief, para. 87.

<sup>192</sup> Defence Final Trial Brief, para. 862.

Freetown.<sup>193</sup> On 10 March 1998, the Kabbah Government was restored to power in Sierra Leone.<sup>194</sup> By mid-March 1998, ECOMOG, acting in concert with the CDF, extended its control to Bo, Kenema and Zimmi in the south of the country; Lunsar, Makeni and Kabala in the north; and Daru in the east.<sup>195</sup>

49. Bockarie's group retreated from Kenema to Kailahun Town, while the AFRC/RUF fighters who had been based in Freetown retreated to Masiaka under the leadership of Koroma.<sup>196</sup> Unable to pay his fighters, Koroma ordered an operation known as "Operation Pay Yourself" in which his fighters engaged in extensive looting.<sup>197</sup>

50. The Prosecution submits that during this period the AFRC/RUF depended overwhelmingly on Taylor's direct provision of arms and ammunition to start repelling the ECOMOG advancement or to contain the situation,<sup>198</sup> and that in exchange for vast amounts of diamonds paid to Taylor, Sam Bockarie, as commander of the troops on the ground in Sierra Leone, received substantial amounts of arms, ammunition and other assistance from Taylor and Taylor's subordinates during Bockarie's numerous trips to Liberia.<sup>199</sup> The Prosecution claims that the arms and ammunition obtained from Taylor and his subordinates were used *inter alia*, to reinforce the RUF at their training base at Bunumbu,<sup>200</sup> to capture

<sup>193</sup> Exhibit D-155, "United Nations Security Council, Fourth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/249, 18 March 1998", para. 6; Charles Ghankay Taylor, Transcript 29 July 2009, pp. 25571-25572; Decision on Judicial Notice, Annex A, Fact AD; *Prosecutor v Taylor*, SCSL-03-1-T-765, Decision on Judicial Notice of AFRC Adjudicated Facts, Annex A, Fact 5.

<sup>194</sup> Exhibit D-343, "United Nations Security Council Resolution 1156, S/RES/1156 (1998), 16 March 1998; Exhibit P-078, "Sierra Leone 1998, A Year of Atrocities Against Civilians, Amnesty International Report", pp. 1-2; Charles Ghankay Taylor, Transcript 7 September 2009, pp. 28261-28262; Decision on Judicial Notice, Annex A, Fact E.

<sup>195</sup> Exhibit D-155, "United Nations Security Council, Fourth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/249, 18 March 1998"; Exhibit P-130, "United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998"; Exhibit D-191, "United Nations Security Council, Fifth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1999/237, 4 March 1999", para. 13; Exhibit P-132, "IRIN West Africa, Update 146, University of Pennsylvania African Studies Center, 16 February 1998".

<sup>196</sup> Decision on Judicial Notice of AFRC Adjudicated Facts, Annex A, Fact 5; Exhibit P-132, "IRIN West Africa, Update 146, University of Pennsylvania African Studies Center, 16 February 1998"; Exhibit D-076, "Map of Sierra Leone (marked by Dauda Aruna Fornie)"; Samuel Kargbo, Transcript 21 May 2008, pp. 10482-10486; Issa Sesay, Transcript 7 July 2010, pp. 43959-43960; Isaac Mongor, Transcript 11 March 2008, p. 5733; TF1-371, Transcript 28 January 2008, pp. 2349-2350 (CS).

<sup>197</sup> The fighters looted food, clothing and vehicles from the civilian population and broke into a bank to loot money. Issa Sesay, Transcript 7 July 2010, pp. 43963-43968; Isaac Mongor, Transcript 11 March 2008, pp. 5734-5735; TF1-371, Transcript 28 January 2008, pp. 2352-2355 (CS); TF1-375, Transcript 23 June 2008, pp. 12501-12502; Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7934-7937.

<sup>198</sup> Prosecution Final Trial Brief, para. 238.

<sup>199</sup> Prosecution Final Trial Brief, paras 239-248.

<sup>200</sup> Prosecution Final Trial Brief, para. 250.







and hold on to Kono,<sup>201</sup> and during the “Fitti-Fatta” mission, in the course of which operations the RUF/AFRC forces committed crimes against the civilian population of Sierra Leone.<sup>202</sup>

51. The Defence refutes the Prosecution allegations and submits that after President Kabbah was reinstated, President Charles Taylor (as he then was) as a “point person” on the Committee of Five, played a conciliatory role between the warring factions in Sierra Leone.<sup>203</sup>

#### **D. Civil War in Sierra Leone (1998-1999)**

52. Following the ECOMOG Intervention, the RUF and AFRC forces retreated from Freetown<sup>204</sup> to Masiaka<sup>205</sup> and onto Makeni.<sup>206</sup> In late February-early March 1998, combined AFRC/RUF forces attacked and ultimately captured Koidu Town (a.k.a. Kono), the primary town in Kono District.<sup>207</sup>

53. Koroma then went to Buedu to meet Bockarie and was later arrested by him on suspicion of attempting to leave Sierra Leone with a large quantity of diamonds.<sup>208</sup> Following this incident, Bockarie assumed control of the AFRC/RUF forces.<sup>209</sup>

<sup>201</sup> Prosecution Final Trial Brief, para. 251.

<sup>202</sup> Prosecution Final Trial Brief, paras 252-254.

<sup>203</sup> Defence Final Trial Brief, paras 502-517.

<sup>204</sup> Decision on Judicial Notice, 23 March 2009, Annex A, Fact 5; Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, Annex A, Fact , AD.

<sup>205</sup> *Prosecutor v Taylor*, SCSL-03-1-T, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, Annex A, Fact AD; *Prosecutor v Taylor*, SCSL-03-1-T, Decision on Judicial Notice, 23 March 2009, Annex A, Fact 5; Exhibit D-155, “UN Security Council, Fourth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/249, 18 March 2008”, p. 2, para 6

<sup>206</sup> TF1-371, Transcript 28 January 2008, pp. 2353-2354 (CS); Samuel Kargbo, Transcript 21 May 2008, pp. 10495-10496; Isaac Mongor, Transcript 11 March 2008, p. 5735; Perry Kamara, Transcript 5 February 2008, p. 3095; Foday Lansana, Transcript 21 February 2008, p. 4498; TF1-375, Transcript 23 June 2008, p. 12501; TF1-539, Transcript 20 August 2008, p. 14136; Issa Sesay, Transcript 8 July 2010, pp. 43991-43995.

<sup>207</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7943, 7946-7947; TF1-371, Transcript 28 January 2008, pp. 2355, 2358-2359 (CS); Samuel Kargbo, Transcript 21 May 2008, pp. 10496-10497; Perry Kamara, Transcript 5 February 2008, pp. 3098-3099; TF1-539, Transcript 20 August 2008, pp. 14139-14140; Isaac Mongor, Transcript 11 March 2008, pp. 5737-5738; TF1-375, Transcript 23 June 2008, pp. 12503-12504.

<sup>208</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10526-10542; Exhibit D-084, “Revolutionary United Front, Sierra Leone Defence Headquarters, Salute Report from Brigadier Issa Sesay, Battlefield Commander, RUF/SL, to the Leader of the Revolution, 27 September 1999”, p. 6; Issa Sesay, Transcript 8 July 2010, pp. 44018-44027.

<sup>209</sup> Perry Kamara, Transcript 5 February 2008, pp. 3109-3110; Isaac Mongor, Transcript 11 March 2008, p. 5741; Exhibit D-009, “RUF Defence Headquarters, Salute report to the Leader of the Revolution, RUF/SL, from Major General Sam Bockarie”, p. 5, ERN 9662; Exhibit D-084, “Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL to the Leader of the Revolution, 27

54. A few weeks later, ECOMOG and the CDF regained control of Koidu Town and the AFRC/RUF forces retreated to other locations in Kono District, including an area referred to as “Superman Ground”.<sup>210</sup> Following defeat of the AFRC/RUF forces at Koidu Town, Alex Tamba Brima (a.k.a. Gullit), a former SLA member of the Supreme Council, led another group of predominantly AFRC soldiers north to Koinadugu to join SAJ Musa.<sup>211</sup> By that time, SAJ Musa had based in Koinadugu District in the north of Sierra Leone, leading a breakaway group of predominantly AFRC troops, refusing to accept that AFRC soldiers be subordinate to RUF soldiers.<sup>212</sup> In mid 1998, Brima’s group commenced a march through the north of Sierra Leone to Camp Rosos, where they established a base, while SAJ Musa’s group remained in Koinadugu.<sup>213</sup>

55. In mid-1998, Bockarie instructed the RUF’s battlefield commander for Kono District, Denis Mingo (a.k.a. Superman), to make another attempt to capture Koidu Town.<sup>214</sup> The attack on Koidu Town code-named Operation Fitti-Fatta was a failure and Bockarie’s group suffered heavy casualties.<sup>215</sup> Following this attack, Superman assumed the leadership of a group of predominantly RUF fighters travelling to Koinadugu to join SAJ Musa’s group.<sup>216</sup> In October 1998, however, there was a violent dispute between Superman’s group and SAJ Musa’s group which resulted in Musa’s group relocating to Camp Rosos, while Superman’s forces retreated to a place referred to as “Pumpkin Ground”.<sup>217</sup> Following this

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September 1999”, p. 6, ERN 7761. See also TF1-516, Transcript 8 April 2008, p. 6967; TF1-045, Transcript 13 November 2008, pp. 20202-20203; Transcript 17 November 2008, p. 20413; Issa Sesay, Transcript 8 July 2010, pp. 44028-44030, stating that Bockarie was the overall commander of the RUF at this point..

<sup>210</sup> Perry Kamara, Transcript 5 February 2008, pp. 3112, 3182-3183; Issa Sesay, Transcript 11 August 2010, p. 45973.

<sup>211</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8044; Dauda Aruna Fornie, Transcript 4 December 2008, p. 21684; Issa Sesay, Transcript 8 July 2010, p. 44053.

<sup>212</sup> Decision on Judicial Notice of AFRC Adjudicated Facts, Annex A, Fact 6; Issa Sesay, Transcript 7 July 2010, pp. 43982-43983.

<sup>213</sup> Perry Kamara, Transcript 5 February 2008, pp. 3173-3183.

<sup>214</sup> Perry Kamara, Transcript 5 February 2008, p. 3160; Alice Pyne, Transcript 18 June 2008, pp. 12209-12213; Transcript 19 June 2008, pp. 12233-12241.

<sup>215</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750; Alice Pyne, Transcript 19 June 2008, pp. 12236-12240; Perry Kamara, Transcript 5 February 2008, pp. 3170-3171; Foday Lansana, Transcript 21 February 2008, pp. 4517-4519; Issa Sesay, Transcript 8 July 2010, pp. 44054-44055; Transcript 11 August 2010, p. 45972.

<sup>216</sup> Issa Sesay, Transcript 8 July 2010, pp. 44054-44055; Perry Kamara, Transcript 5 February 2008, pp. 3155-3156, 3167-31769; TF1-375, Transcript 24 June 2008, pp. 12556-12557; Foday Lansana, Transcript 22 February 2008, pp. 4524-4525.

<sup>217</sup> Decision on Judicial Notice of AFRC Adjudicated Facts, Annex A, Fact 10; Komba Sumana, Transcript 6 October 2008, pp. 17966-17968; TF1-375, Transcript 24 June 2008, pp. 12578-12579; Perry Kamara, Transcript 6 February 2008, pp. 3209-3211; Foday Lansana, Transcript 22 February 2008, pp. 4524-4528.

incident, SAJ Musa severed ties with the RUF command and created an unaffiliated SLA group of approximately 1,000 fighters at Camp Rosos, with Brima as his deputy.<sup>218</sup>

56. In late November 1998 or early December 1998, a meeting was held at Waterworks in which Bockarie ordered his group to commence an attack.<sup>219</sup> In mid-December 1998, an attack on Kono commenced under the command of Issa Sesay, with ECOMOG forces sustaining heavy casualties during their retreat.<sup>220</sup> On 23 December 1998, Sesay's forces captured Magburaka and, on the following day, took control of Makeni.<sup>221</sup>

57. In mid-December 1998, SAJ Musa's group commenced its advance on Freetown and by the end of December 1998 had reached Benguema on the outskirts of the capital.<sup>222</sup> Following the capture of Benguema, SAJ Musa was killed and Brima took over as commander of this group.<sup>223</sup>

58. The Prosecution submits that after the ECOMOG Intervention in mid-February 1998, the Accused took immediate steps to secure the diamond-mining areas by planning or being involved in a plan to take control and maintain control over Kono District. The plan was for the AFRC/RUF to hold Kono and thereafter move to the capital to restore AFRC/RUF control over Freetown. This plan resulted in the attacks on Kono in 1998. According to the Prosecution a multi-axis offensive was implemented in late 1998 which culminated in the attack on Freetown on 6 January 1999.<sup>224</sup>

<sup>218</sup> Decision on Judicial Notice of AFRC Adjudicated Facts, Annex A, Fact 10; Komba Sumana, Transcript 6 October 2008, pp. 17966-17968; TF1-375, 24 June 2008, pp. 12578-12579; Perry Kamara, Transcript 6 February 2008, pp. 3209-3211; Foday Lansana, Transcript 22 February 2008, pp. 4524-4528.

<sup>219</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5789-5794; Karmoh Kanneh, Transcript 9 May 2008, pp. 9418-9427; TF1-371, Transcript 28 January 2008, pp. 2410-2411 (CS); Transcript 30 January 2008, pp. 2640-2642 (CS); Issa Sesay, Transcript 9 July 2010, pp. 44127-44129, 44138, 44160-44161.

<sup>220</sup> Exhibit D-178, "United Nations Security Council, Second Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1999/20, 7 January 1999", p. 1.

<sup>221</sup> Exhibit P-093, "Restricted RUF/SL Comprehensive Report to Major Sam Bockarie from Brigadier Issa Sesay on the Take Over of Koidu, 26 January 1999"; Issa Sesay, Transcript 8 July 2010, pp. 44082-44083; Charles Ngebeh, Transcript 23 March 2010, pp. 37918-37919; Alice Pyne, Transcript 19 June 2008, pp. 12269-12272.

<sup>222</sup> Perry Kamara, Transcript 6 February 2008, pp. 3211-3213; Exhibit D-178, "United Nations Security Council, Second Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1999/20, 7 January 1999", p. 2.

<sup>223</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8243-8246; Perry Kamara, Transcript 6 February 2008, pp. 3214-3216; Decision on Judicial Notice of AFRC Adjudicated Facts, Annex A, Fact 13.

<sup>224</sup> Prosecution Final Trial Brief, paras 147-175.

59. The Prosecution claims that during the Freetown Invasion Bockarie went to Monrovia to take instructions from the Accused<sup>225</sup> and that during the second half of 1998 the Accused held clandestine meetings with Bockarie aimed at refining and implementing the plan after the failed Fitti-Fatta mission.<sup>226</sup> Furthermore, according to the Prosecution, the Accused was instrumental in procuring and organising a major shipment of arms and ammunition Burkina Faso that was supplied to the AFRC/RUF forces as part of this plan.<sup>227</sup>

60. The Defence denies that the Accused ever planned or ordered such offensives and instead submits that the plan to capture Kono District was made by Bockarie and Superman in May 1998.<sup>228</sup> The Defence contests the allegation that the Accused provided Bockarie with arms and ammunition and argues that there is credible evidence that suggests that this materiel was obtained from a variety of alternative sources.<sup>229</sup> The Defence claims that the Accused had never met Bockarie before his visit to Monrovia in September 1998<sup>230</sup> but accepts that the Accused met with Bockarie on three occasions in late 1998 and maintains that all meetings were open, transparent and arranged for the purpose of discussing arrangements for facilitating peace in Sierra Leone.<sup>231</sup>

## **E. Civil War in Sierra Leone (1999-2002)**

### **1. Freetown Attack**

61. It is an adjudicated fact from the AFRC Trial Judgement that: “following the death of SAJ Musa, the troops reorganised. On 5 January 1999, the Accused Brima gathered the troops in Allen Town and told them the time had come to attack Freetown. On 6 January 1999, they invaded Freetown”.<sup>232</sup> During the operation, between 3,000 and 5,000 persons were killed, including at least 2,000 civilians.<sup>233</sup> Brima’s forces held central Freetown for four days, until a counter-attack by ECOMOG forces weakened their position.<sup>234</sup> While the

<sup>225</sup> Prosecution Final Trial Brief, para. 173.

<sup>226</sup> Prosecution Final Trial Brief, paras 158-175, 1201.

<sup>227</sup> Prosecution Final Trial Brief, paras 257-264.

<sup>228</sup> Defence Final Trial Brief, para. 606.

<sup>229</sup> Defence Final Trial Brief, para. 926.

<sup>230</sup> Defence Final Trial Brief, para. 530.

<sup>231</sup> Defence Final Trial Brief, paras 516-531, 920.

<sup>232</sup> Decision on Judicial Notice of AFRC Adjudicated Facts, Annex A, Fact 14.

<sup>233</sup> Exhibit D-191, “United Nations Security Council, Fifth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1999/237, 4 March 1999”, para. 21.

<sup>234</sup> Exhibit D-191, “United Nations Security Council, Fifth Report of the Secretary General on the United





AFRC managed a controlled retreat, RUF reinforcements arrived in Waterloo. On 24 February 1999, ECOMOG forces succeeded in expelling the rebels from Waterloo.<sup>235</sup>

62. The Prosecution submits that the Freetown invasion was a joint RUF and AFRC operation.<sup>236</sup> Brima commanded the AFRC troops inside the city while the RUF provided critical support by: (i) leading the nationwide offensive that altered the military balance in Sierra Leone and made it possible for Brima's troops to enter Freetown;<sup>237</sup> (ii) providing communications, manpower and jet warnings;<sup>238</sup> (iii) attacking ECOMOG forces at strategic locations outside the city, which affected the battle inside;<sup>239</sup> and (iv) giving orders from Bockarie to be implemented during the attack.<sup>240</sup>

63. The Defence submits that it was the AFRC, not the RUF, which planned and executed the invasion and that the evidence that the Accused planned the attack with Bockarie is contradictory and vague and does not show that the Accused "planned the commission of crimes or was aware of the substantial likelihood of crimes as charged in the Indictment as part of the January 6 invasion".<sup>241</sup> Furthermore, the Defence maintains that the arms and ammunition used by the AFRC to attack Freetown were not supplied by the Accused, but rather captured by the AFRC during their approach to the capital.<sup>242</sup>

## 2. Lomé Peace Accord and Disarmament (1999)

64. On 7 January 1999, with the attack on Freetown ongoing, President Kabbah and Foday Sankoh agreed to a ceasefire which was announced over the radio, but was disregarded by the AFRC and RUF fighters. Further peace talks were facilitated by the Accused and the other members of the Committee of Five and, on 18 May 1999, another ceasefire agreement was signed in Lomé.<sup>243</sup> This ceasefire agreement, however, failed to

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Nations Observer Mission in Sierra Leone, S/1999/237, 4 March 1999", para. 2; Decision on Judicial Notice of AFRC Adjudicated Facts, Annex A, Fact 15.

<sup>235</sup> Exhibit D-191, "United Nations Security Council, Fifth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1999/237, 4 March 1999", para. 3.

<sup>236</sup> Prosecution Final Trial Brief, para. 513.

<sup>237</sup> Prosecution Final Trial Brief, para. 514.

<sup>238</sup> Prosecution Final Trial Brief, para. 515.

<sup>239</sup> Prosecution Final Trial Brief, para. 516.

<sup>240</sup> Prosecution Final Trial Brief, para. 517.

<sup>241</sup> Defence Final Trial Brief, para. 1345.

<sup>242</sup> Defence Final Trial Brief, paras 1112-1113.

<sup>243</sup> Exhibit D-199, "Special ECOWAS Report on Successful Peace Talks in Lomé, 1999", pp. 3, 9, 11.

bring about the end of hostilities.<sup>244</sup> On 7 July 1999, the Lomé Peace Accord was signed by President Kabbah and Foday Sankoh.<sup>245</sup> The Government of Sierra Leone and the RUF agreed to the immediate release of Sankoh, the transformation of the RUF into a political party that would become part of the Government of Sierra Leone and amnesty for all warring factions, including RUF members.<sup>246</sup> Sankoh received a formal position within the Sierra Leonean Government as Chairman of the Commission for the Management of Strategic Resources, National Reconstruction and Development, a position with the status of Vice-President of Sierra Leone.<sup>247</sup>

65. Despite the signing of the Lomé Peace Accord, hostilities continued.<sup>248</sup> A splinter group of AFRC fighters loyal to Koroma and known as the “West Side Boys” continued to attack ECOMOG forces and the civilian population in Port Loko District.<sup>249</sup> In September 1999, Koroma and 13 of his subordinates issued a document claiming that the AFRC had been unrepresented, unrecognised and marginalised in the Lomé Peace Agreement.<sup>250</sup> On 28 September 1999, Sankoh travelled to Monrovia to participate in two days of peace talks with Koroma that were mediated by the Accused.<sup>251</sup> Subsequently, the AFRC was included

<sup>244</sup> Exhibit P-264, “Radio Log-Book 0008636-0008726”, pp. 8653, 8656, 8658, 8660, 8662, 8665, 8668A, 8672; Exhibit D-022, “Sierra Leone News Archives, September 1999, Sierra Leone Web, 30 September 1999”; Exhibit D-206, “Outgoing Code Cable, Urgent Issues, President Taylor’s Request for Teleconference with the Secretary General, to Riza for Secretary General, United Nations, New York, from Downes-Thomas, RSG, UNOL, Monrovia, 6 August 1999;” Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26668-26669; Issa Sesay, Transcript 12 July 2010, pp. 44201-44203; Corinne Dufka, Transcript 22 January 2008, p. 1930; Isaac Mongor, Transcript 31 March 2008, pp. 6178-6180.

<sup>245</sup> Exhibit D-224, “Letter to the President of Sierra Leone, Dr Alhaji Ahmad Tejan Kabbah, from Foday Saybana Sankoh, 29 October 1999”, para. 3; Stephen Ellis, Transcript 17 January 2008, pp. 1482-1483.

<sup>246</sup> Exhibit D-199, “Special ECOWAS Report on Successful Peace Talks in Lomé, 1999”, pp. 35-36.

<sup>247</sup> Exhibit D-199, “Special ECOWAS Report on Successful Peace Talks in Lomé, 1999”, pp. 35-36.

<sup>248</sup> Exhibit P-264, “Radio Log-Book 0008636-0008726”, pp. 8680-8681, 8687, 8701; Exhibit D-022, “Sierra Leone News Archives, September 1999, Sierra Leone Web, 30 September 1999”; Exhibit D-206, “Outgoing Code Cable, Urgent Issues, President Taylor’s Request for Teleconference with the Secretary General, to Riza for Secretary General, United Nations, New York, from Downes-Thomas, RSG, UNOL, Monrovia, 6 August 1999”; Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26668-26669; Issa Sesay, Transcript 12 July 2010, pp. 44201-44203; Corinne Dufka, Transcript 22 January 2008, p. 1930; Isaac Mongor, Transcript 31 March 2008, pp. 6178-6180.

<sup>249</sup> Issa Sesay, Transcript 12 July 2010, pp. 44201-44203; Corinne Dufka, Transcript 22 January 2008, p. 1930; Isaac Mongor, Transcript 31 March 2008, pp. 6178-6180; Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8416-8419; Transcript 24 April, pp. 8447-8760.

<sup>250</sup> Exhibit D-022, “Sierra Leone News Archives, September 1999, Sierra Leone Web, 30 September 1999”.

<sup>251</sup> Exhibit D-217, “Itinerary for the Visit of Hon. Foday Sankoh and Delegation Visit to Liberia, 8-30 September 1999”; Exhibit P-530, “Article, Sierra Leone News Archives, Sierra Leone Web, October 1999”; Issa Sesay, Transcript 14 July 2010, pp. 44430-44431; Exhibit D-022, “Sierra Leone News Archives, September 1999, Sierra Leone Web, 30 September 1999”; Exhibit D-217, “Itinerary for the Visit of Hon. Foday Sankoh and Delegation Visit to Liberia, 8-30 September 1999”.

within the power-sharing government, with Koroma appointed as the Chairman of the Commission for the Consolidation of Peace (“CCP”).<sup>252</sup>

66. The Prosecution submits that the Accused’s involvement in the Lomé negotiations were calculated to allow the Accused to give the appearance of a peacemaker, while continuing his clandestine support for the RUF and AFRC.<sup>253</sup> The Defence, however, denies this allegation, and submits that the Accused’s efforts towards achieving peace in Sierra Leone were genuine.<sup>254</sup> The disarmament process in Sierra Leone took time to eventuate.<sup>255</sup> Bockarie strongly opposed RUF disarmament.<sup>256</sup> On 14 December 1999 Bockarie resigned from the RUF<sup>257</sup> and in the same month left Sierra Leone with a group of men and relocated to Monrovia.<sup>258</sup> Some of the men who moved with Bockarie to Liberia were incorporated in the Accused’s ATU.<sup>259</sup> The parties agree that Bockarie left Sierra Leone to Monrovia upon the Accused’s invitation, but while the Prosecution alleges that the Accused ordered Bockarie to do so and that Bockarie’s arrival in Liberia was kept secret,<sup>260</sup> the Defence submits that the Accused’s actions were carried out under the auspices of ECOWAS as part of the peace process.<sup>261</sup>

### 3. RUF Capture of UNAMSIL Peacekeepers and Appointment of Issa Sesay as Interim Leader (2000)

67. In May 2000, the RUF captured between 400 and 500 UN peacekeepers in the area between Lunsar and Makeni in Sierra Leone.<sup>262</sup> Shortly after this, on 8 May 2000, Sankoh was arrested by the Government of Sierra Leone and incarcerated in Freetown.<sup>263</sup> Thereafter,

<sup>252</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8501-8503; Transcript 25 April 2008, p. 8644; Issa Sesay, Transcript 26 August 2010, pp. 47190-47191.

<sup>253</sup> Prosecution Final Trial Brief, paras 1, 38.

<sup>254</sup> Defence Final Trial Brief, paras 965, 1011.

<sup>255</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32562-32566.

<sup>256</sup> TF1-371, Transcript 29 January 2008, pp. 2448-2450 (CS); Stephen Ellis, Transcript 18 January 2008 pp. 1595-1596; Charles Ghankay Taylor, Transcript 10 September 2009, pp. 28556-28557.

<sup>257</sup> Exhibit D-003, “Radio Log-Book”, ERN 8764.

<sup>258</sup> TF1-371, Transcript 29 January 2008, pp. 2449-2451 (CS); Varmuyan Sherif, Transcript 9 January 2008, pp. 882-883; Foday Lansana, Transcript 22 February 2008, pp. 4571, 4573-4574; TF1-516, Transcript 9 April 2008, pp. 7037-7038; Charles Ghankay Taylor, Transcript 17 August 2009, p. 26859

<sup>259</sup> Charles Ghankay Taylor, Transcript 26 October 2009, pp. 30202-30203.

<sup>260</sup> Prosecution Final Trial Brief, paras 204, 334, 388.

<sup>261</sup> Defence Final Trial Brief, paras 663, 933, 1297.

<sup>262</sup> Issa Sesay, Transcript 14 July 2010, pp. 44505-44513; Abu Keita, Transcript 23 January 2008, pp. 2030-2032; Admitted Facts and Law, Agreed Fact 36.

<sup>263</sup> Issa Sesay, Transcript 14 July 2010, pp. 44504-44505; Perry Kamara, Transcript 6 February 2008, p.

the UN peacekeepers were taken to Liberia and released after having been held hostage for approximately three weeks.<sup>264</sup> Subsequently, and due to the arrest of Foday Sankoh, Issa Sesay was appointed as interim leader of the RUF.<sup>265</sup> From mid-2000 fighting between the Government of Sierra Leone and the RUF ceased almost entirely<sup>266</sup> and the RUF began to take their commitment to disarm more seriously.<sup>267</sup>

68. The Prosecution submits that the Accused, as leader of the RUF, appointed Sesay as the interim leader during an ECOWAS Heads of State meeting held in Monrovia on 26 July 2000.<sup>268</sup> According to the Prosecution, the Accused ordered Sesay to release the hostages so that the Accused could improve his standing in the international community and protect his financial interests in Sierra Leone's diamond resources.<sup>269</sup> The Defence, however, denies that the Accused appointed Sesay as interim leader, and instead maintains that this appointment was made by the ECOWAS Heads of State.<sup>270</sup> The Defence submits that the Accused earnestly negotiated for the unconditional release of the UN peacekeepers in fulfilment of his responsibilities to ECOWAS and the international community.<sup>271</sup>

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3269; Charles Ghankay Taylor, Transcript 16 November 2009, p. 31656 (the Accused agreed that an incident occurred at Foday Sankoh's residence in Freetown); TF1-338, Transcript 1 September 2008, pp. 15120-15121.

<sup>264</sup> Issa Sesay, Transcript 14 July 2010, pp. 44515, 44538-44539; Perry Kamara, Transcript 6 February 2008, pp. 3269-3270; Exhibit D-245, "Press Release, Secretary General Acknowledges Liberian President's Role in Peacekeepers Release, SG/SM7396, Secretary General, Department of Public Information, New York, 15 May 2000"; Exhibit D-246, "Press release by the President of Liberia, Ministry of State for Presidential Affairs, Liberia, 16 May 2000"; Exhibit D-244, "Press release by the President of Liberia, Ministry of State for Presidential Affairs, Liberia, 13 May 2000"; Exhibit D-247, "Press release by the President of Liberia, Ministry of State for Presidential Affairs, Liberia, 22 May 2000"; Exhibit D-250, "Fax-Letter, from the President of Sierra Leone, Ahmad Tejan Kabbah, to the Special Representative of the United Nations Secretary General, Oluyemi Adeniji, Government Statement, 23 May 2000"; Exhibit D-253, "Letter from President of Liberia, Dankpannah Dr Charles Ghankay Taylor to President of Sierra Leone, Alhaji Dr Ahmad Tejan Kabbah, 5 June 2000"; Stephen Ellis, Transcript 17 January 2008, p. 1482; Exhibit D-243, "Letter from General Issa Sesay, RUF Field Commander, to the President of Liberia, Dankpannah Dr Charles Ghankay Taylor, 11 May 2000".

<sup>265</sup> Prosecution Final Trial Brief, para. 180; Defence Final Trial Brief, paras 686-689.

<sup>266</sup> Issa Sesay, Transcript 26 July 2010, pp. 44570-44571.

<sup>267</sup> Exhibit D-441A, "Witness Statement of Alpha Konaré, AU Headquarters, Addis Ababa, 13 March 2007"; Exhibit D-441B, "Witness Statement of Oluyemi Adeniji (Issa Sesay), Freetown/Nairobi (Telephone), 2 March 2008"; Exhibit D-441C, "Witness Statement of Daniel Opande, 7 March 2008"; Exhibit D-441D, "Witness Statement of Ali Hassan, 10 March 2008; Exhibit D-441E, "Witness Statement of Ahmad Tejan Kabbah (Issa Sesay), Juba Hill, 12 May 2008".

<sup>268</sup> TF1-338, Transcript 2 September 2008, pp. 15145-15146, 15155-15156; Prosecution Final Trial Brief, paras 180-181.

<sup>269</sup> Prosecution Final Trial Brief, paras 178-179.

<sup>270</sup> Issa Sesay, Transcript 26 July 2010, pp. 44548-44552; Admitted Facts and Law, Agreed Fact 34.

<sup>271</sup> Defence Final Trial Brief, paras 93, 672-674.



4. Abuja Peace Agreements and the end of the Sierra Leone Civil War (2000-2002)

69. On 10 November 2000, the Government of Sierra Leone and the RUF signed a peace agreement known as the “Abuja I Peace Agreement”.<sup>272</sup> The two parties affirmed their commitment to the Lomé Peace Agreement of 7 July 1999, agreed to an immediate ceasefire and agreed to continue with the disarmament process.<sup>273</sup> With the exception of skirmishes between the CDF and the RUF in Kono District, the ceasefire generally held.<sup>274</sup> A ceasefire review conference was held in Abuja in May 2001, in what became known as the “Abuja II Peace Agreement”. On this occasion, the United Nations Mission in Sierra Leone (“UNAMSIL”) joined the RUF and the Government of Sierra Leone in tripartite discussions.<sup>275</sup>

70. From mid-2001, the RUF began to make significant progress in the disarmament process.<sup>276</sup> By the end of 2001, the RUF had disarmed completely and hostilities had ceased in all areas of Sierra Leone, with the exception of Kono District.<sup>277</sup> On or about 18 January 2002, President Kabbah announced the end of hostilities in Sierra Leone, signalling the end of the war.<sup>278</sup>

<sup>272</sup> Decision on Judicial Notice, Annex A, Fact H; Exhibit P-587, “Agreement on cease-fire and cessation of hostilities between the Government of the Republic of Sierra Leone, represented by Solomon Ekuma Berewa, and the Revolutionary United Front (RUF) represented by Jonathan Jim Kposowa, S/2000/191, 10 November 2000”.

<sup>273</sup> Exhibit P-587, “Agreement on cease-fire and cessation of hostilities between the Government of the Republic of Sierra Leone, represented by Solomon Ekuma Berewa, and the Revolutionary United Front (RUF) represented by Jonathan Jim Kposowa, S/2000/191, 10 November 2000”.

<sup>274</sup> Exhibit P-590, “United Nations Security Council, Eleventh Report of the Secretary General on the United Nations Mission in Sierra Leone, S/2001/857, 7 September 2001”.

<sup>275</sup> Issa Sesay, Transcript 26 July 2010, pp. 44572-44574.

<sup>276</sup> Issa Sesay, Transcript 4 August 2010, pp. 45337-45341.

<sup>277</sup> Charles Ngebeh, Transcript 12 April 2010, pp. 38696-38697.

<sup>278</sup> Admitted Facts and Law, Agreed Fact 35; Decision on Judicial Notice, Annex A, Fact C.

### III. PRELIMINARY ISSUES

71. The Defence raises several preliminary objections to aspects of the Prosecution case. The Defence submits that; (i) the charges against the Accused should be dropped as he has been selectively prosecuted;<sup>279</sup> (ii) certain evidence falling outside of the scope of the Indictment and/or jurisdiction of the court should be excluded or the purposes for which it is used should be limited<sup>280</sup> and (iii) the Defence has been prejudiced by the delay in the Trial Chamber's ruling on its challenge to the pleading of the joint criminal enterprise, and that the Trial Chamber should therefore decline to consider joint criminal enterprise as a mode of criminal responsibility against the Accused.<sup>281</sup> The Defence also raises the issue of discretionary payments and other inducements to witnesses made by the Prosecution, submitting that a case of prosecutorial abuse of process has been made out with the consequence of depriving the Accused of a fair trial.<sup>282</sup>

72. In this section, the Trial Chamber has also considered related Prosecution submissions, in which it requests the Trial Chamber to consider evidence of (i) locations not specifically pleaded in the Indictment;<sup>283</sup> (ii) evidence of crimes not specifically pleaded in the Indictment;<sup>284</sup> (iii) evidence of crimes which fall within the "approximate" timeframes of the Indictment.<sup>285</sup>

#### A. Selective Prosecution

73. The Defence submits that the prosecution of Taylor has from the outset been selective and vindictive in nature. The Defence argues that Taylor was singled out for prosecution on the basis of improper political motives, and that other individuals who are similarly situated to Taylor were not prosecuted.<sup>286</sup> According to the Defence, whereas the record is replete with evidence of alleged assistance given before and during the Indictment period (30 November 1996 through 18 January 2002) to members of the RUF by other

<sup>279</sup> Defence Final Trial Brief, paras 9-22.

<sup>280</sup> Defence Final Trial Brief, paras 28-46.

<sup>281</sup> Defence Final Trial Brief, paras 47-71.

<sup>282</sup> Defence Final Trial Brief, paras 23-26.

<sup>283</sup> Prosecution Final Trial Brief, para. 662.

<sup>284</sup> Prosecution Final Trial Brief, para. 663.

<sup>285</sup> Prosecution Final Trial Brief, para. 662.

<sup>286</sup> Defence Final Trial Brief, paras 9-22. See also *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 9 March 2011, pp. 49389-49390.

African leaders, notably Muammar al-Gaddafi of Libya and Blaise Compaoré of Burkina Faso, only Charles Taylor stands charged for assisting the RUF.<sup>287</sup> The Defence argues that it was improper for Taylor to have been prosecuted despite the fact that others, namely Ghaddafi and Compaoré, who bear the same level of responsibility were not prosecuted.<sup>288</sup>

74. The Defence submits that it has satisfied the two-pronged test established in the *Čelibići* Appeals Judgement that a party alleging selective prosecution must establish (i) an unlawful or improper (including discriminatory) motive for the prosecution and (ii) that other similarly-situated persons were not prosecuted.<sup>289</sup> The Defence argues that it has satisfied the first prong of this test by establishing improper and discriminatory motives behind Taylor's prosecution. It argues that Taylor was singled out and prosecuted on the basis of political motives and interests of the United States,<sup>290</sup> and that evidence for this assertion can be found in Prosecutor David Crane's comments to the U.S. Congress<sup>291</sup> and leaked U.S. Embassy cables.<sup>292</sup> It also submits that it has satisfied the second prong of the test, as other individuals who were similarly situated to the Accused, such as Gaddafi and Compaoré, were not prosecuted, despite statements made by Crane that they had participated in the same joint criminal enterprise as Taylor.<sup>293</sup> The Defence therefore requests that the Trial Chamber make a finding of selective prosecution and dismiss all charges against Taylor as a consequence thereof.<sup>294</sup>

75. The Prosecution submits that disclosing the sealed Indictment against Charles Taylor to governments was completely proper and within the Prosecutor's powers and that there is no basis for the Defence submission that this indicates some kind of political misconduct by the Prosecutor or interference by a Government. The Prosecution denies that the prosecution

<sup>287</sup> Defence Final Trial Brief, paras 9-10.

<sup>288</sup> Defence Final Trial Brief, para. 13; Exhibit D-404, Hearing - Subcommittee on Africa, Global Human Rights and International Operations of the Committee on International Relations House of Representatives, 109<sup>th</sup> Congress, Second Session, Impact of Liberia's Election on West Africa, 8 February 2006, p. 79, fn 11.

<sup>289</sup> Defence Final Trial Brief, para. 16, referring to *Čelibići* Appeals Judgement, para. 611.

<sup>290</sup> Defence Final Trial Brief, paras 3, 5, 18, 22.

<sup>291</sup> Exhibit D-404, "Hearing - Subcommittee on Africa, Global Human Rights and International Operations of the Committee on International Relations House of Representatives, 109<sup>th</sup> Congress, Second Session, Impact of Liberia's Election on West Africa, 8 February 2006", p. 79, fn. 10.

<sup>292</sup> Exhibit D-481, "United States Government (USG) Embassy Cable: Rising Concern about the Taylor Prosecution Case (10 March 2009), Guardian.co.uk, 17 December 2010"; Exhibit D-482, "United States Government (USG) Embassy Cables: the Protracted Case against Charles Taylor (April 15 2009), Guardian.co.uk., 17 December 2010".

<sup>293</sup> Defence Final Trial Brief, paras 11, 17.

<sup>294</sup> Defence Final Trial Brief, para. 22.

of the Accused was politically motivated and submits that rather than demonstrating that the prosecution of the Accused is in the interests of the United States Government, the evidence demonstrates that the Accused and the Government of the United States had a close relationship.<sup>295</sup>

76. Furthermore, the Prosecution submits that the second prong of the *Čelibići* test has not been met, as no one is similarly situated to the Accused with respect to the armed conflict in Sierra Leone. The Prosecution contends that the Accused had control over the leaders of the groups that were perpetrating horrific crimes and there is far more evidence linking the Accused to the crimes committed in Sierra Leone rather than Ghaddafi and Compaoré, and that the majority of the assistance provided by other individuals went through the Accused.<sup>296</sup> The Prosecution also argues that while there is evidence that Ghaddafi and Compaoré and the governments they headed aided the RUF, that evidence is less than a tenth of the evidence involving Charles Taylor's assistance to the RUF and that there is further evidence showing that a great majority of that aid went through Charles Taylor.<sup>297</sup>

77. In considering the question of selective prosecution, the Trial Chamber is mindful of Article 15 of the Statute, which vests the Prosecutor with responsibility "for the investigation and prosecution of persons who bear the greatest responsibility for serious violations of international humanitarian law...". In doing so, the Prosecutor shall "act independently as a separate organ of the Special Court. He or she shall not seek or receive any instructions from any Government or from any other source".

78. Article 15 of the Statute gives discretion to the Prosecutor to determine which individuals are to be prosecuted for crimes under the Statute, based on investigations and evidence gathered. In the present case, the Defence alleges that others who bear responsibility for these crimes equal to the responsibility of the Accused have not been charged, and that the decision not to charge them has been improperly motivated by the interests of the U.S. Government, constituting an abuse of prosecutorial discretion.

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<sup>295</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 9 March 2011, pp. 49368-49370; Transcript 11 March 2011, pp. 49573-49574.

<sup>296</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 9 March 2011, pp. 49366-49368; Transcript 11 March 2011, pp. 49574-49575.

<sup>297</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 9 March 2011, pp. 49366-49367.



79. The Trial Chamber adopts the test set forth in the ICTY Appeals Chamber in the *Čelibići* case that in order to establish that there has been selective prosecution, the Defence must establish: (i) an unlawful or improper (including discriminatory) motive for the prosecution and (ii) that other similarly situated persons were not prosecuted.<sup>298</sup> This test puts a heavy burden on a claimant. To satisfy this test, the claimant must demonstrate “clear evidence of the intent of the Prosecutor to discriminate on improper motives, and that other similarly situated persons were not prosecuted”.<sup>299</sup> The threshold is a very high one. As the ICTY Appeals Chamber noted, “it cannot be accepted that ‘unless all potential indictees who are similarly situated are brought to justice, there should be no justice done in relation to a person who had been indicted and brought to trial.’”<sup>300</sup>

80. The Appeals Chamber of the ICTY has indicated that the rationale behind this test is that:

... the breadth of the discretion of the Prosecutor, and the fact of her statutory independence, imply a presumption that the prosecutorial functions under the Statute are exercised regularly. This presumption may be rebutted by an appellant who can bring evidence to establish that the discretion has in fact not been exercised in accordance with the Statute; here, for example, in contravention of the principle of equality before the law [. . .]. This would require evidence from which a clear inference can be drawn that the Prosecutor was motivated in that case by a factor inconsistent with that principle. Because the principle is one of *equality* of persons before the law, it involves a comparison with the legal treatment of other persons who must be similarly situated for such a comparison to be a meaningful one.<sup>301</sup>

81. In the present case, the Defence adduced evidence to support its contention that the Prosecutor’s decision to prosecute Charles Taylor was improperly based on political motives and interests of the U.S. Government. This evidence consists of comments made by Prosecutor David Crane to the U.S. Congress, and his disclosure of the sealed Indictment to the U.S. Government. However inappropriate Crane’s actions may have been, in the view of the Trial Chamber such actions do not constitute clear evidence of the intent of the Prosecutor to discriminate on improper motives.

82. Given the failure of the Defence to establish that the Prosecution had a discriminatory or improper motive to prosecute the Accused, it is not strictly necessary to consider the additional question of whether there were similarly situated persons who were

<sup>298</sup> *Čelibići* Appeals Judgement, para. 611.

<sup>299</sup> *Čelibići* Appeals Judgement, para. 610.

<sup>300</sup> *Čelibići* Appeals Judgement, para. 618; *Akayesu* Appeals Judgement, paras 93-97.





not prosecuted. Nevertheless, the Trial Chamber observes that in his statement to the U.S. Congress, cited by the Defence, the Prosecutor referred to Charles Taylor as “a catalyst” while characterizing Gaddafi and Compaoré as “compatriots” who backed Taylor. He explained his decision not to indict Gaddafi and Compaoré in part on the basis of “evidentiary issues”.<sup>302</sup> The Trial Chamber finds that the evidence in the record, and the allegations made by the Prosecution against Charles Taylor, as well as the statements cited by the Defence in support of its submission, do not establish that the Accused, Gaddafi and Compaoré were similarly situated. The allegations against the Accused go well beyond the scope of the allegations against the others, uniquely asserting that in addition to providing support, the Accused exercised control over the leadership of those perpetrating the crimes set forth in the Indictment.

83. For these reasons the Trial Chamber finds that neither of the two prongs of the test for selective prosecution, set forth by the ICTY Appeals Chamber in the *Čelibići* case and adopted by the Trial Chamber, has been met. The Trial Chamber notes that the remedy requested by the Defence, the dismissal of all charges against the Accused, would be in the words of the ICTY Appeals Chamber an “entirely disproportionate response”.<sup>303</sup> In any event, the Trial Chamber finds that the Accused has not been singled out for selective prosecution.

### Finding

84. The Trial Chamber finds that the Accused has not been singled out for selective prosecution.

### **B. Evidence Outside of the Scope of the Indictment and/or Jurisdiction of the Court**

85. On 24 September 2010, the Defence submitted a motion requesting that the Trial Chamber exclude and/or limit the use to be made of Prosecution evidence falling outside of the temporal or geographical scope of the Indictment and/or the jurisdiction of the court.<sup>304</sup>

<sup>301</sup> *Čelibići* Appeals Judgement, para. 618; *Akayesu* Appeals Judgement, paras 93-97.

<sup>302</sup> Defence Final Trial Brief, para. 12.

<sup>303</sup> *Čelibići* Appeals Judgement, para. 618.

<sup>304</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1086, Defence Motion to Exclude Evidence Falling Outside of the

The Trial Chamber held that the motion was premature at that time and that the said issues would be more appropriately addressed by the parties in their final trial briefs and/or closing arguments.<sup>305</sup> The Defence raised this issue again in its Final Trial Brief, incorporating by reference all arguments it had previously advanced in the motion.<sup>306</sup>

#### Timing of the Objections

86. The Prosecution submits that the Defence objections in relation to evidence outside the scope of the Indictment and/or jurisdiction of the Court are not timely, as the Defence did not object at the time that such evidence was adduced. It therefore submits that the Defence has waived its right to make such objections.<sup>307</sup>

87. The Defence submits that it has objected previously to such evidence, including in its Pre-Trial Brief which included a specific section urging “the Trial Chamber to be vigilant in ensuring that there is no expansion of the territorial or temporal jurisdiction of the court via the back door”.<sup>308</sup> However, it argues that the use of ex-temporal and ex-territorial evidence was so widespread that it was impractical for the Defence to raise the objection every time it arose.<sup>309</sup> The Defence also argues that while it may itself have led such evidence during the Defence case, the necessity for doing so was directly related to rebutting Prosecution evidence. It therefore submits that, bearing in mind that the Defence has no burden of proof and never has an obligation to put forth a case, whether or not the Defence has led such evidence is immaterial and of no consequence to the relief it seeks *vis-à-vis* Prosecution evidence.<sup>310</sup>

88. Further, in its oral response, the Defence argues that the Prosecution’s submission that its objections are untimely is misplaced, as it raised these issues in its prior motion. The Trial Chamber held that the motion was premature and that these issues should more

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Scope of the Indictment and/or the Jurisdiction of the Special Court for Sierra Leone, 24 September 2010.

<sup>305</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1101, Decision on Defence Motion to Exclude Evidence Falling Outside the Scope of the Indictment and/or the Jurisdiction of the Special Court for Sierra Leone, 6 October 2010 [Decision on the Evidence Falling Outside of the Indictment], p. 3.

<sup>306</sup> Defence Final Trial Brief, para. 29.

<sup>307</sup> Prosecution Closing Arguments, Transcript 9 March 2011, pp. 49371-49372.

<sup>308</sup> Defence Final Trial Brief, para. 33, referring to Defence Pre-Trial Brief, paras 9-23.

<sup>309</sup> Defence Final Trial Brief, para. 33.

<sup>310</sup> Defence Final Trial Brief, para. 45.

appropriately be raised in the Defence's final trial brief.<sup>311</sup> The Defence therefore submits that it did not waive its right to object, but was only following the court's directive.<sup>312</sup>

89. In its Pre-Trial Brief, the Defence objected to the Prosecution's use of "alleged facts pre-dating the indictment period and alleged conduct said to have been committed outside of the territory of Sierra Leone".<sup>313</sup> In particular, the Defence objected to evidence of crimes committed in Liberia and evidence which pre-dated the Indictment period,<sup>314</sup> and argued that the Trial Chamber could rely on such evidence only in relation to an offence which continues into the mandate year, to provide background or context, or as "similar fact evidence" pursuant to Rule 93.<sup>315</sup> The Defence also objected to such evidence in its opening statement.<sup>316</sup>

90. Moreover, at several times during the presentation of the evidence,<sup>317</sup> during its submissions on applications by the Prosecution for the admission of evidence pursuant to Rule 92bis,<sup>318</sup> and in its Rule 98 submission,<sup>319</sup> the Defence did raise objections about the

<sup>311</sup> Defence Closing Arguments, Transcript 11 March 2011, p. 49614, referring to Decision on the Evidence Falling Outside of the Indictment, p. 3.

<sup>312</sup> Defence Closing Arguments, Transcript 11 March 2011, p. 49614.

<sup>313</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT, Corrigendum to Rule 73bis Taylor Defence Pre-Trial Brief, 18 May 2007, paras 9-23 ("Defence Pre-Trial Brief").

<sup>314</sup> Defence Pre-Trial Brief, paras 10, 11-12.

<sup>315</sup> Defence Pre-Trial Brief, paras 14-16.

<sup>316</sup> Defence Opening Statement, Transcript 13 July 2009, p. 24306.

<sup>317</sup> Transcript 22 January 2008, pp. 1829, 1843-1844, where the Defence objected to evidence about attacks in Guinea and Liberia on the basis that this evidence was outside of the geographical and temporal scope of the Indictment; Transcript 18 April 2008, p. 8054, and Transcript 21 April 2008, p. 8077, where the Defence objected to the admission of evidence from districts in Sierra Leone that were not pleaded in the Indictment and indicated that this was a continuing objection; Transcript 7 May 2008, p. 9148, where the Defence objected to the admission of evidence from districts in Sierra Leone that were not pleaded in the Indictment and indicated that this was a continuing objection; Transcript 5 November 2008, pp. 19798-19799, where the Defence objected to the admission of evidence of fighting in Liberia on the basis that this evidence was outside of the geographical and temporal scope of the Indictment.

<sup>318</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-579, Public with Confidential Annex A, Defence Objection to 'Prosecution Notice Under Rule 92bis for the Admission of Evidence relating to *inter alia* Kono District – TF1-218 & TF1-304', 9 September 2008, paras 4(a), 19; *Prosecutor v. Taylor*, SCSL-03-01-T-589, Public with Confidential Annex A, Defence Objection to 'Prosecution Notice Under Rule 92bis for the Admission of Evidence related to *inter alia* Kono District' and Other Ancillary Relief, 12 September 2008, paras 5(a), 20; *Prosecutor v. Taylor*, SCSL-03-01-T-597, Public with Confidential Annex A Defence Objection to 'Prosecution Notice Under 92bis for the Admission of Evidence related to *inter alia* Freetown and Western Area – TF1-023 & TF1-029' and Other Ancillary Relief, 17 September 2008, paras 5(a), 22; *Prosecutor v. Taylor*, SCSL-03-01-T-598, Public with Confidential Annex A Defence Objection to 'Prosecutor Notice under Rule 92bis for the Admission of Evidence related to *inter alia* Kono District – TF1-195, TF1-197, TF1-198, TF1-206' and Other Ancillary Relief, 17 September 2008, paras 5(a), 21; *Prosecutor v. Taylor*, SCSL-03-01-T-626, Public with Confidential Annex A, Defence Objection to 'Prosecution Notice Under Rule 92bis for the Admission of Evidence related to *inter alia* Freetown & Western Area – TF1-098, TF1-104, TF1-227' and Other Ancillary Relief, 8 October 2008, paras 5(b), 20-21.



introduction of such evidence. The Defence also filed a motion prior to the close of the case which raised the same objections that it has now addressed in its final submissions.<sup>320</sup>

91. Therefore, while the Defence did not object every time evidence falling outside the temporal or geographical scope of the Indictment and/or jurisdiction of the court was introduced, it indicated at several points that its previous objections were continuing objections.<sup>321</sup> The Trial Chamber therefore finds that the Defence objected to this evidence in a timely fashion, and dismisses the Prosecution's submissions to the contrary.

### Submissions of the Parties

92. The Defence submits that the Prosecution has adduced a considerable amount of evidence falling outside of the temporal and geographical scope of the Indictment. The Defence objects that much of the ex-temporal and ex-territorial evidence adduced in the case is irrelevant to the Indictment or falls outside the jurisdiction of the Special Court and should be excluded from the Trial Chamber's consideration of the evidence in the case.<sup>322</sup> The Defence position is that there is so much evidence outside the scope of the Indictment that it amounts to prejudice of such a nature that it far outweighs any probative value of such evidence, and that therefore the admission of this evidence would contravene Rule 95 and Article 17.<sup>323</sup>

93. In particular, the Defence objects to certain specific categories of evidence: (i) any evidence of a joint criminal enterprise falling outside of the temporal scope of the Indictment;<sup>324</sup> (ii) any evidence of atrocities in Liberia and elsewhere beyond Sierra Leone falling outside the geographic and temporal scope of the Indictment.<sup>325</sup>

<sup>319</sup> Transcript 6 April 2009, p. 24092, where the Defence objected to the receipt of radios from Charles Taylor in 1991 to prove aiding and abetting as this occurred prior to the Indictment period; Transcript 6 April 2009, p. 24102, where the Defence objected to evidence about atrocities committed in Liberia.

<sup>320</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1086, Defence Motion to Exclude Evidence Falling Outside of the Scope of the Indictment and/or the Jurisdiction of the Special Court for Sierra Leone, 24 September 2010.

<sup>321</sup> See, for example, Transcript 21 April 2008, p. 8077, and *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 7 May 2008, p. 9148, where the Defence noted it was making a continuing objection to the admission of evidence from districts in Sierra Leone that were not pleaded in the Indictment.

<sup>322</sup> Defence Final Trial Brief, paras 34, 36.

<sup>323</sup> Defence Final Trial Brief, paras 34, 37.

<sup>324</sup> Defence Final Trial Brief, paras 38-39.

<sup>325</sup> Defence Final Trial Brief, paras 40-41.

94. As to category (i), the Defence argues that evidence that pre-dates the Indictment, such as evidence relating to a common plan between the Accused and Foday Sankoh which originated in the late 1980s, cannot be used to determine guilt.<sup>326</sup>

95. As to category (ii), the Defence submits that such evidence has little relevance or probative force other than to “blacken the Accused’s character with the Trial Chamber”, which the Defence claims is not permitted pursuant to Rule 93, and violates Rule 95 and Article 17.<sup>327</sup> The Defence submits that the same holds true for the Accused’s alleged role in conflicts, arms-dealing and diamond-dealing throughout the African continent.<sup>328</sup>

96. The Defence specifically objects to the Prosecution’s attempt to “push the frontiers of Rule 93 evidence by suggesting that such evidence can found *mens rea*”.<sup>329</sup> The Defence submits that evidence of a prior act of the Accused is not admissible for the purpose of demonstrating a general propensity or disposition to commit the crimes charged, and is not admissible to show that the accused is capable of committing the offence, or that on some other occasion he had the intent to commit the offence.<sup>330</sup> It submits that evidence of similar conduct is only admissible where it is probative of some peculiar feature of the case or where it is highly distinctive or unique such that it amounts to a signature or identifiable pattern.<sup>331</sup>

97. In its Final Trial Brief, the Prosecution submits that evidence falling outside the temporal and/or geographical scope of the Court’s jurisdiction and/or the Indictment may be admitted and relied upon by a Trial Chamber for multiple purposes, including:

- (i) proving by inference the elements (in particular, criminal intent) of the criminal conduct (i.e. elements of crimes and individual criminal responsibility) occurring during the temporal jurisdiction of the court
- (ii) establishing the contextual elements of Articles 2, 3 and 4 of the Statute

<sup>326</sup> Defence Final Trial Brief, para. 38.

<sup>327</sup> Defence Final Trial Brief, para. 40.

<sup>328</sup> Defence Final Trial Brief, para. 40.

<sup>329</sup> Defence Response to the Prosecution Final Trial Brief, para. 96.

<sup>330</sup> Defence Response to the Prosecution Final Trial Brief, para. 97.

<sup>331</sup> Defence Response to the Prosecution Final Trial Brief, para. 97.

(iii) demonstrating a deliberate or consistent pattern of conduct, which can be relied upon to establish intent, specific offences, including a campaign of terror and the use of child soldiers and modes of liability charged in an indictment including command responsibility and/or

(iv) providing the context in which the crimes are said to have been committed.<sup>332</sup>

### Findings

98. In many instances during the trial proceedings, the Trial Chamber held that evidence falling outside of the temporal and/or geographical scope of the Indictment and/or the jurisdiction of the court, was admissible pursuant to Rule 89(C), as it was relevant to the context and/or *chapeau* requirements of the alleged crimes, or as evidence of a consistent pattern of conduct under Rule 93.<sup>333</sup> The Trial Chamber reiterates its previous decisions concerning the admissibility of this evidence. However, insofar as the Defence submissions constitute a request for clarification of the permissible and impermissible uses that may be made of such evidence, the Trial Chamber will consider these submissions in determining the limits to be placed on the use of this evidence.

#### (a) Temporal Scope

99. The Trial Chamber may convict an accused only where all of the elements required to establish his guilt are present during the temporal jurisdiction of the court.<sup>334</sup> The ICTR Appeals Chamber has held that in order for the accused to be held liable, it must be shown that:

- a) The crime with which the accused was charged was committed in [the temporal jurisdiction of the tribunal];
- b) The acts and omissions of the accused establishing his responsibility under any of the modes of responsibility referred to in Article 6(1) and 6(3) of the Statute occurred in [the temporal jurisdiction of the tribunal], and at the time of such acts and omissions the accused had the requisite intent (*mens rea*) in order to be convicted pursuant to the mode of liability in question.<sup>335</sup>

<sup>332</sup> Prosecution Final Trial Brief, paras 46-47.

<sup>333</sup> See for example, Transcript 22 January 2008, p. 1830; Transcript 18 April 2008, p. 8055; Transcript 21 April 2008, p. 8077; Transcript 7 May 2008, p. 9149; Transcript 5 November 2008, p. 19800.

<sup>334</sup> See *Prosecutor v. Nahimana*, ICTR-99-52-A, Judgement, 28 November 2007 [*Nahimana et al.* Appeal Judgement], para. 313.

<sup>335</sup> *Nahimana* Appeal Judgement, para. 313. The Appeals Chamber held that the Trial Chamber was wrong insofar as it had convicted the accused on the basis of criminal conduct which took place before 1994, and was therefore outside the temporal jurisdiction of the International Criminal Tribunal for Rwanda. See para. 314.

100. In the *Prlić* case, an ICTY Trial Chamber dealt specifically with this issue in relation to evidence led with respect to a joint criminal enterprise and held that “only criminal conduct, in the form of a joint criminal enterprise or any other form of responsibility alleged in the Indictment, taking place during the alleged material period [of the Indictment] may form the basis for the conviction of the accused”.<sup>336</sup>

101. A Trial Chamber may, however, rely on evidence that falls outside of the temporal scope of the Indictment and/or jurisdiction of the Tribunal in the following three circumstances:

- i. to clarify a given context;
- ii. to establish by inference the elements, in particular the *mens rea*, of criminal conduct occurring during the material period; or
- iii. to demonstrate a deliberate pattern of conduct.<sup>337</sup>

102. The Trial Chamber has dealt with evidence outside of the temporal scope of the Indictment and/or jurisdiction of the court in accordance with such principles. The principles applicable to establishing the elements of criminal conduct by inference, and evidence of a consistent pattern of conduct are considered more specifically below.

(i) Establishing elements by inference

103. The ICTR Appeals Chamber has held that “evidence of a required element could come from a time anterior to the mandate year, but what that evidence would prove was that, at the point of time within the mandate year when the crime was allegedly committed, the required element was present”.<sup>338</sup>

<sup>336</sup> *Prosecutor v. Prlić*, IT-04-74-T, Decision on Slobodan Praljak’s Motion for Clarification of the Time Frame of the Alleged Joint Criminal Enterprise, 15 January 2009 [*Prlić* Decision on Time Frame of Joint Criminal Enterprise], p. 9.

<sup>337</sup> *Nahimana* Appeal Judgement, para. 315; *Prlić* Decision on Time Frame of Joint Criminal Enterprise, p. 9.

<sup>338</sup> *Ngeze and Nahimana v. Prosecutor*, ICTR-96-11-AR72 and ICTR-96-11-AR72, Decision on the Interlocutory Appeals, 5 September 2000, p. 6, Separate Opinion of Judge Shahabuddeen, p. 5. See also *Simba v. Prosecutor*, ICTR-01-76-AR72.2, Decision on Interlocutory Appeal Regarding Temporal Jurisdiction, 29 July 2004 [*Simba* Appeal Decision on Temporal Jurisdiction], footnote 5.

104. Even where conduct commences before the material period of the indictment and continues during the indictment period, a conviction may be based only on that part of such conduct which occurs during the material period.<sup>339</sup> The Prosecution must therefore prove beyond a reasonable doubt that such conduct continued into the Indictment period.

105. The Trial Chamber therefore emphasizes that it has not used evidence outside of the temporal scope of the Indictment and/or jurisdiction of the court except insofar as inferences can be drawn from such evidence about elements of the joint criminal enterprise and other forms of liability which *continue to exist* during the Indictment period. The Prosecution must therefore prove beyond a reasonable doubt that these elements continued into the Indictment period.

(ii) Evidence of a consistent pattern of conduct – Rule 93

106. Rule 93 provides that:

Evidence of a consistent pattern of conduct relevant to serious violations of international humanitarian law under the Statute may be admissible in the interests of justice.

107. The ICTR Appeals Chamber has established that evidence of a prior criminal act of the accused is not admissible for the purpose of demonstrating a general propensity or disposition to commit the crimes charged.<sup>340</sup> Prior criminal offences by the accused – even of precisely the same offence with which the accused is charged, are not admissible if the only purpose for their introduction is to establish that the accused was capable of committing the offence, is inclined to commit the offence, or on some prior occasion did have the intention to commit the criminal offence.<sup>341</sup> Evidence of similar conduct is only admissible if “it is probative of some peculiar feature of the case” or where it is “highly distinctive and unique such that it amounts to a signature or an identifiable pattern”.<sup>342</sup>

<sup>339</sup> *Nahimana* Appeal Judgement, para. 317.

<sup>340</sup> *Prosecutor v. Bagosora et. al*, ICTR-98-41-T, Decision on Admissibility of Proposed Testimony of Witness DBY, 18 September 2003, para. 12 [*Bagosora* Decision on Witness DBY]; confirmed on appeal - *Prosecutor v. Bagosora*, ICTR-98-41-AR93 & ICTR-98-41-AR93.2, Decision on Prosecutor’s Interlocutory Appeals Regarding Exclusion of Evidence, 19 December 2003 [*Bagosora* Appeal Decision on Exclusion of Evidence], para. 14.

<sup>341</sup> *Ibid.*

<sup>342</sup> *Bagosora* Decision on Witness DBY, para. 14; *Prosecutor v. Nshogoza*, Decision on Prosecutor’s Motion to Admit Evidence of a Consistent Pattern of Conduct, ICTR-07-91-T, 20 February 2009, para. 4.

108. The ICTR Appeals Chamber has also held that “even where pattern evidence is relevant and deemed probative, the Trial Chamber may still decide to exclude the evidence in the interests of justice when its admission could lead to unfairness in the trial proceedings, such as when the prejudicial effect of the proposed evidence outweighs its probative value”.<sup>343</sup>

109. The Trial Chamber concurs with these principles and will follow this approach in assessing evidence admitted pursuant to Rule 93.

(b) Geographic Scope

110. The Trial Chamber finds that the principles above are equally applicable to evidence falling outside of the geographic scope of the Indictment and/or jurisdiction of the court. The Trial Chamber will therefore consider evidence falling outside of the geographical jurisdiction of the court only as it relates to the context or where it falls within the parameters of Rule 93.

(i) Prejudice to the Accused as a Result of the Sheer Volume of Evidence Admitted that Falls Outside of the Scope of the Indictment and/or Jurisdiction of the Court

111. The Trial Chamber considers that the sheer volume of evidence falling outside of the scope of the Indictment and/or jurisdiction of the Special Court does not, of itself, amount to prejudice which outweighs the probative value of such evidence. The Trial Chamber is composed of professional judges who are capable of considering evidence for certain permissible purposes, while excluding it from their consideration for impermissible purposes that would prejudice the Accused. Further, the Defence has not clearly defined what prejudice it has suffered. The Trial Chamber therefore finds that the admission of this evidence and its use for the purposes identified above does not contravene Rule 95 and Article 17.

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<sup>343</sup> *Bagosora* Appeal Decision, para. 13.



C. Issues Relating to the Pleading in the Indictment

(a) Evidence relating to locations in Sierra Leone not pleaded in the Indictment

Submissions of the Parties

112. The Prosecution submits that as locations within a District are pleaded using the inclusive language “various locations” and “throughout”, the Trial Chamber should consider all relevant evidence adduced where the evidence falls within the district pleaded in the Indictment,<sup>344</sup> even if the specific location has not been pleaded. The Prosecution alleges, in relation to locations not specifically pleaded in the Indictment, that “considering the superior position of the Accused, the fact that personal commission is not charged, and the widespread nature of the alleged crimes, the Accused was provided adequate notice”, referring to the Appeals Chamber Judgement in the case of *Prosecutor v. Sesay, Kallon and Gbao*.<sup>345</sup>

113. The Defence objects to Prosecution evidence relating to crimes committed in locations in Sierra Leone that were not pleaded in the Indictment,<sup>346</sup> and requests the Trial Chamber to exclude such evidence or to impose strict limits on the degree to which such evidence may be taken into consideration.<sup>347</sup> The Defence cites as authority for this position the AFRC Trial Judgement, where the Trial Chamber held that while such evidence could be used for other purposes, such evidence could not be used for a finding of guilt for those crimes perpetrated in locations not charged in the Indictment.<sup>348</sup>

Findings

114. In *Prosecutor v. Brima, Kamara and Kanu*, the Trial Chamber held that:

The Trial Chamber notes that the Prosecution has led a considerable amount of evidence with respect to killings, sexual violence, physical violence, enslavement and pillage which occurred in locations not charged in the indictment. While such evidence may support proof of the existence of an armed conflict or a widespread or systematic attack on a civilian population, no finding of guilt for those crimes may be made in respect of such locations not mentioned in the indictment.

<sup>344</sup> Prosecution Final Trial Brief, para. 662.

<sup>345</sup> Prosecution Final Trial Brief, footnote 1798.

<sup>346</sup> Defence Final Trial Brief, paras 31, 42-46.

<sup>347</sup> Defence Final Trial Brief, para. 46.

<sup>348</sup> Defence Final Trial Brief, para. 46, referring to *Prosecutor v. Brima, Kamara and Kanu*, SCSL-04-16-T, Judgement (TC), 20 June 2007 [AFRC Trial Judgement], para. 37.

[...]

Moreover, the jurisprudence of international criminal tribunals makes it clear that an accused is entitled to know the case against him and is entitled to assume that any list of alleged acts contained in an indictment is exhaustive, regardless of the inclusion of words such as “including”, which may imply that other unidentified crimes in other locations are being charged as well.

In light of the above, the Trial Chamber will not make any finding on crimes perpetrated in locations not specifically pleaded in the Indictment. Such evidence will only be considered for proof of the *chapeau* requirements of Articles 2, 3 and 4 where appropriate, that is the widespread or systematic nature of the crimes and an armed conflict.<sup>349</sup>

This approach was upheld by the Appeals Chamber.<sup>350</sup>

115. In the *RUF* Appeal Judgement, the Appeals Chamber held that locations must be pleaded with specificity if the Accused is charged with having “personally committed” such crimes.<sup>351</sup> The Trial Chamber is of the view that whether or not the Accused is charged with having personally committed the alleged crimes, or is charged under another mode of liability, he is nevertheless entitled to know the case against him and is entitled to assume that any list of alleged acts contained in an indictment is exhaustive, regardless of the use of words such as “including”, which may imply that other unidentified crimes in other locations are being charged as well.<sup>352</sup>

116. However, consistent with the *AFRC* Trial Judgement, evidence of crimes committed at locations not specifically pleaded in the Indictment will be considered in relation to proof of the *chapeau* requirements of Articles 2, 3 and 4 where appropriate, i.e. to prove the widespread or systematic nature of the crimes or the existence of an armed conflict.<sup>353</sup> Such evidence may also be used pursuant to Rule 93 as proof of a consistent pattern of conduct.<sup>354</sup>

<sup>349</sup> *AFRC* Trial Judgement, paras 37-38 (footnotes omitted).

<sup>350</sup> *Prosecutor v. Brima, Kamara and Kanu*, SCSL-04-16-A, Judgement (AC), 22 February 2008 [*AFRC* Appeal Judgement], para. 64

<sup>351</sup> *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-A-1321, Judgement (AC), 26 October 2009 [*RUF* Appeal Judgement], para. 832.

<sup>352</sup> *AFRC* Trial Judgement, para. 37, referring to *Prosecutor v. Brđjanin*, IT-99-36-T, Judgement (TC), 1 September 2004 [*Brđjanin* Trial Judgement], para. 397; *Prosecutor v. Brđjanin*, IT-99-36-T, Decision on Motion for Acquittal Pursuant to Rule 98bis, 28 November 2003 [*Brđjanin* Decision on Motion for Acquittal], para. 88, referring to *Prosecutor v. Stakić*, IT-97-24-T, Judgement (TC), 31 July 2003 [*Stakić* Trial Judgement], para. 772. Trial Chamber I in the *AFRC* case came to a similar finding, see *Prosecutor v. Brima, Kamara and Kanu*, SCSL-04-16-PT-046, Decision and Order on Defence Preliminary Motion on Defects in the Form of the Indictment (TC), 1 April 2004 [*Kamara* Decision on Form of Indictment], para. 42.

<sup>353</sup> *AFRC* Trial Judgement, para. 38.

<sup>354</sup> See Preliminary Issues: Evidence Outside the Scope of the Indictment.



117. The Trial Chamber notes that whereas the Prosecution has pleaded specific locations in Freetown and the Western Area for the crimes of Terrorizing the Civilian Population, Unlawful Killings, and Physical Violence, it did not do so with respect to the crimes of Sexual Violence, Abductions and Forced Labour, and Pillage. With respect to districts, the Trial Chamber has not considered crimes that took place in locations not specifically cited in the Indictment, with the exception of continuing crimes. However, and although the Prosecution has inconsistently pleaded in this respect for crimes in Freetown and the Western Area, because Freetown and the Western Area is not a district, the Trial Chamber finds that the pleading of the location of Freetown and the Western area without specific locations is sufficient to provide adequate notice to the Accused for the crimes of Sexual Violence, Abductions and Forced Labour, and Pillage.

118. Further, the Trial Chamber notes that the Prosecution has not been consistent with respect to its pleading of offences of a continuous nature. For example, with respect to the crimes of sexual slavery and the enlistment, conscription and use of child soldiers, the Prosecution has not pleaded any locations. However, with respect to enslavement, which is also an offence of a continuous nature, the Prosecution has specified locations in Kenema and Kono Districts but not in the districts of Kailahun or Freetown and the Western Area.

119. However, notwithstanding this inconsistency, the Trial Chamber, in accordance with the AFRC Trial Judgement, considers that the prolonged nature of these crimes, especially in the context of the Sierra Leone conflict where the perpetrators were often on the move between villages and districts over a significant period of time, may make pleading particular locations sometimes impracticable. Therefore, while it is the Prosecution's duty to provide any material facts on the alleged crimes within its possession so as to enable the Accused to prepare a defence,<sup>355</sup> nevertheless in the present case a significant amount of evidence has been adduced in respect of each of these crimes over the course of a lengthy trial. Moreover, the Defence has not specifically objected to the lack of specificity of locations relating to the crimes of sexual slavery, the enlistment, conscription and use of child soldiers or enslavement in Counts 5, 9 and 10. Accordingly, in the interests of justice, the Trial Chamber will treat the pleading of these counts in the Indictment as permissible.<sup>356</sup>

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<sup>355</sup> See *AFRC Trial Judgement*, paras 39-40.

<sup>356</sup> See *AFRC Trial Judgement*, para. 41.

(b) Evidence relating to crimes not specifically pleaded in the IndictmentSubmissions of the Parties

120. In relation to evidence of criminal acts not specifically pleaded in the Indictment, the Prosecution submits that the Trial Chamber “should also consider for guilt of the Accused all relevant evidence adduced where the evidence falls within the District and the approximate time frames specified by the Indictment”.<sup>357</sup>

121. In support of this proposition the Prosecution submits that the Indictment uses inclusive language in Count 6, namely “sexual violence [. . .] including” indicating that all forms of sexual violence constituting ‘outrages against personal dignity’ including evidence of sexual violence against male victims<sup>358</sup> should be considered for guilt under Count 6 not just evidence of rape and sexual slavery.<sup>359</sup> Similarly, as Counts 7 and 8 refer to “physical violence [. . .] including”, it submits that the Trial Chamber should consider all forms of physical violence constituting “cruel treatment” under Count 7 or “inhumane treatment” under Count 8 for guilt of the Accused under these counts, and not just evidence of mutilations and/or beatings.<sup>360</sup>

122. The Prosecution argues that “an additional ground in support of the above approach to the evidence which can be taken into consideration for guilt of the Accused under Counts 6 to 8 is that the Accused has been provided with timely, clear and consistent notice of the material facts underpinning the charges by the Original Indictment, First Amended Indictment, Indictment, Case Summary, Pre-Trial Brief, opening statement and/or witness statements”.<sup>361</sup>

123. The Defence has not made any specific submissions on this issue.

Deliberations

124. The particulars pleaded in relation to Count 6 of the Indictment (“Outrages upon Personal Dignity”) refer to “widespread acts of sexual violence against civilian women and

<sup>357</sup> Prosecution Final Trial Brief, para. 662.

<sup>358</sup> Prosecution Final Trial Brief, para. 665.

<sup>359</sup> Prosecution Final Trial Brief, para. 663.

<sup>360</sup> *Ibid.*

<sup>361</sup> Prosecution Final Trial Brief, paras 664-665.

girls, including” rape, abductions and sexual slavery, but do not allege any other forms of sexual violence nor sexual violence against male victims.<sup>362</sup> The particulars of Counts 7 and 8 (“Physical Violence”) allege only beatings and mutilations, but do not refer to any other forms of physical violence.<sup>363</sup>

125. Hence the Indictment does not provide the Accused with any notice that he is charged with any form of sexual violence other than rape, abduction or sexual slavery of girls and women under Count 6, or that he is charged with physical violence constituting cruel treatment other than beatings and mutilation under Counts 7 and 8.

126. The Prosecution is, in effect, submitting that the Trial Chamber should consider evidence of criminal acts not specifically pleaded in the Indictment. Such submission comes late in the proceedings without prior notice to the Defence. Charges against an accused and the material facts supporting those charges must be pleaded with sufficient precision in an indictment so as to provide notice to the accused.<sup>364</sup> Moreover, an accused is entitled to know the case against him and to assume that any list of alleged acts contained in an indictment is exhaustive, regardless of the use of words such as “including”.<sup>365</sup> Therefore an indictment which fails to satisfy these requirements is, to that extent, clearly defective.

127. However, a defective indictment may be said to be cured if the accused has nevertheless been given sufficient notice of the case he has to answer. The Trial Chamber has previously held that:

If the indictment is found defective because it fails to plead material facts or does not plead them with sufficient specificity, a Trial Chamber must consider whether the accused was nonetheless accorded a fair trial. Where an accused has received timely, clear, and consistent information from the Prosecution detailing the factual basis underpinning the charge, the defects in the indictment are considered to be cured and a conviction may be

<sup>362</sup> Second Amended Indictment, paras 14-17.

<sup>363</sup> Second Amended Indictment, paras 19-21.

<sup>364</sup> *Seromba v. Prosecutor*, ICTR-2001-66-A, Judgement (AC), 12 March 2008 [*Seromba* Appeal Judgement], paras 27, 100; *Simba v. Prosecutor*, ICTR-01-76-A, Judgement (AC), 27 November 2007 [*Simba* Appeal Judgement], para. 63; *Muhimana v. Prosecutor*, ICTR-95-1B-A, Judgement (AC), 21 May 2007 [*Muhimana* Appeal Judgement], paras 76, 167, 195; *Gacumbitsi v. Prosecutor*, ICTR-01-64-A, Judgement (AC), 7 July 2006 [*Gacumbitsi* Appeal Judgement], para. 49; *Ndindabahizi v. Prosecutor*, ICTR-01-71-A, Judgement (AC), 16 January 2007 [*Ndindabahizi* Appeal Judgement], para. 16.

<sup>365</sup> *AFRC* Trial Judgement, para. 37, referring to *Prosecutor v. Brđjanin*, IT-99-36-T, Judgement (TC), 1 September 2004 [*Brđjanin* Trial Judgement], para. 397; *Prosecutor v. Brđjanin*, Decision on Motion for Acquittal, para. 88, referring to *Stakić* Trial Judgement, para. 772. Trial Chamber I in the *AFRC* case came to a similar finding, see *Kanu* Decision on Form of Indictment, para. 17; *Kamara* Decision on Form of Indictment, para. 42.

entered. If insufficient notice has violated the accused's right to a fair trial, no conviction may result.<sup>366</sup>

128. In the present case, the only document cited by the Prosecution that provides notice that sexual violence was alleged to have been committed against men is the Original Indictment<sup>367</sup> which alleged that attacks against civilians included sexual violence against men.<sup>368</sup> This allegation was subsequently deleted from the general charges section of the First and Second Amended Indictments. It was therefore reasonable for the Accused to conclude that the Prosecution no longer intended to proceed with this particular charge.

129. The Prosecution has failed to point to any references in the charging documents<sup>369</sup> capable of providing timely, clear and consistent notice to the Accused of allegations of any forms of sexual violence other than rape and sexual slavery, or to physical violence constituting cruel treatment other than beatings and mutilation.<sup>370</sup>

130. In relation to the Prosecution's submission that such notice was provided by the disclosure of witness statements, the Trial Chamber notes that while witness statements may, in some cases, be found to put an accused on notice of a charge and therefore cure a defective indictment,<sup>371</sup> mere service of witness statements by the Prosecution in discharge of its disclosure obligations does not always suffice to inform an accused of material facts that the Prosecution intends to prove at trial.<sup>372</sup> Witness statements/summaries will only put an accused on notice if the allegations provide specific references to the relevant counts or

<sup>366</sup> *AFRC Trial Judgement*, para. 47, citing *Prosecutor v. Kvočka, Kos, Radić, Žigić and Prcać*, IT-98-30/1-A, Judgement (AC), 28 February 2005 [*Kvočka et al. Appeal Judgement*], para. 33; *Prosecutor v. Kupreškić, Kupreškić, Kupreškić, Josipović and Šantić*, IT-95-16-A, Judgement (AC), 23 October 2001 [*Kupreškić Appeal Judgement*], para. 114, *Muhimana Appeal Judgement*, para. 217 quoting *Gacumbtsi Appeal Judgement*, para. 49; *Prosecutor v. Ntakirutimana and Ntakirutimana*, ICTR-96-10-A and ICTR-96-17-A, Judgement (AC), 13 December 2004 [*Ntakirutimana Appeal Judgement*], para. 27; *Prosecutor v. Ntagerura, Bagambiki and Imanishimwe*, ICTR-99-46-A, Judgement (AC), 7 July 2006 [*Ntagerura et al. Appeal Judgement*], paras 28, 65. See also *Prosecutor v. Fofana and Kondewa*, SCSL-04-14-A-829, Judgement (AC), 28 May 2008, [*CDF Appeal Judgement*], para. 443.

<sup>367</sup> *Prosecutor v. Taylor*, SCSL-03-01-I, Indictment, 7 March 2003 [Original Indictment], para. 30.

<sup>368</sup> Original Indictment, para. 30, which alleges "[t]he attacks included unlawful killings, physical and sexual violence against civilian men, women and children". However, the particulars in relation to Counts 4-6 do not include any reference to sexual violence committed against men.

<sup>369</sup> Original Indictment; *Prosecutor v. Taylor*, SCSL-03-01-I-075, Amended Indictment and Case Summary accompanying the Amended Indictment, 17 March 2006 [First Amended Indictment]; *Prosecutor v. Taylor*, SCSL-03-01-T-327, Prosecution Notification of Filing of Amended Case Summary, 3 August 2007 [Case Summary]; Pre-Trial Brief; Opening Statement, Transcript 6 June 2007; and/or witness statements.

<sup>370</sup> See Prosecution Final Trial Brief, footnote 1807.

<sup>371</sup> *RUF Appeal Judgement*, para. 126.

<sup>372</sup> *Prosecutor v. Naletilić and Martinović*, IT-98-34-A, Judgement (AC), 3 May 2006 [*Naletilić Appeal Judgement*], para. 27.





paragraphs of the indictment to which they relate,<sup>373</sup> and will generally only be found to cure a defect in the indictment when considered in conjunction with other materials (e.g. a pre-trial brief) which provide clear and consistent notice to the accused.<sup>374</sup>

131. In this case, the claim by the Prosecution that, notwithstanding, its failure to specify these additional criminal acts in the Indictment, the Accused has been given timely clear and consistent notice by “witness statements” has not been supported by reference to any portions of these witness statements capable of providing such notice. Moreover, as witness statements were only disclosed to the Defence, not to the Trial Chamber, the Trial Chamber is not in a position to consider whether they provide the Defence with timely, clear and consistent notice.

### Findings

132. Inasmuch as the Prosecution seeks to prove the guilt of the Accused for criminal acts not specifically pleaded in the Indictment, the Trial Chamber finds that the Indictment is defective in that it fails to plead the material facts of those criminal acts. Moreover, such defect cannot be said to be cured, since the Accused has not been provided with timely, clear and consistent notice that he is charged with any such criminal acts.

133. Accordingly, the Trial Chamber holds that granting the Prosecution’s submission to consider evidence of all forms of sexual violence, including sexual violence against men under Count 6, and all forms of physical violence constituting “cruel treatment” under Counts 7 or 8, would be unfair and prejudicial to the Accused and would be tantamount to allowing the Prosecution to amend the Indictment without specifically seeking leave to do so under Rule 50.<sup>375</sup>

134. The Trial Chamber therefore will not consider evidence of sexual violence other than rape and sexual slavery as charged in the Indictment under Count 6. Furthermore, the Trial Chamber will not consider evidence of physical violence constituting cruel treatment other

<sup>373</sup> *Naletilić* Appeal Judgement, para. 27; *Muvunyi v. Prosecutor*, ICTR-00-55A-A, Judgement (AC), 29 August 2008 [*Muvunyi* Appeal Judgement], para. 98.

<sup>374</sup> *Ntakirutimana* Appeal Judgement, para. 48.

<sup>375</sup> *RUF* Trial Judgement, para. 418. See also *Muvunyi* Appeal Judgement, para. 28, and *AFRC* Trial Judgement, where the Trial Chamber held at paragraph 80 that “the Prosecution cannot be permitted to mould the case against the Accused as the trial progresses”.





than evidence of mutilations and/or beatings as charged in the Indictment under Counts 7 and 8.

(c) Timeframes not pleaded precisely in the Indictment

Submissions of the Parties

135. The Prosecution submits that since timeframes in the Indictment are pleaded using the inclusive language “between about [. . .] and about”, the Trial Chamber should consider all relevant evidence adduced where the evidence falls within the approximate timeframes specified by the Indictment.<sup>376</sup> The Prosecution does not specify how proximate to the timeframes pleaded the evidence must be in order for the Trial Chamber to consider it.

136. The Defence has not specifically responded to this submission, beyond reiterating that there must be limits to the use that the Trial Chamber may make of evidence falling outside of the scope of the Indictment.<sup>377</sup>

Findings

137. The Appeals Chamber of the ICTR has held that “a broad date range does not, in and of itself, invalidate a pleading”<sup>378</sup> and Trial Chambers at the ICTR and ICTY have held that while specificity is preferable, if a precise date cannot be specified, a “reasonable range of dates” may be provided.<sup>379</sup> Trial Chamber I has also held that timeframes pleaded in the RUF Indictment, which are similar to those pleaded in the Indictment in the instant case, provided the Accused with sufficient information for him to understand the nature of the charges and to prepare his defence.<sup>380</sup> The Trial Chamber therefore finds that given the

<sup>376</sup> Prosecution Final Trial Brief, para. 662.

<sup>377</sup> Defence Final Trial Brief, para. 31.

<sup>378</sup> *Muvunyi* Appeal Judgement, paras 58-59. See also *RUF* Trial Judgement, para. 426.

<sup>379</sup> *Prosecutor v. Ntawukulilyayo*, ICTR-05-82-PT, Decision on Defence Preliminary Motion Alleging Defects in the Form of the Indictment, 28 April 2009 [*Ntawukulilyayo* Decision on the Form of the Indictment], para. 15; *Prosecutor v. Niseyimana and Hategekimana*, ICTR-00-55-I, 25 September 2007, Decision on the Prosecution’s Application for Severance and Leave to Amend the Indictment Against Idelphonse Hategekimana [*Niseyimana* Decision on Leave to Amend the Indictment], para. 33; *Prosecutor v. Nchamihigo*, ICTR-2001-63-I, Decision on Defence Motion on Defects in the Form of the Indictment, 27 September 2006 [*Nchamihigo* Decision on the Form of the Indictment], para. 17; *Prosecutor v. Brđjanin*, IT-99-36-PT, Decision on Objections By Momir Talić to the Form of Amended Indictment (TC), 20 February 2001 [*Brđjanin* Decision on the Form of the Indictment], para. 22.

<sup>380</sup> *RUF* Trial Judgement, para. 426.

nature of the case, the timeframes in the Indictment provide the Accused with sufficient information for him to understand the nature of the charges and to prepare his defence.

**D. Prejudicial Delay in the Trial Chamber's Ruling on the Defence's Challenge to the Pleading of the Joint Criminal Enterprise as a Mode of Liability**

Background

138. In a motion filed on 14 December 2007, the Defence challenged the sufficiency of the pleading of joint criminal enterprise ("JCE") in the Indictment on several grounds, the most significant of which was the legal and factual ambiguities surrounding the common purpose of the alleged JCE.<sup>381</sup> The Trial Chamber ruled orally on this matter on 19 February 2009,<sup>382</sup> and issued a written decision on 27 February 2009.<sup>383</sup> The Trial Chamber by majority, Justice Lussick dissenting, held that paragraphs 5, 9, 14, 22, 23, 28, 33 and 34 of the Indictment, when taken together "fulfil the requirements for pleading JCE and serve to put the Defence on notice that the Prosecution intended to charge the Accused with having participated in a [JCE]".<sup>384</sup>

139. The Trial Chamber further found that "a campaign to terrorize the civilian population of the Republic of Sierra Leone" as alleged in paragraph 5 (when read in conjunction with paragraph 33) was the "common purpose" of the alleged JCE and the crimes charged in counts 2 through 11 were part of the "campaign of terror" or were a reasonably foreseeable consequence thereof.<sup>385</sup> Justice Lussick dissented, holding that "the Accused should not be

<sup>381</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-378, Public Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, 14 December 2007 [*Taylor* Defence Motion on JCE]. See also *Prosecutor v. Taylor*, SCSL-03-01-T-388, Public Defence Reply to 'Prosecution Response to Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE,' 14 January 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-446, Consequential Submission in Support of Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, 31 March 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-754, Defence Application for Leave to Appeal the Decision on Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, 2 March 2009; *Prosecutor v. Taylor*, SCSL-03-01-T-767, Defence Notice of Appeal and Submissions regarding the Majority Decision concerning the Pleading of JCE in the Second Amended Indictment, 26 March 2009; and *Prosecutor v. Taylor*, SCSL-03-01-T-769, Corrigendum to Defence Notice of Appeal and Submissions regarding the Majority Decision concerning the Pleading of JCE in the Second Amended Indictment, 30 March 2009.

<sup>382</sup> Transcript 19 February 2009, pp. 24052-24053.

<sup>383</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-752, Decision on Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, 27 February 2009 [*Taylor* Trial Chamber Decision on JCE].

<sup>384</sup> *Taylor* Trial Chamber Decision on JCE, para. 70.

<sup>385</sup> *Taylor* Trial Chamber Decision on JCE, para. 71.





required to undergo the brain-twisting exercise of reading together paragraphs 5, 9, 14, 22, 23, 28, 33 and 34 of the Indictment in order to fathom what facts are most likely to form the basis of his alleged joint criminal enterprise liability”.<sup>386</sup>

140. On 1 May 2009, the Appeals Chamber upheld the Trial Chamber Decision on JCE.<sup>387</sup>

#### Submissions of the Parties

141. The Defence alleges that the amount of time taken by the Trial Chamber to render a decision on the Defence Motion on JCE was inordinate and unreasonable and resulted in irreparable prejudice to the Accused’s fair trial rights.<sup>388</sup>

142. The Defence notes that the Trial Chamber Decision on JCE in this case was only rendered on the day that the Prosecution closed its case, and submits that the jurisprudence indicates a clear preference for the resolution of any ambiguity in an Indictment as soon as it emerges, and in any event, pre-trial.<sup>389</sup> It submits that there are several forms of prejudice that resulted from this unreasonable delay, namely: (i) the Accused could not conduct meaningful pre-trial investigation into the alleged common purpose and the nature of the Accused’s participation in it; (ii) effective cross-examination of Prosecution witnesses regarding the common purpose of the JCE and the Accused’s participation in it was severely undermined and hindered by the unresolved legal ambiguities surrounding the Indictment and (iii) preparation for the Defence case during the currency of the Prosecution’s case was fractured and impossible to progress due to uncertainty regarding which JCE allegations to defend and (iv) the very fact of a Majority opinion on the JCE Motion serves to confirm that reasonable minds, including those of the judges, differed in their understanding of what the common purpose of the alleged JCE was.<sup>390</sup>

<sup>386</sup> Trial Chamber Decision on JCE – Dissenting Opinion of Justice Richard Lussick, 27 February 2009, para. 15; *Prosecutor v. Taylor*, SCSL-03-01-T-761, Corrigendum to Decision on Public Defence Motion Regarding a Fatal Defect in the Prosecution’s Second Amended Indictment Relating to the Pleading of JCE – Dissenting Opinion of Justice Richard Lussick.

<sup>387</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-775, Decision on Defence Notice of Appeal and Submissions regarding the Majority Decision concerning the Pleading of JCE in the Second Amended Indictment, 1 May 2009 [*Taylor Appeal Chamber Decision on JCE*], paras 21-23.

<sup>388</sup> Defence Final Trial Brief, para. 52; Defence Closing Arguments, Transcript 11 March 2011, pp. 49578-49580.

<sup>389</sup> Defence Final Trial Brief, para. 54.

<sup>390</sup> Defence Final Trial Brief, para. 55.







143. The Defence therefore requests that the Trial Chamber remedy this prejudice by exercising its discretion, in the interests of justice, in declining to consider JCE as a mode of criminal responsibility against the Accused.<sup>391</sup>

144. The Prosecution submits that the Defence is simply revisiting issues already decided in the JCE Trial and Appeal Decisions. It alleges that the Defence submissions in relation to the JCE “do not make sense when the decision of both the Trial Chamber and the Appeal Chamber was that the indictment, the long-existing indictment, correctly pled a joint criminal enterprise in which the means used to obtain the objectives was a crime within the statute and jurisdiction of the Court and that is the crime of terrorism”.<sup>392</sup> The Prosecution therefore takes the position that as the Indictment put the Accused on notice of the common purpose of the JCE, the Defence cannot complain that it was prejudiced by the late JCE Decision.<sup>393</sup>

#### Findings

145. In relation to the time it took to render the JCE Trial Chamber Decision, the Trial Chamber notes that the JCE Motion was filed by the Defence on 14 December 2007, pending the resolution of the Appeal in the AFRC Case. After the delivery of the AFRC Appeal Judgement on 22 February 2008, the Trial Chamber invited both parties to file consequential pleadings, taking into consideration the Appeals Chamber’s findings.<sup>394</sup> These consequential submissions were filed by the parties on the 31 March 2008,<sup>395</sup> 10 April 2008<sup>396</sup> and 15 April 2008,<sup>397</sup> respectively. The Trial Chamber ruled orally on this matter on 19 February 2009,<sup>398</sup> and issued the JCE Trial Chamber Decision on 27 February 2009.

<sup>391</sup> Defence Final Trial Brief, paras 59, 71.

<sup>392</sup> Prosecution Oral Response, Transcript 9 March 2011, p. 49377.

<sup>393</sup> Prosecution Oral Response, Transcript 9 March 2011, pp. 49377-49378.

<sup>394</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-434, Scheduling Order in Relation to the Urgent Defence Motion Regarding a Fatal Defect in the Prosecution’s Second Amended Indictment Relating to the Pleading of the JCE, 6 March 2008.

<sup>395</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-446, Consequential Submission in Support of Urgent Defence Motion Regarding a Fatal Defect in the Prosecution’s Second Amended Indictment Relating to the Pleading of JCE, 31 March 2008.

<sup>396</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-463, Prosecution Response to the Defence’s Consequential Submissions Regarding the Pleading of JCE, 10 April 2008.

<sup>397</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-473, Defence Reply to the Prosecution Response to the Defence’s Consequential Submission Regarding the Pleading of JCE, 15 April 2008.

<sup>398</sup> Transcript 19 February 2009, pp. 24052-24053.

146. The Trial Chamber found in the JCE Trial Decision that the Indictment provided the Accused with sufficient notice of the common purpose of the JCE. The Trial Chamber therefore did not need to consider whether subsequent disclosure by the Prosecution provided “timely, clear and consistent” information regarding the common purpose of the JCE.

147. Consequently, the Accused was on notice from 29 May 2007, when the Second Amended Indictment was filed, of the common purpose of the JCE. As the Trial Chamber found that the pleading was not defective (a finding that was upheld by the Appeals Chamber), the Defence therefore did not suffer any prejudice resulting from the fact that the JCE Decision was rendered only at the close of the Prosecution case. The Trial Chamber therefore finds that the Defence has not established that it was irremediably prejudiced by the delay in rendering the JCE Trial Decision, nor that the Accused was denied a fair trial as a consequence of this delay.

**E. Discretionary Payments and Other Inducements to Witnesses by the Prosecution**

148. The Defence also raises the issue of discretionary payments and other inducements to witness by the Prosecution, submitting that this constitutes a prosecutorial abuse of process and has deprived the Accused of a fair trial.<sup>399</sup> The Trial Chamber has dealt with these objections in Section IV(b), “Forms of Evidence under Review”.

**F. Suppression of Evidence**

149. The Prosecution submits that by virtue of the resolution initiating the SCSL on 14 August 2000, the report of the Panel of Experts four months later, finding “clear and convincing evidence” of Taylor’s support for the RUF, the signing of the Agreement between the Government of Sierra Leone and the UN creating the SCSL on 16 January 2001 and the first seven indictments issued on March 2003 of former AFRC and RUF leaders referring to Taylor’s involvement in a “common purpose”, the Accused became aware that

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<sup>399</sup> Defence Final Trial Brief, paras 23-26.



he would probably face trial for crimes in Sierra Leone.<sup>400</sup> Accordingly, he ordered the arrest, torture or execution of anyone who might “betray” him.

150. The Prosecution alleges that the Accused arrested journalist Sorious Samura and others in August 2000 and threatened them with death, which led to their promise to discontinue their investigative work on accusations that the Accused was involved in diamond-smuggling, gun-running and support to the RUF.<sup>401</sup> The Prosecution also alleges that the Accused arrested journalist Hassan Bility seven times between 1997 and 2002, tortured him and threatened him with death, following his disclosures of information pertaining to Liberian support for the RUF.<sup>402</sup> The Defence submits that these arrests had nothing to do with information disclosures.<sup>403</sup>

151. The Prosecution further alleges that the Accused ordered the killing of Denis Mingo (a.k.a. Superman), Sam Bockarie, Johnny Paul Koroma, and Daniel Tamba (a.k.a. Jungle).<sup>404</sup>

152. Although these allegations fall outside the scope of the Indictment, the Prosecution argued that they were efforts by the Accused to suppress evidence of his role and that they are relevant to his consciousness of guilt.<sup>405</sup>

153. The Defence does not make submissions with respect to the alleged killing of Denis Mingo, Sam Bockarie, Johnny Paul Koroma and Daniel Tamba. However, the Defence generally submits that the Prosecution has adduced a considerable amount of evidence that falls outside the temporal and geographical scope of the Indictment. The Defence had objected previously to such evidence, maintaining that the use of ex-temporal and ex-territorial evidence by the Prosecution was so widespread that it proved impractical for the Defence to raise the same objection at every turn.<sup>406</sup> Furthermore, the Defence submits that much of that evidence is irrelevant to the Indictment, contrary to the interests of justice and, in any event, adversely prejudicial to the Accused such that it contravenes both Rule 95 and

<sup>400</sup> Prosecution Final Trial Brief, paras 1175-1176.

<sup>401</sup> Prosecution Final Trial Brief, para. 1186.

<sup>402</sup> Prosecution Final Trial Brief, para 1187,

<sup>403</sup> Defence Final Trial Brief, para. 1428.

<sup>404</sup> Prosecution Final Trial Brief, para. 1176.

<sup>405</sup> Prosecution Closing Arguments, Transcript 9 March 2011, pp. 49372-49373.

<sup>406</sup> Defence Final Trial Brief, para. 33

Article 17. Accordingly, such evidence should be excluded from the Trial Chamber's deliberations. The Defence submits that there is so much evidence outside the scope of the Indictment, it amounts to prejudice of such a nature which far outweighs any probative value to such evidence. In that sense, it contravenes both Rule 95 and Article 17 and should consequently be excluded.<sup>407</sup>

154. The Trial Chamber notes that the Prosecution led substantial evidence from a number of witnesses to support its allegation that Denis Mingo, Sam Bockarie, Johnny Paul Koroma and Daniel Tamba were killed on the orders of Taylor. TF1-516, TF1-371, TF1-276, Joseph Marzah, Sam Kolley, John Vincent and Issa Sesay all gave testimony relevant to the killing of Denis Mingo in 2001 in a roadside ambush allegedly orchestrated by Benjamin Yeaten on the order of the Accused. TF1-585, TF1-388, TF1-367, TF1-561, TF1-375, TF1-579, Sam Kolley and DCT-292 all gave testimony relevant to the killing of Sam Bockarie in May 2003, allegedly by Benjamin Yeaten on the order of the Accused. TF1-375, TF1-399, and TF1-516 gave testimony relevant to the killing of Johnny Paul Koroma, allegedly on order of the Accused. TF1-399, TF1-388, TF1-375, Joseph Marzah, DCT-215, and DCT-008 gave testimony relevant to the killing of Daniel Tamba, allegedly on order of the Accused. The Accused denied having a role in these killings.

155. To consider this evidence would, in the view of the Trial Chamber, be extremely prejudicial to the Accused. The Prosecution argues that the crimes are relevant to his "consciousness of guilt".<sup>408</sup> However, the Accused has not been charged or tried for these crimes. And notwithstanding all the evidence that has been introduced, the Accused is not on trial for these crimes in this Court. For this reason it would be inappropriate for the Trial Chamber to draw conclusions from the evidence on the "consciousness of guilt" of the Accused, as suggested by the Prosecution.

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<sup>407</sup> Defence Final Trial Brief, paras 34-36.

<sup>408</sup> Prosecution Closing Arguments, Transcript 9 March 2011, pp. 49372-49373.



## IV. EVALUATION OF EVIDENCE

### A. Law Applicable to the Assessment of Evidence

156. The Trial Chamber has assessed the probative value and weight of the evidence in this case in accordance with the Statute and the Rules.

157. Rule 89 provides that:

(A) The rules of evidence set forth in this Section shall govern the proceedings before the Chambers. The Chambers shall not be bound by national rules of evidence.

(B) In cases not otherwise provided for in this Section, a Chamber shall apply rules of evidence which will best favour a fair determination of the matter before it and are consonant with the spirit of the Statute and the general principles of law;

(C) A Chamber may admit any relevant evidence.

#### 1. Burden and Standard of Proof

158. Article 17(3) of the Statute enshrines the presumption of innocence, i.e. that an accused shall be presumed innocent until proved guilty.<sup>409</sup> This presumption places on the Prosecution the burden of establishing the guilt of the Accused, a burden which remains on the Prosecution throughout the trial.

159. In respect of each count, the standard to be met for a conviction to be entered is that of proof beyond reasonable doubt. Rule 87(A) of the Rules provides, in its relevant part: "A finding of guilt may be reached only when a majority of the Trial Chamber is satisfied that guilt has been proved beyond reasonable doubt". Accordingly, in respect of each count, the Trial Chamber has determined whether it is satisfied, on the basis of the whole of the evidence, that every element of that crime and the criminal responsibility of the Accused for it have been established beyond reasonable doubt. In making that determination, the Trial Chamber has been careful to consider whether more than one inference was reasonably open from the facts and, if so, whether there was an inference inconsistent with the guilt of the

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<sup>409</sup> This provision is in accordance with all major human rights instruments, *see* International Covenant on Civil and Political Rights, Article 14(2); African (Banjul) Charter on Human and Peoples' Rights, Article 7(1)(b).

Accused. If so, the onus and the standard of proof require that an acquittal be entered in respect of that count.<sup>410</sup>

## 2. Admission of Evidence

160. Rule 89(C) of the Rules states the general principle of admissibility that a Trial Chamber “may admit any relevant evidence”.<sup>411</sup> The Appeals Chamber has made it clear that this provision favours the admission of all relevant evidence, the probative value and weight of which are only to be assessed at the end of the trial and in the context of the entire record.<sup>412</sup>

### B. Forms of Evidence Under Review

161. For the purposes of the Judgement, ‘evidence’ has been taken to mean the information which has been put before the Trial Chamber in order to prove the facts at issue.

162. Evidence was admitted in the following forms: (i) oral evidence, (ii) documentary evidence, including such evidence provided in lieu of oral testimony pursuant to Rule 92*bis*, and evidence admitted pursuant to Rule 92*quater*, (iii) testimony of expert witnesses, (iv) facts of which judicial notice was taken and (v) facts agreed upon by the Parties.

#### 1. Witness Testimony

163. The Trial Chamber heard the viva voce testimony of a total of 115 witnesses: 94 called by the Prosecution and 21 called by the Defence (including the Accused).

164. In accordance with Rule 90(B), witnesses gave evidence under a solemn declaration or oath, and were cross-examined and re-examined in accordance with Rule 85(B).

165. When evaluating the credibility of witnesses who gave evidence viva voce, the Trial Chamber has taken into account a variety of factors, including their demeanour, conduct and

<sup>410</sup> *AFRC* Trial Judgement, para. 98. See *Prosecutor v. Delalić, Mucić, Delić and Landžo*, IT-96-21-A, Judgement (AC), 20 February 2001[*Čelebići* Appeal Judgement], para. 458.

<sup>411</sup> Rule 89(C) is thus different from its counterpart in the ICTY Rules, which provides that “[a] Chamber may admit any relevant evidence *which it deems to have probative value*” (emphasis added).

<sup>412</sup> *Prosecutor v. Fofana*, SCSL-04-14-AR65, Fofana – Appeal Against Decision Refusing Bail, 11 March 2005 [Fofana Appeal Decision Refusing Bail], para. 26; *AFRC* Trial Judgement, para. 99; *RUF* Trial Judgement, para. 474.

character (where possible),<sup>413</sup> their knowledge of the facts to which they testified, their proximity to the events described, the plausibility and clarity of their testimony, their impartiality, the lapse of time between the events and the testimony, their possible involvement in the events and the risk of self-incrimination, inconsistencies in their testimony and their ability to explain such inconsistencies, any motivations to lie, and their relationship with the Accused.<sup>414</sup>

166. In some instances, only one witness gave evidence on a material fact. As a matter of law, the testimony of a single witness on a material fact does not require corroboration,<sup>415</sup> and the Trial Chamber may rely on “a limited number of witnesses or even a single witness provided it took into consideration all of the evidence on the record”.<sup>416</sup> Nevertheless, the Trial Chamber has examined the evidence of a single witness with particular care before attaching any weight to it.<sup>417</sup>

167. The Trial Chamber may accept or reject the evidence of a witness in whole or in part, and may find a witness to be credible and reliable about certain aspects of his or her testimony and not credible or reliable with respect to others.<sup>418</sup>

(a) Hearsay Evidence

168. In addition to evidence of facts within the testifying witness’s own knowledge, the Trial Chamber has also admitted hearsay evidence. Under Rule 89(C) of the Rules, the Trial Chamber has a broad discretion to admit relevant hearsay evidence.<sup>419</sup> However, before determining whether to rely on hearsay evidence, the Trial Chamber has examined such

<sup>413</sup> *Prosecutor v. Blagojević and Jokić*, IT-02-60-T, Judgement (TC), 17 January 2005 [*Blagojević* Trial Judgement], para. 23.

<sup>414</sup> *AFRC* Trial Judgement, para. 108; *Nahimana et al.* Appeal Judgement, para. 194; *Prosecutor v. Halilović*, IT-01-48-T, Judgement (TC), 16 November 2005 [*Halilović* Trial Judgement], para. 17.

<sup>415</sup> *Prosecutor v. Tadić*, IT-94-1-A, Judgement (AC), 15 July 1999 [*Tadić* Appeal Judgement], para. 65; *Prosecutor v. Aleksovski*, IT-95-14/1-A, Judgement (AC), 24 March 2000 [*Aleksovski* Appeal Judgement], para. 62; *Kupreskić et al.* Appeal Judgement, para. 33.

<sup>416</sup> *AFRC* Appeal Judgement, para. 147; *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T-1234, Judgement (TC), 2 March 2009 [*RUF* Trial Judgement], para. 501.

<sup>417</sup> *Prosecutor v. Limaj, Bala and Musliu*, IT-03-66-T, Judgement (TC), 30 November 2005 [*Limaj* Trial Judgement], para. 21; *Brdanin* Trial Judgement, para. 27.

<sup>418</sup> *RUF* Trial Judgement, para. 488, citing *Kupreskić et al.* Appeal Judgement, para. 333.

<sup>419</sup> See *Prosecutor v. Brima, Kamara, Kanu*, SCSL-04-16-T, Decision on Joint Defence Motion to Exclude all Evidence from Witness TF1-277 Pursuant to Rule 89(C) and/or Rule 95, 24 May 2005 [*Kamara* Decision on Motion to Exclude Evidence], para. 24. See also *Blagojević and Jokić* Trial Judgement, para. 21; *Prosecutor v. Aleksovski*, IT-95-14/1-AR73, Decision on Prosecutor’s Appeal on Admissibility of Evidence, 16 February 1999 [*Aleksovski* Appeal Decision on Admissibility of Evidence], para. 14.

evidence with caution, as the weight and probative value to be afforded to such evidence will usually be less than that accorded to the evidence of a witness who has given the evidence under oath or solemn declaration and who has been tested in cross-examination.<sup>420</sup> In so doing, the Trial Chamber has taken into account whether the hearsay evidence is voluntary, truthful, and trustworthy, and has considered both its context and the circumstances under which it arose.<sup>421</sup>

169. Factors that the Trial Chamber has taken into account in assessing the probative value of hearsay evidence include whether the hearsay is first-hand or removed,<sup>422</sup> whether the hearsay emanates from identified or unidentified/anonymous sources,<sup>423</sup> the opportunity to cross-examine the person who made the statement,<sup>424</sup> whether the hearsay statement is corroborated,<sup>425</sup> the potential for errors of perception and the circumstantial guarantees of trustworthiness surrounding the statement.<sup>426</sup>

(b) Circumstantial Evidence

170. In some instances, the Trial Chamber relied upon circumstantial evidence, *i.e.*, evidence surrounding an event from which a fact at issue may be reasonably inferred,<sup>427</sup> in order to determine whether or not a certain conclusion could be drawn. While individual pieces of evidence standing alone may well be insufficient to establish a fact, their

<sup>420</sup> *Prosecutor v. Fofana*, SCSL-04-14-AR73, Fofana – Decision on Appeal Against “Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence” [*Fofana* Appeal Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence], Separate Opinion of Justice Robertson, 16 May 2005, para. 6. See also *RUF* Appeal Judgement, para. 518; *RUF* Trial Judgement, paras 495-496; [*Krnojelac* Trial Judgement], para. 70; *Aleksovski* Appeal Decision on Admissibility of Evidence, para. 15.

<sup>421</sup> *RUF* Trial Judgement, para. 495, citing *Krnojelac* Trial Judgement, para. 70; *Aleksovski* Appeal Decision on Admissibility of Evidence, para. 15. See also *Prosecutor v. Delić*, IT-04-83-T, Judgement (TC), 15 September 2008 [*Delić* Trial Judgement], para. 27; *Prosecutor v. Tadić*, Case No. IT-94-1-T, Decision on Defence Motion on Hearsay, 5 August 1996 [*Tadić* Decision on Hearsay], para. 16.

<sup>422</sup> *RUF* Trial Judgement, para. 496; *Aleksovski* Appeal Decision on Admissibility of Evidence, para. 15; *Prosecutor v. Kalimanzira*, ICTR-05-88-A, Judgement (AC), 20 October 2010 [*Kalimanzira* Appeal Judgement], para. 78.

<sup>423</sup> *Prosecutor v. Rukundo*, ICTR-2001-70-T, Judgement (TC), 27 February 2009 [*Rukundo* Trial Judgement], para. 89; *Prosecutor v. Lubanga*, ICC-01/04-01/06-803-tEN, Decision on Confirmation of Charges, 30 September 2008, para. 140; *Prosecutor v. Rukundo*, ICTR-2001-70-A, Judgement (AC), 20 October 2010 [*Rukundo* Appeal Judgement], paras 194, 196.

<sup>424</sup> *RUF* Trial Judgement, para. 496; *Aleksovski* Appeal Decision on Admissibility of Evidence, para. 15.

<sup>425</sup> *CDF* Appeal Judgement, para. 199.

<sup>426</sup> *RUF* Trial Judgement, para. 496; *Delić* Trial Judgement, para. 27.

<sup>427</sup> *Brdanin* Trial Judgement, para. 35; *Blagojević* Trial Judgement, para. 21.



cumulative effect may be revealing and decisive.<sup>428</sup> Therefore, it is “no derogation of evidence to say that it is circumstantial”.<sup>429</sup>

171. When considering whether to rely on circumstantial evidence in proof of a fact in issue, the Trial Chamber has considered whether the only reasonable inference to be drawn from such evidence leads to proof of the guilt of the Accused.<sup>430</sup> When such evidence is capable of any other reasonable inference it is not reliable for the purposes of convicting an accused.<sup>431</sup>

(c) Discrepancies Between the Evidence of Various Witnesses, or Between the Evidence of a Particular Witness and a Previous Statement

172. It is the responsibility of the Trial Chamber to resolve any inconsistencies that may arise within and/or amongst witnesses’ testimonies. In doing so, the Trial Chamber has discretion to evaluate any inconsistencies, to consider whether the evidence taken as a whole is reliable and credible and to accept or reject the ‘fundamental features’ of the evidence.<sup>432</sup> In this context, the Trial Chamber endorses the statement of the ICTY Appeals Chamber in *Kupreškić* that:

[t]he presence of inconsistencies in the evidence does not, *per se*, require a reasonable Trial Chamber to reject it as being unreliable. Similarly, factors such as the passage of time between the events and the testimony of the witness, the possible influence of third persons, discrepancies, or the existence of stressful conditions at the time the events took place do not automatically exclude the Trial Chamber from relying on the evidence.<sup>433</sup>

173. A number of witnesses gave evidence of horrific events in which they personally suffered the amputation of one or both arms, or were raped, or witnessed atrocities inflicted upon members of their families. Recounting this evidence in court evoked strong emotional reactions in some of these witnesses. As a result, the Trial Chamber took the view that there may have been memories which prevented the witnesses from giving a full account of their

<sup>428</sup> *Čelibići* Appeal Judgement, para. 458.

<sup>429</sup> *Prosecutor v. Orić*, IT-03-68-T, Order Concerning Guidelines on Evidence and the Conduct of Parties During Trial Proceedings, 21 October 2004 [*Orić* Order on Evidence], p. 7, referring to *Taylor, Weaver and Donovan* (1928) 21 Cr. App. R. 20, 21, *per* Lord Hewart C.J.

<sup>430</sup> *CDF* Appeal Judgement, para. 200; *RUF* Trial Judgement, para. 499. See also *Ntagerura et al.* Appeal Judgement, para. 306; *Karera v. Prosecutor*, ICTR-01-74-A, Judgement, 2 February 2009 [*Karera* Appeal Judgement], para. 34.

<sup>431</sup> *CDF* Appeal Judgement, para. 200. See also *RUF* Trial Judgement, para. 499; *Karera* Appeal Judgement, para. 34.

<sup>432</sup> *AFRC* Trial Judgement, para. 110. See also *Kupreškić* Appeal Judgement, para. 31.

<sup>433</sup> *Kupreškić* Appeal Judgement, para. 31. See also *AFRC* Trial Judgement, para. 110.

experiences to the Court, or which prevented them from articulating in detail what they had endured.<sup>434</sup> The Trial Chamber also took into consideration the possibility that any observations made by the witnesses at the relevant time may have been affected by terror or stress.<sup>435</sup> While these circumstances do not necessarily mean that such evidence is not reliable, the Trial Chamber has weighed it with particular scrutiny.<sup>436</sup>

174. During the trial, both the Prosecution and the Defence made use of pre-trial statements from witnesses – and sometimes of interview notes – for the purpose of cross-examination. In many instances both parties alleged inconsistencies and contradictions between the pre-trial statements of witnesses and their evidence at trial. The Trial Chamber accepts that the information given in such a statement will not always be identical to the witness's oral evidence. This may be because the witness was asked questions at trial not previously asked, or may in his or her testimony remember details previously forgotten.<sup>437</sup> The Trial Chamber has also taken into account that the lapse of time since the events in the Indictment occurred may have affected the accuracy and reliability of the memories of witnesses. Another factor considered by the Trial Chamber was that interviews with witnesses were usually conducted in one of the local languages of Sierra Leone or Liberia, whereas the resulting witness statements used in court were a summarised English translation of the original statement or interview notes.

175. Thus, in general, the Trial Chamber has not treated minor discrepancies between the evidence of various witnesses, or between the evidence of a particular witness and a statement previously made by that witness, as discrediting their evidence where the essence of the incident had nevertheless been recounted in acceptable detail.<sup>438</sup> However, it has considered the impact of such inconsistencies on the credibility of each witness on a case-by-case basis.

176. Where there are material inconsistencies in the evidence of a witness, the Trial Chamber has assessed any explanations provided by the witness for such discrepancies and considered the extent to which such inconsistencies have a bearing on the witness' evidence

<sup>434</sup> *AFRC Trial Judgement*, para. 111. See also *Čelebići Appeal Judgement*, para. 496.

<sup>435</sup> *AFRC Trial Judgement*, para. 111. See also *Limaj Trial Judgement*, para. 15.

<sup>436</sup> *AFRC Trial Judgement*, para. 111.

<sup>437</sup> *AFRC Trial Judgement*, para. 112. See also *Brdanin Trial Judgement*, para. 26.

<sup>438</sup> *AFRC Trial Judgement*, para. 113. See also *Krnjelac Trial Judgement*, para. 69.

as a whole. The Trial Chamber has the discretion to determine whether, in light of significant inconsistencies, it will reject the witness's evidence in its entirety, or accept certain parts of the witness' evidence.<sup>439</sup> However, where there are material inconsistencies within the witness's testimony, the Trial Chamber has generally only accepted those parts of the witness's testimony which are corroborated.<sup>440</sup>

177. When there are discrepancies between the accounts of two witnesses, it is for the Trial Chamber to determine whether these discrepancies discredit a witness's testimony.<sup>441</sup> When faced with competing versions of events, it is the prerogative of the Trial Chamber to determine which one is more credible.<sup>442</sup>

(d) Names of Locations

178. The Trial Chamber reiterates that names of locations mentioned by witnesses which are similar, but not identical, may refer to the same location. It would not be appropriate to strike out the names of such locations given that a variety of languages and dialects are spoken in Sierra Leone and that some witnesses are illiterate. Thus names of locations mentioned by witnesses which are similar but not identical to names of locations that appear in the Indictment may refer to the same location.<sup>443</sup>

(e) Time Frames

179. Various witnesses testified about events occurring during broad time periods, such as "the rainy season", "the dry season", or "the mango season". Where reliable evidence has been adduced about the dates of a particular season such as the rainy season or the mango season in a particular district, the Trial Chamber has considered this evidence in determining the timing of certain events that occurred during that season.

<sup>439</sup> See *e.g.* *AFRC* Trial Judgement, para. 362; *AFRC* Appeal Judgement, para. 121.

<sup>440</sup> *RUF* Trial Judgement, para. 490.

<sup>441</sup> *AFRC* Appeal Judgement, para. 121.

<sup>442</sup> *AFRC* Appeal Judgement, para. 121. See also *Rutaganda v. Prosecutor*, ICTR-96-3-A, Judgement (AC), 26 May 2003 [*Rutaganda* Appeal Judgement], para. 29.

<sup>443</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Rule 98 Decision, Transcript 4 May 2009, p. 24202.

(f) Testimony of the Accused in his own Defence

180. There is no burden on an accused to prove his innocence. Article 17(4)(g) of the Statute provides that no accused shall be compelled to testify against himself or confess guilt.

181. The Accused elected to testify in his own defence. In accordance with Rule 85(C) of the Rules, he gave his evidence under oath and thereafter called other witnesses in his defence. By electing to testify and to call witnesses in his Defence, the Accused did not thereby assume the burden of proving his innocence. Rather, the Trial Chamber has to determine whether the Prosecution evidence should be accepted as establishing beyond reasonable doubt the facts alleged, notwithstanding the evidence of the Accused and that of the other Defence witnesses.<sup>444</sup>

(g) Accomplice Evidence

182. The Trial Chamber has heard considerable testimony from “insider witnesses” – that is, persons who were former members of the RUF, NPFL, Liberian government or close associates of the Accused. The Appeals Chamber has held that there is no requirement that in order to qualify as an accomplice, a witness must have been charged with a specific offence.<sup>445</sup>

183. In assessing the reliability of accomplice evidence, the main consideration for the Trial Chamber is whether or not the accomplice has an ulterior motive to testify as he did. The Trial Chamber has generally looked for corroboration in such circumstances, but it notes that it may convict on the basis of the evidence of a single witness, even an accomplice, provided such evidence has been viewed with caution.<sup>446</sup>

<sup>444</sup> *Prosecutor v. Vasiljević*, IT-98-32-T, Judgement, 29 November 2002 [“*Vasiljević* Trial Judgement”], para. 13; *Limaj* Trial Judgement, para. 22. See also *AFRC* Trial Judgement, para. 117.

<sup>445</sup> *AFRC* Appeal Judgement, para. 127; *RUF* Trial Judgement, para. 497.

<sup>446</sup> *AFRC* Appeal Judgement, paras 128-129; *RUF* Trial Judgement, para. 498. See also *Prosecutor v. Nchamihigo*, ICTR-2001-63-A, Judgement (AC), 18 March 2010 [*Nchamihigo* Appeal Judgement], para. 48; *Muvunyi* Appeal Judgement, para. 128.





(h) Alleged 'Incentives' for Witnesses

184. The Defence alleges that the evidence of some of the Prosecution witnesses is suspect because they allegedly received incentives to testify against the Accused, such as financial incentives or the promise of relocation to another country.<sup>447</sup>

185. The Defence submits that the Prosecution's Witness Management Unit ("WMU") made large payments on a systematic basis to Prosecution witnesses, and that this taints the overall credibility of Prosecution evidence and amounts to an abuse of the Prosecution's discretion pursuant to Rule 39(ii).<sup>448</sup>

186. In particular, the Defence argues that such payments are contrary to the letter and/or spirit of Rule 39(ii), in that some were impermissible under this Rule, while those that were permissible were demonstrably exorbitant and irregular, that such payments were duplicative and supplemental to payments made by the Witness and Victims Unit (WVS), that these payments occurred both pre-trial and during the life of the trial, and were deliberate and designed to influence the cooperation and evidence of potential witnesses, witnesses, suspects or sources and to otherwise interfere with the administration of justice.<sup>449</sup> The Defence also submits that the amounts of money provided to witnesses by the Prosecution must be viewed "in the light of the realities of life in Sierra Leone", where such sums could have a significant effect on the lives of witnesses.<sup>450</sup>

187. The Defence submits that at a minimum, an adverse inference (if not presumption) should be drawn *vis-à-vis* the reliability and credibility of Prosecution evidence in those instances where the payments/inducements to particular witnesses are objectively

<sup>447</sup> Defence Final Trial Brief, paras 23-26, 1396.

<sup>448</sup> Defence Final Trial Brief, paras 23-26. The Defence also notes at paragraph 25 that it incorporates by reference the submissions it made in *Prosecutor v. Taylor*, SCSL-03-01-T-1089, Public with Confidential Annexes A-J and Public Annexes K-O Defence Motion Requesting an Investigation into Contempt of the Court by the Office of the Prosecution and its Investigators, 24 September 2010 [Contempt Motion]; *Prosecutor v. Taylor*, SCSL-03-01-T1142, Public with Annexes A-H and Confidential Annexes I-J Defence Motion to Recall Four Prosecution Witnesses and to Hear Evidence from the Chief of WVS Regarding Relocation of Prosecution Witnesses, 17 December 2010 [Motion to Recall].

<sup>449</sup> Defence Final Trial Brief, para. 24. See also Defence Final Trial Brief, para. 1396; Defence Closing Arguments, Transcript 11 March 2011, p. 49620, where the Defence listed witnesses whom it submits were provided with overlapping payments by the WVS and WMU.

<sup>450</sup> *Prosecutor v. Taylor*, Defence Closing Arguments, Transcript 10 March 2011, p. 49478; Defence Final Trial Brief, para. 1396.

unreasonable and/or excessive.<sup>451</sup> In appropriate instances of egregious and unmitigated abuse of discretionary payments/inducements by the Prosecution, the Court should exclude the evidence of the applicable witnesses in their entirety.<sup>452</sup> The Defence submits that as a clear and regrettable case of prosecutorial abuse of process has been made out, the Accused has been deprived of a fair trial.<sup>453</sup>

188. The Defence also submits that relocation or the promise or offer of relocation may have had an impact on the credibility of certain witnesses' testimony.<sup>454</sup>

189. The Prosecution does not specifically address these allegations in its submissions. It does, however, indicate that the Defence had ample opportunity to test insider/accomplice evidence via full cross-examination, assisted by the disclosure of WVS and OTP disbursements.<sup>455</sup>

(i) Financial Incentives

190. With regard to alleged 'financial incentives', the costs of allowances necessarily and reasonably incurred by witnesses as a result of testifying before a Chamber are met by the Special Court in accordance with the "Practice Direction on Allowances for Witnesses and Expert Witnesses", issued by the Registrar on 16 July 2004. The Practice Direction provides for a wide range of allowances to be paid to witnesses testifying before the Special Court. These include an attendance allowance as compensation for earnings and time lost as a result of testifying, accommodation, meals, transport, medical treatment, childcare and other allowances. No distinction is made between witnesses for the Prosecution and Defence.

191. The Practice Direction requires the Special Court's Witnesses and Victims Section ("WVS") to provide records of payments to the Special Court's Finance Section, and *vice versa*.<sup>456</sup> In the present case, records of disbursements to Prosecution witnesses were disclosed to the Defence pursuant to Rule 68 of the Rules, and disbursement forms

<sup>451</sup> Defence Final Trial Brief, para. 25.

<sup>452</sup> Defence Final Trial Brief, para. 25. See also *Prosecutor v. Taylor*, Transcript 10 March 2011, p. 49476.

<sup>453</sup> Defence Final Trial Brief, para. 26.

<sup>454</sup> Defence Final Trial Brief, para. 24; Motion to Recall, paras 1, 18.

<sup>455</sup> Prosecution Final Trial Brief, para. 42.

<sup>456</sup> Practice Direction on Allowances for Witnesses and Expert Witnesses, Article 2(D).

concerning witnesses for both parties have been admitted into evidence,<sup>457</sup> and used to cross-examine witnesses.<sup>458</sup>

192. In addition, in some cases, the Prosecution also made payments to and/or conferred benefits upon witnesses outside of the WVS framework via its Witness Management Unit (“WMU”). Information about these payments has also been disclosed to the Defence, admitted into evidence,<sup>459</sup> and used to cross-examine Prosecution witnesses.<sup>460</sup>

193. Rule 39(ii) provides that the Prosecutor may:

Take all measures deemed necessary for the purpose of the investigation, including the taking of any special measures to provide for the safety, the support and the assistance of potential witnesses and sources.

194. The Trial Chamber has previously held that the issue of whether there has been any abuse of the Prosecution’s discretion under Rule 39(ii) “in that the payments might not have been necessary for the safety, support or assistance” of witnesses would be “considered at the stage of final deliberations, taking into account the evidence adduced and the cross-examination of the witness in question”.<sup>461</sup>

<sup>457</sup> See, e.g., Exhibit P-048, “All Disbursements for Witness TF1-276”; Exhibit P-120, “All Disbursements for Witness TF1-561”; Exhibit P-200, “All Disbursements for Witness TF1-304”; Exhibit D-064, “All Disbursements for Witness TF1-197”; Exhibit D-069, “All Disbursements for Witness TF1-034”; Exhibit D-071, “All Disbursements for Witness TF1-023”; Exhibit P-501, “Report from WVS”; Exhibit P-517, “Inter-office Memo WVS dated 22 March 2010, Expenses Incurred on DCT-146, Dated 22 March 2010”; Exhibit P-554, “Record of Expenses Incurred on DCT-190 Dated 04 June-2010”.

<sup>458</sup> See, e.g., Alex Tamba Teh, Transcript 9 January 2008, pp. 780-782; Varmuyan Sherif, Transcript 14 January 2008, pp. 1162-1169; Dennis Koker, Transcript 16 January 2008, pp. 1389-1398; Karmoh Kanneh, Transcript 4 May 2008, pp. 9763-9771; Charles Ngebeh, Transcript 12 April 2010, pp. 38726-38733; DCT-190, Transcript 28 June 2010, pp. 43437-43443.

<sup>459</sup> See Exhibit P-048, “All Disbursements for Witness TF1-276”; Exhibit P-120, “All Disbursements for Witness TF1-561”; Exhibit P-200, “All Disbursements for Witness TF1-304”; Exhibit D-075, “Schedule of Interviews and Payments for TF1-579”; Exhibit D-064, “All Disbursements for Witness TF1-197”; Exhibit D-069, “All Disbursements for Witness TF1-034”; Exhibit D-071, “All Disbursements for Witness TF1-023”; Exhibit D-073, “All Disbursements for Witness SCSL P0298”; Exhibit D-479, “Index of Disbursements for Witness DCT-032”.

<sup>460</sup> See, e.g., Abu Keita, Transcript 24 January 2008, pp. 2154-2155; Perry Kamara, Transcript 7 February 2008, pp. 3396-3402; Suwandi Camara, Transcript 13 February 2008, pp. 3766-3808; Foday Lansana, Transcript 26 February 2008, pp. 4754-61; Isaac Mongor, Transcript 7 April 2008, pp. 6702-6711; Dauda Aruna Fornie, Transcript 11 December 2008, p. 22251.

<sup>461</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1118, Decision on Public with Confidential Annexes A-J and Public Annexes K-O Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators, 12 November 2010, para. 40. See also *Prosecutor v. Karemera et al.*, ICTR-98-44-T, Decision on Joseph Nzirorera’s Motion to Dismiss for Abuse of Process: Payments to Prosecution Witnesses and “Requete de Mathieu Ndirumpatse en Retrait de L’Acte D’Accusation”, 27 October 2008 [*Karemera* Decision on Abuse of Process].

195. In assessing witness credibility, the Trial Chamber has therefore taken into account information about witness payments made both by the WVS and by the Prosecution, and has considered any cross-examination of the witness in relation to these payments. In particular, the Trial Chamber has considered, on a case by case basis whether the benefits conferred upon and/or payments made to witnesses went beyond that “which is reasonably required for the management of a witness”.<sup>462</sup> In assessing whether such a payment is “reasonably required”, the Trial Chamber has also taken into account the cost of living in West Africa and the station in life of the witness receiving the payment.

(j) Relocation

196. Article 16(4) of the Statute and Rule 34 of the Rules mandate WVS to provide short and long-term protection and support to witnesses and victims who appear before the Special Court. Accordingly, WVS may relocate witnesses to another country pursuant to its responsibility to provide appropriate protection for witnesses and victims who are at risk on account of their testimony. The Registrar has indicated that “relocation is a last resort” and is “only provided to those witnesses who are considered most at risk on account of their testimonies”.<sup>463</sup> Further, the Registrar has indicated that whenever relocation is warranted it is “resorted to only after the witness has testified and on the basis of threat assessments”.<sup>464</sup>

197. In the present case, the Defence cross-examined several Prosecution witnesses about relocation or promises/offers of relocation.<sup>465</sup> In its assessment of the credibility of such witnesses, the Trial Chamber has taken in consideration evidence that witnesses have been promised relocation or have in fact been relocated, the effect that such promises may have

<sup>462</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1084, Decision on Defence Motion for Disclosure of Statement and Prosecution Payments made to DCT-097, 23 September 2010 [*Taylor* Decision on Payments to DCT-097], para. 21; *Prosecutor v. Taylor*, SCSL-03-01-1104, Decision on Public with Confidential Annexes A—D Defence Motion for Disclosure of Exculpatory Information Relating to DCT-032, 20 October 2010 [*Taylor* Decision on Exculpatory Information], para. 30, citing *Prosecutor v. Karemera, Ngirumpatse, Nzirorera*, ICTR-98-44-PT, Decision on Defence Motion for Full Disclosure of Payments to Witnesses and to Exclude Testimony from Paid Witnesses, 23 August 2005 [*Karemera* Decision on Disclosure of Payments], para. 6.

<sup>463</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1153, Submissions of the Registrar Pursuant to Rule 33(B) Regarding the Defence Motion to Recall Four Prosecution Witnesses and to Hear Evidence from the Chief of WVS Regarding Relocation of Prosecution Witnesses, 11 January 2011 [Registrar’s Submission on Motion to Recall], para. 11.

<sup>464</sup> *Ibid.*, para. 12.

<sup>465</sup> See, e.g., TF1-375, Transcript 27 August 2008, p. 14706; TF1-579, Transcript 26 November 2008, pp. 21244-21246; Dauda Aruna Fornie, Transcript 11 December 2008, pp. 22242, 22249; Alex Tamba Teh, Transcript 9 January 2008, p. 782; TF1-362, Transcript 3 March 2008, p. 5079 (CS); TF1-590, Transcript 16 June 2008, p. 11906.



had on their testimony, the opportunity that the Defence had to cross-examine the witnesses about such offers, and any cross-examination in relation to these issues, on a case by case basis.

(k) Other incentives

198. In assessing witness credibility, the Trial Chamber has also taken into account other incentives that may have been offered to witnesses, including indemnity letters provided to witnesses by the Prosecution,<sup>466</sup> and offers to release witnesses from prison.<sup>467</sup>

## 2. Documentary Evidence

(a) Introduction

199. In the course of the trial, the Trial Chamber admitted a total of 1522 exhibits: 782 were tendered by the Prosecution, and 740 by the Defence.

200. Documents were admitted through witnesses who testified during the trial, pursuant to Rule 89(C) provided the document was relevant and sufficient foundation was laid for the document to be used and/or admitted through the witness.<sup>468</sup> Documents were also admitted into evidence in lieu of oral testimony pursuant to Rules 92*bis* and 92*quater*.

201. In this case, the Trial Chamber admitted the prior trial transcripts and related exhibits of twenty-two witnesses, and the statements of six witnesses, into evidence pursuant to Rule 92*bis* provided the Prosecution make the said witnesses available for cross-examination by the Defence.<sup>469</sup> The Trial Chamber also admitted a statement of one Defence witness into

<sup>466</sup> See e.g. Defence Closing Arguments, Transcript 10 March 2011, p. 49481; Isaac Mongor, Transcript 31 March 2007, p. 6240; Transcript 7 April 2008, pp. 6718-6719, 6739, 6743; Moses Blah, Transcript 19 May 2008, pp. 10114-10115, Exhibit P-119, "Memo from James Johnson, Acting Prosecutor, SCSL to Moses Blah, 30 October 2006".

<sup>467</sup> See e.g. Foday Lansana, Transcript 5 February 2008, pp. 4612-4614; TF1-375, Transcript 22 August 2008, p. 14340.

<sup>468</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 21 August 2008, p. 14253; *Prosecutor v. Taylor*, SCSL-03-01-AR73, Decision on "Prosecution Notice of Appeal and Submissions Concerning the Decision Regarding the Tender of Documents", 6 February 2009 [*Taylor* Decision on the Tender of Documents], paras 40-42.

<sup>469</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-556, Decision on Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Kenema District and on Prosecution Notice Under Rule 92*bis* for the Admission of the Prior Testimony of TF1-036 into Evidence, 15 July 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-623, Decision on Prosecution Notice Under Rule 92*bis* for Admission of Evidence related to *Inter Alia* Kono District, 8 October 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-633, Decision on Prosecution Notice Under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Kono District- TF1-218 and TF1-304, 14 October 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-634, Decision on Public with Confidential Annexes A to G

evidence pursuant to Rule 92bis.<sup>470</sup> In addition, the Trial Chamber admitted several other categories of documents pursuant to Rule 92bis, tendered by both the Prosecution,<sup>471</sup> and the Defence.<sup>472</sup> The Trial Chamber admitted the prior trial transcripts and related exhibits of two deceased witnesses pursuant to Rule 92 quater.<sup>473</sup>

202. It is important to emphasise that the admission of a document into evidence in the course of the trial has no bearing on the weight, if any, subsequently attached to it by the Trial Chamber. The Trial Chamber has assessed the weight and reliability of documentary evidence in the light of all the evidence in the case.

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Prosecution Notice under Rule 92bis For the Admission of Evidence Related to *Inter Alia* Kono District-TF1-195, TF1-197, TF1-198 and TF1-206, 15 October 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-635, Decision on Public with Confidential Annexes A to C Prosecution Notice Under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Freetown and the Western Area- TF1-023 and TF1-029, 16 October 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-642, Decision on Public with Confidential Annexes B to G Prosecution Notice Under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Freetown and Western Area- TF1-024, TF1-081 and TF1-084, 20 October 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-644, Decision on Public with Confidential Annexes A to D and F to G Prosecution Notice under Rule 92bis For the Admission of Evidence Related to *Inter Alia* Freetown and Western Area- TF1-098, TF1-104 and TF1-227, 21 October 2008.

<sup>470</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-981, Defence Filing of Chief Jalloh Loon Pursuant to Rule 92bis and the Trial Chamber's Order of 11 June 2010, 15 June 2010.

<sup>471</sup> These included: (i) Liberia Search documents (*Prosecutor v. Taylor*, SCSL-03-01-T-736, Decision on Prosecution Motion for Admission of Liberia Search Documents, 18 February 2009); (ii) extracts of the Report of the Truth and Reconciliation Commission for Sierra Leone (*Prosecutor v. Taylor*, SCSL-03-01-T-737, Decision on Prosecution Motion for Admission of Extracts of the Report of the Truth and Reconciliation Commission of Sierra Leone, 19 February 2009); (iii) documents of United Nations and United Nations Bodies (*Prosecutor v. Taylor*, SCSL-03-01-T-739, Decision on Prosecution Motion for Admission of Documents of the United Nations and United Nations Bodies, 20 February 2009); (iv) documents of certain non governmental organizations and Associated Press releases (*Prosecutor v. Taylor*, SCSL-03-01-T-742, Decision on Prosecution Motion for Admission of Certain Non-Governmental Organizations and Associated Press Releases, 23 February 2009); (v) BBC Radio Broadcasts (*Prosecutor v. Taylor*, SCSL-03-01-T-745, Decision on Prosecution Motion for Admission of BBC Radio Broadcasts, 25 February 2009); (vi) documents seized from Foday Sankoh's house (*Prosecutor v. Taylor*, SCSL-03-01-T-747, Decision on Prosecution Motion for Admission of Documents Seized from Foday Sankoh's House, 26 February 2009); (vii) documents seized from RUF Kono Office, Kono district (*Prosecutor v. Taylor*, SCSL-03-01-T-749, Decision on Prosecution Motion for Admission of Documents Seized from RUF Kono Office, Kono District, 27 February 2009); (viii) newspaper articles obtained from the Catholic Justice and Peace Commission Archive in Monrovia, Liberia (*Prosecutor v. Taylor*, SCSL-03-01-T-750, Decision on Prosecution Motion for Admission of Newspaper Articles Obtained from the Catholic Justice and Peace Commission Archive in Monrovia, Liberia, 27 February 2009); (ix) Security Council Resolution 1315 (2000) pursuant to Rule 92bis (*Prosecutor v. Taylor*, SCSL-03-01-T-744, Decision on Prosecution Motion for Admission of Document Pursuant to Rule 89 (C) and 92bis, 25 February 2009).

<sup>472</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1064, Decision on Public with Annexes A and B Defence Motion for Admission of Documents Pursuant to Rule 92bis, 27 August 2010; *Prosecutor v. Taylor*, SCSL-03-01-T-1079, Decision on Public with Annexes A-J and Confidential Annexes K-L Defence Motion for Admission of Documents Pursuant to Rule 92bis – Special Task Force, 17 September 2010 [*Taylor 92bis* Decision on Special Task Force]; *Prosecutor v. Taylor*, SCSL-03-01-T-1082, Decision on Public with Annexes A-D Defence Motion for Admission of Documents Pursuant to Rule 92bis – Contemporaneous Documentation, 22 September 2010; Transcript 12 November 2010, pp. 49112-49115.

<sup>473</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-720, Decision on Public with Confidential Annexes C to E Prosecution Motion for Admission of the Prior Trial Transcripts of Witnesses TF1-021 and TF1-083 Pursuant to Rule 92quater, 5 February 2009.





(b) Documents Used in Cross-Examination by the Prosecution.

203. During the Defence case, the Prosecution tendered several documents that it had put to the Accused and other Defence witnesses during cross-examination. The Trial Chamber held that fresh evidence impeaching the credibility of the Accused or other Defence witnesses may in the Trial Chamber's discretion be admitted on a case by case basis but that documents containing fresh evidence that is probative of guilt would not be admitted into evidence unless the Prosecution can establish "exceptional circumstances".<sup>474</sup> The Trial Chamber admitted several documents, or parts of documents, used by the Prosecution during cross-examination.<sup>475</sup> As the Prosecution sought to tender these documents solely for the purpose of impeaching the credibility of the Accused or other witnesses, the Trial Chamber has relied on these documents, or parts thereof, only for that purpose.<sup>476</sup>

(c) Objections to specific categories of documents

204. Many documents tendered by the Prosecution have been contested by the Defence and *vice versa*. The Trial Chamber admitted the documents into evidence on the basis of relevance, leaving their reliability and probative value to be assessed at the end of the trial. The individual objections raised by the parties are discussed below.

(i) Chain of Custody

<sup>474</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-865, Decision on Prosecution Motion in Relation to the Applicable Legal Standards Governing the Use and Admission of Documents by the Prosecution During Cross-Examination, 30 November 2009, para. 27 and p. 13 (Disposition); *Prosecutor v. Taylor*, SCSL-03-01-T, Decision on Public with Annexes A and B Defence Motion for Admission into Evidence of 301 Documents and Photographs Marked for Identification During the Cross-Examination of the Accused and on Prosecution List of Documents Marked for Identification During the Testimony of Charles Taylor Sought to be Admitted into Evidence, 18 March 2010 [Admission of Documents Decision]. See also *Prosecutor v. Taylor*, SCSL-03-01-T, Trial Transcript 13 August 2010, pp. 46255-46266, where this test was applied in relation to a custodial statement that the Prosecution attempted to tender during the cross-examination of Issa Sesay.

<sup>475</sup> Admission of Documents Decision, p. 14 (Disposition) and Annex, pp. 33-53.

<sup>476</sup> See *Prosecutor v. Prlić*, IT-04-74-AR73.14, Decision on the Interlocutory Appeal Against the Trial Chamber's Decision on Presentation of Documents by the Prosecution in Cross-Examination of Defence Witnesses, 26 February 2009, para. 29, where the Appeals Chamber held that a Trial Chamber "has the discretion to limit the purpose for which an admitted piece of evidence is used". See also *Prosecutor v. Karemera*, ICTR-98-44-T, Decision on Admission of Documents Used in Cross-Examination of Edouard Karemera and Witness 6, 11 November 2009 [*Karemera* Decision on Admission of Documents During Cross-Examination], para. 5 (where the Trial Chamber held "when seeking to assess the potential prejudice suffered by the Accused as a result of the admission of fresh evidence, the Trial Chamber must have particular regard for the purpose for which the admission of this evidence is sought [. . .]" and that the Trial Chamber must consider various measures to address any prejudice to the Accused, "including limiting the purpose for which the evidence is admitted"). See also *Prosecutor v. Delić*, IT-04-83-AR73.1, Decision on Rasim Delić's Interlocutory Appeal against Trial Chamber's Oral Decisions on Admission of Exhibits 1316 and 1317, 15 April 2008, paras 22-23.





205. Both parties have raised issues with respect to the chain of custody of several documents. In many cases, the chain of custody is unknown or incomplete.<sup>477</sup> The Trial Chamber, however, notes that due to the difficulties in investigations during conflict and post-conflict situations, “a perfect chain of custody is not a *sine qua non* requirement for admissibility” and that “gaps in the chain of custody are not fatal, provided that the evidence as a whole demonstrates beyond a reasonable doubt that the piece of evidence concerned is what it says it is”.<sup>478</sup> Thus, while the Trial Chamber has admitted these documents as relevant, the lack of or an incomplete chain of custody is a factor that has been taken into account in assessing the weight to be given to such documents on a case by case basis.

(ii) Authenticity

206. The Trial Chamber recalls that where objections were made regarding the authenticity of certain documents, the Trial Chamber admitted the documents on the basis that that any considerations relating to the authenticity of documents went to weight, rather than admissibility.<sup>479</sup> In many cases, the Prosecution and/or Defence were either not able to prove authorship, or the authorship of the document is in dispute. In a few cases, it was alleged that the documents had been forged.<sup>480</sup> No experts testified regarding handwriting or signatures, although these were disputed in the case of several documents.<sup>481</sup>

<sup>477</sup> See, e.g., Exhibit P-028, “Operation Order 20 January 2001”; Exhibit P-065, “RUF Letter from Foday Sankoh to Charles Taylor, 5 May 1992”; Exhibit D-008, “Unofficial Translation - Verbatim Report on a Recorded Discussion between CPL. Foday Sankoh and his Cohorts on his Return from Detention”; Exhibit D-084, “RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999”; Exhibit D-085, “RUF - Sierra Leone (People's Army of Sierra Leone) Ops. Segbwema, Brief Comprehensive Report From Major Francis M. Musa District I.D.U. Commander Kailahun, TO CPL Foday Sankoh RUF/SL, 31 August 1999”. See also Tariq Malik, Transcript 20 January 2009, p. 23101.

<sup>478</sup> *Orić* Trial Judgement, para. 27.

<sup>479</sup> See, e.g., Transcript 8 January 2008, p. 677; Varmuyan Sherif, Transcript 10 January 2008, pp. 933-934; Transcript 14 January 2008, pp. 1206-1207; *Taylor 92bis* Decision on Special Task Force, p. 6.

<sup>480</sup> See, e.g., Issa Sesay, Transcript 9 July 2010, p. 44136; Transcript 12 July 2010, pp. 44256, 44294; Transcript 19 August 2010, p. 46714; Transcript 23 August 2010, p. 46931; *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 11 March 2011, pp. 49534-49536.

<sup>481</sup> See, e.g., Exhibit P-028, “Operation Order 20 January 2001”; Exhibit P-093, “Restricted RUF/SL Comprehensive Report from Major Sam Bockarie to Brigadier Issa Sesay on the take over of Koidu, 26 January 1999”; Exhibit P-136, “Revolutionary United Front of Sierra Leone, Defence Headquarters, 19 November 1998”; Exhibit D-009, “RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie”; Exhibit D-084, “RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999”. See also Exhibit P-582, “Page indicating fifteen different signatures with marks indicating those signatures that do not belong to Issa Sesay - as indicated by DCT-172”; Issa Sesay, Transcript 25 August 2010, pp. 47061-47063.

### 3. Expert Testimony and Reports

207. The Trial Chamber heard the testimony of three expert witnesses who testified for the Prosecution pursuant to Rule 94*bis*, and admitted their respective reports.<sup>482</sup> One of those three experts, Expert Witness TF1-150, testified entirely in closed session.<sup>483</sup> Two other expert reports were admitted without calling the experts to testify in person, as the Defence accepted their reports pursuant to Rule 94*bis*(C).<sup>484</sup> Although Witness Corinne Dufka was originally tendered as an expert witness, the Trial Chamber, pursuant to a motion from the Defence, reclassified her as a witness of fact and excluded the opinion portion of her evidence.<sup>485</sup>

208. The Trial Chamber has evaluated the probative value of the expert evidence taking into account the professional competence of the expert, the methodology used and the credibility of the findings made in the light of all the other evidence in the trial.<sup>486</sup> In addition, in assessing the weight to be given to expert evidence, the Trial Chamber has taken into consideration the sources upon which the expert based his or her opinion and the extent to which the expert has been able to provide details regarding the basis of the opinion.<sup>487</sup>

209. Where expert testimony or reports went beyond their parameters by drawing conclusions touching upon the ‘ultimate issue’ in this case, *i.e.*, the individual criminal responsibility of the Accused, the Trial Chamber disregarded such conclusions.<sup>488</sup>

<sup>482</sup> Expert Witness Ian Smillie, Exhibit P-019, “Diamonds, the RUF and the Liberian Connection”; Expert Witness Stephen Ellis, Exhibit P-031, “Charles Taylor and the War in Sierra Leone”; Expert Witness TF1-150, Exhibit P-077 (confidential).

<sup>483</sup> The provision that TF1-150’s testimony be heard entirely in closed session was ordered by Trial Chamber I in *Prosecutor v. Norman, Fofana and Kondewa*, SCSL-04-14-T-432, Decision on Prosecution Application for Closed Session for Witness TF2-218, 15 June 2005. See *Prosecutor v. Taylor*, SCSL-03-01-T-432, Transcript 18 February 2008, p. 4002, where the Trial Chamber found that it continued to be bound by this order.

<sup>484</sup> Expert Witness Beth Vann, Exhibit P-073, “Conflict-Related Sexual Violence in Sierra Leone”; Jessica Alexander, Exhibit P-43, “Children Associated with Fighting Forces in the Conflict in Sierra Leone”.

<sup>485</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-543, Decision on Defence Application to Exclude the Evidence of Proposed Prosecution Expert Witness Corinne Dufka or, in the Alternative, to Limit its Scope and on Urgent Prosecution Request for Decision, 19 June 2008.

<sup>486</sup> *Vasiljević* Trial Judgement, para. 20; *Orić* Trial Judgement, paras 59-71; *Prosecutor v. Galić*, IT-98-29-T, Decision on the Expert Witness Statement Submitted by the Defence, 27 January 2003, p. 3.

<sup>487</sup> *Prosecutor v. Bizimungu et al.*, ICTR-99-50-T, Decision on Defence Motion for Exclusion of Portions of Testimony of Expert Witness Alison Des Forges, 2 September 2005, para. 21.

<sup>488</sup> See Transcript 16 January 2008, p. 1451. *AFRC* Trial Judgement, para. 151; *RUF* Trial Judgement, para. 538.





#### 4. Facts of which Judicial Notice was Taken

210. On 7 December 2007, the Trial Chamber issued a decision taking judicial notice of 36 facts pursuant to Rule 94(A) of the Rules.<sup>489</sup> These facts have been relied upon in this Judgement as indicated. The Trial Chamber also took judicial notice of 15 adjudicated facts from the *AFRC* Trial.<sup>490</sup> The Trial Chamber recalls that these judicially noticed adjudicated facts are subject to a rebuttable presumption of truth, and could be challenged by the parties during the course of the trial.<sup>491</sup>

#### 5. Agreed Facts

211. A number of facts in this case were admitted in whole or in part by the Defence.<sup>492</sup> There is no provision in the Rules pertaining to agreed facts. Nonetheless, it follows from the very nature of adversarial proceedings that the parties may stipulate to any fact on which they reach consensus.<sup>493</sup> Before relying on these agreed facts as indicated in this Judgement, the Trial Chamber has subjected them, as all other evidence, “to the tests of relevance, probative value and reliability”.<sup>494</sup>

#### C. Credibility Assessment of Specific Witnesses

212. The Trial Chamber has made both general assessments of the credibility of particular witnesses, as well as assessments of their credibility in relation to particular events. In this section, the Trial Chamber provides a general credibility evaluation of several significant Prosecution and Defence witnesses whose credibility has been challenged by the Parties. Where possible, the assessments of credibility in relation to specific events have been discussed in the sections dealing with those events. However, in instances where the

<sup>489</sup> *Taylor* Decision on Judicial Notice.

<sup>490</sup> *Taylor* Decision on Judicial Notice of AFRC Adjudicated Facts. However, the Trial Chamber dismissed Motions from both the Prosecution and Defence for judicial notice of adjudicated facts from the RUF Trial. See *Prosecutor v. Taylor*, SCSL-04-01-T-987, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the RUF Trial Judgement Pursuant to Rule 94(B) and Prosecution Motion for Judicial Notice of Adjudicated Facts from the RUF Judgement, 17 June 2010 [*Taylor* Decision on Judicial Notice of RUF Adjudicated Facts].

<sup>491</sup> *Taylor* Decision on Judicial Notice of AFRC Adjudicated Facts, para. 27; *Prosecutor v. Popović et. al.*, IT-05-88-T, Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts with Annex, 26 September 2006 [*Popović* Decision on Adjudicated Facts], para. 21.

<sup>492</sup> Admitted Facts and Law.

<sup>493</sup> *AFRC* Trial Judgement, para. 154; *RUF* Trial Judgement, para. 521. See also Rule 92 of the Rules (“Confessions”) which has however a different scope of applicability.

<sup>494</sup> *Simić* Trial Judgement, para. 21; *Blagojević and Jokić* Trial Judgement, para. 28; *Halilović* Trial

credibility of witnesses with relation to specific events was challenged by one or both of the Parties, and did not arise in context elsewhere in the draft, the evidence related to such events has been addressed in this section.

#### Prosecution Witness Abu Keita

213. Abu Keita testified that he joined the AFL in 1990.<sup>495</sup> Following his service in the AFL, Keita became a member of LUDF during the time LUDF was fighting the RUF.<sup>496</sup> Keita served in ULIMO-K from 1995 to 1997, where he attained the rank of Deputy Chief of Staff.<sup>497</sup> In 1998, according to his testimony, Keita was sent to the RUF by the Accused to serve as head of the Scorpion Unit in Sierra Leone, where he was until 2002.<sup>498</sup>

214. The Defence submits that Abu Keita has political motivation to incriminate the Accused. It points out that Keita was a member of LUDF and ULIMO at the time they fought against the Accused and the NPFL, and that he was imprisoned for not fighting against Roosevelt Johnson's forces, although he denied interacting with Johnson as part of a coup attempt against the Accused.<sup>499</sup> The Trial Chamber notes that while Keita was once an enemy of the Accused, he acknowledged in his testimony that the Accused was involved in his release from prison.<sup>500</sup> The Defence further challenged Keita's credibility in relation to his role within the 'Scorpion Unit' and a meeting he allegedly attended with Sam Bockarie, Ibrahim Bah and the Accused. This evidence has been considered in context in the section on Military Personnel.<sup>501</sup>

215. Abu Keita repeatedly testified that he shared information with investigators that did not appear in his earlier statements, and that he had not told investigators what the statements say he said. For example, the Defence highlighted a number of inconsistencies between Keita's testimony and his prior statements to the Prosecution. Some of these

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Judgement, para. 20.

<sup>495</sup> Abu Keita, Transcript 23 January 2008, p. 2077.

<sup>496</sup> Abu Keita, Transcript 23 January 2008, pp. 1947-1949.

<sup>497</sup> Abu Keita, Transcript 23 January 2008, pp. 1950-1954.

<sup>498</sup> Abu Keita, Transcript 24 January 2008, p. 2117.

<sup>499</sup> Defence Final Trial Brief, paras 1400-1401.

<sup>500</sup> Abu Keita, Transcript 24 January 2008, pp. 2106-2108. See also TF1-406, Transcript 9 January 2008, pp. 856-857; Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29325-29327.

<sup>501</sup> Provision of Military Personnel: Scorpion Unit.

inconsistencies, such as the identity of the person who released him from prison,<sup>502</sup> and the number of bodyguards assigned to him by Yeaten,<sup>503</sup> are minor in nature. With regard to Keita's prior statement that he left with Bockarie to travel to Buedu, the Trial Chamber finds his testimony in court to be more detailed, indicating that he left for Buedu in a convoy that included Bockarie but that they parted in Voinjama, after which Keita joined Issa Sesay in Foya and they continued together to Buedu.<sup>504</sup> As the prior statement is so limited in detail, the Trial Chamber finds it is not necessarily inconsistent with Keita's testimony.

216. The Trial Chamber notes that some details which could incriminate the Accused and were mentioned in Keita's prior statements were not mentioned during his testimony. For example, Keita testified that he did not leave Sierra Leone between 1998 and 2002. He denied telling investigators what was recorded in his prior statements, that he had been present with Bockarie (a.k.a. Mosquito) on three occasions in 1999 in which he brought diamonds to Charles Taylor in Liberia,<sup>505</sup> and that he had been present when Charles Taylor and Issa Sesay discussed finances at a house in Kongo Town in 2000.<sup>506</sup>

217. The Defence alleges that several Prosecution witnesses testified about Abu Keita's relations with the RUF prior to 1998, while Keita himself omitted these facts from his testimony. These omissions relate to RUF purchasing arms from ULIMO while Keita was a ULIMO General, the relations of his girlfriend's father with Sankoh, or times he spent in Sierra Leone prior to the Accused's inauguration.<sup>507</sup> Keita testified prior to these witnesses and was not cross-examined on these issues. The Trial Chamber finds that these omissions are relatively minor in nature and do not undermine Keita's credibility.

218. The Defence asserts that Keita received payments in excess of what was necessary to cover his expenses, and that his testimony was influenced by the indebtedness he felt to the Prosecution.<sup>508</sup> The Trial Chamber notes that most of the \$USD 2,502 and 6,000 leones (approximately \$USD 2)<sup>509</sup> received by Keita can be accounted for as reimbursement for

<sup>502</sup> Abu Keita, Transcript 24 January 2008, pp. 2107-2108.

<sup>503</sup> Abu Keita, Transcript 24 January 2008, p. 2131.

<sup>504</sup> Abu Keita, Transcript 24 January 2008, p. 2126.

<sup>505</sup> Abu Keita, Transcript 24 January 2008, pp. 2117-2118.

<sup>506</sup> Abu Keita, Transcript 24 January 2008, pp. 2120-2121.

<sup>507</sup> Defence Final Trial Brief, para. 1404.

<sup>508</sup> Defence Final Trial Brief, para. 1397.

<sup>509</sup> Conversion based on the rate of approximately 3,000 leones/US dollar.



plane tickets, hotel expenses, meals, and other transport-related expenses.<sup>510</sup> The Trial Chamber does not find that these payments undermine the witness's credibility. The Defence also submits that Abu Keita "denied all suggestions that he had been promised incentives, including relocation, only to appear in the newspaper in Sierra Leone later threatening to sue the Prosecution for failing to meet its end of the bargain after he had testified for them".<sup>511</sup> The Trial Chamber notes that Abu Keita was not questioned on whether he was promised relocation, or that he denied that he was. Keita did deny that he told others that if they would cooperate with the Prosecution they would subsequently be able to get asylum.<sup>512</sup> In a newspaper article published after Keita had testified, Keita is recorded as saying that he had been "misused and abandoned by the Special Court" since he believed that after he testified and "performed his own side of the bargain" officials of the Special Court have breached the verbal agreement he had with them to protect and relocate him and his family to a country where he would feel safe, thereby putting his life in danger.<sup>513</sup> The Trial Chamber notes that Keita is also recorded as saying that "he cannot travel to Liberia nor can he continue to live in Sierra Leone because he knows that Charles Taylor has spies all over the country".<sup>514</sup> Given this explanation, and since this information stems from an unverified news article, the Trial Chamber does not find that this undermines Keita's credibility.

219. In light of the above, the Trial Chamber finds the witness to be generally credible and will consider further issues relating to his credibility in context as they may arise.

#### Prosecution Witness TF1-371

220. Witness TF1-371, an RUF member,<sup>515</sup> testified entirely in closed session. Although he denied personally committing crimes, other witnesses have alleged that he did so. He is an accomplice witness, and the Defence argues that TF1-371 received immunity from prosecution in exchange for his testimony. The witness testified that there was no such exchange, that he was simply informed in a letter handed to him during his first meeting

<sup>510</sup> Exhibit P-048, "Special Court all disbursements for Witness Form SCSLP0023 (Redacted)".

<sup>511</sup> Defence Final Trial Brief, para. 1270.

<sup>512</sup> Abu Keita, Transcript 24 January 2008, pp. 2152-2154.

<sup>513</sup> Exhibit D-468, "Standard Times Article, Prosecution Witness May Take Legal Suit Against Special Court... Breach of Agreement, Vol. 30 No. 46, 29 September 2009".

<sup>514</sup> Exhibit D-468, "Standard Times Article, Prosecution Witness May Take Legal Suit Against Special Court... Breach of Agreement, Vol. 30 No. 46, 29 September 2009".

<sup>515</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

with the Prosecution that he was not under investigation. The Prosecution also stated that there were no negotiations or communications relating to the letter given to the witness.

221. The Trial Chamber observes that TF1-371 was very consistent between his evidence in chief and cross-examination. He was confronted by some prior inconsistent statements in cross-examination. In most of these cases, the witness reaffirmed his examination in chief and indicated that the prior inconsistent statements were asked in different contexts or were improperly recorded.

222. The statement that TF1-371 prepared for the Truth and Reconciliation Commission (“TRC”), for example, stated that he escaped Kakata and went into hiding at Bong Mines before he was arrested on suspicion of spying for ECOMOG, while in Court he testified that he was forcibly recruited by the NPFL in Kakata before being marched to Bong Mines. In cross-examination, the witness affirmed his testimony and explained that his TRC statement was in draft form with mistakes that had not been corrected. The TRC statement entered into evidence is in draft form.<sup>516</sup> The Trial Chamber notes that it is handwritten with several deletions, and clearly is not a final document. It is not clear from the evidence whether this statement reached the TRC. The Defence notes a prior statement to the Prosecution indicating that TF1-371 “opted” into the NPFL because he had no other way to feed his family.<sup>517</sup> The witness denied using this word. The Trial Chamber accepts that it was the OTP’s word. In light of the explanations of the witness, the Trial Chamber finds that the inconsistencies highlighted with regard to his entry into the NPFL are relatively minor and do not undermine the fundamental credibility of his testimony.

223. The Defence also highlights an interview TF1-371 gave as an illustrative example of his duplicity.<sup>518</sup> The interview is a tirade against the former government, British, Nigerians and UN. In cross-examination, the witness said he had reneged on some of his earlier stands in support of the RUF. The Trial Chamber found him to be sincere and candid in his testimony on this matter. He came across as a man who realised and accepted that what had been done was wrong. The Trial Chamber notes that his contrition is not inconsistent with the views he espoused previously in the interview, but rather a subsequent expression of regret resulting from reflection on previous behaviour.

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<sup>516</sup> Exhibit D-006 (confidential).

224. In his evidence, TF1-371 testified that ‘Operation No Living Thing’ was a plan involving the Accused, to capture Freetown at all costs, in which the fighters should broker no nonsense from anyone, civilian or military.<sup>519</sup> The Defence submits that this is “diametrically opposite” to the testimony he gave about the same operation in the RUF trial, where he said that the term ‘Operation No Living Thing’ was a morale booster for the fighters to urge them to keep on fighting without fear of death.<sup>520</sup> The Trial Chamber disagrees with the submission that TF1-371’s evidence in this trial is “diametrically opposite” to the testimony he gave in the RUF trial since both descriptions he gave could be applicable to ‘Operation No Living Thing.’ Moreover, the Trial Chamber notes that in his cross-examination on this issue, TF1-371 did not disavow his earlier testimony, in which he stated that Freetown was to be captured “by all means”.<sup>521</sup> TF1-371 stated that no explicit orders were given to burn, rape, loot and kill indiscriminately.<sup>522</sup> While the specifics of the interpretation of the term offered by the witness vary somewhat, in the Trial Chamber’s view his testimony is not inconsistent. The primary message conveyed, as described consistently by the witness, was that Freetown was to be captured.

225. Factual issues raised by the Defence in challenging the testimony of TF1-371 in relation to particular events are dealt with in the context of the Trial Chamber’s consideration of these events.

226. In light of the foregoing considerations, the Trial Chamber finds TF1-371 to be generally credible and will consider further issues relating to his credibility in context as they may arise.

#### Prosecution Witness Perry Kamara

227. Witness Perry Kamara was an RUF member<sup>523</sup> and radio operator<sup>524</sup> with the codename “System”.<sup>525</sup> He testified that he was abducted into the RUF in April 1991.<sup>526</sup>

<sup>517</sup> TF1-371, Transcript 29 January 2008, pp. 2514-2535 (CS).

<sup>518</sup> Exhibit D-005A (confidential).

<sup>519</sup> TF1-371, Transcript 28 January 2008, pp. 2413-2414 (CS); Transcript 30 January 2008, pp. 2640, 2650-2660 (CS).

<sup>520</sup> Defence Final Trial Brief, para. 1552.

<sup>521</sup> TF1-371, Transcript 28 January 2008, pp. 2413-2414 (CS).

<sup>522</sup> TF1-371, Transcript 30 January 2008, pp. 2652-2653 (CS).

<sup>523</sup> Perry Kamara, Transcript 4 February 2008, p. 3024.

<sup>524</sup> Perry Kamara, Transcript 4 February 2008, pp. 3033, 3037, 3059; Transcript 5 February 2008, pp. 3073,

Before the AFRC coup, Kamara worked for a number of RUF commanders including Foday Sankoh, Issa Sesay and Isaac Mongor.<sup>527</sup> During the Junta Period, Kamara served in Makeni as the overall signal commander,<sup>528</sup> moving briefly to Koidu Town and then Superman Ground after the ECOMOG Intervention.<sup>529</sup> Around September 1998 he testified that he was sent by Morris Kallon to join Alex Tamba Brima (a.k.a. Gullit) in Rosos<sup>530</sup> and participated in the Freetown invasion in January 1999.<sup>531</sup> From 1999 until disarmament, Kamara was based in Kono.<sup>532</sup>

228. The Trial Chamber observes that Kamara's testimony was coherent, detailed and generally consistent between his evidence-in-chief and cross-examination. He maintained a calm demeanour, despite persistent questioning by Defence Counsel and accusations that he was lying.<sup>533</sup>

229. The Defence submits that Kamara's determination to implicate the Accused was "so palpable it resulted in him making some of the most outrageous allegations".<sup>534</sup> In particular, the Defence makes lengthy submissions regarding Kamara's testimony concerning the Accused's involvement in a plan for a multi-axis operation to capture Kono and Freetown conceived before Operation Fitti-Fatta.<sup>535</sup> The Trial Chamber notes that while it did not ultimately rely on Kamara's testimony in this regard, certain aspects of his testimony were corroborated by other witnesses and that an offensive similar to the one described by Kamara ultimately took place in the latter half of 1998. The Trial Chamber is therefore of the view that Kamara's evidence was influenced by his subsequent knowledge of the events that unfolded and that he added detail to events he recalled with the benefit of hindsight. It does not consider that Kamara's general credibility is adversely affected thereby.

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3089.

<sup>525</sup> Perry Kamara, Transcript 5 February 2008, p. 3073.

<sup>526</sup> Perry Kamara, Transcript 4 February 2008, pp. 3024-3025.

<sup>527</sup> Perry Kamara, Transcript 4 February 2008, pp. 3038-3040, 3051-3053; Transcript 5 February 2008, pp. 3085-3086.

<sup>528</sup> Perry Kamara, Transcript 5 February 2008, pp. 3087-3089.

<sup>529</sup> Perry Kamara, Transcript 5 February 2008, pp. 3100-3102, 3112-3115.

<sup>530</sup> Perry Kamara, Transcript 5 February 2008, pp. 3174-3176; Transcript 6 February 2008, pp. 3184-3189.

<sup>531</sup> Perry Kamara, Transcript 6 February 2008, pp. 3224-3225, 3250.

<sup>532</sup> Perry Kamara, Transcript 6 February 2008, pp. 3254-3255.

<sup>533</sup> See for example Perry Kamara, Transcript 7 February 2008, pp. 3308, 3313-3314, 3340, 3344, 3348.

<sup>534</sup> Defence Final Trial Brief, para. 898.

<sup>535</sup> Defence Final Trial Brief, paras 891-898; Defence Response to Prosecution Final Trial Brief, para. 31.





230. The Defence also submits that Kamara's credibility is damaged by his denial of certain exculpatory facts, despite being "someone who claimed to be in the know". It cites by way of example Kamara's denial that weapons used in the Fitti-Fatta attack on Kono were obtained from ULIMO.<sup>536</sup> In this regard, the Trial Chamber notes Kamara's testimony that he knew that any arms or ammunition that came from Liberia had been sent by Taylor.<sup>537</sup> The Trial Chamber recalls its findings that the Accused was one of several sources for the materiel for Fitti-Fatta<sup>538</sup> and that ammunition was supplied by the Accused on many occasions throughout 1998.<sup>539</sup> However, it considers that, although Kamara may have been overzealous in making such an assumption, in his testimony he made his views clear and the basis for them is explicit. For this reason, the Trial Chamber does not find that Kamara's overly broad statement to be detrimental to his general credibility.

231. In its Final Trial Brief, the Defence also highlights Kamara's agreement with Defence Counsel's proposition that he tailored his evidence according to the trial in which he testifying.<sup>540</sup> To the extent that evidence provided in a previous trial is not inconsistent with the sworn testimony before this Court, the Trial Chamber is not of the view that providing testimony specifically relevant to the case at hand is a matter from which adverse inferences can be drawn.

232. On cross-examination, Kamara testified that radio messages<sup>541</sup> between Sankoh and Taylor were recorded in special logbooks at each of the 20 RUF stations in the Sankoh era, most of which were destroyed when the RUF "lost power" or when it dissolved.<sup>542</sup> He also described how the special logbooks "got missing" when the Kamajors attacked Zogoda in 1996<sup>543</sup> or when the RUF were attacked by government troops.<sup>544</sup> When challenged about the discrepancy between saying the books went missing or were destroyed<sup>545</sup>, Kamara

<sup>536</sup> Defence Final Trial Brief, para. 898.

<sup>537</sup> Perry Kamara, Transcript 7 February 2008, p. 3349.

<sup>538</sup> Arms and Ammunition: Use of Materiel Supplied or Facilitated by the Accused.

<sup>539</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockarie's Leadership (February 1998-December 1999).

<sup>540</sup> Defence Final Trial Brief, para. 898 highlighting the testimony given at Perry Kamara, Transcript 7 February 2008, p. 3389 (PS).

<sup>541</sup> As opposed to radio conversations between the two men which Kamara explained were never recorded. See Perry Kamara, Transcript 7 February 2008, pp. 3310-3311.

<sup>542</sup> Perry Kamara, Transcript 7 February 2008, pp. 3309, 3311, 3314-3315.

<sup>543</sup> Perry Kamara, Transcript 7 February 2008, pp. 3309, 3315.

<sup>544</sup> Perry Kamara, Transcript 7 February 2008, p. 3315.

<sup>545</sup> The Defence also raises Perry Kamara's "conflicting answers" on this topic in the Defence Final Trial

explained that he was talking about different occasions: sometimes they went missing during operations or were destroyed, and mostly when they were about to disarm, the books were destroyed. They were burnt.<sup>546</sup> He remained firm in his testimony that the Taylor-Sankoh logbooks in all 20 RUF stations ultimately disappeared.<sup>547</sup> The Trial Chamber accepts the witness's explanation.

233. In his prepping session shortly before his testimony to the Court, Kamara stated that Foday Sankoh was present in Senge on the first occasion the witness saw the Accused. Neither in his first statement to the Prosecution<sup>548</sup> nor at Court<sup>549</sup> did he mention Sankoh in relation to that meeting. When confronted with the inconsistency, the witness stated that he did not recall that Foday Sankoh and the Accused were in Senge, stating that Prosecution Counsel had erred when taking the prepping notes.<sup>550</sup> Noting that the witness did not mention Sankoh's presence in his first statement to the Prosecution or in his testimony, the Trial Chamber accepts this explanation.

234. On cross-examination, Defence counsel questioned Perry Kamara about various payments, including some for accommodation, meals, repairs to a motor vehicle, repair of a generator in Freetown, 'assistance' and a top-up card made on days when no interviews were conducted by the Prosecution.<sup>551</sup> Although Kamara could not recall what he was doing on each of the days in question or the dates of his interviews with the Prosecution, he explained that he lived far from Freetown and travelled there frequently whenever required to do so by the Prosecution.<sup>552</sup> Further, in addition to his own interviews, Kamara testified that the Prosecution invited him to assist them in locating a particular individual.<sup>553</sup> He also highlighted that some of the payments for example were of the nature of disbursements, not direct payments to him<sup>554</sup> and denied that any money had been given without consideration on his part.<sup>555</sup> In total, Kamara received 2,615,025 Leones (approximately \$USD 870)<sup>556</sup>

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Brief, para. 829.

<sup>546</sup> Perry Kamara, Transcript 7 February 2008, p. 3312.

<sup>547</sup> Perry Kamara, Transcript 7 February 2008, p. 3315.

<sup>548</sup> Perry Kamara, Transcript 6 February 2008, p. 3283.

<sup>549</sup> Perry Kamara, Transcript 4 February 2008, pp. 3032-3033.

<sup>550</sup> Perry Kamara, Transcript 6 February 2008, pp. 3283-3286.

<sup>551</sup> Perry Kamara, Transcript 7 February 2008, pp. 3397, 3399-3401.

<sup>552</sup> Perry Kamara, Transcript 7 February 2008, pp. 3397-3398, 3400.

<sup>553</sup> Perry Kamara, Transcript 7 February 2008, pp. 3398-3399.

<sup>554</sup> Perry Kamara, Transcript 7 February 2008, pp. 3396, 3401.

<sup>555</sup> Perry Kamara, Transcript 7 February 2008, p. 3402.

from the Prosecution in 41 payments.<sup>557</sup> The Trial Chamber does not find that these payments undermine his credibility.

235. Throughout its Final Trial Brief, the Defence makes other submissions regarding specific portions of Kamara's testimony. The Trial Chamber has considered these instances in the context of the Judgement as they arise, and has accepted or rejected Kamara's testimony about those particular events accordingly.

236. In light of the foregoing, the Trial Chamber finds Perry Kamara to be a generally credible witness and will consider further issues relating to his credibility in context as they may arise.

#### Prosecution Witness Foday Lansana

237. Foday Lansana, an RUF radio operator,<sup>558</sup> was born in Liberia and joined the NPFL in February or March 1990.<sup>559</sup> Lansana was trained as a radio operator in 1990, and he remained an operator until at least 1997.<sup>560</sup>

238. The Defence highlights the fact that Lansana's testimony in court differed from his prior statements with regard to the order by Charles Taylor to evacuate NPFL fighting forces from Sierra Leone in 1992.<sup>561</sup> The witness testified that he was present in Baidu in May 1992 when Taylor spoke to Mekuagbe on the radio and ordered the evacuation of NPFL fighting forces from Sierra Leone.<sup>562</sup> In one prior statement he said that he heard Oliver Varney announce this message at a parade in Kailahun, while in another prior statement he said that the order came from Liberia to Dopoe Menkarzon, and he learned of it through NPFL fighters in Vahun.<sup>563</sup> In cross-examination, the witness maintained that his prior statements were not inconsistent with his testimony. He explained, "different questions were asked and I responded to them in different manners". He said that he heard the general communication from Taylor over the radio in Baidu and that Oliver Varney was the more

<sup>556</sup> Conversion based on the rate of approximately 3,000 Leones/US dollar.

<sup>557</sup> Perry Kamara, Transcript 7 February 2008, p. 3402.

<sup>558</sup> Foday Lansana, Transcript 20 February 2008, pp. 4361-4362.

<sup>559</sup> Foday Lansana, Transcript 20 February 2008, pp. 4315-4320. Lansana confirmed that he also goes by the name CO Nya. Foday Lansana, Transcript 25 February 2008, pp. 4703-4706.

<sup>560</sup> Foday Lansana, Transcript 20 February 2008, pp. 4406-4407.

<sup>561</sup> Defence Final Trial Brief, para. 1488.

<sup>562</sup> Foday Lansana, Transcript 20 February 2008, pp. 4368-4369, 4377.

operational person carrying out the instruction.<sup>564</sup> On re-examination, the witness clarified the sequence of events, that a message for the evacuation of the NPFL fighting forces was first transmitted from Charles Taylor's operator to the radio station in Baidu and when the generals arrived, Taylor spoke to them in the radio room in Baidu and gave Oliver Varney the task of ensuring that all the NPFL fighters assembled, and the message was read to them on the parade ground.<sup>565</sup>

239. The Defence also notes that Lansana denied that he was arrested on account of being involved in an incident at Spur Road on 8 May 2000.<sup>566</sup> Lansana testified that he was arrested on 7 May 2000 as he was suspected of being a mercenary working as an intermediary between Taylor and Sankoh. His co-defendants were charged with crimes relating to the Spur Road incident. The witness maintained on cross-examination that he had been arrested the day before and was not involved in the incident. He was convicted for crimes relating to the incident and sentenced to ten years imprisonment.<sup>567</sup> The Defence argues that Lansana's account is "if not totally ridiculous, then at least illogical and highly suspect".<sup>568</sup> The Trial Chamber notes Lansana's testimony that in May 2000 he gave a statement to the police regarding the Spur Road incident under torture.<sup>569</sup> The Trial Chamber has not seen a transcript of the trial and does not know the details of the case, but notes that the witness referred to his date of incarceration as one of the grounds of his appeal.<sup>570</sup> It does not find that his testimony with regard to his arrest, torture and subsequent conviction is illogical, in light of his explanation, or that his version of events with regard to the criminal case against him undermines his general credibility.

240. The Defence argues that the witness had a clear motive to help the Prosecution's case, as his early release from prison was due to his testimony and he had been promised support for himself and his family.<sup>571</sup> In cross-examination, Lansana testified that he was given money by the Prosecution while in prison so that he could buy a suit for his interviews

<sup>563</sup> Foday Lansana, Transcript, 25 February 2009, p. 4678.

<sup>564</sup> Foday Lansana, Transcript 25 February 2008, pp. 4675-4679.

<sup>565</sup> Foday Lansana, Transcript 26 February 2008, pp. 4771-4773.

<sup>566</sup> Defence Final Trial Brief, para. 1485.

<sup>567</sup> Foday Lansana, Transcript 22 February 2008, pp. 4574-4581, 4584-4590.

<sup>568</sup> Defence Final Trial Brief, para. 1485.

<sup>569</sup> Foday Lansana, Transcript 25 February 2008, pp. 4610-4612.

<sup>570</sup> Foday Lansana, Transcript 22 February 2008, p. 4581.

<sup>571</sup> Defence Final Trial Brief, para. 1491.



with the Court investigators but he denied that prisoners were offered money by the Prosecution in exchange for testimony against Taylor.<sup>572</sup> He testified that the Prosecution promised to work for his release from prison because he feared for his safety in prison should he testify. He testified that the Prosecution paid for his children's school fees and school uniforms, and promised to take care of his family in case of illness.<sup>573</sup> Having served six and a half years of his sentence, with just under two years left to serve, on 27 April 2007 Lansana was released.<sup>574</sup> The witness affirmed that he had received from the OTP a total of approximately 932,000 leones (approximately \$USD 300)<sup>575</sup> for expenses including medication, meals, communication, his children's education and uniforms.<sup>576</sup> He also received in disbursements from WVS a total of 5,952,800 leones, or "approximately \$USD 6,000" to cover rent, utility bills, subsistence, medical care, child care, transportation and other miscellaneous expenses.<sup>577</sup> The Trial Chamber notes that almost all of the funds received by the witness came through WVS, not OTP, and finds that the promise of early release from prison for protective reasons and the support he received for his and his family's expenses did not influence his testimony.

241. A number of other prior statements were presented to the witness as inconsistent with his testimony, which he clarified. For example, he testified that he heard Charles Taylor speak on BBC radio from the Coca-Cola factory in Monrovia in 1990 saying the people of Sierra Leone "would taste the bitterness of war", while his prior statement to investigators said that he was physically present with Taylor during this interview. In cross-examination, Lansana affirmed his testimony, explaining that he was physically present with Taylor when he addressed the Special Forces and that the prior statement was incorrect, that he heard the BBC broadcast but had not been physically present with Taylor during that broadcast.<sup>578</sup> In re-examination, the Prosecution cited notes from a preparatory session with Lansana in February 2008, where the point had been clarified and the witness had stated that he was

<sup>572</sup> Foday Lansana, Transcript 22 February 2008, pp. 4597-99; Transcript 25 Feb 2008, pp. 4603-4609.

<sup>573</sup> Foday Lansana, Transcript 25 February 2008, pp. 4612-4617.

<sup>574</sup> Foday Lansana, Transcript 25 February 2008, p. 4617.

<sup>575</sup> Conversion based on the rate of approximately 3,000 leones/US dollar.

<sup>576</sup> Foday Lansana, Transcript 26 February 2008, pp. 4754-4761.

<sup>577</sup> Foday Lansana, Transcript 26 February 2008, pp. 4761-4763.

<sup>578</sup> Foday Lansana, Transcript 25 February 2008, p. 4631.

present with Taylor when he met the Special Forces but that he had heard the BBC interview on the radio.<sup>579</sup>

242. The Trial Chamber found Lansana to be a very steady witness, who remained calm and repeatedly affirmed his testimony under intensive cross-examination by the Defence. His explanations and clarifications of prior statements put to him by the Defence in cross-examination were clear and coherent responses that effectively addressed the issues raised.

243. For these reasons the Trial Chamber finds Foday Lansana to be generally credible and will consider further issues relating to his credibility in context as they may arise.

#### Prosecution Witness TF1-362

244. Witness TF1-362, an RUF member<sup>580</sup> and a Liberian, joined the RUF in 1990.<sup>581</sup> The witness gave testimony regarding military training at Matru Jong, Bunumbu and Yengema training bases.<sup>582</sup>

245. The Trial Chamber notes that TF1-362 is an accomplice witness but found her to be very candid about her own role, including her own mistreatment of recruits, which caused injury and even many deaths, by her own account.<sup>583</sup> The witness admitted to lying in her first statements to the Prosecution due to fear of being prosecuted and fear of betrayal by those who had introduced her to the Prosecution.<sup>584</sup>

246. The Trial Chamber notes TF1-362's concession that she did not like the NPFL and its commander, the Accused, because the NPFL abducted, brutalised or killed some of her siblings, looted her family house and killed her stepfather.<sup>585</sup>

247. TF1-362 conceded she is not too familiar with Sierra Leone's geographical locations.<sup>586</sup> Moreover, the Trial Chamber notes that there were discrepancies in TF1-362's

<sup>579</sup> Foday Lansana, Transcript 26 February, p. 4770.

<sup>580</sup> TF1-362, Transcript 27 February 2008, pp. 4826-4827 (CS).

<sup>581</sup> TF1-362, Transcript 27 February 2008, pp. 4802-4803 (CS).

<sup>582</sup> TF1-362, Transcript 27 February 2008, pp. 4866-4868, 4916-1917 (CS).

<sup>583</sup> TF1-362, Transcript 27 February 2008, pp. 4830-4832, 4836-4853, 4869-4873, 4899-4901, 4906, 4917-4919, 4927-4928 (CS).

<sup>584</sup> TF1-362, Transcript 28 February 2008, pp. 4984, 4986, 5076-5078 (CS).

<sup>585</sup> TF1-362, Transcript 28 February 2008, pp. 4963-4968, 4970 (CS); Transcript 4 March 2008, pp. 5191-5192 (CS).

<sup>586</sup> TF1-362, Transcript 27 February 2008, pp. 4983-4984 (CS).

testimony regarding dates and that she was unable to specify months. For example, the witness testified that she left Sierra Leone in 1994 when Sankoh left for Abidjan, stayed in Liberia for two years and thereafter returned to Sierra Leone in 1998. As Sankoh left for Abidjan in 1996, which coincides with the witness's account of returning to Sierra Leone after two years in 1998, the Trial Chamber is satisfied that the witness left Sierra Leone in 1996 and simply made a mistake in her recollection of the year.<sup>587</sup>

248. The Trial Chamber found TF1-362 to be very consistent and detailed when describing the command structure, procedures and methods of training at the training bases where she was stationed, which were methods to which she was subjected.<sup>588</sup>

249. The Trial Chamber finds the witness's inconsistencies with prior statements regarding why she joined the RUF to be minor, and accepts her version at trial, which was corroborated by other witnesses,<sup>589</sup> of how she joined the RUF.<sup>590</sup>

250. The Trial Chamber notes that TF1-362 received 14,311,150 leones (approximately \$USD 4,770<sup>591</sup>) in total from WVS. Additionally, payments were made to the witness by the Prosecution. In total, the witness received \$USD 3,836 and 624,000 leones (approximately \$USD 208<sup>592</sup>) from the Prosecution for various items such as lost wages, accommodation and transportation. For a period of a few months it appears that the witness lived on Prosecution funds at a "Safe House" along with her three children and her sister. During that period, she received a mobile phone, expenses for child care and school fees for her children. There are records of only four interviews with her from that period. The witness explained that she asked for this money since during that period since she was "under their [referring to personnel from the Special Court of Sierra Leone] control".<sup>593</sup>

<sup>587</sup> TF1-362, Transcript 27 February 2008, pp. 4851, 4856-4858, 4866-4868 (CS).

<sup>588</sup> TF1-362, Transcript 27 February 2008, pp. 4830-4832, 4836-4853, 4869-4873, 4899-4901, 4906, 4917-4919, 4927-4928 (CS).

<sup>589</sup> TF1-168, Transcript 21 January 2009, pp. 23145-23148 (CS); Issa Sesay, Transcript 28 July 2010, p. 44909.

<sup>590</sup> TF1-362, Transcript 27 February 2008, pp. 4861-4863, 4943 (CS); Transcript 28 February 2008, pp. 4944-4946 (CS); Transcript 4 March 2008, p. 5193 (CS).

<sup>591</sup> Conversion based on the rate of approximately 3,000 leones/US dollar.

<sup>592</sup> Conversion based on the rate of approximately 3,000 leones/US dollar.

<sup>593</sup> TF1-362, Transcript 3 March 2008, pp. 5142-5153 (CS); Transcript 4 March 2008, pp. 5155-5186 (CS).

251. The Accused testified that TF1-362 had been boasting to her friends in Liberia that she was given \$USD 10,000 to build a house.<sup>594</sup> Defence witness Sam Kolleh testified that TF1-362 told him she received \$USD 10,000 from the Prosecution after she testified, and was now using it to build her house.<sup>595</sup> However, when challenged on this statement in cross-examination, Kolleh said he “had no personal knowledge of it”.<sup>596</sup> Defence witness John Vincent testified that he, Martin George and another Vanguard met TF1-362 in 2009, after she gave her testimony. According to Vincent, the witness told them she was asked to go and tell lies in exchange for “a little thing” which she was using to build her house. Vincent understood it to mean money from the Prosecution, although she did not specify who “they” were or the exact amount of the payments.<sup>597</sup> Defence witness Martin George described the meeting but stated that TF1-362 only said that she was tired of paying rent and wanted to build a house. He said she did not tell them that she was getting support from anyone.<sup>598</sup> The Trial Chamber notes that although she was cross-examined on the benefit issues of relocation, healthcare, childcare, and other expenses, TF1-362 was not cross-examined on the question of this \$USD 10,000.<sup>599</sup> In light of Defence witness George’s contradiction of Defence witness Vincent’s testimony, and the vague hearsay testimony of the Accused, the Trial Chamber does not find that these allegations undermine the credibility of TF1-362.

252. The Trial Chamber found TF1-362 to be very steady in her testimony. She was honest and forthright about her own actions, despite the fact that they reflected negatively on her character. In the Trial Chamber’s view, the Defence has not established any impropriety with regard to the support given to the witness by WVS and the Prosecution.

253. For these reasons the Trial Chamber finds TF1-362 to be generally credible and will consider further issues relating to her credibility in context as they may arise.

<sup>594</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29074-29077 (PS).

<sup>595</sup> Sam Kolleh, Transcript 3 November 2010, pp. 48611-48612.

<sup>596</sup> Sam Kolleh, Transcript 9 November 2010, p. 49016.

<sup>597</sup> John Vincent, Transcript 30 March 2010, pp. 38252-38254; Transcript 31 March 2010, pp. 38459-38461; Transcript 1 April 2010, pp. 38464-38466, 38488-38491.

<sup>598</sup> DCT-062, Transcript 26 April 2010, pp. 39900-39904 (PS); Transcript 28 April 2010, pp. 40255-40257 (PS).

<sup>599</sup> TF1-362, Transcript 3 March 2008, p. 5147 (CS).

Prosecution Witness Mustapha M. Mansaray

254. Witness Mustapha M. Mansaray, an Internal Defence Unit Commander in the RUF,<sup>600</sup> testified that he was captured by RUF/SL and NPFL fighters in 1991, and that he remained a member of the RUF until disarmament in 2001.<sup>601</sup> From 1991 to 1994, Mansaray was assigned as a fighter, serving in various districts of Sierra Leone and Liberia.<sup>602</sup> Mansaray also held several leadership positions within the IDU from 1994 to 2000, and served as the secretary to the RUF/SL Operational Commander and as transportation secretary in 2000.<sup>603</sup> Mansaray testified that he was appointed to the post of mining commander in Nyaiga, Kono District in 2001.<sup>604</sup>

255. The Defence submits that the Prosecution covered a generous amount of medical expenses for Mansaray and his family, and that Mansaray relied heavily upon the Prosecution as a source of financial support for medical and other expenses during 2006 and 2007.<sup>605</sup> The Defence argues that these financial benefits have undermined Mansaray's credibility as a witness and induced him to give evidence in favour of the Prosecution.<sup>606</sup>

256. The Defence notes that although the Prosecution questioned Mansaray about the Accused in his fourth interview, Mansaray did not tell the Prosecution that he saw the Accused and Foday Sankoh speak to a group of RUF soldiers at Bomi Hills until his seventh interview in October 2007.<sup>607</sup> The Defence contends that Mansaray mentioned seeing the Accused at Bomi Hills in his seventh interview because by that time the Prosecution had covered expensive medical bills on Mansaray's behalf.<sup>608</sup> On cross-examination, Mansaray explained that his failure to mention seeing the Accused at Bomi Hills in the earlier interview was a mistake on his part.<sup>609</sup> The Trial Chamber notes that in a November 2003

<sup>600</sup> Mustapha M. Mansaray, Transcript 4 March 2008, pp. 5229-5230.

<sup>601</sup> Mustapha M. Mansaray, Transcript 4 March 2008, pp. 5212, 5223-5229.

<sup>602</sup> Mustapha M. Mansaray, Transcript 4 March 2008, pp. 5223-5229.

<sup>603</sup> Mustapha M. Mansaray, Transcript 4 March 2008, pp. 5229-5235.

<sup>604</sup> Mustapha M. Mansaray, Transcript 4 March 2008, pp. 5234-5235.

<sup>605</sup> Defence Final Trial Brief, para. 1476.

<sup>606</sup> Defence Final Trial Brief, paras 1476-1480.

<sup>607</sup> Defence Final Trial Brief, para. 1479 citing Mustapha M. Mansaray, Transcript 6 March 2008, p. 5447.

5447.

<sup>608</sup> Defence Final Trial Brief, para. 1479.

<sup>609</sup> Mustapha M. Mansaray, Transcript 10 March 2008, p. 5610.

interview with the Prosecution, Mansaray mentioned having knowledge that the Accused was in Bomi Hills in 1991, but not that he had seen the Accused there.<sup>610</sup>

257. The Defence also highlights Mansaray's inconsistencies concerning the execution of miners, arguing that his evidence on this point became more favourable to the Prosecution as he continued to receive payments.<sup>611</sup> On cross-examination Mansaray testified that, on up to ten occasions, he witnessed the execution of miners in Kaisambo and Number 11 mining area.<sup>612</sup> The Defence then confronted Mansaray with his prior inconsistent statements on the issue, including statements from two interviews with the Prosecution in 2004 and 2006 in which Mansaray stated that he knew that miners were being executed but that he had not personally witnessed the executions.<sup>613</sup> Further, in a 2008 interview with the Prosecution, while discussing the issue of miners being executed, Mansaray stated that he was merely told about the killings.<sup>614</sup> Although he was asked specifically on cross-examination about whether he witnessed the killings, not whether the killings had occurred, Mansaray was adamant that he had mentioned the killings to the Prosecution early in the interview process and seemed not to appreciate the apparent contradiction between his prior statements and his testimony.<sup>615</sup> Mansaray eventually attempted to clarify these inconsistencies on cross-examination by stating that he had witnessed the execution of miners at the time that he was a mining commander, but that during the time that he was not a mining commander he had only heard about the killings.<sup>616</sup> The witness further explained that he had mistakenly forgotten to mention to the Prosecution early in the interview process that he had witnessed the killings.<sup>617</sup>

258. The Trial Chamber notes that there was a fair amount of confusion in the cross-examination on this inconsistency and that when the question became clear to the witness, at one point Mansaray indicated that the question had not been put to him so clearly in his prior interviews with the Prosecution.<sup>618</sup> Particularly in light of his repeated insistence that the

<sup>610</sup> Mustapha M. Mansaray, Transcript 10 March 2008, pp. 5638-5640.

<sup>611</sup> Defence Final Trial Brief, para. 1480.

<sup>612</sup> Mustapha M. Mansaray, Transcript 6 March 2008, pp. 5449-5451, 5460-5461.

<sup>613</sup> Mustapha M. Mansaray, Transcript 6 March 2008, pp. 5463-5465, 5469-5470.

<sup>614</sup> Mustapha M. Mansaray, Transcript 6 March 2008, pp. 5463-5465, 5468-5470.

<sup>615</sup> Mustapha M. Mansaray, Transcript 6 March 2008, pp. 5449-5451, 5469-5471.

<sup>616</sup> Mustapha M. Mansaray, Transcript 6 March 2008, pp. 5460-5461.

<sup>617</sup> Mustapha M. Mansaray, Transcript 6 March 2008, pp. 5460-5462.

<sup>618</sup> Mustapha M. Mansaray, Transcript 6 March 2008, p. 5462.

killings took place, the Trial Chamber is of the view that the witness may not have fully appreciated the significance of the distinction between witnessing the killings and knowing that they occurred.

259. Mansaray testified that he was appointed as mining commander on 14 January 2001.<sup>619</sup> However, during two interviews with the Prosecution in 2007 and 2008, Mansaray had stated that he was appointed mining commander in June 2000.<sup>620</sup> When confronted with this inconsistency on cross-examination, Mansaray confidently confirmed that 2001 was the correct date that he was appointed as mining commander and stated that he could not recall whether the incorrect date appeared in the interview through his own mistake or the Prosecution's.<sup>621</sup> The Trial Chamber is of the view that this is a minor inconsistency.

260. The Trial Chamber notes that, in addition to reimbursing Mansaray for meal and travel expenses and lost wages, the Prosecution paid approximately 1,190,000 leones (approximately \$USD 396)<sup>622</sup> in medical expenses for Mansaray and other members of his family during 2006 and 2007.<sup>623</sup> Mansaray also testified that the Prosecution paid 250,000 leones (approximately \$USD 83) for his children's school fees and related expenses in 2006.<sup>624</sup> The Trial Chamber notes that although the witness received some financial benefits from the Prosecution, the nature of the information that he provided to the Prosecution throughout the interview process was consistent and does not appear to have been tailored in favour of the Prosecution as a result of those benefits. The Trial Chamber also notes that Mansaray was detailed and forthright when recounting the payments he received from the Prosecution.

261. The Trial Chamber finds that the inconsistencies highlighted by the Defence are relatively minor in nature and that the witness provided plausible explanations for those inconsistencies, readily admitting to occasional lapses in memory or previous misstatements.

<sup>619</sup> Mustapha M. Mansaray, Transcript 4 March 2008, pp. 5234-5235.

<sup>620</sup> Mustapha M. Mansaray, Transcript 6 March 2008, pp. 5467-5469.

<sup>621</sup> Mustapha M. Mansaray, Transcript 6 March 2008, pp. 5467-5469.

<sup>622</sup> Conversion based on the rate of approximately 3,000 leones/US dollar.

<sup>623</sup> Mustapha M. Mansaray, Transcript 7 March 2008, pp. 5567-5569, 5597-5598, 5600, 5602. Mansaray testified that the Prosecution paid an additional 195,000 leones (approximately \$USD 65) in medical expenses in November or December 2007. However, the record is not clear as to whether this was an additional payment, or one that had already been accounted for in connection with a previous medical procedure. Mustapha M. Mansaray, Transcript 10 March 2008, pp. 5602-5603.

<sup>624</sup> Mustapha M. Mansaray, Transcript 7 March 2008, p. 5570.

With regard to his prior statements and the question of whether he personally witnessed the killing of miners, the Trial Chamber does not consider this to be a minor issue, but accepts the explanations of the witness in light of the considerations set forth above. In the Trial Chamber's view, the Defence has not established any impropriety regarding the support provided to the witness and his family by the Prosecution.<sup>625</sup>

262. For these reasons, the Trial Chamber finds Mansaray to be generally credible and will consider further issues relating to his credibility in context as they may arise.

Prosecution Witness Joseph "Zigzag" Marzah

263. Joseph ("Zigzag") Marzah, an SSS member,<sup>626</sup> testified that he was a member of the NPFL from 1989 and later the SSS until late 2003. He stated that in 1991 the Accused sent him to Sierra Leone as part of a joint operation with Foday Sankoh to overthrow the government in Freetown. Marzah testified that he later returned to Liberia, where he was tasked with transporting weapons, materiel, and diamonds between Liberia and Sierra Leone. Marzah stated that by 1997, he was SSS Chief of Operations at the Accused's Executive Mansion.<sup>627</sup> In his testimony, Marzah admitted to acts of cannibalism and other atrocities.<sup>628</sup>

264. In light of his role in the NPFL and the SSS, and his admitted involvement in numerous serious atrocities, the Trial Chamber notes that Marzah is an accomplice witness, and he repeatedly asserted that he was acting according to orders received from the Accused. Marzah approached the Prosecution after being told by another former fighter that he should do so in order to avoid being prosecuted for the crimes he committed.<sup>629</sup> The Trial Chamber notes with concern the evidence that as soon as he completed his testimony, Marzah phoned another Prosecution witness whom he had introduced to the Prosecution.<sup>630</sup>

265. The Trial Chamber notes that, generally, Marzah did not provide specific dates for the incidents he describes and could not place events in context. Further, it finds that his

<sup>625</sup> See Preliminary Issues: Discretionary Payments and Other Inducements to Witnesses by the Prosecution.

<sup>626</sup> Joseph Marzah, Transcript 13 March 2008, pp. 6053-6055.

<sup>627</sup> Joseph Marzah, Transcript 12 March 2008, pp. 5860-5878, 5894.

<sup>628</sup> See for example Joseph Marzah, Transcript 12 March 2008, pp. 5899-5900, 5929-5930, 5943-5949.

<sup>629</sup> Joseph Marzah, Transcript 13 March 2008, p. 5970.

<sup>630</sup> See TF1-579, Transcript 26 November 2008, pp. 21212-21213 (PS). The witness testified that they were laughing and talking about "nothing".



testimony was confusing and exaggerated. In particular, he appears to have exaggerated his own role in the conflict and his level of personal communication with the Accused, for example in testifying that he informed the Accused of every amputation he performed.<sup>631</sup> The Trial Chamber also notes that while Marzah stated that he was the “Chief of Operations” of the SSS, numerous other witnesses testified that he was merely Yeaten’s bodyguard or orderly.<sup>632</sup> In addition, the Trial Chamber notes that Marzah’s testimony was inconsistent and evasive as to whether or not he participated in the Freetown invasion of January 1999, or was in Monrovia with serious injuries at the time.<sup>633</sup>

266. Marzah attempted to implicate the Accused in cannibalism, stating that he and the Accused ate Sam Dokie’s liver together in Liberia. The Trial Chamber notes that the Accused was in South Africa at the time of Dokie’s death, and that this event was emphatically denied by the person who Marzah alleged had cooked the liver for him.<sup>634</sup>

267. Marzah’s testimony was often inconsistent with his prior statements to the Prosecution, particularly in regards to allegations against the Accused. With regard to his first meeting with the Accused and Sankoh, for example, Marzah stated that it was in Gborplay, after the Accused ordered that Marzah be released from a burning container and taken to the Accused’s house. Marzah had previously told the Prosecution that he first met the Accused in the Côte d’Ivoire and Sankoh in Burkina Faso. When confronted with these inconsistencies, Marzah insisted that he had told the Prosecution about the burning container incident, although there is no record of this.<sup>635</sup> The Trial Chamber does not accept Marzah’s explanation of these inconsistencies.

268. In light of the numerous inconsistencies and implausibilities in Marzah’s testimony, the Trial Chamber finds that his evidence, particularly as it relates to his personal interaction and communication with the Accused, must be considered with caution and cannot be relied upon without corroboration.

<sup>631</sup> Joseph Marzah, Transcript 12 March 2008, pp. 5955-5956. See also Joseph Marzah, Transcript 12 March 2008, p. 5891 (testifying that he made more than 100 trips to Sierra Leone carrying materiel, but only accounting for how he travelled/where the materiel came from for 30 to 40 trips).

<sup>632</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 818.

<sup>633</sup> Joseph Marzah, Transcript 13 March 2008, pp. 5990-5993.

<sup>634</sup> See also Joseph Marzah, Transcript 14 March 2008, pp. 6153-6156; Annie Yeney, Transcript, 3 June 2010, pp. 42096-42098; Defence Final Trial Brief, para. 491; Charles Ghankay Taylor, Transcript 30 September 2009, p. 29966; Naomi Campbell, Transcript 5 August 2010, pp. 45463-45465.

<sup>635</sup> Joseph Marzah, Transcript 13 March 2008, pp. 5990-6031.

Prosecution Witness Isaac Mongor

269. Witness Isaac Mongor, a Liberian who trained RUF members in 1990, subsequently rose through the ranks of the RUF to a brigadier.<sup>636</sup> He was one of the most senior commanders in the RUF, overseeing several operations. He participated in a number of atrocities.<sup>637</sup>

270. The Trial Chamber notes that Isaac Mongor is an accomplice witness, who received a letter of immunity from the Prosecution. He testified in cross-examination that he received this letter after he had decided to testify and was adamant that he never had any fear of being prosecuted.<sup>638</sup> However, he also testified that with regard to the involvement of the Accused in the Freetown invasion, he was fearful of being tricked and arrested, and fearful of what would happen to him if he told the truth, including the possibility that “they” would kill him.<sup>639</sup> It is unclear to whom he was referring as “they” in this context. He claimed that he was not fully forthcoming with the Prosecution in his earlier statements relating to the role of the Accused in the Freetown invasion in the interest of his own protection and that he eventually decided to tell the truth because he wanted peace for himself and if anything was going to happen after that let it happen.<sup>640</sup> The Trial Chamber finds under these circumstances that the testimony of the witness with respect to his earlier statements does not undermine his credibility.

271. The Trial Chamber notes that Isaac Mongor received sums for meals, transport and lost wages when he was interviewed by the Prosecution. He testified that he was not told he would benefit from his testimony or be remunerated for lost wages.<sup>641</sup> In cross-examination, the amounts of money given to the witness were put to him, and he was unable to explain the exact amounts he was given for transportation, food, and lost wages.<sup>642</sup> While these

<sup>636</sup> Isaac Mongor, Transcript 31 March 2008, p. 6238.

<sup>637</sup> See for example Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March 2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>638</sup> Isaac Mongor, Transcript 31 March 2008, p. 6253.

<sup>639</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6735-6742.

<sup>640</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6735-6744.

<sup>641</sup> Isaac Mongor, Transcript 31 March 2008, pp. 6259-6261.

<sup>642</sup> Isaac Mongor, Transcript 1 April 2008, pp. 6361-6366.

amounts were significantly more than he had actually spent, the Trial Chamber accepts the testimony of the witness in cross-examination that he did not testify for monetary gain.<sup>643</sup>

272. In cross-examination, a number of other inconsistencies were raised between Isaac Mongor's testimony and his prior statements. The Trial Chamber finds these inconsistencies, relating to details such as the date he joined the AFL, the length of time he was Battle Field Commander, whether a particular radio conversation relating to 'Operation Stop Election' took place in 1995 or 1996, or whether materials delivered to Magburaka air strip included AK-47 ammunition, to be relatively minor in nature. A number of other issues raised by the Defence as inconsistencies in the testimony of the witness are prior omissions more than inconsistencies, for example his failure to mention in early interviews a radio conversation between the Accused and Sankoh where they discussed 'Operation Stop Election,' or the fact that he specifically mentioned amputations in relation to this operation for the first time only in his testimony.<sup>644</sup> The Trial Chamber does not find that these minor inconsistencies and omissions undermine the credibility of the witness.

273. The Trial Chamber observed that Isaac Mongor maintained a calm demeanour throughout the entirety of cross-examination, despite being pressed heavily and repeatedly accused of lying.

274. The Trial Chamber finds Mongor to be a generally credible witness and will consider further issues relating to his credibility in context as they may arise.

#### Prosecution Witness TF1-516

275. Witness TF1-516, an RUF radio operator,<sup>645</sup> testified that he was abducted into the RUF in 1991 at the age of 17,<sup>646</sup> and that he remained in the RUF until disarmament in 2001.<sup>647</sup> During his time in the RUF, TF1-516 attained the rank of Sergeant and served as a radio operator for the RUF in Sierra Leone and for Benjamin Yeaten in Liberia.<sup>648</sup>

<sup>643</sup> Isaac Mongor, Transcript 1 April 2008, p. 6366.

<sup>644</sup> Defence Final Trial Brief, para. 1555.

<sup>645</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>646</sup> TF1-516, Transcript 8 April 2008, pp. 6802, 6811-6812, 6876.

<sup>647</sup> TF1-516, Transcript 10 April 2008, p. 7106.

<sup>648</sup> TF1-516, Transcript 10 April 2008, pp. 6858-6859, 7206.

276. In the Trial Chamber's view, TF1-516 provided clear and detailed testimony and testified in a calm and forthright manner. He was careful to distinguish between those events about which he had direct knowledge, and those events which he had not personally witnessed and told the Trial Chamber candidly when he was unsure about when an event occurred.<sup>649</sup>

277. The Defence argues that Witness TF1-516 is not a credible witness because his testimony was implausible and contradicted by the evidence of other Prosecution witnesses.<sup>650</sup> The Defence notes two particular instances in which, in its view, the witness provided implausible testimony: the first occasion relates to a call TF1-516 testified that he received from Taylor's station in Gbarnga in or around March 1996 and the second concerns a message that he stated he received from Base 1 during the retreat from Kono in February 1998. The Trial Chamber recalls that it has assessed the evidence relating to the call received from Taylor's radio station in 1996 in the section of the Judgement on the Abidjan Peace Accord and the message from Base 1 in 1998 in the section of the Judgement on Military Operations. On both occasions it found the witness's evidence to be credible.<sup>651</sup>

278. The Defence asserts that portions of TF1-516's testimony in which he provided details about radio stations, including their names and the dates that they were established, were factually problematic because they contradicted the testimony of other Prosecution witnesses.<sup>652</sup> The Trial Chamber has considered this evidence in the section of the Judgement on Operational Support.<sup>653</sup> The Defence further challenges TF1-516's testimony with reference to Dauda Aruna Fornie's testimony that there was no direct link between RUF and NPFL radio stations in March 1996.<sup>654</sup> The Trial Chamber has considered this evidence in the section of the Judgement on the Peace Process, where it found TF1-516's testimony on this point to be reliable.<sup>655</sup>

<sup>649</sup> See for example TF1-516, Transcript 8 April 2008, pp. 6945, 6962; Transcript 16 April 2008, pp. 7820-7821 where the witness repeatedly and candidly explained that he did not know whether the ammunitions shipment to which he testified took place during the Freetown attack of January 1999.

<sup>650</sup> Defence Final Trial Brief, paras 1496-1502.

<sup>651</sup> See Military Operations: Alleged Message from Base 1 to Troops Retreating from Kono and see Peace Process: Abidjan.

<sup>652</sup> Defence Final Trial Brief, paras 1500-1501.

<sup>653</sup> See Operational Support: RUF and NPFL Radio Codes and Communications.

<sup>654</sup> Defence Final Trial Brief, para. 1499.

<sup>655</sup> See Peace Process: Abidjan.





279. The Defence argues that because TF1-516 was reluctant to agree with prior statements he made to the Prosecution that were exculpatory in nature, he was “not interested in telling the truth, but in providing a [*sic*] inculpatory testimony”.<sup>656</sup> The Trial Chamber recognises that TF1-516 was reluctant to agree with his prior statement.<sup>657</sup> It is clear that the witness wanted to distinguish communications which took place over the radio as opposed to those conducted over the satellite phone, a distinction that was not made in his prior statement.<sup>658</sup> However, the Trial Chamber is of the view that the reluctance of the witness was the result of his efforts to explain his answer rather than unwillingness to be truthful.

280. Some parts of TF1-516’s testimony were inconsistent with his prior statements to the Prosecution. In his prior statement, the witness had stated that he had left Zogoda and gone to Buedu in December 1995 and stayed there until the AFRC coup when he moved to Kono, whilst also maintaining that he remained there “over a year”. The witness was consistent in maintaining that he had corrected this version of his prior statement to record that he in fact left Buedu in December 1996 which was substantiated by written corrections read to the Court. The witness also explained that he had not moved to Kono until around August 1997. Whilst the Trial Chamber notes that a slight inconsistency remains between these dates and the assertion that the witness stayed in Buedu for a year, it considers the discrepancy a minor one which does not affect the witness’s overall credibility and which could in any event be attributable to a miscalculation on the part of the investigator, rather than the witness.<sup>659</sup>

281. The witness had also previously told investigators that he did not have the authority to call or receive messages from Liberia while he was working at Planet 1 and that further, only certain radio operators had such authority, yet he testified to the Trial Chamber about messages that he had received from Liberia. The witness explained that when he was in Zogoda and during some of his time in Buedu, he did not have authority to communicate with Liberia but that he had been given permission during his time in Buedu. In view of the candid and consistent way in which the witness explained the apparent discrepancy and the

<sup>656</sup> Defence Final Trial Brief, para. 1502.

<sup>657</sup> TF1-516 was asked to agree or disagree with a statement he made to the Prosecution that he had not heard any communication from the Accused regarding the Freetown invasion of 1999. The witness was reluctant to give a yes or no answer to the question and made several attempts to explain what he meant by his statement versus what was written. TF1-516, Transcript 16 April 2008, pp. 7777-7779.

<sup>658</sup> TF1-516, Transcript 16 April 2008, pp. 7777-7779.

<sup>659</sup> TF1-516, Transcript 14 April 2008, pp. 7498-7508.

fact that the Trial Chamber was not shown the entirety of the prior statements to enable it to assess the context in which the statements had been given, it does not draw any adverse inferences from the discrepancy.<sup>660</sup>

282. The Trial Chamber has considered TF1-516's inconsistencies about whether he witnessed Sam Bockarie handling diamonds in the Diamonds section of the Judgement, where it found TF1-516's testimony to be reliable.<sup>661</sup>

283. There were, however, some occasions when TF1-516 became agitated and tried to avoid answering questions. For example, when presented with a prior statement to the effect that he had never seen Yeaten or any other high-ranking Liberian dealing with diamonds, he described an incident in which Eddie Kanneh had visited Yeaten's house but refused a number of times to answer directly whether he agreed with his prior statement. Only after being pressed several times by the Trial Chamber, did the witness then assert that the investigators had made an error.<sup>662</sup> The Trial Chamber noted that the witness also refused several times to answer the question whether General Tengbeh was one of the Special Forces. When pressed to do so, the witness replied that he did not know.<sup>663</sup> The Trial Chamber accepts this response.

284. For these reasons the Trial Chamber finds TF1-516 to be generally credible and will consider further issues relating to his credibility in context as they may arise.

#### Prosecution Witness Alimamy Bobson Sesay

285. Witness Alimamy Bobson Sesay (a.k.a. Bobby, Pastor Bobson and Pastor Yapo Sesay)<sup>664</sup> an AFRC member<sup>665</sup> and officer<sup>666</sup>, testified that he was a member of the SLA from 1991 until the AFRC coup in May 1997.<sup>667</sup> Shortly after the coup, he was assigned to

<sup>660</sup> TF1-516, Transcript 14 April 2008, pp. 7545-7548.

<sup>661</sup> Diamonds: Alleged Delivery of Diamonds to the Accused, February 1998-December 1999.

<sup>662</sup> TF1-516, Transcript 16 April 1998, pp. 7775-7777.

<sup>663</sup> TF1-516, Transcript 14 April 2008, pp. 7444-7445.

<sup>664</sup> Alimamy Bobson Sesay, Transcript 16 April 2008, p. 7849.

<sup>665</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7859-7867, 7869; Transcript 28 April 2008, pp. 8684, 8689.

<sup>666</sup> Alimamy Bobson Sesay, Transcript Transcript 17 April 2008, pp. 7865-7866.

<sup>667</sup> Alimamy Bobson Sesay, Transcript 16 April 2008, p. 7853. Bobson Sesay testified that he was working in the Military Police at the Sierra Leone Military police Headquarters at Cockerill before 25 May 1997 (Transcript 16 April 2008, pp. 7855-7856). Samuel Kargbo corroborated that Bobson Sesay was an SLA (Samuel Kargbo, Transcript 2 June 2008, p. 10663).





Hassan Papa Bangura, one of the 17 founding members of the AFRC, as a Military Transport Officer and security guard.<sup>668</sup> After the ECOMOG Intervention, Bobson Sesay moved to northern Sierra Leone as a combatant under the command of Alex Tamba Brima (a.k.a. Gullit). While he was promoted a number of times, he never held a rank higher than Captain.<sup>669</sup> Notably, Bobson Sesay was one of two witnesses who participated in the Freetown invasion led by Brima in January 1999.<sup>670</sup> After the Freetown invasion he served as an aide-de-camp and personal bodyguard to Bangura,<sup>671</sup> until he was arrested on 6 June 2000.<sup>672</sup> At the time of his testimony before the Special Court, he practised as an evangelist.<sup>673</sup>

286. The Trial Chamber notes that the witness provided coherent and detailed testimony. Aside from isolated occasions on which he became agitated when Defence counsel suggested that he testified before the Special Court for self-interested motives,<sup>674</sup> and that he killed his bush wife,<sup>675</sup> he remained calm throughout his testimony. The Trial Chamber observes that Bobson Sesay was generally consistent between his evidence in examination-in-chief and cross-examination. When confronted with prior statements which differed from his in-court testimony, his explanation was that the investigators or OTP either did not ask him a particular question,<sup>676</sup> did not ask him to elaborate on a particular aspect<sup>677</sup> or

<sup>668</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7859-7860, 7867.

<sup>669</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7861-7863, 7865 (He was promoted to a Regimental Sergeant Major after February 1998. At Colonel Eddie town, he was Second Lieutenant and he was then demoted to a Lieutenant around 25 December 1998. He was promoted to Captain just before the Freetown invasion). Note that Issa Sesay testified that Alimamy Bobson Sesay was one of the “honourables”, one of the founding members of the AFRC, see Issa Sesay, Transcript 28 July 2010, p. 44912. However, given that neither Bobson Sesay nor any other witness corroborates this, the Trial Chamber considers that Issa Sesay is mistaken as to the witness’s identity.

<sup>670</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8275-8279.

<sup>671</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7866-7867.

<sup>672</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7869-7871.

<sup>673</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8526-8527.

<sup>674</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8535-8536 (where Defence counsel suggested that he had spoken to his family about seeking asylum in France after his testimony before the Special Court of Sierra Leone, and that he had told someone that he knew the AFRC had no dealings with the Accused but that he “needed to survive”).

<sup>675</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8870-8873, 8881.

<sup>676</sup> Alimamy Bobson Sesay, Transcript 25 April 2008, pp. 8591-8592, 8606 (the witness did not mention the Accused providing the delegation with \$USD 15,000 before 6 April 2008 because the investigators did not ask him about it prior to this date and maintains that he mentioned this sum of money to the investigators even during the AFRC trial but they limited his answers since they were not relevant to the case at that time); Transcript 25 April 2008, pp. 8602-8603 (the witness explained that he did not mention Taylor’s logistical support to the troops for the 6 January 1999 Freetown invasion until his 24th meeting with the OTP because this was the first time the investigators questioned the witness on this matter and he only answered questions they put to him); Transcript 28 April 2008, p. 8721 (the witness explained that he limited his answer as to whether he saw

otherwise noted his statement wrongly.<sup>678</sup> While the Trial Chamber does not accept these explanations as curing all of the witness's inconsistencies, the Trial Chamber has regard to his explanations in considering his evidence about specific events.

287. On cross-examination, the Defence raised the issue of payments made by the OTP to the witness without interviews being conducted. Defence counsel questioned Alimamy Bobson Sesay about various payments, including payments for medical expenses, meals and transportation costs, made when there were no interviews conducted by the OTP.<sup>679</sup> The witness did not dispute that payments were made and explained that the OTP invited him on numerous occasions to assist them in obtaining information, in particular, on the location of particular individuals. He would also be asked to physically locate persons or to obtain information and was reimbursed for his travel costs.<sup>680</sup> WVS provided him a weekly allowance for meals and accommodation in addition to payments made by the OTP.<sup>681</sup> The Trial Chamber does not find these payments to be unreasonable, nor did they appear to influence his testimony. The Trial Chamber also notes that Bobson Sesay was forthright and candid when asked about the payments he received from the Prosecution.

288. The witness admitted to having personally participated in numerous and a wide ranging array of crimes throughout the Indictment period, including raping two young girls in Kono and in Freetown,<sup>682</sup> training small boy units<sup>683</sup> whom he instructed to amputate the hands of civilians in Yomandu and Tombodu,<sup>684</sup> burning civilians in a house at Karina,

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any arms and ammunition to the time period when he was in Kono as the question was about when the RUF withdrew from Freetown).

<sup>677</sup> Alimamy Bobson Sesay, Transcript 25 April 2008, pp. 8588-8589 (the witness did not mention Taylor's logistical support to the SLA and the reorganisation of SLA soldiers from Guinea to Liberia because the investigators did not ask him to elaborate on this).

<sup>678</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8702-8704, 8920-8922 (the witness blames an inaccurate recording of his answers by the OTP when questioned by the Defence as to why he did not inform the OTP until 8 May 2007 that the arms shipment at Magburaka was from Liberia and not Ukraine); Alimamy Bobson Sesay, Transcript 25 April 2008, pp. 8757, 8577 (when questioned about a statement of 7 November 2003 in which the witness did not mention the presence of RUF boys at Johnny Paul Koroma's house in Monrovia, Bobson Sesay admits the reference is missing because the investigators edited it and that he had told the investigators that Koroma had shown the witness the boys).

<sup>679</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8542-8545; Transcript 29 April 2008, pp. 8886-8904.

<sup>680</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8900-8904.

<sup>681</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8900-8901.

<sup>682</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, p. 8865.

<sup>683</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7976-7978.

<sup>684</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7978.



abducting about 30 women in Karina,<sup>685</sup> looting valuable property from civilians at Lunsar and Makeni in the implementation of ‘Operation Pay Yourself’, and participating in ‘Operation Spare No Soul’ as ordered by the senior commanders.<sup>686</sup>

289. In light of his admitted involvement in numerous and serious crimes, the Trial Chamber notes that Bobson Sesay is an accomplice witness. However, given Bobson Sesay’s detailed and coherent account, the candour with which he testified about his own complicity, and his lack of any motivation to lie, the Trial Chamber finds Bobson Sesay to be generally credible and will consider further issues relating to his credibility in context as they may arise.

#### Prosecution Witness Samuel Kargbo

290. Witness Samuel Kargbo, (a.k.a. Sammy,<sup>687</sup> Honourable Sammy,<sup>688</sup> Jungler)<sup>689</sup> an AFRC Supreme Council member,<sup>690</sup> was a soldier in the Sierra Leonean Army from 1990 to 2001<sup>691</sup> and one of the 17 coup plotters who overthrew the Kabbah government in May 1997.<sup>692</sup> He became a member of the Supreme Council<sup>693</sup> and was one of Johnny Paul Koroma’s “securities”.<sup>694</sup> He testified that he was detained by the RUF in Buedu along with Koroma as they tried to flee to Liberia in around March 1998<sup>695</sup> and thereafter was sent by the RUF to Manowa Ferry,<sup>696</sup> Kailahun Town<sup>697</sup> and to Pendembu where he was appointed Deputy Brigade Commander in April/May 1998, a position he maintained until the Lomé

<sup>685</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8867-8877.

<sup>686</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8865-8870.

<sup>687</sup> Samuel Kargbo, Transcript 2 June 2008, p. 10663.

<sup>688</sup> Dennis Koker, Transcript 15 January 2008, pp. 1233, 1238; Issa Sesay, Transcript 7 July 2010, p. 43966.

<sup>689</sup> Samuel Kargbo, Transcript 2 June 2008, p. 10663.

<sup>690</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10439, 10448, 10450; Exhibit P-58, “Excerpts from the Sierra Leone Gazette No. 52, 4 September 1997 – 00007703-00007704”, ERN 7703-7704.

<sup>691</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10414.

<sup>692</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10433-10437.

<sup>693</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10450, 10461; Exhibit P-131, “AFRC - Secret Minutes of the First Meeting of the AFRC Held at the Conference Hall, Defence Headquarters on Saturday 19 July 1997, 00007081 – 00007086”, ERN 7801.

<sup>694</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10441.

<sup>695</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10520, 10523-10540.

<sup>696</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10813.

<sup>697</sup> Samuel Kargbo, Transcript 22 May 2008, p. 10556.

Accord in July 1999.<sup>698</sup> From October 1999 until 2001, Kargbo served in the Sierra Leonean Army again.<sup>699</sup> From late 2001 until the witness testified, he had been unemployed.<sup>700</sup>

291. The Trial Chamber notes that Kargbo's demeanour was of a witness who was eager to testify. He remained calm throughout his testimony but spoke very quickly despite repeated requests by Counsel and the Trial Chamber to slow down. He did not always address events sequentially and often provided extraneous information. As a result, some of the witness's answers were unclear and his testimony sometimes disorganised.

292. On cross-examination, Kargbo was confronted by several prior inconsistent statements. In most cases, the Trial Chamber considers these inconsistencies, such as whether, following the Iranian Embassy incident, Johnny Paul Koroma called the Accused on a landline or a satellite phone<sup>701</sup> to be relatively minor in nature. The Trial Chamber notes that the record of Kargbo's first interview with the Prosecution omits to mention the flogging he received at the hands of the RUF after he and Johnny Paul Koroma arrived in Buedu in early 1998 and that, although Kargbo testified that he told the Prosecution about the event in that interview, he failed to correct the mistake when the interview was read back to him.<sup>702</sup> However, in view of the fact that it is recorded that he mentioned the event as early as his second interview only three days later<sup>703</sup> and subsequently gave graphic evidence to the Court about his ordeal,<sup>704</sup> the Trial Chamber has no doubt as to the veracity of his sworn testimony.

293. The Trial Chamber recalls that it has approached Kargbo's evidence regarding his second trip to Foya to collect ammunition in early 1998 with caution primarily in view of his failure to mention the event in his prior statement.<sup>705</sup> However, the Trial Chamber notes that,

<sup>698</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10551-10552, 10556-10557.

<sup>699</sup> Samuel Kargbo, Transcript 3 June 2008, p. 10840.

<sup>700</sup> Samuel Kargbo, Transcript 3 June 2008, p. 10843.

<sup>701</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10449; Transcript 2 June 2008, pp. 10726-10727, 10730-10731, 10742-10745.

<sup>702</sup> Samuel Kargbo, Transcript 3 June 2008, pp. 10766-10769, 10771.

<sup>703</sup> Samuel Kargbo, Transcript 3 June 2008, p. 10769.

<sup>704</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10523-10540.

<sup>705</sup> See *Arms and Ammunition: Allegations of Direct Supply by the Accused: During Sam Bockarie's Leadership* (February 1998-December 1999).

in general, Kargbo's testimony that trips were made by Bockarie to Liberia in 1998 to collect ammunition sent by the Accused is substantially supported by other witnesses.<sup>706</sup>

294. Finally, the Trial Chamber also recalls that it did not find Kargbo's mistaken belief that the Accused was President of Liberia shortly after the May 1997 coup<sup>707</sup> when Kargbo asserted that the Accused privately supported the Junta government as indicative of any intent on his part to mislead the Trial Chamber, but rather that he had simply confused the Accused's status at the time the events he described occurred.<sup>708</sup>

295. In light of the foregoing, the Trial Chamber finds Samuel Kargbo to be a generally credible witness and will consider further issues relating to his credibility in context as they may arise.

#### Prosecution Witness TF1-539

296. Witness TF1-539, a member of various fighting groups,<sup>709</sup> testified that he held various positions including within the AFRC, RUF and SSS from 1990 until 2001.<sup>710</sup>

297. The Defence submits that TF1-539's testimony was inconsistent, implausible, manufactured and therefore not credible.<sup>711</sup> In addition to challenging specific areas of TF1-539's that are highly inconsistent, the Defence alleges that a portion of TF1-539's testimony pertaining to Sam Bockarie's diamond dealings was manufactured to match the testimony of witnesses who testified before him.<sup>712</sup>

298. The witness testified that in 1999 he was taken by two men to meet with Sam Bockarie. On their way to Monrovia they stopped at a pub, where they encountered "Colonel Marzah" and "Captain Denis", who had just come from the "Mansion".<sup>713</sup> Marzah took the

<sup>706</sup> See Arms and Ammunition: Allegations of Direct Supply by the Accused: During Sam Bockarie's Leadership (February 1998-December 1999).

<sup>707</sup> Samuel Kargbo, Transcript 3 June 2008, pp. 10668-10671.

<sup>708</sup> See Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Junta Period.

<sup>709</sup> TF1-539, Transcript 9 June 2008, p. 11374; Transcript, 10 June 2008, pp. 11391, 11469-11471; Transcript, 11 June 2008 pp. 11532, 11561-11562(CS).

<sup>710</sup> TF1-539, Transcript 9 June 2008, p. 11374; Transcript 10 June 2008, pp. 11391, 11469-11471; Transcript 11 June 2008, pp. 11532, 11561-11563 (CS). As this witness is the subject of protective measures, he testified as to potentially identifying information in closed session. The substance of that testimony is not included here.

<sup>711</sup> Defence Final Trial Brief, paras 1449-1458.

<sup>712</sup> Defence Final Trial Brief, paras 1449-1454, 1457-1458.

<sup>713</sup> TF1-539, Transcript 10 June 2008, pp. 11409-11412.

witness to the back of the pub, questioned him about his companions, and told the witness that the men the witness was with had alleged that the witness was a spy for Kabbah's government.<sup>714</sup> Marzah then showed the witness a photo of a mutilated female corpse who, according to Marzah, had also been accused of being a spy,<sup>715</sup> and told the witness that if it was confirmed that he was a spy, he would die "in a more ugly manner" than the woman in the photo.<sup>716</sup> TF1-539's testimony about this incident was inconsistent on a number of points. TF1-539 first told the Prosecution that Marzah showed him the photo of the mutilated corpse in an effort to intimidate him, but TF1-539 later testified that Marzah had simply dropped the photo on the floor while removing other things from his pocket, and the witness picked up the photo and kept it without Marzah's knowledge.<sup>717</sup> The witness also gave inconsistent testimony between examination-in-chief and cross-examination about whether he knew the identity of the woman in the photo.<sup>718</sup> TF1-539 contradicted his own cross-examination testimony when he first testified in detail about how he lost the original copy of the photo from the pocket of his trousers,<sup>719</sup> only to testify later on cross-examination that he had given the photo to two police officers who scanned it, but he could not recall if it had been returned to him. Additionally, the Trial Chamber notes the implausibility of the witness's testimony that he managed to hold onto the photograph from 1999 to 2006, throughout his many travels, but then lost it while moving houses twice between 2006 and 2008.<sup>720</sup>

299. The Trial Chamber also takes particular note of TF1-539's testimony regarding his very first meeting with the Accused, which the Defence has characterised as implausible.<sup>721</sup> According to the witness, days after being accused of espionage and being threatened by Marzah, Marzah took the witness to the Executive Mansion to meet the Accused. During the meeting, the Accused offered the witness encouraging words, and passed on a gift of \$USD

<sup>714</sup> TF1-539, Transcript 10 June 2008, pp. 11412-11413.

<sup>715</sup> TF1-539, Transcript 10 June 2008, p. 11413.

<sup>716</sup> TF1-539, Transcript 10 June 2008, pp. 11412-11413.

<sup>717</sup> TF1-539, Transcript 10 June 2008, p. 11413; Transcript 11 June 2008, pp. 11599-11605.

<sup>718</sup> TF1-539, Transcript 10 June 2008, p. 11421; Transcript 11 June 2008, pp. 11608-11610; Transcript 12 June 2008, pp. 11638-11639. The witness told the Prosecution in prior interviews that the woman was named Isha, but on examination-in-chief stated that Marzah did not tell him her name. On cross-examination he then disavowed his examination-in-chief testimony, stating that Marzah had told him her name.

<sup>719</sup> TF1-539, Transcript 11 June 2008, pp. 11609; Transcript 12 June 2008, pp. 11617-11621, 11639.

<sup>720</sup> TF1-539, Transcript 12 June 2008, pp. 11621-11623.

<sup>721</sup> Defence Final Trial Brief, para. 1449.

1,500 to him.<sup>722</sup> The Accused then appointed the witness as a One Star General, stating that if he proved his loyalty to the revolution he might “go beyond that”.<sup>723</sup>

300. The Trial Chamber notes the Defence’s challenge to TF1-539’s inconsistencies regarding whose signatures he saw on a set of consignment papers for ammunition received after the Burkina Faso trip,<sup>724</sup> and has considered that evidence in the section on Arms and Ammunition.<sup>725</sup> The Trial Chamber recalls that it accepted TF1-539’s explanation regarding those inconsistencies.

301. The Trial Chamber has considered other issues regarding the witness’s testimony raised by the Defence, including inconsistencies in his testimony regarding the dates and length of some of his professional posts<sup>726</sup> and his personal mining activities.<sup>727</sup> In the Trial Chamber’s view, these inconsistencies are relatively minor. Regarding the Defence’s contention that TF1-539 altered his testimony about Sam Bockarie and the mayonnaise jar of diamonds, the Trial Chamber recalls that it has considered this evidence elsewhere in the Judgement and found it to be unreliable.<sup>728</sup>

302. The Trial Chamber notes that, in addition to the inconsistent and implausible aspects of TF1-539’s testimony, his overall testimony was scattered and difficult to follow. In the Trial Chamber’s view, TF1-539 exaggerated aspects of his testimony, particularly with regard to his own role in events. While TF1-539 at times testified in significant detail, the Trial Chamber generally observes that many of his responses were rambling and evasive and he failed to provide convincing explanations for a number of inconsistencies.<sup>729</sup>

<sup>722</sup> TF1-539, Transcript 10 June 2008, pp. 11468-11470.

<sup>723</sup> TF1-539, Transcript 10 June 2008, p. 11471. The witness also told the Prosecution in a prior statement that he had been stationed to work at the Mansion while with ECOMOG, but on cross-examination the witness denied making the statement. TF1-539, Transcript 12 June 2008, pp. 11632-11633.

<sup>724</sup> Defence Final Trial Brief, para. 1458.

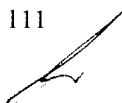
<sup>725</sup> See Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockarie’s Leadership (February 1998-December 1999).

<sup>726</sup> Defence Final Trial Brief, para. 1456, citing TF1-539, Transcript 12 June 2008, pp. 11625-11629.

<sup>727</sup> Defence Final Trial Brief, para. 1455, citing TF1-539, Transcript 12 June 2008, p. 11663.

<sup>728</sup> See Diamonds: Alleged Delivery of Diamonds to the Accused, Junta Period; Defence Final Trial Brief, para. 1454, citing TF1-539, Transcript 11 June 2008, pp. 11675, 11684-11685, 11688.

<sup>729</sup> See for example TF1-539, Transcript 10 June 2008, p. 11413; Transcript 11 June 2008, pp. 11599-11605, 11608-11610; Transcript 12 June 2008, pp. 11625-11629.





303. In light of the foregoing, the Trial Chamber finds that TF1-539's evidence, particularly as it relates to his personal interaction and communication with the Accused, must be considered with caution and cannot be relied upon without corroboration.

Prosecution Witness Alice Pyne

304. Witness Alice Pyne, an RUF radio operator,<sup>730</sup> testified that she was captured by the NPFL in 1991, and was a member of the RUF from 1993 until disarmament.<sup>731</sup> Throughout her time with the RUF, she testified, she was a radio operator working in a number of locations and for various RUF members.<sup>732</sup>

305. The Defence contends that Pyne's reliability is questionable, because she provided inaccurate details concerning well-known events. For example, the Defence claims, she testified that Foday Sankoh was in Côte d'Ivoire when the 1996 elections were held.<sup>733</sup> The Defence notes that the elections were held before Sankoh left for Abidjan, which was on 24 March 1996.<sup>734</sup> The Trial Chamber finds this inconsistency minor, as the rest of her testimony concerning well-known events was consistent with the body of evidence at trial.

306. The Defence submitted that portions of Pyne's testimony, more specifically concerning the allegation that the Accused provided herbalists to the RUF, that Bockarie ordered the killing of Martin Moinama, and that Taylor sent Senegalese to Bockarie, render her not credible.<sup>735</sup> The Trial Chamber has considered these incidents in the context of the Judgement as they arise, and has accepted or rejected Pyne's testimony about these events accordingly.<sup>736</sup> As to the Defence's concerns that her testimony was hearsay, the Trial Chamber has also addressed those issues in context.

307. Based on the foregoing, the Trial Chamber finds Alice Pyne to be generally credible and will consider further issues relating to her credibility in context as they may arise.

<sup>730</sup> Alice Pyne, Transcript 17 June 2008, p. 12074.

<sup>731</sup> Alice Pyne, Transcript 17 June 2008, pp. 12048-12049.

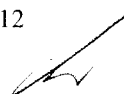
<sup>732</sup> Alice Pyne, Transcript 17 June 2008, pp. 12066-12083, 12091-12092; Transcript 18 June 2008, pp. 12105, 12129-12130, 12135-12136, 12155 -12160, 12166-12167; Transcript 19 June 2008, pp. 12248-12249, 12255-12257, 12272-12273.

<sup>733</sup> Defence Final Trial Brief, para. 1494; Alice Pyne, Transcript 18 June 2008, pp. 12118-12119.

<sup>734</sup> Defence Final Trial Brief, para. 1494.

<sup>735</sup> Defence Final Trial Brief, paras 1492-1494.

<sup>736</sup> See Military Operations: The Freetown Invasion, The Implementation of the Plan; Provision of Military Personnel: Former NPFL Fighters; Operational Support: Support and Training, Alleged Provision of Herbalists.





Prosecution Witness TF1-375

308. Witness TF1-375, an RUF fighter,<sup>737</sup> testified that he was captured by the RUF in 1991 at a young age and taken to Pendembu for training. He remained with the RUF for the duration of the war.<sup>738</sup>

309. The Defence challenges TF1-375's credibility on the basis that he received incentives, in the form of payments and other benefits from WVS and the Prosecution, to an extent that the integrity of his testimony was compromised, and that he altered his evidence to match that of witnesses appearing before him.<sup>739</sup> Furthermore, the Defence submits that the witness's demeanour demonstrates that he did not take the proceedings seriously.<sup>740</sup>

310. The Trial Chamber notes that TF1-375 also gave internally inconsistent and implausible testimony relating to several issues before the court.<sup>741</sup>

311. The Trial Chamber also notes that the witness made self-aggrandising statements throughout his testimony, which were not confirmed or corroborated by the remainder of the body of evidence before the Trial Chamber.<sup>742</sup> Although the witness provided highly detailed testimony at times, that testimony was often inconsistent with his prior statements in interviews.<sup>743</sup> Additionally, as highlighted by the Defence, the Trial Chamber notes that TF1-375 provided evidence at trial or at a very late stage in his interviews which he had not

<sup>737</sup> TF1-375, Transcript 23 June 2008, p. 12485.

<sup>738</sup> TF1-375, Transcript 23 June 2008, pp. 12475-12478.

<sup>739</sup> Defence Final Trial Brief, paras 1405-1417.

<sup>740</sup> Defence Final Trial Brief, para. 1418.

<sup>741</sup> For example, the witness gave highly inconsistent testimony regarding the facts of his trip to identify Johnny Paul Koroma, including whether he was actually present when Koroma was executed, whether he knew how or why Koroma was executed, and whether Koroma and his men were naked or clothed at the time. TF1-375, Transcript 25 August 2008, pp. 14512-14523 (PS); Transcript 26 August 2008, pp. 14531-14536 (PS).

<sup>742</sup> For example, the witness testified that he was personally sent by Yeaten to Foya to identify Johnny Paul Koroma. The witness stated that in Foya he saw Koroma and his men, under the custody of Roland Duoh, Sweet Candy, and Saddam. Koroma was taken away by Sweet Candy and Saddam who then returned and told the witness that Koroma was dead. The witness testified that he questioned them four or five times to ensure that Koroma was actually dead, as he did not want to take false information back to the Accused. He did not, however, check the body. The witness stated he then went to Monrovia via helicopter to personally confirm his identification of Koroma to the Accused. TF1-375, Transcript 25 August 2008, pp. 14489-14527 (PS); Transcript 26 August 2008, pp. 14531-14536 (PS).

<sup>743</sup> See for example TF1-375, Transcript 25 August 2008, pp. 14458-14464 (PS) (regarding the number of people who went to Liberia with Bockarie [200 to 300 or 600 to 700] and how many Sierra Leoneans in the ATU were killed at the same time as Bockarie, 50% or 90%); Transcript 28 August 2008, p. 14817 (contradicting a prior statement that an order from Benjamin Yeaten to kill Samuel Varney came directly from the Accused); Transcript 27 August 2008, pp. 14731-14734 (contradicting a prior statement that he did not engage in active fighting from 1991 to 1997, stating that he started fighting at the front lines in 1995).

previously mentioned<sup>744</sup> and which corroborated the testimony of other Prosecution witnesses testifying before him without providing acceptable explanations.<sup>745</sup> In the Trial Chamber's view, TF1-375's testimony was convoluted and difficult to follow and he gave dishonest testimony for which the Trial Chamber can find no motivation. Furthermore, although the Trial Chamber acknowledges that the witness did not attempt to downplay his part in violent activities that he testified about, the Trial Chamber considers that the witness's demeanour, including laughing while testifying about serious events, indicate that he did not take the proceedings seriously.

312. In light of these considerations, the Trial Chamber finds that the testimony of TF1-375 must be treated with caution and cannot be relied upon without corroboration.

#### Prosecution Witness TF1-567

313. Witness TF1-567, an RUF member,<sup>746</sup> was abducted by Liberian English-speaking rebels in May 1991 and taken to undergo training in Pendembu.<sup>747</sup> The witness held various positions in the RUF until 2001.<sup>748</sup>

314. The Defence posits that TF1-567 testified about events that he did not have knowledge of, and argues that he is a liar or exaggerator and that his testimony is therefore not credible.<sup>749</sup> In particular, the Defence highlights the inconsistencies between TF1-567's evidence and the evidence of other witnesses, including TF1-371 and Issa Sesay, regarding the taking of diamonds from Johnny Paul Koroma.<sup>750</sup> The Defence also alleges that evidence

<sup>744</sup> See for example TF1-375, Transcript 25 August 2008, pp. 14474-14476 (PS) (despite recalling specific details of his actions on the day in question, the witness did not tell the Prosecution that he went to a meeting with Moses Blah and Sam Bockarie three days before Bockarie was killed); Transcript 26 August 2008, pp. 14584-14591 (PS) (adding evidence that a plane he took from Burkina Faso was loaded with boxes of ammunition on the seats in the same area as the passengers).

<sup>745</sup> TF1-375, Transcript 28 August 2008, pp. 14808-14812. For example, during his 24<sup>th</sup> interview, the witness referred to diamonds being held in mayonnaise jars for the first time, shortly after Moses Blah had testified to the same. See also: TF1-375, Transcript 26 August 2008, pp. 14555-14557 (PS) (added statements that Zigzag Marzah ate human flesh and that Sweet Candy wore Johnny Paul Koroma's jacket after Koroma's death following Marzah's testimony of the same incident).

<sup>746</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS); Transcript 4 July 2008, pp. 12986-12988 (PS).

<sup>747</sup> TF1-567, Transcript 2 July 2008, pp. 12819-12820.

<sup>748</sup> TF1-567, Transcript 2 July 2008, pp. 12832, 12909; Transcript 4 July 2008, pp. 12986-12988 (PS).

<sup>749</sup> Defence Final Trial Brief, paras 1546-1547.

<sup>750</sup> Defence Final Trial Brief, para. 1546.



provided by the Accused contradicts TF1-567's testimony regarding a meeting between the two of them.<sup>751</sup>

315. Regarding the taking of diamonds from Koroma, the Trial Chamber notes that TF1-567's testimony regarding this incident does diverge from the testimony of a number of other witnesses. Furthermore, the Trial Chamber notes that a number of other witnesses also gave inconsistent and contradictory accounts surrounding the details of this event, including those witnesses who gave direct evidence about the event. However, the Trial Chamber recalls that it has assessed the inconsistencies and contradictions of all of the witnesses who testified about that event elsewhere in the Judgement, and the Trial Chamber does not rely upon the testimony of TF1-567 when making its findings regarding that event.

316. In the Trial Chamber's view, TF1-567 was forthright in his testimony, openly admitting when he did not know the answer to a question<sup>752</sup> and when his testimony concerned events that he did not personally witness.<sup>753</sup> The Trial Chamber does not find that this testimony undermines TF1-567's credibility.

317. Based on the foregoing, the Trial Chamber finds TF1-567 to be a generally credible witness and will consider further issues relating to his credibility in context as they may arise.

#### Prosecution Witness TF1-338

318. Witness TF1-338, an RUF member,<sup>754</sup> testified that he was a member of the RUF from late 1991 until 2002, during which time he held various positions that afforded him proximity to senior RUF members, including Foday Sankoh and Issa Sesay.<sup>755</sup> TF1-338 testified about interactions between the Accused and members of the RUF, as well as about diamond and weapons dealings.

<sup>751</sup> Defence Final Trial Brief, para. 1547.

<sup>752</sup> TF1-567, Transcript 2 July 2008, p. 12838; Transcript 4 July 2008, p. 12996 (PS).

<sup>753</sup> TF1-567, Transcript 7 July 2008, pp. 13094-13095, 13097.

<sup>754</sup> TF1-338, Transcript 1 September 2008, pp. 15085-15086 (PS).

<sup>755</sup> TF1-338, Transcript 1 September 2008, pp. 15083-15086 (PS). As this witness is the subject of Protective Measures, additional details of TF1-338's positions in the RUF are not included in this section.

319. In its Final Trial Brief, the Defence submits that TF1-338's credibility was weak and that his testimony was untrustworthy.<sup>756</sup> Furthermore, in its final oral submissions the Defence submits that TF1-338's testimony was so rife with inconsistencies that the Trial Chamber should not consider it at all.<sup>757</sup> Specifically, the Defence argued that TF1-338's evidence was inconsistent regarding details of alleged diamond, ammunition, and money exchanges involving the Accused.<sup>758</sup> The Defence also asserted that portions of TF1-338's testimony were implausible, including his testimony relaying his knowledge about meetings between the Accused and Issa Sesay for which the witness was not actually present.<sup>759</sup>

320. Regarding TF1-338's inconsistencies, the Trial Chamber notes at the outset that the witness is adamant that many of the inconsistencies pointed to by the Defence are statements that were either incorrectly recorded by the Prosecution, or that he made corrections and they were not applied to his statements.<sup>760</sup> The Defence calls the Trial Chamber's attention to the witness's failure to correct certain of his statements although he was given the opportunity to, and contends that this casts additional doubt on his credibility.<sup>761</sup> The Trial Chamber notes TF1-338's testimony that while correcting his prior statements, he was instructed by the Prosecution to record the corrections in a separate notebook and that they would be applied later.<sup>762</sup> The witness then explained that many of his corrections were not reflected.<sup>763</sup> While the Trial Chamber does not accept that explanation as curing all of the witness's inconsistencies, the Trial Chamber is mindful of this explanation while considering TF1-338's evidence.

321. Further regarding TF1-338's inconsistencies, the Trial Chamber is of the view that a number of them are immaterial, or were the result of confusion on behalf of the witness. For example, the Trial Chamber considers TF1-338's inconsistency surrounding the amount of diamonds, 3,500 pieces versus 350 carats or pieces, he took to Monrovia to be relatively

<sup>756</sup> Defence Final Trial Brief, para. 1215.

<sup>757</sup> Defence Closing Arguments, Transcript 10 March 2011, p. 49518.

<sup>758</sup> Defence Final Trial Brief, paras 1214-1225.

<sup>759</sup> Defence Final Trial Brief, para. 966.

<sup>760</sup> TF1-338, Transcript 3 September 2008, pp. 15338-15343, 15346-15348 (PS); Transcript 4 September 2008, pp. 15354-15356 (PS).

<sup>761</sup> Defence Final Trial Brief, paras 1220-1221, 1225.

<sup>762</sup> TF1-338, Transcript 3 September 2008, pp. 15346-15348, 15350 (PS); Transcript 4 September 2008, pp. 15354-15356 (PS).

<sup>763</sup> TF1-338, Transcript 3 September 2008, pp. 15346-15348, 15350 (PS); Transcript 4 September 2008, pp. 15354-15356 (PS).

minor.<sup>764</sup> The Defence also points to TF1-338's inconsistency regarding his knowledge of whether Eddie Kanneh in fact absconded with \$USD 150,000.<sup>765</sup> The Trial Chamber is satisfied that the witness's statements on this issue were not a true contradiction, and accepts his argument that having knowledge of whether Eddie Kanneh took the money, and being told that he took the money are two separate issues.<sup>766</sup>

322. The Defence challenged TF1-338's credibility on the basis of his testimony regarding the content of meetings held between the Accused and Issa Sesay, which persons the Accused instructed Sesay to deal diamonds with, and the amount and composition of the diamonds in a certain delivery. The Trial Chamber has addressed these inconsistencies in context of the events in the section of the Judgement concerning Diamonds.<sup>767</sup> The Trial Chamber recalls that it accepted the witness's testimony on these points.

323. The Defence further asserts that TF1-338's inconsistencies regarding whether the Accused advised Issa Sesay about returning weapons to the UN demonstrate that he is a liar who fabricated evidence.<sup>768</sup> The Trial Chamber recalls its finding that TF1-338's evidence in relation to this specific event was reliable in the section of the Judgement on Disarmament.<sup>769</sup> The Defence also challenged the witness's testimony regarding the number of times Sesay allegedly visited the Accused and brought him diamonds. The Trial Chamber has considered that evidence in the section of the Judgement on Diamonds, and recalls that it found TF1-338's testimony to be reliable.<sup>770</sup>

324. The Trial Chamber has also addressed TF1-338's inconsistencies about a delegation sent to collect \$USD 150,000 from the Accused in 2001 in the section of the Judgement on Operational Support. The Trial Chamber recalls its finding that TF1-338's testimony about that event is reliable.<sup>771</sup>

<sup>764</sup> TF1-338, Transcript 3 September 2008, pp. 15340, 15350 (PS).

<sup>765</sup> Defence Final Trial Brief, paras 1220-1221; TF1-338, Transcript 3 September 2008, pp. 15381-15386 (PS); Transcript 4 September 2008, pp. 15411-15414 (PS).

<sup>766</sup> TF1-338, Transcript 3 September 2008, pp. 15381-15386 (PS).

<sup>767</sup> See Diamonds: Alleged Delivery of Diamonds to the Accused, Alleged Facilitation of Diamond Trading by the Accused.

<sup>768</sup> Defence Final Trial Brief, para. 1225.

<sup>769</sup> See Peace Process: Communications with Sesay on Disarmament.

<sup>770</sup> See Diamonds: Alleged Delivery of Diamonds to the Accused, June 2000-2002.

<sup>771</sup> See Operational Support: Support and Training, Financial Support.

325. The Defence also points to TF1-338's contradiction in which he testified that he was not present when the Accused and Issa Sesay spoke on a satellite phone in 2002 and that the Accused was not in the habit of talking on a satellite phone at that time.<sup>772</sup> The Defence highlights that TF1-338 later contradicted that statement and asserted that he was earlier speaking of a HF radio, not a satellite phone.<sup>773</sup> The record clearly reflects that, when asked whether Issa Sesay was "in the habit of speaking to Charles Taylor on the telephone to the President of Liberia at this time", TF1-338 responded, "[a]t that time he was not in the habit of speaking to the President of Liberia over telephone - on the satellite phone".<sup>774</sup> In his later testimony on cross-examination, when asked to recall his testimony that the Accused was not in the habit of speaking on the satellite phone, the witness was adamant that he did not mention a satellite phone, but was referring to an HF radio, because the HF radios were constantly monitored, so the Accused preferred to speak over satellite phone.<sup>775</sup>

326. Additionally, the Defence highlights TF1-338's contradiction between his *viva voce* testimony and prior statements to the Prosecution regarding the date of his first meeting with the Accused. This evidence has been considered in the section of the Judgement on Arms and Ammunition, where the Trial Chamber found that the inconsistency did not undermine the witness's credibility.<sup>776</sup>

327. Contrary to the Defence's assertion, the Trial Chamber also does not consider that these inconsistencies demonstrate that TF1-338 had an agenda to implicate the Accused.<sup>777</sup> The Trial Chamber notes that TF1-338 was adamant to correct evidence where the Accused was incorrectly implicated. For example, TF1-338 adamantly denied the Accused's involvement in the RUF's diamond dealings with Minin, and denied delivering diamonds to the Accused on more than two occasions.<sup>778</sup>

<sup>772</sup> Defence Final Trial Brief, para. 1222 citing TF1-338, Transcript 2 September 2008, pp. 15248-15249 (PS).

<sup>773</sup> Defence Final Trial Brief, para. 1222 citing TF1-338, Transcript 4 September 2008, pp. 15430-15431 (PS).

<sup>774</sup> TF1-338, Transcript 2 September 2008, pp. 15248-15249 (PS).

<sup>775</sup> TF1-338, Transcript 4 September 2008, pp. 15430-15431 (PS).

<sup>776</sup> See Arms and Ammunition: Allegations of Direct Supply by the Accused: During Issa Sesay's Leadership.

<sup>777</sup> Defence Final Trial Brief, paras 951-952 (arguing that TF1-338 is determined to implicate the Accused with his versions of specific events).

<sup>778</sup> TF1-338, Transcript 3 September 2008, pp. 15352, 15356, 15359 (PS); Transcript 4 September 2008, p. 15430 (PS).

328. Overall, the Trial Chamber is of the opinion that TF1-338 gave measured testimony that was rich in detail, although the record at times became very confusing. In the Trial Chamber's view, TF1-338 offered plausible, logical explanations for a number of the inconsistencies in his testimony.

329. Accordingly, the Trial Chamber finds TF1-338 to be generally credible and will consider further issues relating to his credibility in context as they arise.

#### Prosecution Witness TF1-585

330. Witness TF1-585, an RUF member,<sup>779</sup> was captured by the RUF in 1991 at an early age, and remained with the RUF, working alongside high-ranking members until about the year 2000. TF1-585 was also assigned in Liberia for a period, until leaving in 2002.<sup>780</sup>

331. The Defence submits that TF1-585's evidence is problematic and unreliable, and at times improbable.<sup>781</sup> The Defence further submits that TF1-585's testimony was littered with errors regarding dates.<sup>782</sup> The Trial Chamber notes that the witness's testimony with regard to chronology was at times confused and inconsistent.<sup>783</sup> However, in the Trial Chamber's view, these inconsistencies are a result of confusion or lack of knowledge, and not as a result of manufactured testimony or a desire to mislead the Trial Chamber. The Trial Chamber notes that the level and nature of the knowledge reflected in TF1-585's testimony is consistent with the witness's role and position throughout the indictment period and the witness readily admitted to gaps in her knowledge. For these reasons, the Trial Chamber finds that the submission that TF1-585's evidence could have been unduly influenced by the Prosecution and others is unfounded.

332. The Defence made lengthy submissions regarding specific portions of TF1-585's testimony that, in the Defence's view, render TF1-585 not credible. The Trial Chamber has considered these instances in context as they arise, and has accepted or rejected TF1-585's

<sup>779</sup> TF1-585, Transcript 5 September 2008, pp. 15589-15592 (PS).

<sup>780</sup> TF1-585, Transcript 5 September 2008, pp. 15575-15592 (PS); Transcript 8 September 2008, pp. 15750-15753.

<sup>781</sup> Defence Final Trial Brief, paras 1524-1525.

<sup>782</sup> Defence Final Trial Brief, paras 1526-1527.

<sup>783</sup> For example TF1-585, Transcript 9 September 2008, p. 15877 (the witness stated that RUF radio code books changed once or twice during the witness's time in Buedu, inconsistent with other evidence that they changed every few months. This inconsistency is explained by the fact that the witness worked only intermittently as a radio operator.)

testimony about those particular events accordingly. Likewise, as to the Defence's concerns that much of TF1-585's testimony was based on hearsay, the Trial Chamber has addressed those issues in context throughout the Judgement.

333. Based on the foregoing, the Trial Chamber finds TF1-585 to be generally credible and will consider further issues relating to her credibility in context as they may arise.

#### Prosecution Witness Mohamed Kabbah

334. Mohamed Kabbah, an RUF radio operator,<sup>784</sup> was a teacher and a farmer prior to being abducted by Liberian English-speaking soldiers and taken to a training base in Pendembu in April 1991.<sup>785</sup> During the conflict, Mohamed Kabbah worked at various locations as a radio operator for the RUF.<sup>786</sup>

335. The Defence submits that much of Kabbah's testimony was unreliable and that he poorly grasped "certain crucial details".<sup>787</sup> Moreover, the Defence challenges Kabbah's credibility on the basis that portions of his testimony were contradicted by other Prosecution witnesses,<sup>788</sup> and that other portions are unreliable because of Kabbah's own internal contradictions regarding certain details, like dates and times.<sup>789</sup> The Trial Chamber recalls that it has addressed specific issues of Kabbah's credibility challenged by the Defence within the Judgement as they arise.<sup>790</sup>

336. The Trial Chamber notes one specific challenge raised by the Defence that does not arise elsewhere in the Judgement. The Defence alleges that in Kabbah's testimony that Sunlight informed Charles Taylor when the RUF needed ammunition, Kabbah assumed that Sunlight and the Accused were "close".<sup>791</sup> Kabbah's actual testimony, that "Sam Bockarie would give us a message, or he would [...] communicate directly with Sunlight for him to

<sup>784</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>785</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16086-16090.

<sup>786</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16099-16100, 16104-16105, 16126, 16180-16181.  
<sup>787</sup> Defence Final Trial Brief, paras 1541, 1545.

<sup>788</sup> Defence Final Trial Brief, paras 1542-1544.

<sup>789</sup> Defence Final Trial Brief, para. 1545.

<sup>790</sup> See Operational Support: Communications, RUF and NPFL Radio Codes and Communications.

<sup>791</sup> Defence Final Trial Brief, para. 1544.

inform Charles Taylor that we needed ammunition”,<sup>792</sup> does not contain a statement that Sunlight actually delivered the messages to the Accused himself.

337. The Trial Chamber has further noted the Defence’s arguments regarding Kabbah’s early statements to the Prosecution, including certain inconsistent details of those conversations,<sup>793</sup> and finds that they are either relatively minor in nature, or that Kabbah offered acceptable explanations for them. The Trial Chamber also notes that the passage of time may have affected Kabbah’s memory regarding the details of certain events,<sup>794</sup> however because Kabbah’s testimony was generally consistent, the Trial Chamber does not find that the inconsistencies highlighted by the Defence are detrimental to Kabbah’s credibility. Regarding false statements that he made to the Prosecution early in the interview process, the Trial Chamber accepts Kabbah’s explanation that he made those statements out of fear for his life.<sup>795</sup>

338. In the Trial Chamber’s view, Kabbah was a forthright witness overall, who openly admitted when he did not know the answer to questions<sup>796</sup> and pointed out inconsistencies in his prior statements.<sup>797</sup> For these reasons, the Trial Chamber finds Kabbah to be generally credible and will consider further issues relating to his credibility in context as they may arise.

#### Prosecution Witness TF1-579

339. Witness TF1-579, an SSS member,<sup>798</sup> testified that he voluntarily joined the NPFL in 1990.<sup>799</sup> He stated that from 1992 until 1997 he was under Benjamin Yeaten’s command.<sup>800</sup> Later on, TF1-579 was under Bockarie’s command until Bockarie’s death.<sup>801</sup>

<sup>792</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16132, 16138. In stating that Sam Bockarie “would tell us to tell Sunlight to tell Charles Taylor that he would talk with him” the witness was describing the instructions that he was being given, rather than making an assumption as to whether Sunlight was close enough to the Accused in order to directly convey a message to him.

<sup>793</sup> Defence Final Trial Brief, para. 1545.

<sup>794</sup> The witness, by his own admission, stated that his memory for dates was at times confused. Mohamed Kabbah, Transcript 17 September 2008, p. 16435.

<sup>795</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16244-16247.

<sup>796</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16139.

<sup>797</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16401-16402; Transcript 17 September 2008, pp. 16405-16406.

<sup>798</sup> TF1-579, Transcript 5 November 2008, pp. 19822-19823.

<sup>799</sup> TF1-579, Transcript 24 November 2008, pp. 21013-21014.

<sup>800</sup> TF1-579, Transcript 5 November 2008, pp. 19781-19783 (PS), 19792-19793, 19807-19810.

340. There are a number of inconsistencies highlighted by the Defence between the testimony of TF1-579 and his prior statements.<sup>802</sup> For example, the witness testified that after the death of Bockarie and his bodyguard, Kanu, in May 2003, he went into hiding because of his association with Bockarie. According to his testimony, the witness stayed in hiding for a week or two, after which he met Benjamin Yeaten and was sent on a mission.<sup>803</sup> However, in a prior statement the witness said that he stayed in hiding until after Yeaten left the country in 2004. On cross-examination, he could not explain the inconsistency despite repeated requests from the Bench to respond to the questions put to him by Defence counsel. He was evasive and stated that he did not correct the error in his statement when given the opportunity to do so, despite making other changes, because he wanted to explain it to “this Court”.<sup>804</sup>

341. Similarly, the Trial Chamber notes the Defence’s challenge to TF1-579’s testimony about several trips that were taken from Monrovia to Buedu in which materiel was delivered to Bockarie. The Trial Chamber has considered this evidence in the section on Arms and Ammunition, and recalls that it accepted this evidence on the basis that it was corroborated by other witnesses.<sup>805</sup>

342. In his testimony, TF1-579 made serious accusations against members of the Defence team, requiring an independent investigation into possible contempt of court. As the Trial Chamber found that there was no basis for contempt proceedings, the Defence submits that TF1-579 gave false testimony, which gravely undermines his credibility.<sup>806</sup> The Trial Chamber notes that the accusations made by the witness were not substantiated, detracting from his credibility.

343. The Defence further argues that TF1-579’s behaviour and his relationship with the Prosecution are questionable.<sup>807</sup> The witness testified that although he had committed to being a Prosecution witness, and met with and was paid by the Prosecution, he continued to visit the Defence office in Monrovia while Prosecution witnesses, including Joseph Marzah,

<sup>801</sup> TF1-579, Transcript 5 November 2008, pp. 19856-19858.

<sup>802</sup> Defence Final Trial Brief, paras 1464-1468, 1475.

<sup>803</sup> TF1-579, Transcript 26 November 2008, pp. 21184-21197 (PS).

<sup>804</sup> TF1-579, Transcript 26 November 2008, pp. 21184-21197 (PS).

<sup>805</sup> See Arms and Ammunition: Preliminary Issues: Closure of the Border/Arms Embargo.

<sup>806</sup> Defence Final Trial Brief, paras 1460-1461.

<sup>807</sup> Defence Final Trial Brief, paras 1469-1471.



were testifying.<sup>808</sup> The witness had previously testified that he was not in Monrovia when Marzah was testifying.<sup>809</sup> The witness explained that he went to the Defence office only when asked by the Defence investigator, fearing that if he did not, they and the Accused would suspect he was a Prosecution witness.<sup>810</sup> The Trial Chamber notes the concerns expressed by the Defence and considers the conduct of the witness to have been inappropriate.

344. The Defence characterises payments received by the witness from the Prosecution as excessive.<sup>811</sup> TF1-579 was paid by the Prosecution \$USD 2,345 and 126,000 leones (approximately \$USD 42)<sup>812</sup> in total. For three meetings at the end of March to the beginning of April 2008, the witness received \$USD 150 in total for transportation and lost wages. Although there is no record of interview by the Prosecution during those dates, the meetings appear to have been associated with relocation and security concerns. The witness had been given \$USD 500 the previous year for that purpose, and another \$USD 500 was given to him for the same purpose in June 2008.<sup>813</sup> On 4 August 2008, the witness received \$USD 250 for family assistance, which he explained was given to him to cover his lost wages, in order to feed his family. However, transportation, lost wages and communication are items which were already reimbursed on the same date. Moreover, a week later, the witness was given another \$USD 100 for medical, transportation costs and lost wages.<sup>814</sup> The Trial Chamber, while noting the questions about these payments, does not accept that they improperly influenced the witness in his testimony.

345. However, in light of his evasiveness, and the incidents in which TF1-579 was clearly untruthful, the Trial Chamber finds that the testimony of the witness must be considered with caution and cannot be relied upon without corroboration.

<sup>808</sup> TF1-579, Transcript 26 November 2008, pp. 21233-21237 (PS).

<sup>809</sup> TF1-579, Transcript 26 November 2008, pp. 21205-21206 (PS).

<sup>810</sup> TF1-579, Transcript 26 November 2008, p. 21283.

<sup>811</sup> Defence Final Trial Brief, paras 1472-1474.

<sup>812</sup> Conversion based on the rate of approximately 3,000 leones/US dollar.

<sup>813</sup> TF1-579, Transcript 26 November 2008, pp. 21239-21252 (PS).

<sup>814</sup> TF1-579, Transcript 26 November 2008, pp. 21258-21261 (PS).

Prosecution Witness Dauda Aruna Fornie

346. Dauda Aruna Fornie, an RUF radio operator,<sup>815</sup> testified that he was abducted by the RUF in 1991, at the age of 16.<sup>816</sup> At the end of 1991, Fornie was selected by Samuel Bockarie to undertake radio signal training with the NPFL in Liberia, where he remained until 1992.<sup>817</sup> Fornie then returned to Sierra Leone, working as a radio operator in Kuiva, Mendekeima, Kailahun Town, Koindu, and Zogoda.<sup>818</sup> According to his testimony, following Sankoh's order for all RUF members to join forces with the AFRC, Fornie began working as a radio operator for Bockarie in Kenema town, Tongo, and then Kailahun.<sup>819</sup> In 1998, he relocated to Buedu, where he travelled with Bockarie on a number of trips to Liberia.<sup>820</sup> In 1999, Fornie accompanied the RUF delegation to the Peace Talks in Lomé and other cities.<sup>821</sup> Fornie was imprisoned and tortured by Bockarie for his allegiance to Sankoh, and by the end of the war, Fornie was in Pendembu.<sup>822</sup>

347. The Defence contends that Fornie's testimony is inconsistent with his prior statements. In addition, the Defence submits, misattributions and vagueness in his testimony undermine its credibility.<sup>823</sup>

348. When Fornie was first questioned as to whether members of the Black Gadaffa unit were rumoured to have connived against Taylor, he stated that he was "not aware" of this. The Defence then presented Fornie with a prior statement in which he had said that "some of the leaders in Black Gadaffa's group" were rumoured to have connived against Taylor. Fornie responded that his prior statement was consistent with his testimony because although "some" of those who were accused were members of Black Gadaffa, other non-members were accused as well; he could not say, therefore, that it was "only" Black Gadaffa leaders who had connived to kill Taylor.<sup>824</sup> The Trial Chamber notes that Fornie was asked

<sup>815</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21395; Transcript 2 December 2008, p. 21418.

<sup>816</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21294.

<sup>817</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21335.

<sup>818</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21374, 21382-21383, 21395, 21400; Transcript 4 December 2008, p. 21731.

<sup>819</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21400, 21407; Transcript 2 December 2008, pp. 21418-21420, 21457.

<sup>820</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21457.

<sup>821</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21616, 21624.

<sup>822</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21627-21632.

<sup>823</sup> Defence Final Trial Brief, paras 1503-1523.

<sup>824</sup> Dauda Aruna Fornie, Transcript 8 December 2008, pp. 21989-21992.

about the Black Gadaffa unit conniving against Taylor. While he had mentioned some of their leaders, he had also mentioned others who were not members, which indicates that the witness did not think of Black Gadaffa as a group that was conniving against Taylor. Rather, as explained, some of those conniving against Taylor were in this unit while others were not, and not all of those in the unit were conniving against Taylor. The Trial Chamber accepts this explanation and finds that Fornie's prior statement does not undermine the credibility of his testimony.

349. Despite Fornie's claim to have been based in Bomi Hills at the same time as Oliver Varney, he identified "One Man One" as his commander.<sup>825</sup> Fornie was not cross-examined on this point, but the Defence maintains that this response was "poorly informed" as it was well known that Oliver Varney commanded this battalion.<sup>826</sup> The Trial Chamber notes, however, that witness testimony and Exhibit P-054 indicate that during this time period Oliver Varney was a superior to One Man One, who was a superior to members such as Fornie, and thus both could have been considered "commanders" to Fornie.<sup>827</sup>

350. In his testimony with regard to an alleged visit by Taylor with Sankoh to Kakata before Operation Octopus in 1992, Fornie gravitated between stating that the windows of the vehicle in which Taylor allegedly sat were either open, or closed.<sup>828</sup> While Fornie was inconsistent on this point, he was consistent in stating that he was told that Taylor was present by "Lion", and that he had never seen Taylor before this moment.<sup>829</sup> The Trial Chamber considers that whether the window was open or closed is a minor detail.

351. Fornie testified that he served as a radio operator for the RUF while based in Tongo.<sup>830</sup> In a prior statement, however, Fornie did not mention that he was a radio operator in Tongo.<sup>831</sup> When confronted with this inconsistency, Fornie noted that despite not specifying that he was a radio operator in Tongo, in the same statement he clearly indicated that he was trained as a radio operator prior to Tongo. Fornie also admits that during his first

<sup>825</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21310, 21317.

<sup>826</sup> Defence Final Trial Brief, para. 1505.

<sup>827</sup> TF1-371, Transcript 25 January 2009, pp. 2222-2225 (CS); Exhibit P-054, "NPFL Command Structure Circa 1990-1991 as indicated by TF1-371, 00100162". See Pre-Indictment Period (1988-1996), Alleged Meeting between Taylor, Sankoh and Dr Manneh in Burkina Faso.

<sup>828</sup> Dauda Aruna Fornie, Transcript 8 December 2008, pp. 21993-21995.

<sup>829</sup> Dauda Aruna Fornie, Transcript 8 December 2008, pp. 21993-21995.

<sup>830</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21419-21420.

<sup>831</sup> Defence Final Trial Brief, para. 1511.

contact with Prosecutors he was pretending not to know certain things so as not to identify himself too much.<sup>832</sup> The Trial Chamber notes that Fornie did proffer in a prior statement that he was a radio operator in Buedu, despite omitting that he was the same in Tongo.<sup>833</sup> The Trial Chamber finds Fornie's explanation for the omission of this detail to be credible.

352. When confronted in cross-examination with other inconsistencies with his prior statements, Fornie admitted again to a lack of candour in his first dealings with the Prosecution in 2003.<sup>834</sup> Fornie claimed that he was surprised by the Prosecution's appearance at his home, and he mistrusted them. Fornie contends that until mid-2006, he still worried that he would be a possible defendant, but his concerns were lessened when he received a letter promising immunity from prosecution.<sup>835</sup> The Trial Chamber accepts this explanation.

353. Fornie's account of being freed by the Kamajors is vague, and Fornie was not particularly lucid in his account of his escape from captivity. The Trial Chamber does not, however, believe that the witness is inconsistent on the facts; he maintains that he "escaped" throughout his testimony.<sup>836</sup>

354. The Trial Chamber notes the Defence's challenge to Fornie's testimony regarding a radio recording about the Freetown invasion,<sup>837</sup> and has considered that evidence in the section on the Freetown Invasion.<sup>838</sup> The Trial Chamber recalls that it accepted Fornie's evidence on that point.

355. Similarly, upon cross-examination, Fornie mistakenly identified Gullit as a member of the RUF.<sup>839</sup> At another point in his testimony, however, Fornie referred to Gullit as a senior member of the AFRC, and when he otherwise referred to Gullit in his testimony the

<sup>832</sup> Dauda Aruna Fornie, Transcript 8 December 2008, pp. 21940-21941.

<sup>833</sup> Dauda Aruna Fornie, Transcript 10 December 2008, pp. 22026-22027.

<sup>834</sup> Dauda Aruna Fornie, Transcript 8 December 2008, pp. 21940-21941.

<sup>835</sup> Dauda Aruna Fornie, Transcript 8 December 2008, pp. 21889-21894.

<sup>836</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21400-21401; Transcript 4 December 2008 pp. 21671-216722; Transcript 8 December 2008, pp. 21924-21929, 21935-21938.

<sup>837</sup> Defence Final Trial Brief, paras 899-901. "Q: Do you recall approximately when this recording occurred? Fornie: It was around [...] February to March 1999. That was after the Freetown Invasion on January 6 by the RUF" (Dauda Aruna Fornie, Transcript 2 December 2008, p. 21500).

<sup>838</sup> Military Operations: The Freetown Invasion, Allegation that the Accused directed the Freetown Invasion.

<sup>839</sup> Defence Final Trial Brief, para. 901, citing Dauda Aruna Fornie, Transcript 4 December 2008, pp. 21666-21667.

context demonstrates that Fornie knew he was an AFRC member.<sup>840</sup> The Trial Chamber thus regards Fornie's misidentification of Gullit as a minor error that does not undermine his credibility.

356. In direct examination, Fornie also testified that he monitored a conversation in which Bockarie gave direct instructions to Gullit to cause mayhem in Freetown by destroying government buildings and amputating civilian hands.<sup>841</sup> Upon cross-examination, however, Defence counsel contended that in his prior statements, Fornie did not mention the ordering of amputations.<sup>842</sup> Fornie insisted that he did tell Prosecutors that this occurred.<sup>843</sup> Similarly, Fornie testified to being put in a dungeon by Bockarie after a letter he wrote to Sankoh, suggesting he use Taylor to convince Bockarie to disarm and depart from Buedu, was made public.<sup>844</sup> When confronted on cross-examination by a prior statement in which he did not mention the letter or the link to the Accused, Fornie replied that he must have mentioned this to investigators and that he could not recall every detail that took place a decade ago.<sup>845</sup> The Trial Chamber notes that Fornie's testimony is not inconsistent with his prior statements. Rather it includes details and information not mentioned in the statements. The witness testified that he thought he must have mentioned these details to investigators but also noted that he does not recall everything. The Trial Chamber considers, in light of Fornie's explanation, that the omission of information he provided at trial from his prior statements does not undermine the credibility of his testimony.

357. Concerning alleged financial payments to Fornie, Fornie received in total approximately 3.9 million leones (approximately \$USD 1,300)<sup>846</sup> from the OTP and 6.5 million leones (approximately \$USD 2,170)<sup>847</sup> from the WVS over two years.<sup>848</sup> These payments included transportation, medical expenses, rent payments and witness attendance

<sup>840</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21564. See for example Dauda Aruna Fornie, Transcript 5 December 2008, pp. 21820-2182 (describing communication between the RUF and the AFRC as communication between Bockarie and Gullit).

<sup>841</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21590-21593.

<sup>842</sup> Dauda Aruna Fornie, Transcript 10 December 2008, pp. 22112-22114.

<sup>843</sup> Dauda Aruna Fornie, Transcript 10 December 2008, pp. 22113-22115.

<sup>844</sup> Dauda Aruna Fornie, Transcript 8 December 2008, pp. 21629-21632.

<sup>845</sup> Dauda Aruna Fornie, Transcript 8 December 2008, pp. 21987-21989.

<sup>846</sup> Conversion based on the rate of approximately 3,000 leones/US dollar.

<sup>847</sup> Conversion based on the rate of approximately 3,000 leones/US dollar.

<sup>848</sup> Dauda Aruna Fornie, Transcript 11 December 2008, pp. 22250-22251.

allowances.<sup>849</sup> The Trial Chamber finds that these payments do not appear to be unreasonable, and did not influence his testimony.

358. In light of the above considerations, the Trial Chamber finds Fornie to be generally credible and will consider further issues relating to his credibility in context as they may arise.

#### Defence Witness Issa Sesay

359. Issa Sesay testified that around September or October 1990, while living in Abidjan, Côte d'Ivoire, Foday Sankoh (a.k.a. Pa Morlai) abducted him into the RUF by deception.<sup>850</sup> Sesay trained at Camp Naama from October 1990 until he took part in the RUF invasion of Sierra Leone in March 1991.<sup>851</sup> During the civil war, he rose through the RUF ranks. He testified that between June 1994 and November 1995, he occupied the position of RUF Area Commander for Kailahun.<sup>852</sup> In about March 1997 he was promoted to Battle Group Commander, a position he held for a year until Bockarie appointed him Acting Battle Field Commander in March 1998.<sup>853</sup> During the Junta regime, he was also a member of the Junta governing body.<sup>854</sup> In July 1999, Sankoh re-instated his Battle Group Commander status before appointing him Battle Field Commander after Bockarie left Sierra Leone in December 1999.<sup>855</sup> From May 2000, Sesay directed RUF activities in Sierra Leone.<sup>856</sup> He was appointed Interim Leader of the RUF in August 2000<sup>857</sup> and, in that role, oversaw the full disarmament of the RUF<sup>858</sup> and the formal cessation of hostilities in Sierra Leone on about 18 January 2002.<sup>859</sup>

360. On 25 February 2009, Sesay was convicted by Trial Chamber I of the Special Court of 16 counts of war crimes, crimes against humanity and other serious violations of

<sup>849</sup> Dauda Aruna Fornie, Transcript 11 December 2008, p. 22251.

<sup>850</sup> Issa Sesay, Transcript 5 July 2010, pp. 43587-43588, 43597, 43604. See also Issa Sesay, Transcript 16 August 2010, pp. 46390-46391.

<sup>851</sup> Issa Sesay, Transcript 5 July 2010, pp. 43590, 43597-43604; Transcript 16 August 2010, p. 46415.

<sup>852</sup> Issa Sesay, Transcript 26 July 2010, p. 44596.

<sup>853</sup> Issa Sesay, Transcript 26 July 2010, p. 44590.

<sup>854</sup> Prosecution Exhibit P-058, "Excerpts from the Sierra Leone Gazette No. 52, 4 September 1997", p. 2.

<sup>855</sup> Issa Sesay, Transcript 26 July 2010, p. 44591.

<sup>856</sup> Issa Sesay, Transcript 23 August 2010, p. 46883.

<sup>857</sup> Issa Sesay, Transcript 27 July 2010, p. 44691.

<sup>858</sup> Issa Sesay, Transcript 5 July 2010, p. 43589.

<sup>859</sup> *Prosecutor v Taylor*, SCSL-03-1-T-370, Admitted Facts and Law, 26 April 2007, Agreed Fact 35.

international humanitarian law,<sup>860</sup> for which he was sentenced to 52 years' imprisonment on 8 April 2009.<sup>861</sup> With few exceptions, these convictions and the sentence were upheld on appeal on 26 October 2009.<sup>862</sup>

361. The Trial Chamber observed that Issa Sesay maintained a calm demeanour throughout the entirety of his oral testimony, including cross-examination, despite being repeatedly accused of lying. He demonstrated a generally good recollection of dates and offered extensive detail in his responses. The Trial Chamber observed the witness clearly visualising some of the events as he described them.

362. The Trial Chamber does, however, have concerns about the veracity and accuracy of several aspects of Issa Sesay's testimony. Whilst he freely admitted that other senior commanders like Foday Sankoh,<sup>863</sup> Mike Lamin<sup>864</sup> and Denis Mingo (a.k.a. Superman)<sup>865</sup> and the RUF rebels committed crimes,<sup>866</sup> he projected an implausible image of himself throughout his testimony as the lone pacifist within the RUF movement concerned with the well-being of civilians throughout the conflict. For example, he testified that Kono was 'nice' for civilians in 2000<sup>867</sup> and that there was no evidence of crimes in Kailahun during the time he was area commander there.<sup>868</sup> He later admitted in cross-examination that this latter statement was not correct.<sup>869</sup> Considering that Sesay stated that his only hope of an early release from prison lies in God and the people of Sierra Leone<sup>870</sup> and that he came to set the record straight on lies told about him by his former RUF colleagues,<sup>871</sup> the Trial Chamber considers that this witness apparently continues to harbour a misplaced belief that his freedom can be secured if he continues to deny publicly his own involvement in

<sup>860</sup> Issa Sesay, Transcript 16 August 2010, pp. 46314-46315. See also *Prosecutor v Sesay, Kallon and Gbao*, SCSL-04-15-T, Judgement, 2 March 2009.

<sup>861</sup> Issa Sesay, Transcript 26 August 2010, p. 47210. See also *Prosecutor v Sesay, Kallon and Gbao*, SCSL-04-15-T, Sentencing Judgement, 8 April 2009.

<sup>862</sup> Issa Sesay, Transcript 26 August 2010, p. 47209. See also *Prosecutor v Sesay, Kallon and Gbao*, SCSL-04-15-A, Appeal Judgement, 26 October 2009.

<sup>863</sup> Issa Sesay, Transcript 16 August 2010, pp. 46315-46316.

<sup>864</sup> Issa Sesay, Transcript 16 August 2010, p. 46316.

<sup>865</sup> Issa Sesay, Transcript 16 August 2010, pp. 46316-46317.

<sup>866</sup> Issa Sesay, Transcript 5 July 2010, pp. 43590-43591.

<sup>867</sup> Issa Sesay, Transcript 13 August 2010, p. 46275.

<sup>868</sup> Issa Sesay, Transcript 5 July 2010, pp. 43590-43591; Transcript 26 July 2010, p. 44614.

<sup>869</sup> Issa Sesay, Transcript 16 August 2010, p. 46389.

<sup>870</sup> Issa Sesay, Transcript 26 August 2010, p. 47210.

<sup>871</sup> Issa Sesay, Transcript 27 August 2010, pp. 47351-47352.

atrocities committed by the RUF and AFRC/RUF alliance and was thus motivated to distort some of the evidence he provided to this Court.

363. During his testimony, the witness contradicted himself several times when giving evidence about the diamonds taken from Johnny Paul Koroma in early 1998 and how he subsequently lost them outside his hotel in Monrovia. On separate occasions during his examination-in-chief, he told this Chamber that when the diamonds were taken, they were in a rubber cylinder like a ‘ludo’ cup<sup>872</sup> and in a plastic case used to store tablets<sup>873</sup>. Under cross-examination, he testified, very soon afterwards, that they were in a cup or bottle with a lid<sup>874</sup> and then a plastic tablet bag.<sup>875</sup> The following day, he reverted to the ‘ludo’ cup saying he had made a “slip of the tongue”.<sup>876</sup> The account of the subsequent journey to Monrovia was equally contradictory. Sesay testified several times that he lost the diamonds on his fifth or sixth day in Monrovia<sup>877</sup>. When challenged on cross-examination, he disavowed his previous testimony saying “I’m talking about the days that I spent at the hotel, because when I lost the diamonds I was at the hotel for another two to three days before I went”.<sup>878</sup> Immediately he changed his testimony again, telling the Trial Chamber that he went to stay with Jungle (Daniel Tamba) after losing the diamonds<sup>879</sup>.

364. Issa Sesay’s testimony about the confiscation of diamonds from Alex Tamba Brima (a.k.a. Gullit) was similarly confused. He testified before this Trial Chamber that he had seized diamonds from Brima at the Guinean border in 1998. He explained that Johnny Paul Koroma had rejected the diamonds Brima had previously handed over to Sam Bockarie and sent Lamin and Sesay for more.<sup>880</sup> Three weeks previously he had testified that Brima had not given up any diamonds until Sesay confronted him.<sup>881</sup> Both versions of this encounter contradicted the evidence he provided to Trial Chamber I where he testified that they had found nothing on Brima because he had already handed his diamonds over to Sam

<sup>872</sup> Issa Sesay, Transcript 8 July 2010, p. 44025.

<sup>873</sup> Issa Sesay, Transcript 29 July 2010, p. 45010.

<sup>874</sup> Issa Sesay, Transcript 18 August 2010, p. 46585.

<sup>875</sup> Issa Sesay, Transcript 18 August 2010, pp. 46586-46588.

<sup>876</sup> Issa Sesay, Transcript 19 August 2010, p. 46676.

<sup>877</sup> Issa Sesay, Transcript 8 July 2010, p. 44094; Transcript 12 July 2010, p. 44275; Transcript 18 August 2010, p. 46597.

<sup>878</sup> Issa Sesay, Transcript 18 August 2010, p. 46598.

<sup>879</sup> Issa Sesay, Transcript 18 August 2010, p. 46598.

<sup>880</sup> Issa Sesay, Transcript 29 July 2010, p. 45005.

<sup>881</sup> Issa Sesay, Transcript 8 July 2010, pp. 44048-44049.



Bockarie.<sup>882</sup> When confronted, Sesay offered no explanation for the contradiction, saying only that he did not recall what he had testified previously.

365. In cross-examination, a number of other inconsistencies were raised between Issa Sesay's testimony and the evidence he gave to Trial Chamber I in his own trial ("the RUF Trial"). Examples include whether Sam Bockarie had brought a large shipment of arms in late 1998 from Burkina Faso (as he testified in the RUF Trial)<sup>883</sup> or from Foya, Liberia (as he testified before this Trial Chamber)<sup>884</sup>, whether Bockarie had ordered Denis Mingo to move to Koinadugu in mid-1998<sup>885</sup> and how many trips he made to Monrovia in May 2000. During the RUF Trial, he testified that he had travelled to Monrovia twice: once to discuss the UN hostage crisis with Taylor and once to escort the hostages when they were released.<sup>886</sup> In contrast, he told this Trial Chamber that he only went once to discuss the release of the peacekeepers.<sup>887</sup> When the Prosecution confronted him on each of the inconsistencies, Sesay re-affirmed his examination-in-chief but claimed not to remember what he had testified in his own trial.<sup>888</sup> The Trial Chamber observed that his testimony that 'he did not recall' what he had testified previously became somewhat of a standard response while Sesay failed to engage with the factual situation at hand. When pressed on the 1998 arms shipment, he then testified that he had become aware of his error when he read the transcripts his lawyer had given him after his trial had concluded.<sup>889</sup> In view of the detail in which he had testified about the incident in the RUF Trial and his initial response that he did not recall what he testified in the RUF Trial, the Trial Chamber finds this explanation implausible. In relation to the May 2000 Monrovia trip, he testified "*if I said that, then it was not the truth*".<sup>890</sup> Such responses did not satisfy the Trial Chamber that this witness was telling the truth.

<sup>882</sup> Issa Sesay, Transcript 19 August 2010, pp. 46740-46742.

<sup>883</sup> Issa Sesay, Transcript 12 August 2010, p. 46155.

<sup>884</sup> Issa Sesay, Transcript 12 July 2010, p. 44302; Transcript 26 July 2010, p. 44627; Transcript 12 August 2010, p. 46158.

<sup>885</sup> Issa Sesay, Transcript 8 July 2010, pp. 44054-44055; Transcript 18 August 2010, pp. 46629-46630.

<sup>886</sup> Issa Sesay, Transcript 23 August 2010, pp. 46896-46897.

<sup>887</sup> Issa Sesay, Transcript 26 July 2010, pp. 44601-44602; Transcript 2 August 2010, p. 45233.

<sup>888</sup> Issa Sesay, Transcript 12 August 2010, pp. 46155-46160 regarding the 1998 arms shipment; Issa Sesay, 18 August 2010, p. 46631 regarding Superman's reassignment to Koinadugu and Issa Sesay, Transcript 23 August 2010, p. 46897 regarding the Monrovia trips.

<sup>889</sup> Issa Sesay, Transcript 18 August 2010, p. 46657.

<sup>890</sup> Issa Sesay, Transcript 23 August 2010, p. 46898.





366. The Trial Chamber notes that there were other major inconsistencies in Sesay's evidence. For example, Sesay's testimony concerning the relationship between the group led by Brigadier Mani and the RUF around the time of the January 1999 Freetown invasion was inconsistent in several respects<sup>891</sup> as was his evidence regarding his knowledge of Idrissa Kamara (a.k.a. Rambo Red Goat).<sup>892</sup> The Trial Chamber has considered these instances in the context of the Judgement as they arise.

367. Sesay challenged the authenticity of a significant number of Prosecution and Defence exhibits throughout the course of his testimony, in some instances on the basis that the signature on the document, purportedly belonging to either Sesay or other RUF members, was a forgery. Under cross-examination, Sesay was presented with Exhibit P-582<sup>893</sup> which shows 15 different signatures purporting to belong to him. He identified four signatures as forgeries and adopted the remainder as his own.<sup>894</sup> Of those four 'forgeries', two corresponded with documents Exhibit D-084<sup>895</sup> and D-259<sup>896</sup> whose authenticity Sesay had questioned<sup>897</sup> but he reluctantly admitted that the remaining two, Exhibits P-360<sup>898</sup> and P-584,<sup>899</sup> were to be found on documents he testified that he had in fact signed himself.<sup>900</sup> Furthermore, one of the signatures he accepted as his own belonged to Exhibit P-028, which he had alleged to be a forgery.<sup>901</sup> The Trial Chamber considers that Sesay's conflicting evidence regarding his signature demonstrates that his allegations of forgery are not to be

<sup>891</sup> See Military Operations: The Freetown Invasion, The Implementation of the Plan.

<sup>892</sup> See Military Operations: The Freetown Invasion, The Implementation of the Plan.

<sup>893</sup> Prosecution Exhibit P-582, "Page Indicating Fifteen Different Signatures with Marks Indicating those Signatures that do not belong to Issa Sesay".

<sup>894</sup> Issa Sesay, Transcript 25 August 2010, pp. 47061-47064.

<sup>895</sup> Defence Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, From Brigadier Issa H Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999".

<sup>896</sup> Defence Exhibit D-259, "Press Communiqué Issued by the Revolutionary United Front (RUF) Following a Meeting with H.E. Alpha Oumar Konare, President of Mali and Chairman of ECOWAS, H.E. Olusegun Obasanjo, President of Nigeria, and H.E. Dahkpannah Dr Charles Ghankay Taylor, President of Liberia, August 21 2000".

<sup>897</sup> Regarding D-084, see Issa Sesay, Transcript 12 July 2010, pp. 44253-44254; regarding D-259, see Issa Sesay, Transcript 26 July 2010, pp. 44566-44567; Transcript 25 August 2010, pp. 47089-47092.

<sup>898</sup> Prosecution Exhibit P-360, "The People's Army of Sierra Leone, to his Excellency Major J. P. Koroma, Head of State and Chairman Armed Forces Revolutionary Council (AFRC) State House, Freetown, Proposal for the Tentative Integration of the People's Army into the National Army and the Political Circle, from the Military High Command and War Council, People's Army of Sierra Leone, 13 August 1997".

<sup>899</sup> Prosecution Exhibit P-584, "Revolutionary United Front Party of Sierra Leone (RUF/SL), Letter from General Issa H Sesay, Interim Leader - RUF/SL, to Lt. General Daniel I Opande, Force Commander, UNAMSIL, Response, December 7 2000".

<sup>900</sup> Regarding P-360, see Issa Sesay, Transcript 25 August 2010, p. 47084; regarding P-584, see Issa Sesay, Transcript 25 August 2010, pp. 47087-47088.

<sup>901</sup> Issa Sesay, Transcript 6 August 2010, pp. 45623-45624, 45627.

believed. That Sesay identified Sam Bockarie's signature on Exhibit D-009<sup>902</sup> as genuine when he was first shown it,<sup>903</sup> only later alleging that it was a forgery<sup>904</sup> supports this conclusion.

368. Sesay alleged that documents D-009, D-084 and P-067<sup>905</sup> had been fraudulently drafted by Gibril Massaquoi.<sup>906</sup> However, the Trial Chamber notes that not only did Sesay initially fail to contest the authenticity of Exhibit D-009, but his allegation that Massaquoi forged the documents was founded upon nothing more than speculation based on events that had no relevance to the creation of the document, including Sesay's account of Massaquoi's arrest<sup>907</sup> and Massaquoi's movements throughout the conflict.<sup>908</sup> Moreover, two of these documents, D-009 and D-084, criticise and incriminate Massaquoi in various ways, undermining Sesay's proposition that Massaquoi had forged the report.<sup>909</sup>

369. Furthermore, the Trial Chamber notes that Sesay was inconsistent when contesting the authenticity of certain documents, reinforcing the Trial Chamber's view that such challenges enjoyed little genuine foundation. For example, Sesay testified that P-067 could not be genuine because if Swarray had written the report he would have necessarily signed it and "then pen[ned] down his name under the signature".<sup>910</sup> Yet this is contradicted by Sesay's later challenge to Exhibit P-362 that Jackson Swarray was illiterate.<sup>911</sup>

370. In light of Sesay's conflicting evidence and speculative assertions when challenging the authenticity of documents exhibited to this Court, the Trial Chamber considers that his perpetual allegations of forgery are not to be believed and thus accords no weight to any of them.

<sup>902</sup> Defence Exhibit D-009, "RUF Defence Headquarters, Salute Report to the Leader of the Revolution from Major Sam Bockarie".

<sup>903</sup> Issa Sesay, Transcript 12 July 2010, p. 44252.

<sup>904</sup> Issa Sesay, Transcript 23 August 2010, pp. 46930-46931.

<sup>905</sup> Exhibit P-067, "RUF People's Army-- Situation Report to Foday Sankoh from the Black Revolutionary Guards".

<sup>906</sup> Issa Sesay, Transcript 12 July 2010, pp. 44296, 44316; Transcript 13 July 2010, pp. 44324-44327.

<sup>907</sup> See for example Issa Sesay, Transcript 12 July 2010, pp. 44261-44263.

<sup>908</sup> See for example Issa Sesay, Transcript 12 July 2010, pp. 44261-44263, 44304; Transcript 13 July 2010, pp. 44324-44326.

<sup>909</sup> See for example Exhibit D-009, "RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie", ERN 9670; Exhibit P-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999", ERN 7766.

<sup>910</sup> Issa Sesay, Transcript 12 July 2010, p. 44294.

371. Finally, the Trial Chamber notes that in cross-examination, Defence Witness DCT-292 was asked whether Issa Sesay was a credible person, and the witness replied, “I have to say that Issa Sesay is not a credible man” and affirmed that he had seen him lie when it was in his interest to do so.<sup>912</sup>

372. In light of the above considerations, the Trial Chamber finds that Sesay’s evidence must generally be considered with caution and cannot be relied upon without corroboration. The Trial Chamber will consider further issues relating to his credibility in context as they may arise.

#### Defence Witness DCT-008

373. Defence Witness DCT-008, a Liberian,<sup>913</sup> joined the NPFL in the early 1990s and joined the SSS a number of years later.<sup>914</sup> DCT-008 was a radio operator. He testified that, while assigned in Monrovia, he had the opportunity to observe what Benjamin Yeaten’s radio operator, code named Sunlight, was doing.<sup>915</sup>

374. The Trial Chamber observes that in cross-examination, when asked by the Prosecution whether he had “basically reinvented” his testimony, DCT-008 conceded, stating that “I changed some parts of my testimony that I had given in Monrovia – when I got here, I changed it”.<sup>916</sup> The witness testified that he was not honest in the interviews preceding his arrival in The Hague because he did not know the people who were interviewing him well and was afraid.<sup>917</sup> DCT-008 further stated that he decided to change his testimony because “I did not want to come before this Honourable Court and tell lies or to explain made up stories”.<sup>918</sup>

375. The Trial Chamber notes that with regard to several allegations made by the Prosecution, the testimony of DCT-008 is wholly inconsistent with the testimony of other Defence witnesses as well as Prosecution witnesses. For example, DCT-008 is the only

<sup>911</sup> Issa Sesay, Transcript 13 July 2010, p. 44339.

<sup>912</sup> DCT-292 Transcript 3 June 2010, p. 42033.

<sup>913</sup> DCT-008, Transcript 24 August 2010, pp. 46948-46951 (PS).

<sup>914</sup> DCT-008, Transcript 24 August 2010, pp. 46972-46975, 46993, 46996-46999.

<sup>915</sup> DCT-008, Transcript 24 August 2010, pp. 47024-47025.

<sup>916</sup> DCT-008, Transcript 6 September 2010, p. 48010.

<sup>917</sup> DCT-008, Transcript 7 September 2010, p. 48110.

<sup>918</sup> DCT-008, Transcript 7 September 2010, p. 48109.

witness who testified that Yeaten's arms trading with the RUF was being carried out independently of and covertly from the Accused.<sup>919</sup> The Trial Chamber recalls that Prosecution witness Dauda Aruna Fornie ("DAF"), an RUF radio operator,<sup>920</sup> testified that when Bockarie contacted Yeaten to request military supplies through his radio operators,<sup>921</sup> Yeaten's radio operator Sunlight would respond that Bockarie should wait while Yeaten consulted with "Zero-Four-Seven", which Fornie testified to be the code name for the Accused.<sup>922</sup> The Trial Chamber notes that the Accused testified that "Zero-Four-Seven" or "047" was indeed one of the code names used for him by radio operators.<sup>923</sup> The Trial Chamber also notes the testimony of Prosecution witness Perry Kamara, an RUF radio operator,<sup>924</sup> who testified that Bockarie would send messages to his commanders "that he had brought ammunitions from Charles Taylor".<sup>925</sup> Prosecution witness TF1-516, an RUF radio operator,<sup>926</sup> testified that Yeaten himself would say when ammunition was given to the RUF "that it is his dad Charles Taylor who provided them".<sup>927</sup> The Trial Chamber finds no corroboration of DCT-008's evidence that Yeaten was acting independently of the Accused, while there is substantial evidence that Yeaten was representing, and was perceived to be representing, the Accused.

376. The Trial Chamber notes that in cross-examination, DCT-008 sought to elide the distinction between fact and opinion. When asked about contradictory evidence from other witnesses regarding the transport of arms, DCT-008 said that their testimony is their own view and that he could not judge the "opinions" of another person. According to the witness, if he said that something happened and another person said it did not happen, "then that's the person's opinion".<sup>928</sup> The Trial Chamber found such an approach evasive, demonstrating an unwillingness on the witness's part to engage with the inconsistency at hand. The Trial Chamber also recalls that on successive answers the witness would first state that he had no

<sup>919</sup> DCT-008, Transcript 24 August 2010, pp. 47046-47047.

<sup>920</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21395; Transcript 2 December 2008, p. 21418.

<sup>921</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21482.

<sup>922</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21483.

<sup>923</sup> Charles Ghankay Taylor, Transcript 16 September 2009, p. 28992.

<sup>924</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>925</sup> Perry Kamara, Transcript 5 February 2008, p. 3118.

<sup>926</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>927</sup> TF1-567, Transcript 7 July 2008, p. 13040.

<sup>928</sup> DCT-008, Transcript 3 September 2010, p. 47936.





idea whether the Accused had any relationship with the RUF, and then testify that the Accused had no involvement with the rebels in Sierra Leone.<sup>929</sup>

377. The Trial Chamber also notes that certain inconsistencies in the testimony of witness DCT-008 can be observed. For instance, the witness testified that Sunlight does not speak or understand Krio.<sup>930</sup> The witness also gave evidence to the effect that Sunlight used to monitor the RUF radio network and listen in to conversations between three Sierra Leoneans, Foday Sankoh, Sam Bockarie and Issa Sesay.<sup>931</sup> The witness testified that Sunlight could follow these conversations because they were carried out in English and not in Krio.<sup>932</sup> In particular, the witness testified that Sunlight overheard Foday Sankoh giving an order to Issa Sesay to take charge and become commander of the RUF.<sup>933</sup> The Trial Chamber recalls that Defence witness Issa Sesay testified that his English is not good.<sup>934</sup> The Trial Chamber notes that DCT-008 himself also testified to occasions when Sunlight understood parts of conversations which, according to the witness, were conducted in Krio, whereas he also said that Sunlight did not understand Krio. For example, he testified that Sunlight overheard Daniel Tamba (a.k.a. Jungle) telling Sellay to speak with “the brother”, Sam Bockarie,<sup>935</sup> and he told the Court on several occasions that Sellay and Jungle spoke Krio to each other.<sup>936</sup>

378. The Trial Chamber notes that DCT-008 provided contradictory and implausible testimony regarding Liberian telephone communications, an area about which he should have been best informed. For example, he repeatedly denied that “2-1” was the code for a telephone in Liberia<sup>937</sup>, rather that it was “10-2-1” or “10-21”, yet he himself shortly thereafter described “this well-known code, 2-1 or 10-2-1”.<sup>938</sup> Moreover, DCT-008 testified that the operators at Base 1 avoided using the code because it was so well known.<sup>939</sup> Both

<sup>929</sup> See for example DCT-008, Transcript 7 September 2010, p. 48217.

<sup>930</sup> DCT-008, Transcript 24 August 2010, pp. 47042-47043.

<sup>931</sup> DCT-008, Transcript 7 September 2010, p. 48159.

<sup>932</sup> DCT-008, Transcript 7 September 2010, pp. 48159-48161.

<sup>933</sup> DCT-008, Transcript 30 August 2010, p. 47488; Transcript 7 September 2010, p. 48160.

<sup>934</sup> Issa Sesay, Transcript 5 July 2010, p. 43584; Transcript 9 July 2010, pp. 44163-44164.

<sup>935</sup> DCT-008, Transcript 24 August 2010, p. 47048.

<sup>936</sup> DCT-008, Transcript 30 August 2010, pp. 47485-47486; Transcript 3 September 2010, p. 47906; Transcript 7 September 2010, pp. 48157-48158.

<sup>937</sup> DCT-008, Transcript 31 August 2010, p. 47584; Transcript 6 September 2010, p. 47958.

<sup>938</sup> DCT-008, Transcript 31 August 2010, p. 47586.

<sup>939</sup> DCT-008, Transcript 31 August 2010, pp. 47585-47586.

DCT-008's assertions are belied by the testimonies of a significant number of credible RUF radio operators who testified to Liberian operators, including those at Base 1, using the code "2-1", meaning telephone, in communications with Sierra Leone.<sup>940</sup>

379. The Trial Chamber accepts that the witness might have felt insecure during his first interviews and as a result lied in his statements. The Trial Chamber notes that after arriving in The Hague the witness openly admitted doing so. Nevertheless, the Trial Chamber also observes that throughout his testimony, the witness presented a story which heavily contradicted that of many other witnesses in the case, that there were inconsistencies in the evidence provided and that on occasions, the witness appeared evasive.

380. In light of the above considerations, the Trial Chamber finds that Defence witness DCT-008's evidence must generally be considered with caution and requires corroboration.

#### **D. Authenticity Assessment of Specific Documents**

381. During the course of the proceedings, several documents tendered for admission were contested by the parties.<sup>941</sup> The Trial Chamber recalls that where objections were made regarding the authenticity of certain documents, the Trial Chamber admitted the documents on the basis that any considerations relating to the authenticity of documents went to weight, rather than admissibility.<sup>942</sup> In this section, the Trial Chamber will assess the authenticity of two documents, Exhibit P-063 and Exhibit P-067, whose authenticity has been challenged by the Defence during the course of the trial. Many of the other documents challenged were challenged by Defence witness Issa Sesay. The Trial Chamber finds, for reasons detailed in its discussion of his credibility, that these challenges are not to be accorded any weight. Further issues relating to authenticity of specific documents are addressed as necessary in the context of the Trial Chamber's discussion of the particular events to which they pertain.

<sup>940</sup> See for example TF1-516, 8 April 2008, pp. 6911, 6977; TF1-585, Transcript 5 September 2008, pp. 15604-15605; Alice Pyne, Transcript 18 June 2008, p. 12170.

<sup>941</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-747, Decision on Prosecution Motion for Admission of Documents Seized from Foday Sankoh's House, 26 February 2009, para. 13; *Prosecutor v. Taylor*, SCSL-03-01-T-749, Decision on Prosecution Motion for Admission of Documents Seized from RUF Kono Office, Kono District, 27 February 2009, para. 13.

<sup>942</sup> See for example Ian Smillie, Transcript 8 January 2008, pp. 675-677; Varmuyan Sherif, Transcript 10 January 2008, pp. 933-934; Transcript 14 January 2008, pp. 1206-1207.

Prosecution Exhibit P-067

382. Exhibit P-067 was tendered into evidence through TF1-371. It consists of ten pages photocopied from a handwritten document entitled “Situation Report” addressed to “the Leader”, whom TF1-371 identified as Foday Sankoh.<sup>943</sup> The exhibit is unsigned, although it purports to have been authored by “the Black Revolutionary Guards”. Although Exhibit P-067 lacks any date, it describes events occurring as early as 1996 and as late as January 1999.<sup>944</sup> The exhibit includes underlinings when references are made to the Accused, Johnny Paul Koroma, Ibrahim Bah, Jungle, and Blaise Compaoré.<sup>945</sup>

383. The Prosecution adduced evidence on the chain of custody of Exhibit P-067 through Tariq Malik, who in April 2003 became the chief of the Evidence Section within the Office of the Prosecutor, and was the chief of the Evidence, Archives and Post-Operational Access Section within the Office of the Prosecutor at the time of his testimony.<sup>946</sup> According to Malik, on 9 May 2000, the Sierra Leonean police searched Foday Sankoh’s residence at Spur Road, Freetown, which had been “ransacked” the day before, and seized “a large number of documents [that had been ...] strewn across the compound”.<sup>947</sup> The seized documents were brought to the headquarters of the Criminal Investigation Division of the Sierra Leone police force, or “CID”,<sup>948</sup> and placed in the custody of Officer Alfred Sesay. Officer Sesay guarded the documents in “a cabinet in his office under lock and key”,<sup>949</sup> but did not keep any written inventory of the documents.<sup>950</sup> Later that year, certain documents from this seizure were photocopied for the office of the Sierra Leonean Attorney General and examined by UN personnel, as well as by Alfred Sesay himself.<sup>951</sup> From 2002 to 2004, the Prosecution obtained a total of fourteen such documents from the CID through Alfred Sesay on three separate occasions. After these documents had been reviewed by OTP

<sup>943</sup> TF1-371, Transcript 29 January 2008, p. 2477 (CS).

<sup>944</sup> Exhibit P-067, “RUF People’s Army– Situation Report to Foday Sankoh from the Black Revolutionary Guards”, ERN 9672, 9677, 9681.

<sup>945</sup> Exhibit P-067, “RUF People’s Army– Situation Report to Foday Sankoh from the Black Revolutionary Guards”, ERN 9674-9678.

<sup>946</sup> Tariq Malik, Transcript 19 January 2009, p. 22915.

<sup>947</sup> Tariq Malik, Transcript 19 January 2009, p. 22940.

<sup>948</sup> Tariq Malik, Transcript 19 January 2009, p. 22942.

<sup>949</sup> Tariq Malik, Transcript 19 January 2009, p. 22942.

<sup>950</sup> Tariq Malik, Transcript 20 January 2009, p. 23054.

<sup>951</sup> Tariq Malik, Transcript 19 January 2009, p. 22941.



lawyers and investigators, they were submitted to the Evidence Unit.<sup>952</sup> By November 2004, Malik's team had processed all 14 documents.<sup>953</sup> Malik did not oversee the 14 Sankoh documents until his unit received them. Consequently, Malik's knowledge of their whereabouts prior to November 2004 derived from his reading of sworn affidavits and the RUF trial testimony of Alfred Sesay.<sup>954</sup> In addition, the Trial Chamber notes that there are also gaps in the chain of custody. Given the imperfect chain of custody, the Trial Chamber weighed this hearsay evidence—which on its own does not establish the chain of custody—with caution. The Trial Chamber, however, recalls that “gaps in the chain of custody are not fatal, provided that the evidence as a whole demonstrates beyond a reasonable doubt that the piece of evidence concerned is what it says it is”.<sup>955</sup> The Trial Chamber has therefore considered additional evidence that may establish the authenticity of Exhibit P-067.

384. The Prosecution tendered Exhibit P-067 through witness TF1-371, who testified that a representative of the Black Guards, Junior Vandj, presented the original report to Foday Sankoh in April 1999. The witness further averred that, while in Lomé as part of the RUF delegation, he “went through” the report after Sankoh had conveyed it to his adjutant, Rashid Dandy.<sup>956</sup> This foundation was later corroborated by Prosecution Witness TF1-567, who, as a Black Guard, claimed to have contributed to the report and watched Junior Vandj write the original document in Lomé.<sup>957</sup>

385. The Defence led evidence tending to impugn the authenticity of Exhibit P-067 during its cross-examination of TF1-371, asking the witness whether there was any possibility that the document could be a forgery. TF1-371 replied that, although the exhibit was a photocopy, he could still recognise the original document based on the content and writing.<sup>958</sup> The Defence also posited on cross-examination that “a journalist called Gberie”

<sup>952</sup> Tariq Malik, Transcript 20 January 2009, p. 23058.

<sup>953</sup> Tariq Malik, Transcript 19 January 2009, p. 22944.

<sup>954</sup> Tariq Malik, Transcript 19 January 2009, pp. 22936-22939.

<sup>955</sup> See Section IV(A), citing *Prosecutor v. Orić*, IT-03-68-T, Judgement, 30 June 2006, para. 27.

<sup>956</sup> TF1-371, Transcript 29 January 2008, p. 2477 (CS). On cross examination TF1-371 seemed to suggest perused a photocopy of this same original report, although this testimony was unclear and not pursued further by either party. TF1-371, Transcript 1 February 2008, pp. 2835-2836 (CS).

<sup>957</sup> TF1-567, Transcript 4 July 2008, p. 12970.

<sup>958</sup> TF1-371, Transcript 1 February 2008, p. 2835 (CS).

claimed to possess the original report, although TF1-371 disavowed any knowledge of this, and no other evidence has been adduced to substantiate this claim.<sup>959</sup>

386. During his examination in chief, the Accused was questioned about this exhibit, line by line.<sup>960</sup> He denied the document's principal assertions of fact, and described it as "a mischievous fabrication" and a mix of "facts and half truths, disinformation".<sup>961</sup>

387. The Defence later questioned Issa Sesay about the exhibit.<sup>962</sup> Sesay alleged that Exhibit P-067 was forged by of Gibril Massaquoi,<sup>963</sup> and provided several reasons for doubting the authenticity of the document; he claimed that he knew of Sankoh's bodyguards only as "the Black Guards" and not "the Black Revolutionary Guards",<sup>964</sup> asserted that the Black Guard commander at the time, Jackson Swarray, would have been the one to prepare such a report for Sankoh, and he certainly would have signed it.<sup>965</sup> Sesay also characterised most of the exhibit's factual content as "false",<sup>966</sup> "lies",<sup>967</sup> "big lies",<sup>968</sup> and "black lies",<sup>969</sup> further proof, according to the witness, that Exhibit P-067 is a forgery.<sup>970</sup>

388. The Trial Chamber recalls its finding that Issa Sesay's evidence should be treated with caution,<sup>971</sup> and places little weight on Sesay's challenges to this exhibit due to a number of reasons. First, when initially asked "who are the Black Revolutionary Guards?" by Defence Counsel, Sesay responded "Well, they are Mr Sankoh's bodyguards. They were the ones who were called by that title".<sup>972</sup> This initial adoption of the term "Black Revolutionary Guards" belies Sesay's later denial that he had never heard this term used. This denial was further undermined when the Prosecution confronted Sesay with evidence, adduced at his own trial from a witness who "would know" that, initially, "Sankoh's

<sup>959</sup> TF1-371, Transcript 1 February 2008, p. 2832 (CS).

<sup>960</sup> Charles Ghankay Taylor, Transcript 24 September 2009, pp. 29660-29686.

<sup>961</sup> Charles Ghankay Taylor, Transcript 24 September 2009, p. 29686.

<sup>962</sup> Issa Sesay, Transcript 12 July 2010, pp. 44292-44318; Transcript 13 July 2010, pp. 44321-44325.

<sup>963</sup> Issa Sesay, Transcript 12 July 2010, p. 44296; see also Transcript 12 July 2010, p. 44316; Transcript 13 July 2010, pp. 44324-44327.

<sup>964</sup> Issa Sesay, Transcript 12 July 2010, pp. 44292-44293.

<sup>965</sup> Issa Sesay, Transcript 12 July 2010, p. 44293.

<sup>966</sup> Issa Sesay, Transcript 12 July 2010, pp. 44306, 44314.

<sup>967</sup> Issa Sesay, Transcript 12 July 2010, pp. 44300, 44307, 44315.

<sup>968</sup> Issa Sesay, Transcript 12 July 2010, pp. 44309, 44314.

<sup>969</sup> Issa Sesay, Transcript 12 July 2010, pp. 44308, 44314, 44315.

<sup>970</sup> Issa Sesay, Transcript 13 July 2010, pp. 44324-44327.

<sup>971</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>972</sup> Issa Sesay, Transcript 12 July 2010, pp. 44292-44293.

bodyguards [...] were called the Revolutionary Guard”.<sup>973</sup> This evidence is also consistent with that of TF1-567, who testified that “Foday Sankoh trained us, the Black Guards, and he told us that the revolution that he had launched was a black revolution. We, the Black Guards, our duties were to guard the revolution”.<sup>974</sup> Furthermore, Exhibit P-067 refers to the “Black Guards” at least three times and concludes with “Your Revolutionary Guards RUF/SL”, all of which underscore the interrelation of these terms.

389. Second, Sesay’s propositions that Jackson Swarray would have been the only Black Guard to submit reports to Sankoh, and that if Swarray had written the report he would have necessarily signed it,<sup>975</sup> are inherently speculative and unpersuasive in light of the direct, consistent and mutually corroborative evidence of TF1-371 and TF1-567.

390. Finally, with regard to Sesay’s assertion that the document was forged by Gibril Massaquoi, the Trial Chamber notes that Sesay made the same assertion in relation to other documents, specifically Exhibits D-009 and D-084, but a perusal of these documents demonstrates dissimilarities in language, style, and format. Moreover, two of these documents, D-009 and D-084, incriminate Massaquoi, undermining Sesay’s proposition that Massaquoi had forged the report.<sup>976</sup>

391. The Trial Chamber has carefully considered the evidence relating to Exhibit P-067, and finds that Junior Vandj, as a representative of the Black Guards, did indeed present Foday Sankoh with a report in April 1999 as part of the RUF’s delegation to the peace talks. TF1-371’s testimony on this point is direct, detailed, and corroborated by the equally direct and detailed testimony of TF1-567.<sup>977</sup> The testimony of Dauda Aruna Fornie, who identified Junior Vandj as a member of the Lomé delegation,<sup>978</sup> reinforces this finding.

<sup>973</sup> Issa Sesay, Transcript 13 August 2010, p. 46199; Exhibit P-561A (confidential); Exhibit P-561B (confidential).

<sup>974</sup> TF1-567, Transcript 2 July 2008, p. 12833.

<sup>975</sup> At first blush, this proposition also runs against Sesay’s later testimony that “Jackson Swarray does not write, nor does he read”. Issa Sesay, Transcript 13 July 2010, p. 44339.

<sup>976</sup> See Exhibit D-009, “RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie”, pp. 8, 13, ERN 9665, 9670; Exhibit P-084, “RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999”, p. 11, ERN 7766.

<sup>977</sup> TF1-371, Transcript 29 January 2008, p. 2477 (CS); TF1-567, Transcript 4 July 2008, p. 12970.

<sup>978</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21640; Exhibit P-266B, “Copy of Photograph - P0001163 Marked by TF1-274”.





392. The Trial Chamber therefore considers Exhibit P-067 to be a faithful reproduction of what it purports to be.

Prosecution Exhibit P-063

393. Exhibit P-063, entitled “Forum with the External Delegates Led by the Defence Staff” and dated 2 December 1998, is a photocopy of a five-page, typewritten document purporting to be the minutes of a 2 December 1998 meeting held by Sam Bockarie at the “Waterworks” facility in Buedu. The document bears the signature of an anonymous “Joint Security Rep.”, and has been dated by the signatory “4/12/98”. The top of the first page has been marked “Battle Field Commander – RUF-SL” by hand, suggesting that this version of the document was copied to Issa Sesay,<sup>979</sup> who was the BFC at the time of the exhibit’s purported creation.<sup>980</sup> The remaining four pages also contain minor handwritten additions which either correct spelling and punctuation errors, or insert material that is irrelevant to the exhibit’s authenticity or probative value.

394. Exhibit P-063 was admitted through witness TF1-371,<sup>981</sup> who recognised it as the minutes of “the forum that took place in Waterworks after the external delegate came back from their trip led by Sam Bockarie”.<sup>982</sup> The witness expounded on the content of P-063 and the meeting it describes, as well as the subsequent meeting of senior officers referenced at the exhibit’s final page.<sup>983</sup>

395. Beyond the foundation developed through TF1-371, the Prosecution adduced evidence on the chain of custody through Tariq Malik who testified that this document was given to the Office of the Prosecutor by the Sierra Leone Police, “SLP”, in 2005. The SLP seized the document from an RUF office in 2001 in Kono District.<sup>984</sup>

396. Issa Sesay challenged the authenticity of Exhibit P-063, asserting that the minutes of such meetings were typically taken by adjutants, and that Bockarie’s adjutant, Rashid Sandy,

<sup>979</sup> Exhibit P-063, “RUF Defence Headquarters, Forum with the External Delegates Led by the RUF Defence Staff, handwritten title ‘Battlefield Commander RUF-SL’, 2nd December, 1998”, pp. 00015487, 00015491.

<sup>980</sup> Issa Sesay, Transcript 9 July 2000, p. 44183.

<sup>981</sup> *Prosecutor v. Charles Ghankay Taylor*, SCSL-03-01-T, Transcript 14 February 2008, p. 3826.

<sup>982</sup> TF1-371, Transcript 28 January 2008, p. 2405 (CS).

<sup>983</sup> TF1-371, Transcript 28 January 2008, pp. 2405-2414 (CS).

<sup>984</sup> Tariq Malik, Transcript 19 January 2009, p. 22980.

would have presumably done so for this meeting.<sup>985</sup> However, the Trial Chamber observes that the fact that P-063 was authored by a “Joint Security Rep”. instead does not vitiate the document’s authenticity. Moreover, the Trial Chamber rejects Sesay’s assertion that there was no “Joint Security Rep”. in the RUF, and that only a Joint Security Commander, who was Augustine Gbao, existed,<sup>986</sup> since the record contains at least one example of someone other than Gbao acting on behalf of Joint Security. Indeed, there is direct evidence that Joint Security personnel also took minutes of meetings held in or near Buedu at this time.<sup>987</sup> The Trial Chamber has also considered the fact that Exhibit P-063 was retrieved from an RUF installation in Koakoyima,<sup>988</sup> “where the Joint Security office was”,<sup>989</sup> as circumstantial corroboration that the exhibit was indeed drafted and retained by a representative from Joint Security. Sesay’s challenges to the document are therefore outweighed by the evidence.

397. In light of the foregoing, the Trial Chamber accepts Exhibit P-063 as what it purports to be.

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<sup>985</sup> Issa Sesay, Transcript 9 July 2010, pp. 44180-44181; Exhibit P-370, “Revolutionary United Front of Sierra Leone Defence Headquarter, Minutes of Forum Held with RUF/SL Administrative Board at Water Works Compound, 4 December 1998” (minutes of Waterworks meeting purportedly held two days later, prepared and signed by “Lt. Col. Rashid Sandy, General Adjutant – RUF/SL”); *See also* Mustapha Mansaray, Transcript 4 March 2008, p. 5236 (testifying that Joint Security was an *ad hoc* entity charged with investigating misconduct within the RUF).

<sup>986</sup> Issa Sesay, Transcript 9 July 2010, p. 44181.

<sup>987</sup> Albert Saidu, Transcript 5 June 2008, p. 11088.

<sup>988</sup> Tariq Malik, Transcript 19 January 2009, p. 22965.

<sup>989</sup> Mustapha Mansaray, Transcript 5 March 2008, p. 5311 (“I passed a night at Koakoyima, that was where the Joint Security office was”), 5351 (Q. Was there a Joint Security office located in Kono? A. Yes, it was located at Koakoyima”).





## V. APPLICABLE LAW

### A. Introduction

398. Article 1(1) of the Statute empowers the Special Court to prosecute persons

who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996, including those leaders who, in committing such crimes, have threatened the establishment of and implementation of the peace process in Sierra Leone.

The crimes over which the Special Court has jurisdiction are specified in Articles 2, 3, 4, and 5 of the Statute. In the instant case, only Articles 2, 3 and 4 of the Statute, which deal with crimes under international law, are relevant. Regarding such crimes, the Trial Chamber is bound to apply customary international law in determining whether the crimes charged in the Indictment have been established.<sup>990</sup> The Secretary-General of the United Nations (“Secretary-General”) in his “Report on the Establishment of a Special Court for Sierra Leone” noted that

In recognition of the principle of legality, in particular *nullum crimen sine lege*, and the prohibition on retroactive criminal legislation, the international crimes enumerated, are crimes considered to have the character of customary international law at the time of the alleged commission of the crime.<sup>991</sup>

The Trial Chamber is satisfied that all the crimes and modes of responsibility charged in the Indictment were part of customary international law at the time of the alleged commission of the crimes.<sup>992</sup>

399. Rule 72bis of the Rules provides that:

The applicable laws of the Special Court include:

- (i) the Statute, the Agreement, and the Rules;
- (ii) where appropriate, other applicable treaties and the principles and rules of international customary law;

<sup>990</sup> AFRC Trial Judgement, para. 639; Kamara Decision on Form of Indictment, para. 24. See also Prosecutor v. Norman, SCSL-04-14-AR72(E), Decision on Preliminary Motion Based on Lack of Jurisdiction (Child Recruitment), 31 May 2004 [CDF Appeal Decision on Child Recruitment], paras 17 et seq.

<sup>991</sup> Report of the Secretary-General on the Establishment of the Special Court, S/2000/915, 4 October 2000, para. 12.

<sup>992</sup> References supporting the customary nature of the crimes and modes of liability at the time of their alleged commission will be provided in relation to each crime and mode of liability below.





- (iii) general principles of law derived from national laws of legal systems of the world including, as appropriate, the national laws of the Republic of Sierra Leone, provided that those principles are not inconsistent with the Statute, the Agreement, and with international customary law and internationally recognized norms and standards.

400. In this section, the Trial Chamber has considered the law on the specific elements of the crimes, and on individual criminal responsibility. The law on the chapeau elements of Articles 2, 3 and 4 of the Statute has been considered in the section in the Section on “Law and Findings on the General Requirements”.<sup>993</sup>

401. There is no significant dispute between the parties regarding the applicable law.<sup>994</sup> Therefore, in this section the Trial Chamber has only referred to the submissions of the parties where the parties have requested the Trial Chamber to depart from existing jurisprudence, or where they have made submissions on issues which have not yet been settled by the Special Court’s jurisprudence or the jurisprudence of other international tribunals.

## **B. Specific Elements of the Crimes**

### 1. Count 1: Acts of Terrorism (Article 3(d) of the Statute)

402. Count 1 charges the Accused with acts of terrorism, a violation of Additional Protocol II, punishable under Article 3(d) of the Statute.<sup>995</sup> The Prosecution alleges that the Accused committed the crimes set forth in paragraph 6 to 31 of the Indictment, and charged in Counts 2 to 11, “as part of a campaign to terrorise the civilian population of the Republic of Sierra Leone”.<sup>996</sup>

403. In addition to the *chapeau* requirements of Violations of Article 3 Common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3 of the Statute, the

<sup>993</sup> See Law and Findings on the General Requirements.

<sup>994</sup> The Prosecution submits that it relies upon the law as articulated in the Appeal and Trial Judgements of the Special Court, and incorporates by reference the jurisprudence referred to in these judgements. The Prosecution indicates that it has only made specific submissions when “there has been a notable development in the jurisprudence and/or whether [sic] there is some divergence of approach in the jurisprudence”. Prosecution Final Trial Brief, para. 44.

<sup>995</sup> The Trial Chamber is satisfied that this crime was part of customary international law at the time of its alleged commission. See AFRC Trial Judgement, paras 660-662; Prosecutor v. Galić, IT-98-29-A, Judgement (AC), 30 November 2006 [Galić Appeal Judgement], para. 86.

following elements of the crime of acts of terrorism must be proved beyond reasonable doubt:

- i. Acts or threats of violence directed against persons or their property;
- ii. The perpetrator wilfully made persons or their property the object of those acts and threats of violence; and
- iii. The acts or threats of violence were committed with the primary purpose of spreading terror among protected persons.<sup>997</sup>

404. Actual terrorization is not a required element of the crime of terror, although evidence of such terrorization may be used to establish other elements of the crime.<sup>998</sup>

405. The Prosecution must prove that the spreading of terror was specifically intended.<sup>999</sup> However, while spreading terror must be the primary purpose of the acts or threats of violence, it need not be the only purpose.<sup>1000</sup> Such intent can be inferred from, *inter alia*, the “nature, manner, time and duration”<sup>1001</sup> of the acts or threats of violence, and may also be inferred from the actual infliction of terror and the indiscriminate nature of the attacks.<sup>1002</sup>

406. The Defence submits that the ICTY has held in the *Milosevic* Trial Judgement that an act or threat can be considered as “terrorism” only where it results in “death or serious injury to body or health within the civilian population or to individual civilians”.<sup>1003</sup> It notes, however, that Trial Chamber I of the Special Court explicitly rejected this requirement in the

<sup>996</sup> Indictment, para. 5; see also Case Summary, para. 19, explaining that “[t]he words ‘civilian(s)’ or ‘civilian population’ refer to persons who took no active part in the hostilities, or who were no longer taking an active part in the hostilities”.

<sup>997</sup> CDF Appeal Judgement, para. 350; AFRC Trial Judgement, para. 667. See also Galić Appeal Judgement, para. 100; Prosecutor v. Dragomir Milošević, IT-98-29/1-A, Judgement (AC), 12 November 2009 [D. Milošević Appeal Judgement], para. 31

<sup>998</sup> AFRC Trial Judgement, para. 669, referring to Galić Appeal Judgement, paras 102, 104, 107; D. Milošević Appeal Judgement, para. 35.

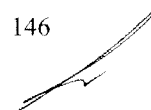
<sup>999</sup> CDF Appeal Judgement, para. 356, citing Galić Trial Judgement, para. 136; AFRC Trial Judgement, para. 699; RUF Trial Judgement, para. 119. See also Galić Appeal Judgement, para. 104.

<sup>1000</sup> AFRC Trial Judgement, para. 669, referring to Galić Appeal Judgement, para. 104; D. Milošević Appeal Judgement, para. 37. See also RUF Trial Judgement, para. 121.

<sup>1001</sup> Galić Appeal Judgement, para. 104. See also AFRC Trial Judgement, para. 669; RUF Trial Judgement, para. 121.

<sup>1002</sup> D. Milošević Appeal Judgement, para. 37.

<sup>1003</sup> Defence Final Trial Brief, para. 173, referring to Prosecutor v. Dragomir Milošević, IT-98-29/1-T, Judgement (TC), 12 December 2007 [D. Milošević Trial Judgement], paras 876 and 880.







*RUF* Trial Judgement.<sup>1004</sup> The Defence submits that this represents a divergence between the two courts which has not been resolved on appeal, and urges the Trial Chamber to resolve it in the manner most favourable to the Accused.<sup>1005</sup> The Prosecution does not address this issue in its submissions.

407. However, contrary to the Defence submissions, there is appellate authority resolving this issue, as in the *Milosević* case, the Appeals Chamber of the ICTY found that the Trial Chamber had “misinterpreted the *Galić* jurisprudence by stating that ‘actual infliction of death or serious harm to body or health is a required element of the crime of terror’, and had thus committed an error of law”.<sup>1006</sup> The Appeals Chamber of the ICTY further found that actual infliction of death or serious bodily harm was not a required element of the crime of terror, but that it must be shown that the victims suffered grave consequences resulting from the acts or threats of violence, which may include death or serious injury to body or health.<sup>1007</sup> The Trial Chamber concurs with this approach.

408. The Defence submits that, in addition to these requirements, the Appeals Chamber of the Special Tribunal for Lebanon (“STL”) has recently held that a customary rule of international law regarding the crime of terrorism has emerged which requires the following three key elements: “(i) the perpetration of a criminal act (such as murder, kidnapping, hostage-taking, arson, and so on), or threatening such an act; (ii) the intent to spread fear among the population (which would generally entail the creation of a public danger) or directly or indirectly coerce a national or international authority to take some action, or refrain from taking it; (iii) when the act involves a transnational element”.<sup>1008</sup> The Defence submits that the second and third requirements, which differ from the definition of “acts of

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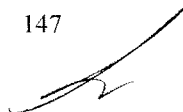
<sup>1004</sup> Defence Final Trial Brief, para. 173, referring to *RUF* Trial Judgement, para. 117, footnote 240. At paragraph 117, Trial Chamber I held that “the Prosecution is not required to prove that the act or threat caused death or serious injury to body or health within the civilian population”. In footnote 240, the Trial Chamber noted that this requirement was included by the ICTY Trial Chamber in the Dragomir Milošević case. The Trial Chamber stated that it had “considered the relevant portions of the CDF Appeal Judgement and the *Galić* Appeal Judgement and [was] satisfied that this is not a required element of the offence”.

<sup>1005</sup> Defence Final Trial Brief, para. 173.

<sup>1006</sup> D. Milošević Appeal Judgement, para. 33.

<sup>1007</sup> D. Milošević Appeal Judgement, para. 33.

<sup>1008</sup> Defence Response, para. 171, referring to STL-11-01/I/AC/R176bis, Interlocutory Decision on the Applicable Law: Terrorism, Conspiracy, Homicide, Perpetration, Cumulative Charging, 16 February 2011, [STL Appeal Decision], para. 85.



terrorism” as defined above, should be included in the definition of the crime of “acts of terrorism”.<sup>1009</sup> The Prosecution does not address this issue in its submissions.

409. The Trial Chamber notes that the Appeals Chamber of the STL found that these three key elements were applicable to “a customary rule of international law regarding the international crime of terrorism” at least in times of peace.<sup>1010</sup> It distinguished this from the war crime of “acts of terrorism”.<sup>1011</sup> The Appeals Chamber of the ICTY and the Trial Chamber of this court have held that the war crime of “acts of terrorism” (which does not contain these additional elements) is firmly established in customary international law.<sup>1012</sup>

410. The Trial Chamber is therefore of the view that the additional elements referred to in the above paragraphs do not form part of the war crime of “acts of terrorism”.

## 2. Counts 2 and 3: Unlawful Killings (Articles 2(a) and 3(a) of the Statute)

411. In Count 2, the Indictment charges the Accused with murder as a crime against humanity, punishable under Article 2(a) of the Statute.<sup>1013</sup> In addition, or in the alternative, Count 3 charges the Accused with violence to life, health and physical or mental well-being of persons, in particular murder, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II, punishable under Article 3(a) of the Statute.<sup>1014</sup>

<sup>1009</sup> Defence Response, paras 172-173.

<sup>1010</sup> STL Appeal Decision, paras 85, 102. Moreover, as the Appeals Chamber held that the STL must apply the crime of terrorism as defined by Lebanese law, it did not find that the elements it listed at paragraph 85 were applicable before the STL. STL Appeal Decision, para. 145.

<sup>1011</sup> The STL Appeals Chamber stated that “as the ICTY and the SCSL have found, acts of terrorism can constitute war crimes”. STL Appeal Decision, para. 107 and footnote 208.

<sup>1012</sup> AFRC Trial Judgement, paras 660-662; Galić Appeal Judgement, para. 86.

<sup>1013</sup> Indictment, paras 9-13. The Trial Chamber is satisfied that this crime was a part of customary international law at the time of its commission. See RUF Trial Judgement, para. 137, CDF Trial Judgement, para. 142.

<sup>1014</sup> Indictment, paras 9-13. The Trial Chamber is satisfied that this crime was a part of customary international law at the time of its commission. See Prosecutor v. Fofana, SCSL-2004-14-AR72(E), Decision on Preliminary Motion on Lack of Jurisdiction *Materiae*: Nature of the Armed Conflict (AC), 25 May 2004 [CDF Appeal Decision on Nature of Armed Conflict], para. 24; Prosecutor v. Tadić, IT-94-1-T, Decision on the Defence Motion on Jurisdiction (TC), 10 August 1995 [Tadić Decision on Jurisdiction], paras 66-73; Prosecutor v. Karemera et al., ICTR-98-44-A4(a), Decision on Count Seven of the Amended Indictment – Violence to Life, Health and Physical or Mental Well-Being of Persons (TC), 5 August 2005 [Karemera Decision on Count Seven of the Amended Indictment], paras 5-10. See also Vasiljević Trial Judgement, para. 195, where in analyzing the offence of violence to life and person, the Trial Chamber recognized that it is a breach of customary international law when the underlying act is murder, cruel treatment and torture. See also ICRC, Customary International Humanitarian Law Online Database, Rule 89 (Violence to Life), and Jean-Marie Henckaerts, Louise Doswald-Beck, ICRC, Customary International Humanitarian Law, Volume I: Rules, Cambridge, University Press (2005), p. 311.

412. The elements defining murder are identical regardless of the provision under which it is charged.<sup>1015</sup> Thus, in addition to the *chapeau* requirements of Crimes against Humanity pursuant to Article 2 of the Statute (for Count 2) and the *chapeau* requirements of Violations of Article 3 Common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3 of the Statute (for Count 3), the following elements of the crime of murder must be proved beyond reasonable doubt:

- i. The perpetrator by his acts or omission caused the death of a person or persons; and
- ii. The perpetrator had the intention to kill or to cause serious bodily harm in the reasonable knowledge that it would likely result in death.<sup>1016</sup>

413. For the physical elements of murder to be satisfied, the Prosecution is required to establish beyond reasonable doubt that the perpetrator's conduct substantially contributed to the death of the person.<sup>1017</sup> The death of the victim may be demonstrated through circumstantial evidence, provided it is the only inference that may reasonably be drawn from the acts or omissions of the perpetrator.<sup>1018</sup> Therefore it is not necessary to require proof that the dead body of that person has been recovered.<sup>1019</sup>

### 3. Counts 4, 5 and 6: Sexual Violence (Articles 2(g) and 3(e) of the Statute)

414. In Count 4, the Indictment charges the Accused with rape, a crime against humanity, punishable under Article 2(g) of the Statute.<sup>1020</sup> Count 5 charges the Accused with "sexual

<sup>1015</sup> AFRC Trial Judgement, para. 688, referring to Stakić Trial Judgement, para. 631; Brđanin Trial Judgement, para. 380; Prosecutor v. Orić, IT-03-68-T, Judgement (TC), 30 June 2006 [Orić Trial Judgement], para. 345; Prosecutor v. Krajišnik, IT-00-39-T, Judgement (TC), 27 September 2006 [Krajišnik Trial Judgement], para. 848.

<sup>1016</sup> AFRC Trial Judgement, para. 688. See also Kvočka et al. Appeal Judgement, para. 261; D. Milošević Appeal Judgement, para. 108;

<sup>1017</sup> AFRC Trial Judgement, para. 689; Prosecutor v. Milutinović, Šainović and Ojdanić, IT-05-87-T, Judgement (TC), 26 February 2009 [Milutinović et al. Trial Judgement], para. 137; Kvočka et al. Appeal Judgement, para. 261; Orić Trial Judgement, para. 347. See also Prosecutor v. Delalić, Mucić, Delić and Landžo, IT-96-21-T, Judgement (TC), 16 November 1998 [Čelebići Trial Judgement], footnote 435, providing the results of its examination of various domestic legal systems, including that of England, Australia, Belgium and Norway.

<sup>1018</sup> AFRC Trial Judgement, para. 689, referring to Prosecutor v. Vasiljević, IT-98-32-A, Judgement (AC), 25 February 2004 [Vasiljević Appeal Judgement], para. 120; Kvočka et al. Appeal Judgement, para. 260; Čelebići Appeal Judgement, para. 458.

<sup>1019</sup> Krnolejac Trial Judgement, para. 326; Prosecutor v. Tadić, IT-94-1-T, Judgement (TC), 7 May 1997 [Tadić Trial Judgement], para. 240.

<sup>1020</sup> Indictment, paras 14-17. The Trial Chamber is satisfied that this crime was a part of customary international law at the time of its alleged commission. AFRC Trial Judgement, para. 692; RUF Trial Judgement,

slavery”, a crime against humanity, punishable under Article 2(g) of the Statute.<sup>1021</sup> In addition, or in the alternative, Count 6 charges the Accused with outrages upon personal dignity, a violation of Common Article 3 and of Additional Protocol II, punishable under Article 3(e) of the Statute.<sup>1022</sup>

(a) Count 4: Rape (Article 2(g) of the Statute)

415. In addition to the *chapeau* requirements of Crimes against Humanity pursuant to Article 2 of the Statute, the following elements of the crime of rape must be proved beyond reasonable doubt:

- i. The non-consensual penetration, however slight, of the vagina or anus of the victim by the penis of the perpetrator or by any other object used by the perpetrator, or of the mouth of the victim by the penis of the perpetrator; and
- ii. The perpetrator must have the intent to effect this sexual penetration, and the knowledge that it occurs without the consent of the victim.<sup>1023</sup>

416. The consent of the victim must be given voluntarily, as a result of the victim’s free will, assessed in the context of the surrounding circumstances.<sup>1024</sup> This is necessarily a contextual assessment. However, in situations of armed conflict or detention, coercion is almost universal.<sup>1025</sup> Force or the threat of force provides clear evidence of non-consent, but force is not an element *per se* of rape and there are factors other than force which may render an act of sexual penetration non-consensual or non-voluntary on the part of the victim.<sup>1026</sup> ‘Continuous resistance’ by the victim, physical force or even threat of force by the perpetrator are not required to establish coercion.<sup>1027</sup> A person may be incapable of

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para. 144; Kvočka Appeal Judgement, para. 395; Prosecutor v. Furundžija, IT-95-17/1-T, Judgement (TC), 10 December 1998 [Furundžija Trial Judgement], paras 165-169; Čelebići Trial Judgement, paras 476-477.

<sup>1021</sup> Indictment, paras 14-17. The Trial Chamber is satisfied that this crime was a part of customary international law at the time of its alleged commission. See RUF Trial Judgement, para. 157.

<sup>1022</sup> Indictment, paras 14-17. The Trial Chamber is satisfied that this crime was a part of customary international law at the time of its alleged commission. AFRC Trial Judgement, para. 715; RUF Trial Judgement, para. 174, Aleksovski Appeal Judgement, paras 21-22; Furundžija Trial Judgement, para. 168.

<sup>1023</sup> AFRC Trial Judgement, paras 692-693; see also Kunarac Appeal Judgement, para. 127.

<sup>1024</sup> AFRC Trial Judgement, para. 694, referring to Kunarac Appeal Judgement, para. 127.

<sup>1025</sup> AFRC Trial Judgement, para. 694.

<sup>1026</sup> AFRC Trial Judgement, para. 694, referring to Kunarac Appeal Judgement, paras 129-130.

<sup>1027</sup> RUF Appeal Judgement, para. 736; AFRC Trial Judgement, para. 694, referring to Kunarac Appeal Judgement, paras 128-130, 133; see also Gay J. McDougall, Systematic Rape, Sexual Slavery and Slavery-like Practices During Armed Conflict, Final Report submitted to the Commission on Human Rights Sub-commission

giving genuine consent if affected by natural, induced or age related incapacity.<sup>1028</sup> The Trial Chamber acknowledges that the very specific circumstances of an armed conflict where rapes on a large scale are alleged to have occurred, coupled with the social stigma which is borne by victims of rape in certain societies, render the restrictive test set out in the elements of the crime difficult to satisfy. Circumstantial evidence may therefore be used to demonstrate the *actus reus* of rape.<sup>1029</sup>

417. In addition, the Trial Chamber is guided by the provisions of Rule 96 of the Rules, which provides, in relevant part that:

In cases of sexual violence, the Court shall be guided by and, where appropriate, apply the following principles:

- (i) Consent cannot be inferred by reason of any words or conduct of a victim where force, threat of force, coercion or taking advantage of a coercive environment undermined the victim's ability to give voluntary and genuine consent;
- (ii) Consent cannot be inferred by reason of any words or conduct of a victim where the victim is incapable of giving genuine consent;
- (iii) Consent cannot be inferred by reason of the silence of, or lack of resistance by, a victim to the alleged sexual violence.

(b) Count 5: Sexual Slavery (Article 2(g) of the Statute)

418. In addition to the *chapeau* requirements of Crimes against Humanity pursuant to Article 2 of the Statute, the following elements of the crime of sexual slavery must be proved beyond reasonable doubt:

- i. The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty.

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on Prevention of Discrimination and Protection of Minorities, 50th session, UN Doc. E/CN.4/Sub.2/1998/13, 22 June 1998, para. 25, stating that "[t]he manifestly coercive circumstances that exist in all armed conflict situations establish a presumption of non-consent and negates the need for the prosecution to establish the lack of consent as an element of the crime".

<sup>1028</sup> RUF Trial Judgement, para. 148. See also ICC Elements of Crime, Article 8(2)(e)(vi)-1, footnote 63.

<sup>1029</sup> AFRC Trial Judgement, para. 695, referring to Muhimana Appeal Judgement, para. 49; Gacumbitsi Appeal Judgement, para. 115.

- ii. The perpetrator caused such person or persons to engage in one or more acts of a sexual nature;
- iii. The perpetrator intended to engage in the act of sexual slavery or acted with the reasonable knowledge that this was likely to occur.<sup>1030</sup>

419. The *actus reus* of the offence of sexual slavery comprises two elements, first, that the Accused exercised any or all of the powers attaching to the right of ownership of a person or persons (the slavery element) and second, that the enslavement involved sexual acts (the sexual element).<sup>1031</sup> The *mens rea* for the violation consists in the intentional exercise of any or all of the powers attaching to the right of ownership, over the victim.<sup>1032</sup>

420. The primary characteristic of enslavement is the absence of the consent or free will of the victim.<sup>1033</sup> In determining whether the perpetrator exercised a power attaching to the right of ownership over the victim, the Chamber will take into account the existence of such factors or indicia as “control of the victim’s movement, control of their physical environment, psychological control, measures taken to deter escape, use or threat of force or coercion against the victim, duration, assertion of exclusivity, subjection to cruel treatment and abuse, control of sexuality and forced labour”, a list that is by no means exhaustive.<sup>1034</sup> There is no requirement that there be any payment or exchange in order to establish the exercise of ownership.<sup>1035</sup> The deprivation of liberty may include exacting forced labour or otherwise reducing a person to servile status.<sup>1036</sup> The Chamber also notes that the expression

<sup>1030</sup> AFRC Trial Judgement, para. 708; RUF Trial Judgement, para. 158

<sup>1031</sup> Kunarac et al. Trial Judgement, para. 540

<sup>1032</sup> Kunarac et al. Appeal Judgement, para 122

<sup>1033</sup> AFRC Trial Judgement, para. 709, referring to Prosecutor v. Kunarac, Kovać and Vuković, IT-96-23-T and IT-96-23/1-T, Judgement (TC), 22 February 2001 [Kunarac et al. Trial Judgement], para. 542; Kunarac et al. Appeal Judgement, paras 129-131; Update to Final Report submitted by Ms. Gay J. McDougall, Special Rapporteur, Contemporary Forms of Slavery: Systematic rape, sexual slavery and slavery-like practices during armed conflict, Economic and Social Council, Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, E/CN.4/Sub.2/2000/21, 6 June 2000 [Update to Final Report of Special Rapporteur], para. 51.

<sup>1034</sup> Kunarac et al. Trial Judgement, para. 543 cited with approval by the ICTY Appeals Chamber in Kunarac et al. Appeal Judgement, para. 119

<sup>1035</sup> AFRC Trial Judgement, para. 709, referring to Update to Final Report of Special Rapporteur, para. 50.

<sup>1036</sup> AFRC Trial Judgement, para. 709, referring to the Rome Statute Article 8(2)(b)(xxii) - which lists sexual slavery as a crime against humanity - delegates to the Working Group on the Elements of Crime took the view that the word “similar” in the first element (i) of the crime should not be interpreted as referring only to commercial character of the examples of selling, purchasing, or bartering. These delegates insisted that Footnote 18 be appended to the Article, which states “[i]t is understood that such a deprivation of liberty may, in some circumstances, include exacting forced labour or otherwise reducing a person to servile status as defined in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar

“similar deprivation of liberty” has been interpreted to cover situations in which the victims may not have been physically confined, but were otherwise unable to leave the perpetrator’s custody as they would have nowhere else to go and feared for their lives.<sup>1037</sup>

421. In addition to proving enslavement, the Prosecution must also prove that the Accused caused the enslaved person to engage in an act or acts of a sexual nature. The acts of sexual violence are the additional element that, when combined with evidence of slavery, constitutes sexual slavery.<sup>1038</sup>

422. The Trial Chamber notes that in this case, unlike the AFRC case and the RUF case, “forced marriage” is not charged in the Indictment. Nevertheless, the evidence adduced by the Prosecution under the charges related to Sexual Violence includes extensive testimony by women and girls regarding forced conjugal association to which they were subjected. In the absence of the charge of “forced marriage”, the Trial Chamber has considered this evidence with regard to the charges in the Indictment, as well as the past jurisprudence of the SCSL with regard to this issue.

423. The Trial Chamber notes that the review of this issue by the Court has been hampered by the erroneous pleadings of the Prosecution with regard to various forms of sexual violence. The Trial Chamber recalls that in the AFRC case it was faced with a procedural challenge raised by the failure of the Prosecution to distinguish between the crime of sexual violence and the crime of sexual slavery. Count 7 of the Indictment in that case, sexual slavery, was dismissed as duplicitous. Justice Doherty opined that the count need not have been dismissed in its entirety. Justice Sebutinde expressed the view that the defect in the indictment could be cured by an amendment dividing the offences into separate

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to Slavery of 1956. It is also understood that the conduct described in this element includes trafficking in persons, in particular women and children”. Rome Statute of the International Criminal Court, Elements of Crimes, Article 8(2)(b)(xxii), footnote 18.; Commentary documented by Eve La Haye, Article 8(2)(b)(xxii) – 2 – Sexual Slavery, in Roy S. Lee, Ed., The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence (2001: Transnational Publishers, Ardsley) at p. 191.

<sup>1037</sup> RUF Trial Judgement, para. 161, AFRC Trial Judgement, para. 709 referring to a distinction also insisted upon by some delegations to the Rome Statute Working Group on Elements of Crimes to ensure that the provision did not exclude situations in which sexually abused women were not locked in a particular place but were nevertheless “deprived of their liberty” because they had nowhere else to go and feared for their lives, Commentary documented by Eve La Haye, Article 8(2)(b)(xxii) – 2 – Sexual Slavery, in Roy S. Lee, Ed., The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence (2001: Transnational Publishers, Ardsley) pp. 191-192

<sup>1038</sup> RUF Trial Judgement, para. 162

counts. In its Judgement in the AFRC case, the Trial Chamber noted that the Prosecution had not availed itself of Justice Sebutinde's suggested remedy.<sup>1039</sup>

424. In the Trial Chamber's view, the Prosecution erred in other Indictments by charging "forced marriage" as a crime that falls within the scope of the crime against humanity of other inhumane acts. Because it was charged in this manner, the Trial Chamber was required to review the charge in this manner. In her dissent in the AFRC Judgement, Justice Doherty observed, "the abduction of girls and their coercion into marital unions, as described by the Prosecution expert and by witnesses, is not the same nor comparable to arranged or traditional marriages".<sup>1040</sup> She defined the crucial element of "forced marriage" to be "the imposition, by threat or physical force arising from the perpetrator's words or other conduct, of a forced conjugal association by the perpetrator over the victim".<sup>1041</sup> Similarly Justice Sebutinde, in her concurrence in the AFRC Judgement, described this phenomenon as "the forceful abduction and holding in captivity of women and girls ('bush wives') against their will, for purposes of sexual gratification of their 'bush husbands' and for gender-specific forms of labour including cooking cleaning, washing clothes (conjugal duties)".<sup>1042</sup> The Trial Chamber considers, as expressed by both Justice Doherty and Justice Sebutinde in the AFRC case, that the sexual and non-sexual acts involved in this forced conjugal association cannot be considered separately as they are integrated in this form of abuse.

425. The Trial Chamber considers that, in the absence of a charge of "forced marriage", the evidence adduced by the witnesses of forced conjugal association can be considered afresh with their testimony as a starting point. In the Trial Chamber's view the term "forced marriage" is a misnomer for the forced conjugal association that was imposed on women and girls in the circumstances of armed conflict, and which involved both sexual slavery and forced labour in the form of domestic work such as cooking and cleaning.

426. The Trial Chamber notes that in the absence of any specific charge relating to forced conjugal association, which was extensively testified to in this case, the elements of sexual slavery are satisfied, that is the deprivation of liberty and the imposition of non-consensual

<sup>1039</sup> AFRC Trial Judgement, para 93.

<sup>1040</sup> AFRC Trial Judgement, Partly Dissenting Opinion of Justice Doherty, para. 36.

<sup>1041</sup> Para. 53

<sup>1042</sup> AFRC Trial Judgement, Concurring Opinion of Justice Sebutinde, para 12.



sex. The Appeals Chamber decision in the AFRC case noted other elements that go beyond sexual slavery as the basis for its decision, namely the “forced conjugal association with another person resulting in great suffering, or serious physical or mental injury on the part of the victim” and “a relationship of exclusivity between the ‘husband’ and ‘wife.’”<sup>1043</sup> The Trial Chamber does not consider the nomenclature of “marriage” to be helpful in describing what happened to the victims of this forced conjugal association and finds it inappropriate to refer to their perpetrators as “husbands”.

427. What happened to the girls and women abducted in Sierra Leone and forced into this conjugal association was not marriage in the universally understood sense of a consensual and sacrosanct union, and should rather, in the Trial Chamber’s view, be considered a conjugal form of enslavement. While noting that all forms of forced marriage violate human rights under international law, the abuses perpetrated on women and girls in this context is clearly criminal in nature, and of sufficient gravity as to constitute a crime against humanity. It constitutes a form of enslavement in that the perpetrator exercised the powers attaching to the right of ownership over their “bush wives” and imposed on them a deprivation of liberty, causing them to engage in sexual acts as well as other acts. The Trial Chamber notes that conjugal relations involve both sexual and non-sexual acts. All of these forced acts, both sexual and non-sexual acts, fall within the definition of enslavement in the view of the Trial Chamber. As noted by the Appeals Chamber, “bush wives” were “coerced to perform a variety of conjugal duties including regular sexual intercourse, forced domestic labour such as cleaning and cooking for the ‘husband,’ endure forced pregnancy, and to care for and bring up children of the ‘marriage.’”<sup>1044</sup>

428. With respect to the powers of ownership, the Trial Chamber notes that there is no differentiation between the forced sexual and non-sexual acts described, and the Appeals Chamber did not express the view that these acts did not constitute enslavement, but merely that they were not limited to sexual forms of slavery. The Trial Chamber is of the view that the conjugal slavery best describes these acts, and while they may constitute more than sexual slavery, they nevertheless satisfy the elements of sexual slavery.

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<sup>1043</sup> AFRC Appeals Chamber Decision, para. 195.

<sup>1044</sup> AFRC Appeals Judgement, para. 190.

429. The Trial Chamber considers that part of the confusion created by the Prosecution's charge of "forced marriage" was its presentation as the conceptualization of a new crime. In light of the above considerations, the Trial Chamber considers that conjugal slavery is better conceptualized as a distinctive form of the crime of sexual slavery, with the additional component described by the Appeals Chamber. However, the Trial Chamber is of the view that this additional component, which relates to forced conjugal labour, is simply a descriptive component of a distinctive form of sexual slavery. It is not a definitional element of a new crime, in the same way that gang rape is a distinctive form of rape, yet nevertheless falls within the scope of the crime of rape.

430. The Trial Chamber considers that unlike the concept of "forced marriage", as it was presented by the Prosecution in the AFRC and other cases before this Court, conjugal slavery is not a new crime with additional elements. Rather it is a practice with certain additional and distinctive features that relate to the conjugal aspects of the relationship between the perpetrator and the victim, such as the claim by the perpetrator to a particular victim as his "wife" and the exercise of exclusive sexual control over her, barring others from sexual access to the victim, as well as the compulsion of the victim to perform domestic work such as cooking and cleaning. In the Trial Chamber's view, these are not new elements that require the conceptualization of a new crime.

(c) Count 6: Outrages upon Personal Dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault (Article 3(e) of the Statute)

431. In addition to the *chapeau* requirements of Violations of Article 3 Common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3 of the Statute, the following specific elements of the crime of outrages upon personal dignity must be proved beyond reasonable doubt:

- i. The perpetrator humiliated, degraded or otherwise violated the personal dignity of the victim;
- ii. The humiliation, degradation or other violation was so serious as to be generally considered as an outrage upon personal dignity;

- iii. The perpetrator intentionally committed or participated in an act or omission which would be generally considered to cause serious humiliation, degradation or otherwise be a serious attack on human dignity; and
- iv. The perpetrator knew that the act or omission could have such an effect.<sup>1045</sup>

432. The Trial Chamber considers that sexual slavery, including the abduction of women and girls as “bush wives”, a conjugal form of sexual slavery, is humiliating and degrading to its victims and constitutes a serious attack on human dignity, falling within the scope of outrages upon personal dignity.

4. Counts 7 and 8: Crimes Relating to Physical Violence (Articles 3(a) and 2(i) of the Statute)

433. In Count 7, the Accused is charged with violence to life, health and physical or mental well-being of persons, in particular, cruel treatment, a violation of Common Article 3 and Additional Protocol II, punishable under Article 3(a) of the Statute.<sup>1046</sup> In addition, or in the alternative, Count 8 charges the Accused with other inhumane acts, a crime against humanity, punishable under Article 2(i) of the Statute.<sup>1047</sup>

(a) Count 7 – Violence to Life, Health and Physical or Mental Well-Being of Persons, in particular Cruel Treatment (Article 3(a) of the Statute)

434. In addition to the *chapeau* requirements of Violations of Article 3 Common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3 of the Statute, the following specific elements of the offence of cruel treatment must be proved beyond reasonable doubt:

<sup>1045</sup> AFRC Trial Judgement, para. 716; see also Kunarac et al. Appeal Judgement, paras 161, 163; Rome Statute, Elements of the Crimes, Article 8(2)(b)(xxi).

<sup>1046</sup> Indictment, paras 18-21. The Trial Chamber is satisfied that this crime was a part of customary international law at the time of its alleged commission. CDF Appeal Decision on Nature of Armed Conflict, para. 24; CDF Trial Judgement, para. 154; Tadić Decision on Jurisdiction, paras 66-73; Karemera Decision on Count Seven of the Amended Indictment, paras 5-10; See also Vasiljević Trial Judgement, para.195, where in analyzing the offence of violence to life and person, the Trial Chamber recognized that it is a breach of customary international law when the underlying act is murder, cruel treatment and torture.

<sup>1047</sup> Indictment, paras 18-21. The Trial Chamber is satisfied that this crime was a part of customary international law at the time of its alleged commission. See AFRC Appeal Judgement, para. 198, referring to Prosecutor v. Stakić, IT-97-24-A, Judgement (AC), 22 March 2006 [Stakić Appeal Judgement], para. 315 and Blagojević and Jokić Trial Judgement, para. 624. See also AFRC Trial Judgement, para. 697 and RUF Trial Judgement, para. 165.

- i. The act or omission of the perpetrator caused serious physical or mental suffering or injury or constituted a serious attack on human dignity;
- ii. The perpetrator intended to cause serious mental or physical suffering or injury or a serious attack on human dignity or acted in the reasonable knowledge that this was likely to occur.<sup>1048</sup>

435. The Trial Chamber notes that the Prosecution has provided a definition of mutilation in its final trial brief, which adopts and slightly modifies the definition provided in the AFRC Trial Judgement.<sup>1049</sup> However, Count 10 of the AFRC Indictment charged “violence to life, health and physical or mental well-being of persons, in particular mutilation”,<sup>1050</sup> whereas Count 7 of the Indictment in this case charges only “cruel treatment”. The Trial Chamber therefore finds that a specific definition of mutilation is not required, but notes that cruel treatment may encompass acts of mutilation, if such acts satisfy the requirements set out above.

(b) Count 8 – Other Inhumane Acts (Article 2(i) of the Statute)

436. In addition to the *chapeau* requirements of Crimes against Humanity pursuant to Article 2 of the Statute, the following specific elements of the crime of other inhumane acts must be proved beyond reasonable doubt:

- i. The perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act;
- ii. The act was of a gravity similar to the acts referred to in Article 2(a) to (h) of the Statute; and

<sup>1048</sup> CDF Trial Judgement, para. 156; Čelibići Appeal Judgement, para. 424; Čelibići Trial Judgement, paras 551-552; Prosecutor v. Krstić, IT-98-33-T, Judgement (TC), 2 August 2001 [Krstić Trial Judgement], para. 516; Prosecutor v. Lukić and Lukić, IT-98-32/1-T, Judgement (TC), 20 July 2009 [Lukić and Lukić Trial Judgement], para. 957; Prosecutor v. Blaškić, IT-95-14-T, Judgement (TC), 3 March 2000, [Blaškić Trial Judgement], para. 186; Prosecutor v. Jelisić, IT-95-10-T, Judgement (TC), 14 December 1999 [Jelišić Trial Judgement], para. 41.

<sup>1049</sup> Prosecution Final Trial Brief, para. 947, referring to AFRC Trial Judgement, para. 724. The Prosecution, however, submits that a modification of the mental elements should be adopted, such that the Prosecution should be required to prove “either that the perpetrator intended to subject the victim to mutilation, or that the perpetrator acted in the reasonable knowledge that mutilation was likely to occur”. See Prosecution Final Trial Brief, para. 948.

<sup>1050</sup> Prosecutor v. Brima, Kamara and Kanu, SCSL-04-16-PT, Further Consolidated Amended Indictment, 18 February 2005.

- iii. The perpetrator was aware of the factual circumstances that established the character of the gravity of the act.<sup>1051</sup>

437. With regard to particular acts of physical violence, the seriousness of a particular act or omission and the sufficiency of its gravity must be examined on a case-by-case basis.<sup>1052</sup>

5. Count 9: Crimes Relating to Child Soldiers (Article 4(c) of the Statute)

438. In Count 9, the Indictment charges that “[b]etween about 30 November 1996 and about 18 January 2002, throughout the Republic of Sierra Leone, members of RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters, assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused, routinely conscripted, enlisted and/or used boys and girls under the age of 15 to participate in active hostilities”. The Accused is thus charged with conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities (“conscripting, enlisting or using child soldiers”), an ‘other serious violation of international humanitarian law’, punishable under Article 4(c) of the Statute.<sup>1053</sup>

439. In addition to the *chapeau* requirements of other serious violations of international humanitarian law pursuant to Article 4 of the Statute, the following elements of the crime of conscripting or enlisting children under the age of 15 years into armed forces or groups, or using children under the age of 15 years to actively participate in hostilities must be proved beyond reasonable doubt:

<sup>1051</sup> AFRC Trial Judgement, para. 698. See also Rome Statute, Elements of Crimes, Article 7(1)(k); Prosecutor v. Kunarac, Kovač and Vuković, IT-96-23 and IT-96-23/1-A, Judgement (AC), 12 June 2002 [Kordić and Čerkez Appeal Judgement], para. 117; Vasiljević Appeal Judgement, para. 165; D. Milošević Trial Judgement, para. 934; Prosecutor v. Martić, IT-95-11-T, Judgement (TC), 12 June 2007 [Martić Trial Judgement], para. 83; Blagojević and Jokić Trial Judgement, para. 626; Galić Trial Judgement, para. 152; Vasiljević Trial Judgement, para. 234.

<sup>1052</sup> AFRC Trial Judgement, para. 699.

<sup>1053</sup> Indictment, para. 22. The Appeals Chamber has held that the offence of recruitment of child soldiers by way of conscripting or enlisting children under the age of 15 years into an armed force or group and/or using them to participate actively in hostilities constitutes a crime under customary international law which entailed individual criminal responsibility prior to the timeframe of the Indictment. CDF Appeal Judgement, para. 139; CDF Appeal Decision on Child Recruitment, para. 53. See also AFRC Trial Judgement, para. 731; RUF Trial Judgement, para. 184.

- i. The perpetrator conscripted or enlisted one or more persons into an armed force or group or used one or more persons to actively participate in hostilities;<sup>1054</sup>
- ii. Such person or persons were under the age of 15 years;<sup>1055</sup>
- iii. The perpetrator knew or should have known that such person or persons were under the age of 15 years.<sup>1056</sup>

440. The *actus reus* of the crime can be satisfied by ‘conscripting’ or ‘enlisting’ children under the age of 15, or by ‘using’ them to participate actively in the hostilities.

441. ‘Conscription’ encompasses any acts of coercion, such as abductions<sup>1057</sup> and forced recruitment of children by an armed group with the purpose of using them to participate actively in hostilities.<sup>1058</sup>

<sup>1054</sup> AFRC Trial Judgement, para. 729; RUF Trial Judgement, paras 190, 193.

<sup>1055</sup> AFRC Trial Judgement, para. 729; RUF Trial Judgement, paras 190, 193. See also Rome Statute, Elements of Crimes, Article 8(2)(b)(xxvi) and Article 8(2)(e)(vii).

<sup>1056</sup> AFRC Trial Judgement, para. 729; RUF Trial Judgement, paras 190, 193. In setting out the elements of the offence, the Appeals Chamber in the CDF case also included as a mental element that the accused “knew or should have known that such person or persons [...] may be trained for or used in combat”. See CDF Appeal Judgement, para. 141; RUF Trial Judgement, para. 190. However, the only source for this additional requirement is paragraph 46 of the Dissenting Opinion of Justice Robertson to CDF Appeal Decision on Child Recruitment, see Prosecutor v. Norman, SCSL-04-14-AR72(E)-131-7413/7430, Dissenting Opinion of Justice Robertson to Appeals Chamber Decision on Child Recruitment, 31 May 2004 [Dissenting Opinion of Justice Robertson to CDF Appeal Chamber Decision on Child Recruitment], para. 46. As a dissenting opinion, this is in and of itself not binding on the Trial Judgement. Moreover, in the CDF Appeal Judgement, the Appeals Chamber included this requirement in the absence of any submissions in that regard by the parties and did not explicitly discuss why it had included this requirement, beyond citing the dissenting opinion of Justice Robertson. Therefore, the Trial Chamber notes that the Appeals Chamber’s inclusion of this requirement in its discussion of conscription and enlistment is *obiter dicta*. The Trial Chamber finds that element is not included in the ICC Statute or ICC ‘Elements of the Crimes’ in relation to these offences, and has no other support in international criminal law. See ICC Elements of Crimes, 8(2)(b)(xxvi) and 8(2)(e)(vii); ICC Statute, Article 2(b)(xxvi) and Article 2(e)(vii). Moreover, it is evident from the Statutes of the SCSL and ICC, as well as from the relevant provisions of the Additional Protocols to the Geneva Conventions, that the prohibition against conscripting and enlisting children in armed forces is absolute and not dependant on the purpose behind the conscription or enlistment. The rationale behind these provisions, as contemplated by the ICC, is to keep children under the age of 15 years away from armed conflicts to ensure their safety. See Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06, Decision on the Confirmation of Charges, 29 January 2007 [Lubanga Confirmation of Charges Decision], para. 260, referring to ICRC, Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949, Geneva, Sandoz, Swinarski and Zimmerman (eds), 1986, p. 925, para. 3187. The Trial Chamber therefore concludes that this additional requirement should not be included in the elements of the crimes of conscripting or enlisting children under the age of 15 years.

<sup>1057</sup> See Report of the Secretary-General on the Establishment of the Special Court para. 18: “While the definition of the crime as ‘conscripting’ or ‘enlisting’ connotes an administrative act of putting one’s name on a list and formal entry into the armed forces, the elements of the crime under the proposed Statute of the Special Court are: (a) abduction, which in the case of children of Sierra Leone was the original crime and is in itself a crime under common article 3 of the Geneva Conventions; [...]”. This proposal was however rejected by the Security Council.

442. ‘Enlistment’ entails accepting and enrolling individuals when they volunteer to join an armed force or group.<sup>1059</sup> Enlistment need not be a formal process, and may include “any conduct accepting the child as part of the [armed group]. Such conduct would include making him participate in combat operations”.<sup>1060</sup> Conscription and enlistment are both types of recruitment,<sup>1061</sup> and while conscription involves an element of express compulsion<sup>1062</sup> or coercion, this element is absent in enlistment.<sup>1063</sup>

443. The crime of enlisting or conscripting “is an offence of a continuing character – referred to by some courts as a continuous crime and by others as a permanent crime”.<sup>1064</sup> The crime of conscripting or enlisting children under the age of 15 continues to be committed as long as a child remains in the armed force or group and consequently ceases to be committed when the child leaves the armed group or reaches the age of 15 years.<sup>1065</sup>

444. ‘Using’ children to participate actively in the hostilities encompasses putting their lives directly at risk in combat,<sup>1066</sup> but may also include participation in activities linked to combat such carrying loads for the fighting faction, finding and/or acquiring food, ammunition or equipment, acting as decoys, carrying messages, making trails or finding routes, manning checkpoints or acting as human shields.<sup>1067</sup> Whether a child is actively participating in hostilities in such situations will be assessed on a case-by-case basis.

<sup>1058</sup> AFRC Trial Judgement, para. 734.

<sup>1059</sup> CDF Appeal Judgement, para. 140, quoting AFRC Trial Judgement, para. 735. See also Dissenting Opinion of Justice Robertson to CDF Appeal Chamber Decision on Child Recruitment, para. 5. See also Lubanga Confirmation of Charges Decision, para. 247.

<sup>1060</sup> CDF Appeal Judgement, para. 144.

<sup>1061</sup> RUF Trial Judgement, para. 184.

<sup>1062</sup> Compulsion would include conscription through constitutional or legislative powers in the context of otherwise lawful governments. See RUF Trial Judgement, para. 186.

<sup>1063</sup> CDF Appeal Judgement, para. 140; AFRC Trial Judgement, paras 734-735. This distinction has also been adopted by the Pre-Trial Chamber of the International Criminal Court. See Lubanga Decision on Confirmation of Charges, paras 246-247.

<sup>1064</sup> Lubanga Confirmation of Charges, para. 248.

<sup>1065</sup> Lubanga Confirmation of Charges, para. 248. See also AFRC Trial Judgement, para. 39.

<sup>1066</sup> AFRC Trial Judgement, para. 736, referring to Dissenting Opinion of Justice Robertson to CDF Appeal Chamber Decision on Child Recruitment, para. 5.

<sup>1067</sup> AFRC Trial Judgement, para. 737. See also Report of the Preparatory Committee on the Establishment of an International Criminal Court, A/CONF. 183/2/Add. 1, 14 April 1998, p. 21 at footnote 12.

6. Count 10: Abductions and Forced Labour (Article 2 (C) of the Statute)

445. The Accused is charged under Count 10 with enslavement, a crime against humanity, punishable under Article 2(c) of the Statute.<sup>1068</sup>

446. In addition to the *chapeau* requirements of Crimes against Humanity pursuant to Article 2 of the Statute, the following specific elements of the crime of enslavement must be proved beyond reasonable doubt:

- i. The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty;
- ii. The perpetrator exercised these powers intentionally.<sup>1069</sup>

447. Indicia of enslavement include “control of someone’s movement, control of physical environment, psychological control, measures taken to prevent or deter escape, force, threat of force or coercion, duration, assertion of exclusivity, subjection to cruel treatment and abuse, control of sexuality and forced labour”.<sup>1070</sup> “Lack of consent” is not an element of the crime of enslavement, but may be relevant from an evidentiary perspective.<sup>1071</sup> There is no requisite duration of the relationship between the Accused and the victim which must exist in order to establish enslavement, but duration may be relevant in determining the quality of the relationship.<sup>1072</sup>

<sup>1068</sup> Indictment, paras 23-27. The Trial Chamber is satisfied that this crime was a part of customary international law at the time of its alleged commission. See *AFRC* Trial Judgement, para. 743; *RUF* Trial Judgement, para. 196; *Kunarac et al.* Trial Judgement, paras 519-537, 539; *Kunarac et al.* Appeal Judgement, para. 129.

<sup>1069</sup> *AFRC* Trial Judgement, para. 749. See also *Krnjelac* Trial Judgement, para. 350; Report of the Preparatory Commission for the International Criminal Court, Finalised Draft Text for the Elements of the Crimes, New-York, 13-31 March 2000/12-30 June 2000 [ICC Elements of the Crimes], p. 10, noting that “[i]t is understood that such deprivation of liberty may, in some circumstances, include exacting forced labour or otherwise reducing a person to a servile status as defined in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956”.

<sup>1070</sup> *Kunarac et al.* Trial Judgement, para. 543, cited with approval by the Appeals Chamber in *Kunarac et al.* Appeal Judgement, para. 119. See also *AFRC* Trial Judgement, para. 745.

<sup>1071</sup> *AFRC* Trial Judgement, para. 746, referring to *Kunarac et al.* Appeal Judgement, para. 120.

<sup>1072</sup> *RUF* Trial Judgement, para. 200, referring to *Kunarac et al.* Appeal Judgement, para. 121.



448. In order to establish forced labour as enslavement, the relevant consideration is whether “the relevant persons had no choice as to whether they would work”,<sup>1073</sup> which is a factual determination that must be made in light of the *indicia* of enslavement identified. However, the subjective belief of labourers that they were forced to work is not sufficient to establish forced labour, but must be supported by objective evidence.<sup>1074</sup>

449. The Prosecution submits that in relation to the mental elements for this offence, it must be established that the perpetrator “either intended enslavement or acted in the reasonable knowledge that it was likely to occur”, as this approach would be consistent with the mental elements of other crimes in the Statute, the approach of Trial Chamber I, and the ICC Statute.<sup>1075</sup>

450. However, the Trial Chamber notes that this requirement is not supported by the AFRC Trial Judgement, which was not overturned on appeal on this point, nor by the jurisprudence of the Appeals Chamber of the ICTY.<sup>1076</sup> Such an expansion of the mental elements requirement/*mens rea* is unwarranted, as it is difficult to envisage what the requirement of “acting in the reasonable knowledge that enslavement was likely to occur” would entail in the context of enslavement where the *actus reus* requires exercising the powers of ownership.

#### 7. Count 11: Pillage (Article 3(f) of the Statute)

451. The Accused is charged under Count 11 with pillage, a violation of Additional Protocol II, punishable under Article 3(f) of the Statute.<sup>1077</sup>

452. In addition to the *chapeau* requirements of Violations of Article 3 Common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3 of the Statute, the following specific elements of the crime of pillage must be proved beyond reasonable doubt:

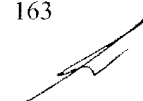
<sup>1073</sup> RUF Trial Judgement, para. 202, citing *Krnojelac* Trial Judgement, para. 359. See also *Prosecutor v. Krnojelac*, IT-97-25-A, Judgement (AC), 17 September 2003 [*Krnojelac* Appeal Judgement], paras 194-195.

<sup>1074</sup> RUF Trial Judgement, para. 202, referring to *Krnojelac* Appeal Judgement, para. 195.

<sup>1075</sup> Prosecution Final Trial Brief, para. 1064.

<sup>1076</sup> AFRC Trial Judgement, para. 749; *Kunarac et al.* Appeal Judgement, para. 122.

<sup>1077</sup> Indictment, paras 28-31. The Trial Chamber is satisfied that this crime was a part of customary international law at the time of its alleged commission. See AFRC Trial Judgement, para. 751; *Prosecutor v. Kordić and Čerkez*, IT-95-14/2-T, Judgement (TC), 26 February 2001 [*Kordić and Čerkez* Trial Judgement], paras 351-353 (see also *Kordić and Čerkez* Appeal Judgement, para. 77).





- i. The perpetrator appropriated property;
- ii. The appropriation was without the consent of the owner;
- iii. The perpetrator intended to deprive the owner of the property.<sup>1078</sup>

453. Article 3(f) of the Statute contains a general prohibition against pillage which covers both organised or systematic appropriation and the isolated acts of individuals,<sup>1079</sup> and extends to all types of property, including both public and private property.<sup>1080</sup>

### C. Law on Individual Criminal Responsibility

#### 1. Responsibility Pursuant to Article 6(1) of the Statute

454. Article 6(1) of the Statute provides:

A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in Articles 2 to 4 of the present Statute shall be individually responsible for the crime.

455. The Indictment cumulatively charges the Accused with the crimes in Counts 1 through 11 under different modes of liability. It further charges that “the Accused, by his acts or omissions, is individually criminally responsible pursuant to Article 6(1) of the Statute for the crimes referred to in Articles 2, 3 and 4 of the Statute, as alleged in the Second Amended Indictment, which crimes the Accused planned, instigated, ordered, committed, or in whose planning, preparation or execution the Accused otherwise aided and abetted, or which crimes amounted to or were involved within a common plan, design or purpose in which the Accused participated, or were a reasonably foreseeable consequence of such common plan, design or purpose”.<sup>1081</sup>

#### (a) Committing

456. The Trial Chamber notes that the Prosecution does not allege that the Accused physically or directly committed any charged crime as a principal perpetrator.<sup>1082</sup>

<sup>1078</sup> AFRC Trial Judgement, para. 755. See also Kordić and Čerkez Appeal Judgement, paras 79 and 84.

<sup>1079</sup> AFRC Trial Judgement, para. 754; Čelibići Trial Judgement, para. 590.

<sup>1080</sup> Čelibići Trial Judgement, para. 590.

<sup>1081</sup> Indictment, para. 33.

<sup>1082</sup> See Prosecution Final Trial Brief, para. 48.

(b) Committing through Participation in a Joint Criminal Enterprise

457. The Indictment charges the Accused with the basic (“within”) and extended (“foreseeable”) forms of JCE.<sup>1083</sup> The following common elements have to be established:

- i. A plurality of persons;
- ii. The existence of a common plan, design or purpose which amounts to or involves the commission of a crime provided for in the Statute;
- iii. Participation of the accused in the common plan, design or purpose.<sup>1084</sup>

458. The principle that an individual may be held responsible based on participation in a joint criminal enterprise is established in customary international law.<sup>1085</sup>

459. The plurality of persons need not be “organised in a military, political or administrative structure”<sup>1086</sup> but it needs to be demonstrated that the plurality of persons acted in concert with each other. While the plurality of persons must be identified, it is not necessary to identify by name each of the persons involved, and depending on the circumstances of the case, it can be sufficient to refer to categories or groups of persons.<sup>1087</sup>

460. With respect to the requirement of the existence of a common purpose, the Appeals Chamber has held that “the requirement that the common plan, design or purpose of a joint criminal enterprise is inherently criminal means that it must either have as its objective a crime within the Statute, or contemplate crimes within the Statute as the means of achieving

<sup>1083</sup> Indictment, para. 33.

<sup>1084</sup> Rule 98 Decision, Transcript 4 May 2009, p. 24198; Taylor Decision on Pleading of JCE in Indictment, para. 67; Tadić Appeal Judgement, para. 227.

<sup>1085</sup> RUF Trial Judgement, para. 253; Tadić Appeal Judgement, paras. 220, 226; Prosecutor v. Milutinović, Šainović and Ojdanić, IT-99-37-AR72, Decision on Dragoljub Ojdanić’s Motion Challenging Jurisdiction - Joint Criminal Enterprise, 21 May 2003 [Ojdanić Appeal Decision on JCE], para. 29.

<sup>1086</sup> Tadić Appeal Judgement, para. 227; Stakić Appeal Judgement, para. 64; Prosecutor v. Đorđević, IT-05-87/1-T, Judgement (TC), 23 February 2011 [Đorđević Trial Judgement], para. 1861.

<sup>1087</sup> Prosecutor v. Krajišnik, IT-00-39-A, Judgement (AC), 17 March 2009 [Krajišnik Appeal Judgement], para. 156; Prosecutor v. Limaj, Bala and Musliu, IT-03-66-A, Judgement (AC), 27 September 2007 [Limaj Appeal Judgement], para. 99; Prosecutor v. Brđjanin, IT-99-36-A, Judgement (AC), 3 April 2007 [Brđjanin Appeal Judgement], para. 430.

its objective”.<sup>1088</sup> The plan need not have been previously arranged or formulated, but may materialize contemporaneously and be inferred from the facts.<sup>1089</sup>

461. The Accused’s participation in the common plan need not involve the commission of a specific crime, but may take the form of assistance in or contribution to the common plan.<sup>1090</sup>

462. The Prosecution submits that the “law may or may not require that the Accused’s contribution be significant”, referring to ICTY jurisprudence as authority for the position that the contribution need not be significant.<sup>1091</sup> The Defence, on the other hand, submits that the contribution must have “substantially assisted or significantly affected” the enterprise’s goals, and that the Accused’s participation must be “indispensable for the achievement of the final result”.<sup>1092</sup>

463. The Trial Chamber notes, however, that contrary to the parties’ submissions, it is established law that it is not required that the Accused’s participation in the common plan is necessary or substantial, but he must have made at least a “significant” contribution to the common purpose.<sup>1093</sup>

464. It is also possible for an Accused to withdraw from the joint criminal enterprise after which point, he will not bear responsibility for the acts of the other members of the

<sup>1088</sup> AFRC Appeal Judgement, paras 76, 80. See also Taylor Appeal Decision on Pleading of JCE in Indictment, para. 25; RUF Appeal Judgement, para. 296.

<sup>1089</sup> Krajišnik Appeal Judgement, para. 184; Tadić Appeal Judgement, para. 227.

<sup>1090</sup> Krajišnik Appeal Judgement, para. 215; Kvočka et al. Appeal Judgement, para. 99.

<sup>1091</sup> Prosecution Final Trial Brief, para. 581, referring to Kvočka et al. Appeal Judgement, paras 97, 421, and the Krajišnik Appeal Judgement, para. 680. However, the Prosecution submits that in any event, Taylor’s participation reaches the threshold of “significant”.

<sup>1092</sup> Defence Final Trial Brief, para. 147; Prosecutor v. Taylor, SCSL-03-01, Transcript 11 March 2011, pp. 49580, 49594-49595, where the Defence submits that the contribution must be “substantial”.

<sup>1093</sup> RUF Appeal Judgement, para. 401; Brđanin Appeal Judgement, para. 430; Krajišnik Appeal Judgement, para. 215. See also RUF Trial Judgement, para. 261. The Trial Chamber notes that, contrary to the Prosecution’s submission, the Krajišnik Appeals Judgement does not provide support, at paragraph 680 for the proposition that the contribution need not be significant, and specifically states, both in that paragraph and in paragraph 215 that the contribution must be at least significant. Moreover, in Kvočka, the Appeals Chamber arguably takes the position not that the threshold for the Accused’s contribution is lower than “significant” but that in fact it is higher, and must be “substantial”. However, the Trial Chamber notes that this has been superseded by the more recent Brđanin and Krajišnik Appeals Judgements, in which the Appeals Chamber has held that the contribution need not be substantial, but must be at least significant. The Trial Chamber notes that the Defence does not provide any authorities in support of its position that the contribution must be substantial, and has cited only a textbook, but no jurisprudence, in support of its submission that the Accused’s participation should be “indispensable for the achievement of the final result”. See Defence Final Trial Brief, para. 147, citing Antonio Cassese, *International Criminal Law*, p. 183 (Oxford University Press, 2003).

group.<sup>1094</sup> The identity of the other person or persons making up the plurality may change over the course of the existence of the joint criminal enterprise as participants enter or withdraw from it.<sup>1095</sup> The principal perpetrator need not be a member of the joint criminal enterprise, but may be used as a tool by one of the members of the joint criminal enterprise.<sup>1096</sup>

465. The following mental elements are required for the first form of JCE in order for the Accused to be held liable for crimes falling within the common purpose of the JCE:

- i. The Accused intended to commit the crime or underlying offence, and this intent must be shared with the other members of the joint criminal enterprise.<sup>1097</sup>

466. The following mental elements are required for the third form of JCE, in order for the Accused to be held liable for a crime that falls outside of the common purpose of the JCE, but is a natural and foreseeable consequence of the common purpose:

- i. The Accused intended to take part in and contribute to the common plan;<sup>1098</sup>
- ii. The Accused had sufficient knowledge that the additional crime might be perpetrated by a member of the group, or a person used by a member of the group, and willingly took the risk by continuing to participate in the common plan.<sup>1099</sup>

467. With respect to the third form of JCE, the Defence submits that the Trial Chamber should follow the approach of the Appeals Chamber of the STL and hold that there can be

<sup>1094</sup> RUF Trial Judgement, para. 262; Blagojević and Jokić Trial Judgement, paras 700-701. See also *United States v. Greifelt et al.*, U.S. Military Tribunal, Judgement, 10 March 1948, in *Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10 (1951)*, Vol. V, pp. 115, 140-141 [RuSHA Case]; *United States of America v. Josef Altstoetter, et al. (Case 3)*, U.S. Military Tribunal, October 1946 – April 1949, in *Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10 (1951)*, vol. III, [Justice Case], pp. 1083, 1086-1087

<sup>1095</sup> Ibid.

<sup>1096</sup> RUF Appeal Judgement, para. 401; Krajišnik Appeal Judgement, para. 225; Brđanin Appeal Judgement, paras 412, 430; *Prosecutor v. Martić*, IT-95-11-A, Judgement (AC), 8 October 2008 [Martić Appeal Judgement], para. 168.

<sup>1097</sup> Rule 98 Decision, Transcript 4 May 2009, p. 24198; Brđanin Appeal Judgement, para. 365.

<sup>1098</sup> Rule 98 Decision, Transcript 4 May 2009, p. 24198; see also *Tadić Appeal Judgement*, para. 228; *Đorđević Trial Judgement*, para. 1865.

<sup>1099</sup> Rule 98 Decision, Transcript 4 May 2009, p. 24198. See also *Martić Appeal Judgement*, para. 83; *Kvočka et al. Appeal Judgement*, para. 83; *Đorđević Trial Judgement*, para. 1865.

no liability for specific intent crimes such as terrorism under the third form of JCE.<sup>1100</sup> The Prosecution did not address this issue in its submissions.

468. The Trial Chamber notes that the jurisprudence of the ICTY allows for convictions under JCE III for genocide and persecution as a crime against humanity even though those crimes require specific intent.<sup>1101</sup> However, the Appeals Chamber of the STL has diverged from this jurisprudence, on the basis that it results in the legal anomaly that “a person could be convicted as a (co)perpetrator for a *dolus specialis* crime without possessing the requisite *dolus specialis*”.<sup>1102</sup> It held that “the better approach under international criminal law is not to allow convictions under JCE III for special intent crimes like terrorism”,<sup>1103</sup> and to instead treat such an offender as an aider and abettor.<sup>1104</sup> The Trial Chamber concurs with the reasoning of the STL Appeals Chamber and accordingly finds that the Accused may not be held liable under the third form of JCE for specific intent crimes such as terrorism.

(c) Planning

469. Planning consists of the following physical and mental elements:<sup>1105</sup>

- i. The accused, alone or with others, intentionally designed an act or omission constituting the crimes charged;<sup>1106</sup>
- ii. With the intent that a crime or underlying offence be committed in the execution of that design, or with the awareness of the substantial likelihood that a crime or underlying offence would be committed in the execution of that design.<sup>1107</sup>

<sup>1100</sup> Defence Response, para. 171, referring to STL Appeal Decision, paras 248-249; Prosecutor v. Taylor, SCSL-03-01-T, Transcript 11 March 2011, pp. 49615-49617.

<sup>1101</sup> Prosecutor v. Brđjanin, IT-99-36-A, Decision on Interlocutory Appeal, 19 March 2004, paras 5-10; Stakic Appeal Judgement, para. 38; Prosecutor v. Milosević, IT-02-54-T, Decision on Motion for Judgement of Acquittal, 16 June 2004 [Milošević Decision on Motion for Acquittal], para. 291; Prosecutor v. Popović et al., IT-05-88-T, Judgement(TC), 10 June 2010 [Popović Trial Judgement], paras 1195, 1332, 1427, 1733-1735.

<sup>1102</sup> STL Appeal Decision, para. 248.

<sup>1103</sup> STL Appeal Decision, para. 249.

<sup>1104</sup> STL Appeal Decision, para. 249. The Appeals Chamber clarified that the perpetrator should only be held liable as an aider and abettor “provided of course that all other necessary conditions are met”.

<sup>1105</sup> The Trial Chamber is satisfied that this mode of liability was a part of customary international law at the time of the alleged commission of the crimes charged against the Accused. AFRC Trial Judgement, para. 761; RUF Trial Judgement, para. 246; Tadić Trial Judgement, para. 669.

<sup>1106</sup> Rule 98 Decision, Transcript 4 May 2009, p. 24199. The accused need only design an “act or omission”—and not necessarily a crime or underlying offence per se—if he has the intent that a crime or underlying offence be committed in execution of the plan, or if he is aware of the substantial likelihood that a crime or underlying offence will be committed. Kordić and Čerkez Appeal Judgement, paras 31, 976.

470. While the Prosecution need not prove that the crime or underlying offence with which the accused is charged would not have been perpetrated but for the Accused's plan, the plan must have been a factor "substantially contributing to [...] criminal conduct constituting one or more statutory crimes that are later perpetrated".<sup>1108</sup>

(d) Instigating

471. Instigating consists of the following physical and mental elements:<sup>1109</sup>

- i. The accused, through either an act or an omission, prompted another to act in a particular way,<sup>1110</sup>
- ii. With the intent that a crime or underlying offence be committed as a result of such prompting, or with the awareness of the substantial likelihood that a crime or underlying offence would be committed as the result of such prompting.<sup>1111</sup>

472. The Accused's prompting may be implicit, written or otherwise non-verbal,<sup>1112</sup> and does not require that the accused have "effective control" over the perpetrator or

<sup>1107</sup> Rule 98 Decision, Transcript 4 May 2009, p. 24199. The standard of "awareness of the substantial likelihood" was first articulated by the Appeals Chamber in Blaškić in respect of ordering under Article 7(1). After undertaking a comparative analysis of the standards of recklessness and dolus eventualis in several national legal systems, the Chamber held as follows:

[I]t appears that under the Trial Chamber's standard, any military commander who issues an order would be criminally responsible, because there is always a possibility that violations could occur. The Appeals Chamber considers that an awareness of a higher likelihood of risk and a volitional element must be incorporated in the legal standard.

Prosecutor v. Blaškić, IT-95-14-A, Judgement (AC), 29 July 2004 [Blaškić Appeal Judgement], para. 41 (emphasis added); Kordić and Čerkez Appeal Judgement, paras 26, 31; Nahimana et al. Appeal Judgement, para. 479; Prosecutor v. Semanza, ICTR-97-20-T, Judgement and Sentence (TC), 15 May 2003 [Semanza Trial Judgement], para. 380 (planning "envisions one or more persons formulating a method of design or action, procedure, or arrangement for the accomplishment of a particular crime"). See also Rule 98 Decision, Transcript 4 May 2009, p. 24199.

<sup>1108</sup> Kordić and Čerkez Appeal Judgement, para. 26.

<sup>1109</sup> The Trial Chamber is satisfied that this mode of liability was a part of customary international law at the time of the alleged commission of the crimes charged against the Accused. AFRC Trial Judgement, para. 761; RUF Trial Judgement, para. 246; Tadić Trial Judgement, para. 669.

<sup>1110</sup> The accused need only prompt another to "act in a particular way"—and not necessarily to commit a crime or underlying offence per se—if he has the intent that a crime or underlying offence be committed in response to such prompting, or if he is aware of the substantial likelihood that a crime or underlying offence will be committed. Kvočka et al. Trial Judgement, para. 252.

<sup>1111</sup> AFRC Trial Judgement, para. 770, referring to Kordić and Čerkez Appeal Judgement, paras 29, 32; Brđanin Trial Judgement, para. 269. See also Rule 98 Decision, Transcript 4 May 2009, p. 24199.

<sup>1112</sup> Brđanin Trial Judgement, para. 269; Blaškić Trial Judgement, para. 280.

perpetrators.<sup>1113</sup> The Accused's prompting may consist of a positive act, but may also be accomplished by omission.<sup>1114</sup>

473. While the Accused's prompting must have been a factor "substantially contributing to the conduct of another person committing the crime", the Prosecution need not prove that the crime or underlying offence would not have been perpetrated but for the prompting of the Accused.<sup>1115</sup>

(e) Ordering

474. Ordering consists of the following physical and mental elements:<sup>1116</sup>

- i. The Accused intentionally instructed another to carry out an act or engage in an omission,<sup>1117</sup>
- ii. With the intent that a crime or underlying offence be committed in the execution of those instructions, or with the awareness of the substantial likelihood that a crime or underlying offence would be committed in the execution of those instructions.<sup>1118</sup>

475. While the Prosecution need not prove that there existed a formal superior-subordinate relationship between the accused and perpetrator,<sup>1119</sup> it must provide "proof of

<sup>1113</sup> Semanza v. Prosecutor, ICTR-97-20-A, Judgement (AC), 20 May 2005 [Semanza Appeal Judgement], para. 257. In order to have "effective control", the perpetrator must have the material ability to prevent and/or punish the commission of the instigated crimes or underlying offences. Čelebići Appeal Judgement, para. 197.

<sup>1114</sup> Brđanin Trial Judgement, para. 269; Galić Trial Judgement, para. 168.

<sup>1115</sup> Kordić and Čerkez Appeal Judgement, para. 27; Nahimana et al. Appeal Judgement, para. 480; Kvočka et al. Trial Judgement, para. 252 (holding that it must be shown that "the conduct of the accused was a clear contributing factor to the conduct of the other person(s)"); Kordić and Čerkez Trial Judgement, para. 387 (holding that "the contribution of the accused [must have] in fact had an effect on the commission of the crime"); Tadić Trial Judgement, para. 674 (holding that "the prosecution must prove that there was participation in that the conduct of the accused contributed to the commission of the illegal act").

<sup>1116</sup> The Trial Chamber is satisfied that this mode of liability was a part of customary international law at the time of the alleged commission of the crimes charged against the Accused. AFRC Trial Judgement, para. 761; RUF Trial Judgement, para. 246; Tadić Trial Judgement, para. 669.

<sup>1117</sup> The accused need only instruct another to carry out an act or engage in an omission—and not necessarily a crime or underlying offence per se—if he has the intent that a crime or underlying offence be committed in the execution of the order, or if he is aware of the substantial likelihood that a crime or underlying offence will be committed. Milutinović et al. Trial Judgement, footnote 94.

<sup>1118</sup> AFRC Trial Judgement, para. 773, referring to Kordić and Čerkez Appeal Judgement, paras 28, 30; Martić Appeal Judgement, paras 221-222. See also Rule 98 Decision, Transcript 4 May 2009, p. 24200.

<sup>1119</sup> AFRC Trial Judgement, para. 772, referring to Kordić and Čerkez Appeal Judgement, para. 28; Semanza Appeal Judgement, para. 361. See also Rule 98 Decision, Transcript 4 May 2009, p. 24200.



some position of authority on the part of the Accused that would compel another to commit a crime in following the Accused's order".<sup>1120</sup> Such authority may be informal and of a temporary nature,<sup>1121</sup> and consequently, the order issued by the Accused need not be legally binding upon the physical perpetrator or intermediary perpetrator.

476. The order need not take any particular form.<sup>1122</sup> However, ordering requires a positive act and cannot be committed by omission.<sup>1123</sup> Because the ICTY Appeals Chamber held that the Accused need merely "instruct another person to commit an offence",<sup>1124</sup> it is clear that liability for ordering may ensue where the Accused issues, passes down, or otherwise transmits the order, and that he need not use his position of authority to "convince" the perpetrator to commit the crime or underlying offence.<sup>1125</sup> Furthermore, the Accused need not give the order directly to the physical perpetrator,<sup>1126</sup> and an intermediary lower in the chain of command who passes the order on to the perpetrator may also be held responsible for ordering the underlying offence as long as he has the requisite state of mind.<sup>1127</sup>

477. While the issuance of the order must have been a factor substantially contributing to the physical perpetration of a crime or underlying offence,<sup>1128</sup> the Prosecution need not prove that the crime or underlying offence would not have been perpetrated but for the Accused's order.<sup>1129</sup>

478. The Defence submits that while Trial Chambers in the *AFRC*, *RUF* and *CDF* cases have held that the Accused's position of authority can be inferred or implied, these legal findings are based on a misreading of the cited authorities, which instead provide only that

<sup>1120</sup> Semanza Appeal Judgement, para. 361. See also Kordić and Čerkez Appeal Judgement, para. 28.

<sup>1121</sup> Semanza Appeal Judgement, paras 363, 364 (finding that the accused—a civilian mayor with no formal position in the Rwandan military hierarchy—had the necessary authority over Interahamwe fighters to render him liable for ordering them to kill Tutsis at Musha church, and that the Trial Chamber had erred in not convicting him under this form of responsibility). See also Rule 98 Decision, Transcript 4 May 2009, p. 24200.

<sup>1122</sup> AFRC Trial Judgement, para. 772, referring to Blaškić Trial Judgement, para. 281; Prosecutor v. Strugar, IT-01-42-T, Judgement (TC), 31 January 2005 [Strugar Trial Judgement], para. 331.

<sup>1123</sup> Galić Appeal Judgement, para. 176.

<sup>1124</sup> Kordić and Čerkez Appeal Judgement, para. 28.

<sup>1125</sup> Milutinović et al. Trial Judgement, para. 86.

<sup>1126</sup> AFRC Trial Judgement, para. 772, referring to Blaškić Trial Judgement, para. 282; Kordić and Čerkez Trial Judgement, para. 388.

<sup>1127</sup> Prosecutor v. Kupreškić, Kupreškić, Kupreškić, Josipović, Papić and Šantić, IT-95-16-T, Judgement (TC), 14 January 2000 [Kupreškić et al. Trial Judgement], paras 827, 862.

<sup>1128</sup> Strugar Trial Judgement, para. 332; Galić Trial Judgement, para. 169; Tadić Trial Judgement, para. 674.

the existence of an order may be proved through circumstantial evidence.<sup>1130</sup> Further, it argues that the Appeals Chamber in the *RUF* case failed to make any distinction between an inference of authority and an inference of an order in finding that “ordering can be established by direct or circumstantial evidence”.<sup>1131</sup>

479. The Defence therefore submits that while the existence of an order may be proved through circumstantial evidence, where this is the only reasonable inference, the Prosecution must furnish direct evidence establishing that, at the material time, the Accused held the required position of authority.<sup>1132</sup> It submits that, even if the Trial Chamber finds that circumstantial evidence can establish the Accused’s position of authority, it should “in the interests of justice demand independent evidence proving the separate elements of the *actus reus* of ordering”.<sup>1133</sup> It submits that the Trial Chamber should not follow recent jurisprudence which “compounds the elements to the extent that the existence of an Accused’s position of authority has been derived from evidence that the Accused issued orders”.<sup>1134</sup>

480. In Section IV(2), “Considerations Regarding the Evaluation of Evidence”, the Trial Chamber holds that it is entitled to rely on circumstantial evidence in cases in which the only reasonable inference to be drawn from such evidence leads to proof of the guilt of the Accused.<sup>1135</sup> Moreover, the Trial Chamber finds that the Appeals Chamber’s statement that “ordering can be established by direct or circumstantial evidence” implies that each element of the *actus reus* of ordering can be proved by means of either type of evidence.

481. The Trial Chamber finds accordingly that, as with all other elements of crimes or modes of liability, the authority of the Accused may be proved by either direct or circumstantial evidence. The Trial Chamber further finds that evidence that the Accused has issued orders may be considered as circumstantial evidence that, *inter alia*, establishes that the Accused was in a position of authority.

<sup>1129</sup> Strugar Trial Judgement, para. 332.

<sup>1130</sup> Defence Final Trial Brief, para. 127, referring to AFRC Trial Judgement, para. 772; CDF Trial Judgement, para. 225; RUF Trial Judgement, para. 273.

<sup>1131</sup> Defence Final Trial Brief, para. 128, referring to RUF Appeal Judgement, para. 164.

<sup>1132</sup> Defence Final Trial Brief, para. 127.

<sup>1133</sup> Defence Final Trial Brief, para. 129.

<sup>1134</sup> Defence Final Trial Brief, para. 130.

<sup>1135</sup> Evaluation of Evidence: Law Applicable to the Assessment of Evidence.

(f) Aiding and abetting

482. Aiding and abetting consists of the following physical elements:<sup>1136</sup>

- i. The Accused provided practical assistance, encouragement, or moral support to the perpetration of a crime or underlying offence<sup>1137</sup> and
- ii. Such practical assistance, encouragement, or moral support had a substantial effect upon the commission of a crime or underlying offence.<sup>1138</sup>

483. An Accused may aid and abet not only by means of positive action, but also through omission.<sup>1139</sup>

484. The Accused may aid and abet at one or more of the “planning, preparation or execution” stages of the crime or underlying offence.<sup>1140</sup> The lending of practical assistance, encouragement, or moral support may occur before, during, or after the crime or underlying offence occurs.<sup>1141</sup> The *actus reus* of aiding and abetting does not require “specific direction”.<sup>1142</sup> No evidence of a plan or agreement between the aider and abettor and the perpetrator is required,<sup>1143</sup> except in cases of *ex post facto* aiding and abetting where “at the time of the planning, preparation or execution of the crime, a prior agreement exists between

<sup>1136</sup> The Trial Chamber is satisfied that this mode of liability was a part of customary international law at the time of the alleged commission of the crimes charged against the Accused. AFRC Trial Judgement, para. 761; RUF Trial Judgement, para. 246; Tadić Trial Judgement, para. 669.

<sup>1137</sup> AFRC Trial Judgement, para. 775, citing Blaškić Appeal Judgement, para. 46; Prosecutor v. Perišić, IT-04-08-T, Judgement (TC), 6 September 2011 [Perišić Trial Judgement], para. 126; Vasiljević Appeal Judgement, para. 102. See also Rule 98 Decision, Transcript 4 May 2009, p. 24200. Aiding and abetting actually constitute two discrete activities. “Aiding” consists of giving practical assistance to the physical perpetrator or intermediary perpetrator, and “abetting” consists of “facilitating the commission of an act by being sympathetic thereto”—in other words, giving encouragement or moral support to the physical perpetrator or intermediary perpetrator. Prosecutor v. Akayesu, ICTR-96-4-T, Judgement (TC), September 1998 [Akayesu Trial Judgement], para. 484. See also Kvočka et al. Trial Judgement, para. 254; Blaškić Trial Judgement, para. 284 footnote 510.

<sup>1138</sup> AFRC Trial Judgement, para. 775, citing Blaškić Appeal Judgement, para. 46; Perišić Trial Judgement, para. 126; Vasiljević Appeal Judgement, para. 102. See also Rule 98 Decision, Transcript 4 May 2009, p. 24200.

<sup>1139</sup> Prosecutor v. Mrkšić, IT-95-13/1-A, Judgement (AC), 5 May 2009 [Mrkšić Appeal Judgement], para. 135; Nahimana et al. Appeal Judgement, para. 482.

<sup>1140</sup> AFRC Trial Judgement, para. 775, citing Blaškić Appeal Judgement, paras 45, 48.

<sup>1141</sup> RUF Trial Judgement, para. 278. See also Prosecutor v. Blagojević and Jokić, IT-02-60-A, Judgement (AC), 9 May 2007 [Blagojević and Jokić Appeal Judgement], para. 127; Blaškić Appeal Judgement, para. 48.

<sup>1142</sup> Perišić Trial Judgement, para. 126, citing Mrkšić Appeal Judgement, para. 159.

<sup>1143</sup> Tadić Appeal Judgement, para. 229; Brdanin Appeal Judgement, para. 263; Prosecutor v. Simić, IT-95-9-T, Judgement (TC), 17 October 2003 [Simić et al. Trial Judgement], para. 162.

the principal and the person who subsequently aids and abets the commission of the crime”.<sup>1144</sup>

485. Although the practical assistance, encouragement, or moral support provided by the Accused must have a substantial effect upon the commission of the crime or underlying offence,<sup>1145</sup> the Prosecution need not prove that the crime or underlying offence would not have been perpetrated but for the Accused’s contribution.<sup>1146</sup>

486. The mental elements of aiding and abetting require that:

- i. The Accused performed an act with the knowledge that such act would assist the commission of a crime or underlying offence, or that he was aware of the substantial likelihood that his acts would assist the commission of underlying offence,<sup>1147</sup> and
- ii. The Accused is aware of the essential elements of the crime committed by the principal offender, including the state of mind of the principal offender.<sup>1148</sup>

487. Although the lending of practical assistance, encouragement, or moral support must itself be intentional, the intent to commit the crime or underlying offence is not required.<sup>1149</sup> Instead, the Accused must have knowledge that his acts or omissions assist the perpetrator in the commission of the crime or underlying offence.<sup>1150</sup> Such knowledge may be inferred from the circumstances.<sup>1151</sup> The Accused must be aware, at a minimum, of the essential elements of the substantive crime or underlying offence for which he is charged with

<sup>1144</sup> Blagojević and Jokić Trial Judgement, para. 731.

<sup>1145</sup> CDF Appeal Judgement, para. 52; Kvočka et al. Appeal Judgement, para. 90; Blaškić Appeal Judgement, para. 46; Prosecutor v. Naletilić and Martinović, IT-98-34-T, Judgement (TC), 31 March 2003 [Naletilić and Martinović Trial Judgement], paras 63, 507.

<sup>1146</sup> Blaškić Appeal Judgement, para. 48; Prosecutor v. Simić, IT-95-9-A, Judgement (AC), 28 November 2006 [Simić et al. Appeal Judgement], para. 85.

<sup>1147</sup> RUF Appeal Judgement, para. 546; Blaškić Appeal Judgement, para. 49; Vasiljević Appeal Judgement, para. 102; Perišić Trial Judgement, para. 129. See also Rule 98 Decision, Transcript 4 May 2009, p. 24200.

<sup>1148</sup> Blagojević and Jokić Appeal Judgement, para. 221; Perišić Trial Judgement, para. 129.

<sup>1149</sup> See Kunarac et al., Trial Judgement, para. 392. See also Prosecutor v. Krstić, IT-98-33-A, Judgement (AC), Partial Dissenting Opinion of Judge Shahabuddeen, 19 April 2004 [Partial Dissenting Opinion of Judge Shahabuddeen], para. 66: Intent must always be proved, but the intent of the perpetrator of genocide is not the same as the intent of the aider and abettor. The perpetrator’s intent is to commit genocide. The intent of the aider and abettor is not to commit genocide; his intent is to provide the means by which the perpetrator, if he wishes, can realise his own intent to commit genocide.

<sup>1150</sup> Blaškić Appeal Judgement, para. 49; Vasiljević Appeal Judgement, para. 102.

responsibility as an aider and abettor.<sup>1152</sup> The requirement that the aider and abettor need merely know of the perpetrator's intent — and need not share it — applies equally to specific-intent crimes or underlying offences such as persecution as a crime against humanity.<sup>1153</sup>

## 2. Responsibility Pursuant to Article 6(3) of the Statute

488. Article 6(3) of the Statute provides:

The fact that any of the acts referred to in articles 2 to 4 of the present Statute was committed by a subordinate does not relieve his or her superior of criminal responsibility if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior had failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

489. In addition, or alternatively, pursuant to Article 6(3) of the Statute, the Indictment charges that “the Accused, while holding positions of superior responsibility and exercising command and control over subordinate members of the RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters, is individually criminally responsible for the crimes referred to in Articles 2, 3 and 4 of the [Second Amended Indictment]”. It alleges that “the Accused is responsible for the criminal acts of his subordinates in that he knew or had reason to know that the subordinate was about to commit such acts or had done so and the Accused failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof”.<sup>1154</sup>

### (a) Elements of Superior Responsibility

490. In order to establish criminal liability under Article 6(3) of the Statute, three requirements must be proved beyond reasonable doubt:

- i. The existence of a superior-subordinate relationship between the Accused as superior and the perpetrator of the crime;

<sup>1151</sup> RUF Trial Judgement, para. 280; Strugar Trial Judgement, para. 350; Martić Trial Judgement, para. 451. See also Kvočka et al. Appeal Judgement, para. 237; Vasiljević Appeal Judgement, paras 120, 128.

<sup>1152</sup> RUF Trial Judgement, para. 280; Blaškić Appeal Judgement, para. 50; Simić et al. Appeal Judgement, para. 86; Tadić Appeal Judgement, para. 229.

<sup>1153</sup> Blagojević and Jokić Appeal Judgement, para. 127; Simić Appeal Judgement, para. 86; Prosecutor v. Krstić, IT-98-33-A, Judgement (AC), 19 April 2004 [Krstić Appeal Judgement], paras 140, 143; Vasiljević Appeal Judgement, paras 142–143; Krnojelac Trial Judgement, para. 489.

<sup>1154</sup> Indictment, para. 34.

- ii. The Accused knew or had reason to know that the crime was about to be or had been committed; and
- iii. The Accused failed to take necessary and reasonable measures to prevent the crime or punish the perpetrators thereof.<sup>1155</sup>

491. The principle that an individual may be held responsible as a superior in the course of an armed conflict is established in customary international law.<sup>1156</sup> The scope of Article 6(3) does not only include military commanders, but also political leaders and other civilian superiors in possession of authority.<sup>1157</sup>

492. The responsibility of a superior is not limited to crimes committed by subordinates in person, but encompasses any mode of criminal liability proscribed in Article 6(1) of the Statute. It follows that a superior can be held responsible for failure to prevent or punish a crime which was planned, ordered, instigated or aided and abetted by subordinates.<sup>1158</sup>

(b) Existence of a Superior-Subordinate Relationship

493. In order to establish the existence of a superior-subordinate relationship, it must be demonstrated that the superior had “effective control”<sup>1159</sup> over his subordinates – i.e. the

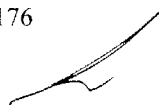
<sup>1155</sup> AFRC Trial Judgement, para. 781, referring to Čelebići Trial Judgement, para. 346; See also Prosecutor v. Orić, IT-03-68-A, Judgement (AC), 3 July 2008 [Orić Appeal Judgement], para. 18; Rule 98 Decision, Transcript 4 May 2009, p. 24201.

<sup>1156</sup> AFRC Trial Judgement, para. 782, referring to Čelebići Trial Judgement, para. 333, stating “[t]hat military commanders and other persons occupying positions of superior authority may be held criminally responsible for the unlawful conduct of their subordinates is a well-established norm of customary international law”. See also Prosecutor v. Hadžihasanović, Alagić and Kubura, IT-01-47-AR72, Decision on Interlocutory Appeal Challenging Jurisdiction in Relation to Command Responsibility, 16 July 2003 [Hadžihasanović et al. Appeal Decision on Command Responsibility], para. 31, holding that “[i]n the opinion of the Appeals Chamber, the Trial Chamber was correct in holding, after a thorough examination of the matter, that command responsibility was at all times material to this case a part of customary international law in its application to war crimes committed in the course of an internal armed conflict”.

<sup>1157</sup> AFRC Trial Judgement, para. 782, referring to Aleksovski Appeal Judgement, para. 76; Stakić Trial Judgement, para. 459; Orić Trial Judgement, para. 308; Prosecutor v. Bagilishema, ICTR-95-1A-A, Judgement (Reasons) (AC), 3 July 2002 [Bagilishema Appeal Judgement], para. 51; Kajelijeli v. Prosecutor, ICTR-98-44A-A, Judgement (AC), 23 May 2005 [Kajelijeli Appeal Judgement], para. 85. See also Rule 98 Decision, Transcript 4 May 2009, p. 24201.

<sup>1158</sup> AFRC Trial Judgement, para. 783, referring to Orić Trial Judgement, paras 301-302. See also Orić Appeal Judgement, para. 21; Prosecutor v. Boškoski and Tarčulovski, IT-04-82-PT, Decision on Prosecution’s Motion to Amend the Indictment and Submission of Proposed Second Amended Indictment and Submission of Amended Pre-Trial Brief, 26 May 2006 [Boškoski and Tarčulovski Decision on Amending Indictment], paras 18 et seq. and Prosecutor v. Bagosora, ICTR-98-41-T, Judgement (TC), 18 December 2008 [Bagosora Trial Judgement], paras 2037, 2064, 2081.

<sup>1159</sup> Čelebići Appeal Judgement, para. 256; Brđanin Trial Judgement, para. 276; Orić Trial Judgement, para. 311; Limaj Trial Judgement, para. 522.





material ability to prevent or punish the commission of the offence.<sup>1160</sup> However, it is immaterial whether the power of the superior over the subordinates is based on *de jure* or on *de facto* authority.<sup>1161</sup> Possession of *de jure* authority is neither necessary nor sufficient to prove effective control, although it may be evidentially relevant to determining whether there is effective control.<sup>1162</sup> Substantial influence over the conduct of others falls short of effective control.<sup>1163</sup>

494. A superior may be held responsible for crimes committed by individuals temporarily subordinated to him, provided he exercises effective control over them.<sup>1164</sup> Further, superior responsibility is not excluded by the concurrent responsibility of other superiors in a chain of command.<sup>1165</sup>

495. Identification of the principal perpetrator, particularly by name, is not required to establish a superior-subordinate relationship. It is sufficient to identify the subordinates as belonging to a unit or group controlled by the superior.<sup>1166</sup>

(c) Actual or Imputed Knowledge

496. For a superior to be held responsible pursuant to Article 6(3) of the Statute, it must be established that he knew or had reason to know that the subordinate was about to commit or had committed such crimes.<sup>1167</sup>

<sup>1160</sup> AFRC Trial Judgement, para. 784, referring to Halilović Trial Judgement, para. 58; Orić Appeal Judgement, para. 159; Čelebići Appeal Judgement, para. 256.

<sup>1161</sup> Orić Trial Judgement, para. 309, stating that “the broadening of this liability as described above is supported by the fact that the borderline between military and civil authority can be fluid. This is particularly the case with regard to many contemporary conflicts where there may be only *de facto* self-proclaimed governments and/or *de facto* armies and paramilitary groups subordinate thereto” (footnotes omitted). See also Kordić and Čerkez Trial Judgement, paras 419, 422; Kajelijeli Appeal Judgement, para. 87; Naletilić and Martinović Trial Judgement, para. 67.

<sup>1162</sup> Orić Appeal Judgement, paras 91-92.

<sup>1163</sup> Čelebići Appeal Judgement, para. 266; Blagojević and Jokić Trial Judgement, para. 791; Prosecutor v. Ntagerura, Bagambiki and Imanishimwe, ICTR-99-46-T, Judgement (TC), 25 February 2004 [Ntagerura et al. Trial Judgement], para. 628.

<sup>1164</sup> AFRC Trial Judgement, para. 786, referring to Halilović Trial Judgement, paras 61, 62; Kunarac Trial Judgement, para. 399; Orić Trial Judgement, para. 313; Prosecutor v. Aleksovski, IT-95-14/1-T, Judgement (TC), 25 June 1999 [Aleksovski Trial Judgement], para. 106.

<sup>1165</sup> AFRC Trial Judgement, para. 786, referring to Blaškić Trial Judgement, paras 296, 302, 303; Krnojelac Trial Judgement, para. 93; Naletilić Trial Judgement, para. 69; Halilović Trial Judgement, para. 62.

<sup>1166</sup> AFRC Trial Judgement, para. 790, referring to Blaškić Appeal Judgement, para. 217; Prosecutor v. Krnojelac, IT-97-25-PT, Decision on the Defence Preliminary Motion on the Form of the Indictment, 24 February 1999 [Krnojelac Decision on the Form of Indictment], para. 46; Orić Trial Judgement, para. 311.

<sup>1167</sup> AFRC Trial Judgement, para. 791.

(i) Actual Knowledge

497. Actual knowledge may be defined as the awareness that the relevant crimes were committed or about to be committed.<sup>1168</sup> There is no presumption of such knowledge but, in the absence of direct evidence, it may be established through circumstantial evidence.<sup>1169</sup> Factors indicative of actual knowledge include, first of all, an individual's superior position and the superior's geographical and temporal proximity to the crimes;<sup>1170</sup> also, the type and scope of crimes, the time during which they occurred, the number and type of troops and logistics involved, the widespread occurrence of crimes, the tactical tempo of operations, the *modus operandi* of similar illegal acts and the officers and staff involved.<sup>1171</sup>

(ii) Imputed Knowledge

498. In determining whether a superior "had reason to know", or imputed knowledge, that his or her subordinates were committing or about to commit a crime, it must be shown that specific information was available which would have put the superior on notice of crimes committed or about to be committed.<sup>1172</sup> The superior may not be held liable for failing to acquire such information in the first place.<sup>1173</sup> However, it suffices for the superior to be in possession of sufficient information, even general in nature, written or oral, of the likelihood of illegal acts by subordinates.<sup>1174</sup> The superior need only have notice of a risk that crimes might be carried out and there is no requirement that this be a strong risk or a substantial likelihood.<sup>1175</sup>

499. It is clear from the case law referred to above that negligence is insufficient to attribute imputed knowledge, and that a superior cannot be held liable for having failed in

<sup>1168</sup> AFRC Trial Judgement, para. 792, referring to Kordić and Čerkez Trial Judgement, para. 427.

<sup>1169</sup> AFRC Trial Judgement, para. 792, referring to Kordić and Čerkez Trial Judgement, para. 427; Čelebići Trial Judgement, para. 386. See also Brđanin Trial Judgement, para. 278.

<sup>1170</sup> AFRC Trial Judgement, para. 792, referring to Aleksovski Trial Judgement, para. 80.

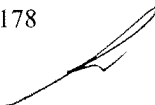
<sup>1171</sup> AFRC Trial Judgement, para. 792, referring to Čelebići Trial Judgement, para. 386; Galić Trial Judgement, para. 174; Limaj Trial Judgement, para. 524; Bagilishema Trial Judgement, para. 968.

<sup>1172</sup> AFRC Trial Judgement, para. 794, referring to Blaškić Appeal Judgement, para. 62; Čelebići Appeal Judgement, para. 241.

<sup>1173</sup> AFRC Trial Judgement, para. 794, referring to Blaškić Appeal Judgement, paras 62-63, Čelebići Appeal Judgement, para. 226.

<sup>1174</sup> AFRC Trial Judgement, para. 794, referring to Čelebići Appeal Judgement, para. 238; Čelebići Trial Judgement, para. 393; Kordić and Čerkez Trial Judgement, para. 437; Strugar Trial Judgement, para. 370.

<sup>1175</sup> AFRC Trial Judgement, para. 794; Prosecutor v. Strugar, IT-01-42-A, Judgement (AC), 17 July 2008 [Strugar Appeal Judgement], para. 304.







his duty to obtain information in the first place.<sup>1176</sup> What is required is the superior's awareness of information which should have prompted him or her to acquire further knowledge.<sup>1177</sup> Responsibility pursuant to Article 6(3) of the Statute will attach when the superior remains wilfully blind to the information that is available to him.<sup>1178</sup>

(d) Failure to Prevent or Punish

500. It must be established that the superior failed to take the necessary and reasonable measures to prevent or punish the crimes of his or her subordinates. These are two distinct duties: it is the superior's primary duty to intervene as soon as he or she becomes aware of crimes about to be committed, while taking measures to punish will only suffice if the superior did not become aware of these crimes until after they were committed.<sup>1179</sup>

501. As regards the duty to prevent the crimes of subordinates, the type of necessary and reasonable measures a superior must take is a matter of evidence rather than one of substantive law.<sup>1180</sup> Generally, it can be said that the measures required of the superior are limited to those within his or her material ability under the circumstances,<sup>1181</sup> including those that may lie beyond his or her formal powers.<sup>1182</sup> The type and extent of measures to be taken depend on the degree of effective control exercised by the superior at the relevant time, and on the severity and imminence of the crimes that are about to be committed.<sup>1183</sup>

502. The duty to punish only arises once a crime under the Statute has been committed.<sup>1184</sup> A superior is bound to conduct a meaningful investigation with a view to establish the facts, order or execute appropriate sanctions, or report the perpetrators to the

<sup>1176</sup> AFRC Trial Judgement, para. 796, referring to Čelebići Appeal Judgement, para. 226.

<sup>1177</sup> AFRC Trial Judgement, para. 796, referring to Orić Trial Judgement, para. 324.

<sup>1178</sup> AFRC Trial Judgement, para. 796, referring to Halilović Trial Judgement, para. 69, relying on Čelebići Trial Judgement, para. 387.

<sup>1179</sup> AFRC Trial Judgement, para. 797, referring to Orić Trial Judgement, para. 326; Limaj Trial Judgement, para. 527; Strugar Trial Judgement, para. 373.

<sup>1180</sup> AFRC Trial Judgement, para. 798, referring to Blaškić Appeal Judgement, paras 72, 77; Čelebići Trial Judgement, para. 394. See also Prosecutor v. Hadžihasanović and Kubura, IT-01-47-A, Judgement (AC), 22 April 2008 [Hadžihasanović and Kubura Appeal Judgement].

<sup>151:</sup> Halilović Appeal Judgement, para. 63.

<sup>1181</sup> AFRC Trial Judgement, para. 798, referring to Limaj Trial Judgement, para. 528.

<sup>1182</sup> AFRC Trial Judgement, para. 798, referring to Čelebići Trial Judgement, para. 395.

<sup>1183</sup> AFRC Trial Judgement, para. 798, referring to Orić Trial Judgement, para. 329.

<sup>1184</sup> AFRC Trial Judgement, para. 799, referring to Blaškić Appeal Judgement, paras 83, 85.





competent authorities in case the superior lacks sanctioning powers.<sup>1185</sup> According to the ICTY Appeals Chamber, there is no support in customary international law for the proposition that a commander can be held responsible for crimes committed by a subordinate prior to the commander's assumption of command over that subordinate.<sup>1186</sup>

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<sup>1185</sup> AFRC Trial Judgement, para. 799, referring to Limaj Trial Judgement, para. 529; Orić Trial Judgement, para. 336; Strugar Trial Judgement, para. 376. See also Hadžihasanović and Kubura Appeal Judgement, para. 154; Halilović Appeal Judgement, para. 182.

<sup>1186</sup> AFRC Trial Judgement, para. 799, referring to Hadžihasanović et al. Appeal Decision on Command Responsibility, paras 45-46; but see Partial Dissenting Opinion of Judge Shahabuddeen, para. 43; and see also Separate and Partially Dissenting Opinion of Judge David Hunt – Command Responsibility Appeal, para. 8. See also Orić Appeal Judgement, Declaration of Judge Shahabuddeen, paras 16-17; RUF Trial Judgement, paras 299-306.



## VI. LAW AND FINDINGS ON THE GENERAL REQUIREMENTS

### A. Article 2: Crimes Against Humanity

503. The Accused is charged with five counts of crimes against humanity punishable under Article 2 of the Statute. Specifically, the Accused is charged with murder (Count 2, rape (Count 4), sexual slavery (Count 5), other inhumane acts (Count 8), and enslavement (Count 10).

#### 1. Applicable Law

504. Article 2 of the Statute is entitled ‘Crimes against humanity’ and provides as follows:

The Special Court shall have power to prosecute persons who committed the following crimes as part of a widespread or systematic attack against any civilian population:

- a. Murder;
- b. Extermination;
- c. Enslavement;
- d. Deportation;
- e. Imprisonment;
- f. Torture
- g. Rape, sexual slavery, enforced prostitution; forced pregnancy and any other form of sexual violence;
- h. Persecution on political, racial, ethnic or religious grounds;
- i. Other inhumane acts.

505. In order for liability to be established under Article 2 of the Statute, the acts of the accused must have formed part of a widespread or systematic attack against any civilian population. Five *chapeau* (or general) requirements for crimes against humanity must be proved beyond reasonable doubt.

#### (a) There must be an attack

506. An ‘attack’ may be defined as a campaign, operation or course of conduct.<sup>1187</sup> It is not limited to the use of armed force but may encompass any mistreatment of any civilian population.<sup>1188</sup> ‘Attack’ is a concept different from that of “armed conflict” and need not be part of it.<sup>1189</sup>

<sup>1187</sup> AFRC Trial Judgement, para. 214; RUF Trial Judgement, para. 77; CDF Trial Judgement, para. 111.

<sup>1188</sup> AFRC Trial Judgement, para. 214; RUF Trial Judgement, para. 77; Kunarac et al. Appeal Judgement, para. 86.

<sup>1189</sup> AFRC Trial Judgement, para. 214; RUF Trial Judgement, para. 77; Tadić Appeal Judgement, para. 251; Kunarac et al. Appeal Judgement, para. 86.

(b) The attack must be directed against any civilian population

507. Therefore, it must be established that a civilian population was the primary object of the attack.<sup>1190</sup> A population is considered a “civilian population” if it is predominantly civilian in nature.<sup>1191</sup> There is no requirement that the victims of the underlying crimes be “civilians”, as long as the attack is directed against the civilian population.<sup>1192</sup> It is not required that the entire population be subjected to the attack. The Trial Chamber must, however, be satisfied that the attack was in fact directed against a civilian “population”, rather than against a limited and randomly selected number of individuals.<sup>1193</sup>

508. It is an agreed fact between the Defence and the Prosecution that the terms “civilian” and “civilian population” throughout the Indictment refer to “persons who took no active part in the hostilities, or who were no longer taking an active part in the hostilities, including combatants rendered *hors de combat* by virtue of injury or wounds, capture or surrender”.<sup>1194</sup>

509. With regards to alleged crimes against humanity under Article 2 of the Statute, the Trial Chamber finds that this definition of “civilian” agreed to by the parties is overly broad and inconsistent with customary international law.<sup>1195</sup> Referring to principles of international humanitarian law, the ICTY Appeals Chamber has distinguished between a person *hors de combat* and a civilian:

Persons *hors de combat* are certainly protected in armed conflicts through Common Article 3 of the Geneva Conventions. This reflects a principle of customary international law. Even *hors de combat*, however, they would still be members of the armed forces of a party to the conflict and therefore fall under the category of persons referred to in Article 4(A)(1) of the Third Geneva Convention; *as such, they are not civilians* in the context of Article 50, paragraph 1, of Additional Protocol I. Common Article 3 of the Geneva Conventions supports this conclusion in referring to “[p]ersons taking no active part in the hostilities,

<sup>1190</sup> AFRC Trial Judgement, para. 216; RUF Trial Judgement, para. 80; CDF Trial Judgement, para. 114; Kunarac et al. Appeal Judgement, para. 91; Blaškić Appeal Judgement, paras 110-115.

<sup>1191</sup> AFRC Trial Judgement, para. 216, referring to Tadić Appeal Judgement, para. 644; RUF Trial Judgement, para. 83; D. Milošević Appeal Judgement, paras 50-51; Milutinović et al. Trial Judgement, para. 146.

<sup>1192</sup> Mrkšić Appeal Judgement, paras 25-33.

<sup>1193</sup> AFRC Trial Judgement, para. 217; RUF Trial Judgement, para. 85; Kunarac et al. Appeal Judgement, para. 90.

<sup>1194</sup> Admitted Facts and Law, para. 37.

<sup>1195</sup> AFRC Trial Judgement, para. 219.

including *members of armed forces* who have laid down their arms *and those placed hors de combat* by sickness, wounds, detention, or any other cause".<sup>1196</sup>

510. The Trial Chamber therefore holds that the term "civilian" must be more narrowly defined in order to ensure a distinction in an armed conflict between civilians and combatants no longer participating in hostilities. The fact that the persons are *hors de combat* during the commission of a crime, does not render them "civilian" or part of the "civilian population" for the purposes of Article 2 of the Statute. This distinction is particularly important in a case where the Prosecution alleges that crimes against humanity were committed in a situation of armed conflict.<sup>1197</sup>

(c) The attack must be widespread or systematic

511. This requirement that an attack must be either widespread or systematic is disjunctive, so that once either condition is met, it is not necessary to consider whether the alternative is also satisfied.<sup>1198</sup> The term 'widespread' refers to the large-scale nature of the attack and the number of targeted persons, while the term 'systematic' refers to the organised nature of the acts of violence and the improbability of their random occurrence.<sup>1199</sup> The existence of a plan need not be proved.<sup>1200</sup>

(d) The acts of the perpetrator must form part of the attack

512. In order for the offence to amount to a crime against humanity, there must be a sufficient nexus between the unlawful acts of the perpetrator and the attack.<sup>1201</sup> Although this nexus depends on the factual circumstances of each case, reliable indicia of a nexus include the similarities between the perpetrator's acts and the acts occurring within the attack; the nature of the events and circumstances surrounding the perpetrator's acts; the

<sup>1196</sup> Galić Appeal Judgement, footnote 437; Blaškić Appeal Judgement, footnote 220 [emphasis added].

<sup>1197</sup> AFRC Trial Judgement, para. 219.

<sup>1198</sup> AFRC Trial Judgement, para. 215; RUF Trial Judgement, para. 78; Kunarac et al. Appeal Judgement, para. 93.

<sup>1199</sup> AFRC Trial Judgement, para. 215; RUF Trial Judgement, para. 78; CDF Trial Judgement, para. 112; and Čerkez Appeal Judgement, para. 94; Kunarac et al. Appeal Judgement, para. 95.

<sup>1200</sup> AFRC Trial Judgement, para. 215; RUF Trial Judgement, para. 79; Kunarac et al. Appeal Judgement, para. 98; Blaškić Appeal Judgement, para. 120.

<sup>1201</sup> Akayesu Trial Judgement, para. 579.

temporal and geographic proximity of the perpetrator's acts with the attack; and the nature and extent of the perpetrator's knowledge of the attack when he commits the acts.<sup>1202</sup>

513. It does not suffice that an accused knowingly took the risk of participating in the implementation of a policy, plan or ideology.<sup>1203</sup> Nevertheless, the accused need not know the details of the attack or approve of the context in which his or her acts occur;<sup>1204</sup> the accused merely needs to understand the overall context in which his or her acts took place.<sup>1205</sup> The motives for the accused's participation in the attack are irrelevant; the accused need only know that his or her acts are parts thereof.<sup>1206</sup>

514. Findings related to this requirement are addressed in the Findings on the Crimes section of this Judgement.

(e) The perpetrator must have knowledge that his acts form part of a widespread or systematic attack directed against a civilian population

515. The mens rea or mental requisite for crimes against humanity is that the perpetrator of the offence must be aware that a widespread or systematic attack on the civilian population is taking place and that his action is part of this attack.<sup>1207</sup> Evidence of knowledge depends on the facts of a particular case; thus the manner in which this legal element may be proved may vary from case to case.<sup>1208</sup> However, the perpetrator need not have been aware of the details of the pre-conceived plan or policy when he committed the offence and need not have intended to support the regime carrying out the attack on the civilian population.<sup>1209</sup> Findings related to this requirement are addressed in the Findings on the Crimes section of this Judgement.

<sup>1202</sup> Tadić Appeal Judgement, para. 632.

<sup>1203</sup> Limaj Trial Judgement, para. 190; Blaškić Appeal Judgement, paras 125-126.

<sup>1204</sup> Limaj Trial Judgement, para. 190; Kunarac Appeal Judgement, para. 102.

<sup>1205</sup> Limaj Judgement, para. 190; Kordić Trial Judgement, para. 185.

<sup>1206</sup> Limaj Trial Judgement, para. 190; Tadić Appeal Judgement, paras 248, 252; Kunarac Appeal Judgement, para. 103: "[a]t most, evidence that [acts were committed] for purely personal reasons could be indicative of a rebuttable assumption that he was not aware that his acts were part of that attack".

<sup>1207</sup> Kunarac Appeal Judgement, para. 121; Tadić Appeal Judgement, para. 255.

<sup>1208</sup> Blaškić Appeal Judgement, para. 126.

<sup>1209</sup> Blaškić Trial Judgement, paras 254-257.

### Submissions of the Parties

516. The Prosecution submits that the mistreatment of civilians in Sierra Leone was constant during rebel operations prior to and for the duration of the indictment period.<sup>1210</sup> In order to demonstrate the existence of an attack, the Prosecution primarily relies (i) on judicially noticed fact (AI), an RUF speech to the nation made on 18 June 1997 apologising for rebel violence, Foday Sankoh's 1999 speech apologising for "the pain and grief" caused by his "revolution" and deploring rebel actions in his absence and (ii) the Sierra Leone Truth and Reconciliation Report.<sup>1211</sup> The Prosecution further submits that the attacks in Sierra Leone were both widespread and systematic, referring to the large number of victims and the nationwide scope of the attacks, as well as to official operations, policies and patterns relating to the mistreatment of civilians.<sup>1212</sup> The Prosecution also submits that civilians were the primary targets of mistreatment, as campaigns were directed at terrorising, punishing or seeking revenge against civilians.<sup>1213</sup>

517. The Defence has not made any specific submissions with respect to the *chapeau* elements. However, it maintains that the Prosecution must prove beyond reasonable doubt each element of the crime - including the *chapeau* requirements.<sup>1214</sup>

### Evidence

518. The crimes charged against the Accused allegedly occurred over the course of more than five years, i.e. 30 November 1996 to 18 January 2002. Over that time period there were many changes in the alliances between the warring factions, the membership and leadership structure of such factions, and their position in the conflict. These factors affected the nature, type and frequency of the attacks perpetrated. In its submissions regarding the *chapeau* requirements, the Prosecution asserts that the *chapeau* requirements are fulfilled throughout the Indictment period without distinguishing between the time frames as pleaded in the Indictment. Because the conflict evolved over time, the Trial Chamber has considered each

<sup>1210</sup> Prosecution Final Trial Brief, paras 670-671.

<sup>1211</sup> Prosecution Final Trial Brief, paras 671-672 (referring to Exhibit P-094, "Statement by Cpl. Foday Sankoh, Leader of the Revolution United Front"; Exhibit P-057, "Transcript of the RUF Speech to the Nation Delivered on SLBS on 18 June 1997"; Exhibit P-296, "TRC Report: Appendix 1: Perpetrator Responsibility for Violations over Time and Space and Correlations between Perpetrator Groups").

<sup>1212</sup> Prosecution Final Trial Brief, paras 674-685.

<sup>1213</sup> Prosecution Final Trial Brief, paras 686-688.

<sup>1214</sup> Defence Pre-Trial Brief, para. 42.

phase of the conflict in turn with respect to the evidence of the *chapeau* elements for crimes against humanity.<sup>1215</sup>

(i) Pre-Junta Period (30 November 1996 to 24 May 1997)

519. The first distinct phase the Trial Chamber has examined is the period from the signing of the Abidjan Peace Accord on 30 November 1996 to the eve of the *coup d'etat* by the SLA on 25 May 1997. 30 November 1996 marks the start of the Court's jurisdiction and the beginning of the Indictment period.

520. From 1994 and continuing into the Indictment period, witnesses testified that the RUF established a system of forced labour in Kailahun District.<sup>1216</sup> Enslavement took the form of sexual slavery,<sup>1217</sup> forced marriages<sup>1218</sup> and forced farming,<sup>1219</sup> often under the threat of violence.<sup>1220</sup> From about 1994 to about 1998, men, women and children were abducted by rebels at the war front and brought back to Buedu where they were trained to fight, forced to farm and women and girls used as "wives".<sup>1221</sup> For example, if civilians did not farm or fish when ordered to do so, they would be beaten.<sup>1222</sup>

521. The Trial Chamber heard evidence from witnesses who testified that between 1996 and 2000, the RUF forced civilians to farm.<sup>1223</sup> Witness Aruna Gbonda explained that civilians farmed when they were ordered to because "when the war came", the civilians were enslaved by the rebels.<sup>1224</sup> Before the war, Gbonda said that he would farm at his own pace and feed himself, but that during the war, the civilians were required to give the rebels all the proceeds of farming.<sup>1225</sup> For example, Gbonda explained that rice farming was a

<sup>1215</sup> Kunarac Appeal Judgement, paras 91, 99, 100; Exhibit P-296, "TRC Report: Appendix 1: Perpetrator Responsibility for Violations over Time and Space and Correlations between Perpetrator Groups", p. 21853 (referring to "the episodic nature of the conflict").

<sup>1216</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4239-4243, 4251-4253; Mustapha M. Mansaray, Transcript 5 March 2008, pp. 5291-5293.

<sup>1217</sup> Edna Bangura, Transcript 20 October 2008, pp. 18684-18686.

<sup>1218</sup> Edna Bangura, Transcript 20 October 2008, pp. 18684-18686.

<sup>1219</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4251-4253, 4248-4249, 4251-4259.

<sup>1220</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4253-4255, 4267; Mustapha M. Mansaray, Transcript 5 March 2008, pp. 5291-5293.

<sup>1221</sup> Edna Bangura, Transcript 20 October 2008, pp. 18686-18688.

<sup>1222</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4253-4255, 4267.

<sup>1223</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4251-4253, 4255-4259. See also Edna Bangura, Transcript 20 October 2008, pp. 18688-18689.

<sup>1224</sup> Aruna Gbonda, Transcript 19 February 2008, p. 4252.

<sup>1225</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4252-4253.



“physical job”.<sup>1226</sup> Gbonda testified that when rice was farmed, for example, civilians would together clear and burn the farm, do the planting and farming, harvest the rice and hand it over to the RUF.<sup>1227</sup>

522. Farming was organised. When labour was requested by RUF commanders, chieftdom and deputy chieftdom commanders were enlisted to bring civilians to farms to work without pay or benefit.<sup>1228</sup> Witness Mustapha M. Mansaray explained that when Sam Bockarie and Issa Sesay required labour, they would order the G5 of the RUF who would communicate the order to chieftdom commanders, section commanders and town commanders in each town and village who would then order civilians to provide produce to the RUF.<sup>1229</sup> If civilians refused to comply, they faced beatings or detention or the RUF would appropriate their produce.<sup>1230</sup>

523. Witness Aruna Gbonda testified that civilians were monitored by the rebels and that they would be beaten if they did not farm.<sup>1231</sup> Civilians were also forced to harvest and transport cacao,<sup>1232</sup> to hunt and fish<sup>1233</sup> and to weed grass.<sup>1234</sup> Forced labour occurred in a number of towns and villages in Kailahun District and civilians, both men and women, were forced to participate.<sup>1235</sup>

524. Edna Bangura was captured in the pre-indictment period and brought to Buedu where she stayed until November or December 1998.<sup>1236</sup> She and other girls were forced to perform domestic labour for the rebels.<sup>1237</sup> Bangura testified that from 1994 to 1998,<sup>1238</sup> civilian women would be captured and they would become the wives of rebels,<sup>1239</sup> and that

<sup>1226</sup> Aruna Gbonda, Transcript 19 February 2008, p. 4251.

<sup>1227</sup> Aruna Gbonda, Transcript 19 February 2008, p. 4252.

<sup>1228</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4253, 4248-4249, 4251-4253.

<sup>1229</sup> Mustapha M. Mansaray, Transcript 5 March 2008, p. 5291.

<sup>1230</sup> Mustapha M. Mansaray, Transcript 5 March 2008, pp. 5291, 5923.

<sup>1231</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4239-4243, 4253-4255.

<sup>1232</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4259-4261.

<sup>1233</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4265-4268, 4270-4272.

<sup>1234</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4272-4274.

<sup>1235</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4251-4252, 4255-4259.

<sup>1236</sup> Edna Bangura, Transcript 20 October 2008, pp. 18665-18666, 18669-18670, 18677.

<sup>1237</sup> Edna Bangura, Transcript 20 October 2008, pp. 18700-18702, 18727-18730.

<sup>1238</sup> Edna Bangura, Transcript 20 October 2008, p. 18687.

<sup>1239</sup> Edna Bangura, Transcript 20 October 2008, pp. 18685-18686.

generally “no women had rights”.<sup>1240</sup> She further explained that the rebels would capture men, women and children when a particular town or village was attacked.<sup>1241</sup>

525. The testimony of these witnesses is corroborated by Exhibit P-296, an excerpt of the Sierra Leone Truth and Reconciliation Report, which records instances of mistreatment in 1996 and 1997.<sup>1242</sup>

526. Also of relevance, is an RUF speech delivered on 18 June 1997 by the RUF spokesman Eldred Collins apologizing to the citizens of Sierra Leone for violence committed by the RUF. He stated:

For the past six years or so, we have been living in an environment of hatred and divisiveness. We looked at our brothers and killed them in cold blood, we removed our sisters from their hiding places to undo their femininity, we slaughtered our mothers and butchered our fathers. It was really a gruesome experience which has left a terrible landmark in our history.<sup>1243</sup>

(ii) Junta Period (25 May 1997 to about 14 February 1998)

527. The 25 May 1997 *coup d'etat* ousted the government of President Ahmed Tejan Kabbah and placed Johnny Paul Koroma in power as Chairman of the AFRC.<sup>1244</sup> The second distinct phase of the conflict runs from the *coup d'etat* to shortly prior to the ECOMOG Intervention.<sup>1245</sup> This period is characterised by a shift in the dynamics of the conflict as the RUF found itself in a new position of sharing power in Sierra Leone with its former adversaries. The campaigns of the Junta government were aimed at the preservation of governmental authority and involved hostilities against ECOMOG and CDF forces.

528. In July 1997, the United Nations Security Council expressed its deep concern regarding the “continuing crisis in Sierra Leone”, and in particular, the atrocities committed against Sierra Leone’s citizens.<sup>1246</sup> A month later, the President of the Security Council stated that the Security Council “condemns the continuing violence and threats of violence

<sup>1240</sup> Edna Bangura, Transcript 20 October 2008, p. 18685.

<sup>1241</sup> Edna Bangura, Transcript 20 October 2008, pp. 18686-18687.

<sup>1242</sup> Exhibit P-296, “TRC Report: Appendix 1: Perpetrator Responsibility for Violations over Time and Space and Correlations between Perpetrator Groups”, pp. 21853-21860.

<sup>1243</sup> Exhibit P-057, “Transcript of the RUF Speech to the Nation Delivered on SLBS on 18 June 1997”; TF1-371, Transcript 1 February 2008, pp. 2837-2838 (CS).

<sup>1244</sup> Admitted Facts and Law, paras 17, 18, 30; Decision on Judicial Notice of AFRC Adjudicated Facts, Fact I.

<sup>1245</sup> Decision on Judicial Notice, Fact AD.

<sup>1246</sup> Exhibit P-299, “Statement by the President of the Security Council, S/PRST/1997/36, 11 July 1997”, p. 1.





by the junta towards the civilian population, foreign nationals and personnel of the ECOWAS monitoring group, and calls for an end to such acts of violence".<sup>1247</sup>

529. Witnesses, Amnesty International and a United Nations observer mission reported that during junta rule, the AFRC and RUF were responsible for extra-judicial killings, physical violence, rape, arbitrary detention, sexual slavery, the torture of children, forced labour, looting and the destruction of property, and that the victims were civilians and were specifically targeted.<sup>1248</sup> For example, one witness testified that during a student demonstration in August 1997, SLA fighters killed two students and detained others at the Pademba Road Prison in Freetown.<sup>1249</sup> In Kenema District, several witnesses described the killings of civilians.<sup>1250</sup> During this time period, the Truth and Reconciliation Commission recorded an increase in the number of reported human rights abuses.<sup>1251</sup>

530. The violence and mistreatment was directed at perceived political opponents, journalists, students and human rights activists.<sup>1252</sup> However, these attacks were not limited to such selected civilians. Rather, any perceived collaborator was targeted by the junta. Prosecution Exhibit P-078, a report by Amnesty International, describes attacks involving

<sup>1247</sup> Exhibit P-301, "Statement by the President of the Security Council, S/PRST/1997/42, 6 August 1997", p. 2.

<sup>1248</sup> See, e.g. TF1-371, Transcript 28 January 2008, pp. 2335-2340 (CS); Abdul Conteh, Transcript 29 September 2008, pp. 17516-17518; Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 15009-15011; 15096-15097; Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", p. 15141; Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", pp. 15141-15412; Alex Sheku Bao, Transcript 18 September 2008, p. 16656; Exhibit P-078, "Sierra Leone - 1998 - A Year of Atrocities Against Civilians, Amnesty International Report", pp. 1-2, 8-9 (report generated from contemporaneous accounts); Exhibit P-077 (confidential) ("Information continues to be received about human rights abuses perpetrated by forces loyal to the junta in the period before restoration of the Government. From all parts of the country there are reports of extra-judicial killings, rape, arbitrary detention, including for purposes of sexual abuse, torture of children (especially of child-combatants), forced labour, and the looting and destruction of residential and commercial premises and property".)(report generated from contemporaneous accounts).

<sup>1249</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7919-7924.

<sup>1250</sup> See, e.g., Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 15007-15010, 15098; Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", pp. 15140-15141 (testifying that a farmer was killed by Sam Bockarie in Kenema Town in September 1997); Karmoh Kanneh, Transcript 9 May 2008, pp. 9409-9411 (testifying that Mohamed Fityia was killed by Sam Bockarie in Kenema Town in September or November 1997); Exhibit P-278, "TF1-062 AFRC Transcript 27 June 2005", pp. 14919-14920 (testifying that three persons were killed by unidentified AFRC or RUF fighters in a house in Tongo Fields in August 1997); Abdul Conteh, Transcript 29 September 2001, pp. 17529-17531 (testifying that 15 civilians were intentionally killed by RUF fighters in Bumpeh village in Tongo Fields).

<sup>1251</sup> Exhibit P-296, "TRC Report: Appendix I: Perpetrator Responsibility for Violations over Time and Space and Correlations between Perpetrator Groups", pp. 21853-21860.

<sup>1252</sup> Exhibit P-078, "Sierra Leone - 1998 - A Year of Atrocities Against Civilians, Amnesty International Report", pp. 8-9; TF1-371, Transcript 28 January 2008, pp. 2346-2347 (CS); Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7919-7921.

torture, physical violence and extrajudicial killings directed against journalists and local civilian leaders.<sup>1253</sup>

531. The Trial Chamber heard evidence from a number of witnesses who testified civilians were forced to work in diamond mines in Kenema District during this period.<sup>1254</sup> The mining was organised by the AFRC and RUF.<sup>1255</sup> Amnesty International reported that the rape of women and girls was systematic and that at least one hundred civilians were “deliberately and arbitrarily killed”.<sup>1256</sup>

(iii) Post-Junta to end of the Indictment Period (1 February 1998 to 18 January 2002)

532. The third timeframe considered by the Trial Chamber runs from the ECOMOG Intervention of February 1998 which led to the ouster of the AFRC/RUF government<sup>1257</sup> to the end of the Indictment period on 18 January 2002.

533. Following the retreat of the AFRC and RUF fighters from Freetown and their regrouping at Masiaka, Port Loko District, Koroma announced ‘Operation Pay Yourself’ which resulted in a campaign of extensive looting.<sup>1258</sup> This conduct continued throughout the movement of the AFRC and RUF troops during this period.

534. AFRC and RUF fighters attacked the provincial headquarters Koidu Town and other locations in Kono district in February/March 1998,<sup>1259</sup> while a breakaway group under SAJ Musa retreated north to Koinadugu District. AFRC and RUF fighters burnt civilian homes as

<sup>1253</sup> Exhibit P-078, “Sierra Leone - 1998 - A Year of Atrocities Against Civilians, Amnesty International Report”, pp. 8-9.

<sup>1254</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7913-7916; Augustine Mallah, Transcript 12 November 2008, pp. 20153-20156; Dauda Aruna Fornie, 2 December 2008, pp. 21421-21425; Abdul Conteh, Transcript 29 September 2008, pp. 17532-17543; TF1-371, Transcript 28 January 2008, pp. 2335-2340 (CS).

<sup>1255</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7913-7916.

<sup>1256</sup> Exhibit P-078, “Sierra Leone - 1998 - A Year of Atrocities Against Civilians, Amnesty International Report”, p. 9.

<sup>1257</sup> Decision on Judicial Notice, Fact AD.

<sup>1258</sup> The Junta had been removed from power, meaning that it did not have the money to pay its fighters. As a result, the forces looted food, clothing and vehicles from the civilian population and broke into a bank to loot money. Issa Sesay, Transcript 7 July 2010, pp. 43963-43968; Isaac Mongor, Transcript 11 March 2008, pp. 5734-5735; TF1-371, Transcript 28 January 2008, pp. 2352-2355(CS); TF1-375, Transcript 23 June 2008, pp. 12501-12502; Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7934-7937; Samuel Bull, Transcript 24 September 2008, p. 17062; TF1-516, Transcript 8 April 2008, pp. 6851-6853.

<sup>1259</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10496-10498; Issa Sesay, Transcript 8 July 2010, pp. 43994-43995.

part of the operation in Koidu Town.<sup>1260</sup> Violence against civilians in AFRC/RUF held territory was frequent and intensified in the north and east of Sierra Leone as the former junta attacked those areas.<sup>1261</sup> Several thousand civilians were killed or mutilated, and hundreds more were abducted.<sup>1262</sup> Witness testified that other violations, such as rape, the burning of houses, killings and looting, continued.<sup>1263</sup>

535. In around May 1998, fighters burnt homes, looted and killed civilians as part of 'Operation No Living Thing' in Kenema.<sup>1264</sup> One witness explained that the operation meant that "if you go and attack that town, don't leave any breathing thing in that village. Sort of take away every life that you meet in that village".<sup>1265</sup>

536. In mid 1998 AFRC fighters moved from Kono District to an area on the border of Bombali and Kambia District.<sup>1266</sup> En route the fighters specifically targeted the civilian population. Civilians were raped, killed and/or mutilated and rebels burned houses and looted property during that campaign.<sup>1267</sup> Wounded civilians from Makeni, Bombali, Kono and Kenema Districts were treated for burns and amputations in Connaught Hospital in Freetown.<sup>1268</sup>

537. In late 1998, RUF fighters instituted a campaign called 'Operation Spare No Soul' in which fighters were encouraged to kill civilians.<sup>1269</sup>

<sup>1260</sup> Dennis Koker, Transcript 15 January 2008, pp. 1241-1246.

<sup>1261</sup> Exhibit P-078, "Sierra Leone - 1998 - A Year of Atrocities Against Civilians, Amnesty International Report", pp. 1-2, 7, 11 ("In the days immediately after their removal from power by ECOMOG, AFRC and RUF forces indiscriminately killed unarmed civilians, looted and burned houses, both in Freetown and other towns. As the rebel forces were pursued eastwards by ECOMOG forces through towns such as Bo in Southern Province, Kenema and Koidu in Eastern Province and Makeni in Northern Province during February, March and April 1998, they were responsible for widespread killings, torture and ill-treatment including rape and other forms of sexual assault, and abduction. Villages and towns were burnt to the ground, destroying thousands of homes. Koidu, a major town in the diamond-rich Kono District, was almost totally destroyed by AFRC and RUF forces and villages between Njaiama-Sewafe and Koidu were repeatedly attacked").

<sup>1262</sup> Exhibit P-078, "Sierra Leone - 1998 - A Year of Atrocities Against Civilians, Amnesty International Report", p. 10.

<sup>1263</sup> See, e.g., Exhibit P-077 (confidential); TF1-371, Transcript 28 January 2009, pp. 2352-2361(CS); TF1-189, Transcript 17 September 2008, pp. 16497-16515; TF1-174, Transcript 27 January 2009, pp. 23674-23680.

<sup>1264</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17331-17334.

<sup>1265</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17332.

<sup>1266</sup> Perry Kamara, Transcript 5 February 2008, pp. 3173-3183.

<sup>1267</sup> Exhibit P-077 (confidential).

<sup>1268</sup> TF1-358, Transcript 19 November 2008, pp. 20616-20626.

<sup>1269</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20219-20224.

538. Witnesses testified that AFRC and RUF forces used forced labour in a large-scale manner in Kono District.<sup>1270</sup> Civilian abductees were forcibly conscripted and trained or forced to farm and carry supplies.<sup>1271</sup> Civilians were also forced to mine for diamonds in various locations throughout Kono District.<sup>1272</sup>

539. Witnesses<sup>1273</sup> and documentary evidence<sup>1274</sup> describe attacks by rebel forces on civilian settlements, in which they burned and looted homes, and mutilated, abducted, raped, tortured, and killed civilians. Mass internal displacement also occurred during this period.<sup>1275</sup>

<sup>1270</sup> See, e.g., TF1-216, Transcript 28 October 2008, pp. 19336-19337; Exhibit P-189, "TF1-072, AFRC Trial, Transcript 1 July 2005", pp. 8-15; Sheku Bah Kuyateh, Transcript 31 October 2008, pp. 19695-19700.

<sup>1271</sup> See, e.g., Emmanuel Bull, Transcript 25 September 2008, pp. 17219-17225, 17231-17241, 17285-17286, 17316-17321; Alex Tamba Teh, Transcript 8 January 2008, pp. 696-704.

<sup>1272</sup> See, e.g., Mustapha M. Mansaray, Transcript 5 March 2008, pp. 5341-5346; TF1-516, Transcript 10 April 2008, pp. 7150-7157; TF1-367, Transcript 1 September 2008, pp. 15041-15043; TF1-338, Transcript 3 September 2008, p. 15317.

<sup>1273</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23861-23866; Dennis Koker, Transcript 15 January 2008, pp. 1231-1235; Exhibit P-201, "Sia Kamara, RUF Transcript 1 February 2005", pp. 19465-19482; Sia Kamara, Transcript 15 October 2008, 18434 -18437; Alex Temba Teh, Transcript 8 January 2008, pp. 683-705; Augustine Mallah, Transcript 13 November 2008, pp. 20171-20176, 20203-20208; TF1-532, Transcript 31 March 2008, pp. 6215-6219; Ibrahim Fofana, Transcript 28 October, 2008, pp. 19338-19339; Alice Pyne, Transcript 18 June 2008, pp. 12199-12201; Samuel Bull, Transcript 24 September 2008, pp. 17113-17121; Tamba Mondeh, Transcript 29 September 2008, pp. 17461-17464; TF1-174, Transcript 27 January 2009, pp. 23682-23685.

<sup>1274</sup> Exhibit P-077 (confidential); Exhibit P-079, "Doctors Without Borders/Médecins Sans Frontières (MSF) Press Release - Mutilation of Civilians on the Increase in Sierra Leone, 5 May 1998", p. 1; Exhibit P-078, "Sierra Leone - 1998 - A Year of Atrocities Against Civilians, Amnesty International Report", p. 10-14. See also Exhibit P-080, "UN Security Council - First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998", para. 35 (stating that, "[a] survey of 9 of Sierra Leone's 150 chiefdoms indicated that some 700 civilian war-related deaths have occurred since February, including 200 in one village, Yifin, in late April. About 1,600 people have suffered war-related injuries in these chiefdoms since February, of whom 30 per cent are children. In Koidu, a reliable source has stated that 663 bodies were buried following the fighting in the area in mid-June. A significant percentage of the dead were women and children. At the same time, the killing of some 44 of the 144 paramount chiefs during that period indicates a deliberate attempt to target them"). The United Nations Observer Mission also reported that several thousand civilians were being held by rebel forces, many of whom were women and children. It was also reported that in nine chiefdoms, 1,619 homes had been destroyed, and another 600 were destroyed in three other chiefdoms. On a single day in July, 40 homes were destroyed in a village near Masingbi. See Exhibit P-080, "UN Security Council - First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998", paras 35-37. See also Exhibit P-307, "UN Security Council, Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/1176, 15 December 1998", p. 214161, paras 36-37.

<sup>1275</sup> Exhibit P-077 (confidential); Exhibit P-079, "Doctors Without Borders/Médecins Sans Frontières (MSF) Press Release - Mutilation of Civilians on the Increase in Sierra Leone, 5 May 1998", p. 1; Exhibit P-078, "Sierra Leone - 1998 - A Year of Atrocities Against Civilians, Amnesty International Report", p. 10-14. See also Exhibit P-080, "UN Security Council - First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998", para. 35 (stating that, "[a] survey of 9 of Sierra Leone's 150 chiefdoms indicated that some 700 civilian war-related deaths have occurred since February, including 200 in one village, Yifin, in late April. About 1,600 people have suffered war-related injuries in these chiefdoms since February, of whom 30 per cent are children. In Koidu, a reliable source has stated that 663 bodies were buried

540. In the last days of 1998 and into January 1999, rebels went on the offensive in several areas of Sierra Leone, including Makeni, Lunsar and Port Loko.<sup>1276</sup> Refugees from these areas fled to camps in Guinea where they reported that civilians had been killed, property looted and homes destroyed during these attacks.<sup>1277</sup>

541. During the Freetown attack itself and the subsequent retreat, rebels killed thousands of civilians.<sup>1278</sup> Thousands more were abducted, burnt, beaten, mutilated, raped and/or sexually abused.<sup>1279</sup> Attacks against civilians occurred throughout Freetown and its surrounds, including the State House area,<sup>1280</sup> Kissy,<sup>1281</sup> Fourah Bay Road,<sup>1282</sup> Upgun,<sup>1283</sup> Calaba Town<sup>1284</sup> and Allen Town.<sup>1285</sup> Attacks against civilians also took place in the nearby towns of Hastings,<sup>1286</sup> Wellington,<sup>1287</sup> Waterloo<sup>1288</sup> and Benguema.<sup>1289</sup>

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following the fighting in the area in mid-June. A significant percentage of the dead were women and children. At the same time, the killing of some 44 of the 144 paramount chiefs during that period indicates a deliberate attempt to target them"). The United Nations Observer Mission also reported that several thousand civilians were being held by rebel forces, many of whom were women and children. It was also reported that in nine chiefdoms, 1,619 homes had been destroyed, and another 600 were destroyed in three other chiefdoms. On a single day in July, 40 homes were destroyed in a village near Masingbi. See Exhibit P-080, "UN Security Council - First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998", paras 35-37. See also Exhibit P-307, "UN Security Council, Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/1176, 15 December 1998", p. 214161, paras 36-37.

<sup>1276</sup> Exhibit P-348A, "BBC Focus on Africa, Clip from Track 2 - D0000528, 4 January 1999".

<sup>1277</sup> Exhibit P-348A, "BBC Focus on Africa, Clip from Track 2 - D0000528, 4 January 1999".

<sup>1278</sup> Exhibit P-077 (confidential).

<sup>1279</sup> Exhibit P-077 (confidential); Exhibit P-123, "BBC News Article, Freetown Bears the Scars, 27 January 1999"; Exhibit D-191, "UN Security Council, Fifth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1999/237, 4 March 1999", pp. 21594, 21598-21600; Perry Kamara, Transcript 6 February 2008, p. 3231.

<sup>1280</sup> Exhibit P-077 (confidential); Exhibit P-222, "TF1-024, AFRC Transcript 7 March 2005", pp. 43-50, 96-106; Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8290-8292.

<sup>1281</sup> Exhibit P-077 (confidential); Exhibit P-263, "BBC Audio File - Tab 17 Clip - D0000507 - Track Two"; Exhibit P-212B (confidential); TF1-097, Transcript 17 October 2008, pp. 18588-18597.

<sup>1282</sup> Exhibit P-077 (confidential); Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8332-8334.

<sup>1283</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8334-8339; Perry Kamara, Transcript 6 February 2008, pp. 3224, 3234, 3232.

<sup>1284</sup> Exhibit P-077 (confidential).

<sup>1285</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8376; Akiatu Tholley, Transcript 23 October 2008, pp. 19178- 19183; Exhibit P-284 (confidential); Exhibit P-285 (Confidential).

<sup>1286</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8263-8265; Transcript 23 April 2008, p. 8376.

<sup>1287</sup> See Exhibit P-285 (confidential); TF1-026, Transcript 14 February 2008, pp. 3843-3848; Akiatu Tholley, Transcript 23 October 2008, pp. 19173-19178.

<sup>1288</sup> See e.g. Exhibit P-341A, "BBC Focus on Africa, Clip from Track 1 - D0000523, 22 December 1998"; Exhibit P-308, "UN Security Council, Special Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1999/20, 7 January 1999", para. 4; Patrick Sheriff, Transcript 1 October 2008, pp. 17765, 17774-17782.

<sup>1289</sup> See TF1-143, Transcript 5 May 2008, p. 9022; Alimamy Bobson Sesay, Transcript 22 April 2008, pp.

542. Through July 1999, there was violence against civilians in Masiaka, Port Loko, the Occra Hills and other locations in Port Loko such as Songo, Mangarama, Masumana, Matteh, Melikeru and Tomaju which included killings, mutilations, abductions, sexual abuse, large-scale property destruction and the contamination of fresh water sources by ex-SLA fighters.<sup>1290</sup> Attacks continued despite the Lomé Peace Agreement signed on 7 July 1999.<sup>1291</sup>

543. In August 1999, the villages of Landomah, Bonkoleke, Roists, Tenkabereh and Wonfinfer in Port Loko were looted and civilians displaced.<sup>1292</sup> From September until the end of the year, attacks upon civilians increased, particularly along the Lungi-Port Loko axis where summary executions, instances of physical violence, looting, mutilations, sexual abuse, abductions and harassment were reported.<sup>1293</sup>

544. In Exhibit P-320, a humanitarian situation report, internally displaced persons interviewed by Médecins Sans Frontières reported that they had fled Makeni and Magburaka in order to escape “RUF forced recruitments and continuing attacks”.<sup>1294</sup> Forcible recruitment, killings and rape continued in rebel controlled areas and massive displacement of the civilian population continued to occur.<sup>1295</sup> Exhibit P-335, a report by the Coalition to Stop the Use of Child Soldiers, described reports from Kambia and Makeni Districts that RUF forces went from village to village demanding a quota of men and boys, “most of whom were forced to join under duress”.<sup>1296</sup> While instances of mutilation decreased during this period,<sup>1297</sup> in Kabala, approximately 40 civilians had the letters ‘RUF’ carved into their bodies in May 2000.<sup>1298</sup>

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8242-8252; Transcript 23 April 2008, pp. 8376-8377.

<sup>1290</sup> Exhibit P-077 (confidential).

<sup>1291</sup> Decision on Judicial Notice, Fact W.

<sup>1292</sup> Exhibit P-077 (confidential).

<sup>1293</sup> Exhibit P-077 (confidential).

<sup>1294</sup> Exhibit P-320, “ReliefWeb: Sierra Leone Humanitarian Situation Report, UN Office for the Coordination of Humanitarian Affairs” 25 Jul – 07 Aug 2000”, p. 21732.

<sup>1295</sup> Exhibit P-320, “Relief Web: Sierra Leone Humanitarian Situation Report”, UN Office for the Coordination of Humanitarian Affairs 25 Jul – 07 Aug 2000”, p. 21735 (“HRW said it has collected testimonies of civilians who were tortured by the RUF or killed for attempting to flee (Makeni, Lunsar, Kambia). Given the massive displacement of populations within RUF areas, the organization said it has reason to believe that the RUF is trying to terrorize the remaining civilian population in their areas of control to prevent them from leaving”). See also Exhibit P-335, “Child Soldiers Global Report 2001”, p. 23400; Exhibit P-331, “Sierra Leone: Rape and other forms of sexual violence against girls and women”, pp. 23196-23197.

<sup>1296</sup> Exhibit P-335, “Child Soldiers Global Report 2001”, pp. 23400-23401.

<sup>1297</sup> Corinne Dufka, Transcript 22 January 2008, p. 1862 (“Also at that time, this is 2000, people were not



545. Exhibit P-032, a report by an expert panel monitoring the implementation of the ceasefire agreement, observed that military hostilities continued in Kambia District between the RUF and Guinean forces from September 2000 through May/July 2001.<sup>1299</sup> The panel also reported that hostilities took place between CDF and RUF forces in the east of Sierra Leone in April 2001, but that a ceasefire was established and commitments to disarmament reaffirmed.<sup>1300</sup> The expert panel stated that Sierra Leone remained stable from early July 2001 onwards.<sup>1301</sup>

546. The Trial Chamber heard evidence from witnesses who testified that in Kono District, forced labour involving mining continued to occur until the end of the Indictment period.<sup>1302</sup> Mustapha M. Mansaray, commander of 200 mining pits in six towns and villages in Ngaiya until June 2001, instructed his personnel to forcibly gather civilians for mining.<sup>1303</sup> Mansaray testified that mining using forced civilian labour was also taking place in Tombodu, Kaisambu and Bumpe in Kono District.<sup>1304</sup> In Tombodu, witness Tamba Yomba Ngekia was forced to mine with other civilians at gunpoint for six months in 2000.<sup>1305</sup> While working at the mine, Ngekia saw about 70 civilians, tied with ropes around their waists, brought to the mine to work alongside those already there.<sup>1306</sup> Ngekia saw one man shot to death at the mine for refusing to work.<sup>1307</sup>

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being butchered and mutilated every day. The incidents of mutilation had come down drastically by 2000, even though there were still occasional cases of it”); Exhibit P-296, “TRC Report: Appendix 1: Perpetrator Responsibility for Violations over Time and Space and Correlations between Perpetrator Groups”, pp. 21853-21860.

<sup>1298</sup> Corinne Dufka, Transcript 21 January 2008, p. 1814.

<sup>1299</sup> Exhibit P-032, “Report of the Panel of Experts Pursuant to Security Council Resolution 1343 (2001)”, paras 95-98.

<sup>1300</sup> Exhibit P-032, “Report of the Panel of Experts Pursuant to Security Council Resolution 1343 (2001)”, paras 96-97. See also Exhibit P-590, “United Nations Security Council, Eleventh Report of the Secretary General on the United Nations Mission in Sierra Leone”, paras 15-17, 21-22.

<sup>1301</sup> Exhibit P-032, “Report of the Panel of Experts Pursuant to Security Council Resolution 1343 (2001)”, paras 97-98.

<sup>1302</sup> Mustapha M. Mansaray, Transcript 4 March 2008, pp. 5234-5235; Transcript 5 March 2008, pp. 5340-5353. See also Mohamed Kabbah, Transcript 15 September 2008, pp. 16180-16184; Perry Kamara, Transcript 6 February 2008, pp. 3263-3267 (testifying that mining occurred in Kono District until end of disarmament). See also TF1-174, Transcript 28 January 2009, pp. 23773-23775.

<sup>1303</sup> Mustapha M. Mansaray, Transcript 5 March 2008, pp. 5341-5346.

<sup>1304</sup> Mustapha M. Mansaray, Transcript 5 March 2008, p. 5344.

<sup>1305</sup> Exhibit P-196, “Tamba Yomba Ngekia, RUF Trial Transcript, 20 October 2004”, pp. 18629, 18631-18633 (the witness was captured on 16 December 1999 and taken to Tombodu to mine where he stayed until disarmament); Tamba Yomba Ngekia, Transcript 14 October 2008, pp. 18257-18258.

<sup>1306</sup> Tamba Yomba Ngekia, Transcript 14 October 2008, p. 18239.

<sup>1307</sup> Tamba Yomba Ngekia, Transcript 14 October 2008, pp. 18239-18240.

Findings

(i) An attack directed against any civilian population

547. The evidence shows that starting in the pre-indictment period, the RUF committed crimes against civilians in Sierra Leone and that this pattern of crimes continued into the indictment period. From November 1996 until May 1997, the mistreatment of civilians was concentrated in Kailahun District, where the RUF subjected civilians to forced labour, sexual slavery and forced marriage.

548. During the junta period, civilian leaders were targeted by the AFRC/RUF fighters, as were civilians generally, particularly women and children. Civilians were the victims of killings, physical violence, rape, sexual slavery, torture and arbitrary detention perpetrated by RUF and AFRC fighters. During this time, the evidence demonstrated that there were large numbers of civilian victims and that attacks were widespread and occurred in the areas that were under control of the AFRC/RUF junta forces.<sup>1308</sup> This mistreatment of civilians during junta rule demonstrates that the RUF and AFRC specifically targeted the civilian population in order to minimise any resistance or opposition to the regime. The pattern of crimes by the RUF and AFRC which were directed against civilians persisted and intensified during this period.

549. From February 1998 to December 1998, civilians were further victimised. During operations such as 'Operation No Living Thing', 'Operation Spare No Soul' and 'Operation Pay Yourself', AFRC and/or RUF fighters were explicitly ordered to kill civilians by commanders, burn their settlements and take their property, demonstrating a clear intention to direct attacks against civilians and to terrorise the population. The latter is demonstrated by the pattern of conduct of the attacks that were conducted with the aim of spreading fear amongst the population in order to control them and with the aim to call on the attention of the international community. During the operations fighters carried out orders by killing, mutilating, raping and abducting civilians throughout Sierra Leone.

550. From January 1999 until December 1999, the evidence shows that the RUF and AFRC continued to commit crimes against civilians. While these crimes took place in the

<sup>1308</sup> The areas under control during the junta period were the Western Area, parts of Kenema, Bo, Port Loko, Bombali, Koinadugu, Kono and Kailahun Districts.

context of an armed conflict, attacks were particularly directed against civilians. Women and children were amongst the victims of the attacks and attacks continued to be directed against civilian settlements. The brutality and the vengeful nature of the attacks further indicate a specific focus on the civilian population.

551. The mistreatment of civilians continued into the later stages of the conflict. The RUF in Kono District continued to forcibly use civilian labour for mining. While active hostilities occurred in some areas of Sierra Leone, such as in Kambia and Makeni Districts, civilians were forcibly abducted to participate in the RUF's war effort. Civilians continued to be intentionally targeted as sources of labour and fighters.

552. Based on the above, the Trial Chamber finds beyond reasonable doubt that at all times relevant to the indictment an attack was directed against the civilian population of Sierra Leone by the RUF and/or RUF/AFRC.

(ii) The attack was widespread or systematic

553. The RUF's use of forced civilian labour and physical violence in Kailahun District from 1996 until 2000 was continuous, organized and structured. From 1994 to 1998, rebels repeatedly abducted civilians from the war front and used them for labour or trained them to fight. They used abducted women as "wives". The pattern of mistreatment shows that crimes were not isolated or random, but rather formed part of a continuous campaign directed against civilians in communities that the RUF controlled. This pattern of civilian mistreatment remained a feature of the RUF regime throughout the conflict, and resulted in large numbers of civilian being mistreated, through abductions, forced labour and sexual enslavement, in various towns and villages throughout Kailahun District.

554. During the junta phase, the number of civilian subjected to severe mistreatment increased as the conflict spread throughout the territory of Sierra Leone.

555. From February 1998 to December 1998, human rights abuses intensified, leaving thousands of civilians killed or mutilated by RUF and AFRC fighters. Hundreds of civilians were abducted, raped and the burning of houses and looting continued to occur.

556. In 1999, the evidence shows that thousands of civilians were killed during the attack on Freetown and the subsequent retreat through Kissy, Upgun, Calaba Town, Allen Town, Hastings, Wellington, Waterloo and Benguema and that thousands of others were abducted,

burnt, beaten, mutilated and/or sexually abused. Further violence was directed towards civilians in Masiaka, Port Loko, and the Occra Hills.

557. Attacks continued to occur against the civilian population at all times relevant to the Indictment, affecting large numbers of civilians throughout the north and east of Sierra Leone, e.g. Kailahun, Kambia and Kono Districts. Civilians continued to be abducted by rebels in Makeni and Kambia Districts and a large number of civilians continued to be captured and brought to mining sites in Kono District.

558. Based on the large number of victims and the geographic scope of the crimes throughout the indictment period, the Trial Chamber finds that at all times relevant to the indictment the Prosecution has proven beyond reasonable doubt that the RUF, AFRC and/or the RUF/AFRC directed a widespread attack against the civilian population of Sierra Leone. Moreover, based on the pattern and organisation of the violence the evidence demonstrates beyond reasonable doubt that the attack was also systematic.

#### Conclusion on the *Chapeau* Requirements for Crimes Against Humanity

559. The Trial Chamber accordingly finds that at all times relevant to the Indictment the Prosecution has proven beyond reasonable doubt that the RUF and/or AFRC directed a widespread or systematic attack against the civilian population; resulting in the following crimes against humanity having been committed: murder (Count 2), rape (Count 4), sexual slavery (Count 5), other inhumane acts (Count 8) and enslavement (Count 10).

#### **B. Article 3: War Crimes**

560. The Accused is charged with four counts of violations of Article 3 Common to the Geneva Conventions (“Common Article 3”) and of Additional Protocol II,<sup>1309</sup> pursuant to Article 3 of the Statute: acts of terrorism (Count 1), violence to life, health and physical or mental well-being of persons, in particular murder (Count 3), outrages upon personal dignity (Count 6), violence to life, health and physical or mental well-being of persons, in particular cruel treatment (Count 7), and pillage (Count 11). The Trial Chamber notes that the crimes

<sup>1309</sup> The Appeals Chamber noted that “Article 3, sub-paragraphs (a) to (f), and (h) of the Special Court Statute are taken directly from Article 4(2) of Protocol II, while Article 3(g) mirrors Article 3(1)(d) of Common Article 3” and are almost *verbatim* with Article 4 of the ICTR Statute. See *CDF* Appeal Decision on Nature of the Armed Conflict, para. 20.

alleged in Counts 1 and 11 are crimes enumerated in Additional Protocol II only, and not Common Article 3.

### Applicable Law

561. Article 3 of the Statute, entitled ‘Violations of Article 3 Common to the Geneva Conventions and of Additional Protocol II’, provides that:

The Special Court shall have the power to prosecute persons who committed or ordered the commission of serious violations of article 3 common to the Geneva Conventions of 12 August 1949 for the Protection of War victims, and of Additional Protocol II thereto of 8 June 1977. These violations shall include:

- a. Violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;
- b. Collective punishments;
- c. Taking of hostages;
- d. Acts of terrorism;
- e. Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;
- f. Pillage;
- g. The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples; and
- h. Threats to commit any of the foregoing acts.

562. In order for liability to be established under Article 3 of the Statute, the acts of the Accused must have formed part of an armed conflict. The jurisprudence has identified three *chapeau* (or general) requirements for violations against international humanitarian law.

#### (a) There must have been an armed conflict at the time of the alleged violation

563. Although Article 3 Common to the Geneva Conventions is expressed to apply to armed conflicts “not of an international character”, the distinction between internal armed conflicts and international conflicts is “no longer of great relevance in relation to the crimes articulated in Article 3 of the Statute as these crimes are prohibited in all conflicts. Crimes during internal armed conflicts form part of the broader category of crimes during international armed conflict”.<sup>1310</sup> The Appeals Chamber of the ICTY has ruled that “an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organised armed groups or between such groups within a State”.<sup>1311</sup> The armed conflict “need not have been causal to the

<sup>1310</sup> CDF Appeal Decision on Nature of the Armed Conflict, para. 25. See also Milošević Decision on Motion for Acquittal, para. 21; Limaj Trial Judgement, para. 90.

<sup>1311</sup> Tadić Decision on Jurisdiction, para. 70.





commission of the crime, but the existence of an armed conflict must, at a minimum, have played a substantial part in the perpetrator's ability to commit it, his decision to commit it, the manner in which it was committed or the purpose for which it was committed".<sup>1312</sup>

564. The criteria for establishing the existence of an armed conflict are the intensity of the conflict and the degree of organisation of the warring factions.<sup>1313</sup> These criteria are used "solely for the purpose, *as a minimum*, of distinguishing an armed conflict from banditry, unorganised and short-lived insurrections, or terrorist activities, which are not subject to international humanitarian law".<sup>1314</sup>

565. International humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached; or, in the case of internal conflicts, until a peaceful settlement is achieved. Until that moment, international humanitarian law continues to apply to the entire territory of the warring States or, in the case of internal conflicts, the entire territory under the control of a party, whether or not actual combat takes place there.<sup>1315</sup>

(b) A nexus existed between the alleged violation and the armed conflict

566. For an offence to fall within the scope of Article 3 of the Statute, the Trial Chamber must establish that a sufficient link between the alleged breach of Common Article 3 or Additional Protocol II and the underlying armed conflict existed.<sup>1316</sup> The rationale of the said requirement is to protect the victims of internal armed conflicts, but not from crimes unrelated to the conflict. The nexus is satisfied where the perpetrator acted in furtherance of or under the guise of the armed conflict.<sup>1317</sup>

<sup>1312</sup> Kunarac Appeal Judgement, para. 58.

<sup>1313</sup> Tadić Trial Judgement, para. 562; Limaj Trial Judgement, paras 84, 89.

<sup>1314</sup> Tadić Trial Judgement, para. 562 [emphasis added]; Limaj Trial Judgement, paras 84, 89.

<sup>1315</sup> Tadić Appeal Decision on Jurisdiction, para. 70; Halilović Trial Judgement, para. 26; Kunarac Appeal Judgement, para. 64.

<sup>1316</sup> See Tadić Appeal Decision on Jurisdiction, para. 70; Prosecutor v. Bagilishema, ICTR-95-1A-T, Judgement (TC), 7 June 2001 [Bagilishema Trial Judgement], para. 105; Prosecutor v. Musema, ICTR-96-13-T, Judgement (TC), 27 January 2000 [Musema Trial Judgement], para. 259; Prosecutor v. Rutaganda, ICTR-96-3-T, Judgement and Sentence (TC), 6 December 1999 [Rutaganda Trial Judgement], para. 104; Prosecutor v. Kayishema and Ruzindana, ICTR-95-1-T, Judgement (TC), 21 May 1999 [Kayishema and Ruzindana Trial Judgement], para. 185; Akayesu Trial Judgement, para. 643.

<sup>1317</sup> Kunarac Appeal Judgement, para. 58; Tadić Appeal Decision on Jurisdiction, para. 70; Rutaganda Appeal Judgement, para. 570.





567. The following factors have been considered in the jurisprudence to determine if an act was sufficiently related to the armed conflict: whether the perpetrator was a combatant; whether the victim was a member of the opposing party; whether the act can be said to have served the ultimate goal of a military campaign; and whether the crime was committed as part of or in the context of the perpetrator's official duties.<sup>1318</sup> The Appeals Chamber has stated that "in respect of Article 3, therefore, the Court need only be satisfied that an armed conflict existed and that the alleged violations were related to the armed conflict".<sup>1319</sup>

(c) The victims were not directly taking part in the hostilities at the time of the alleged violation

568. Both Common Article 3 and Additional Protocol II protect only those persons who take no active or direct part in the hostilities, and those who have ceased to take part therein and are therefore placed *hors de combat* by sickness, wounds, detention or any other cause.<sup>1320</sup> The Prosecution must therefore establish the relevant facts of each victim with a view to ascertain whether that person was directly involved in the hostilities at the relevant time.<sup>1321</sup>

Submissions of the Parties

569. The Prosecution submits that an armed conflict existed in Sierra Leone.<sup>1322</sup> The Prosecution submits that "indictment perpetrators" used civilians as sources of "food, materials, labour, transportation assistance, shielding during hostilities, and a means of expression and publicity". It further argues that there was a nexus between the armed conflict and the alleged violations, as "it was the conflict itself which prompted campaigns of terror, murder, physical and sexual violence, and looting".<sup>1323</sup>

<sup>1318</sup> Kunarac Appeal Judgement, paras 58-59. The nexus does not imply the requirement that the perpetrator be related or linked to one of the parties to the conflict: Akayesu Appeal Judgement, paras 443-444. See also Rutaganda Appeal Judgement, para. 570.

<sup>1319</sup> CDF Appeal Decision on Nature of Armed Conflict, para. 25.

<sup>1320</sup> Common Article 3; Article 4(1) of Additional Protocol II.

<sup>1321</sup> AFRC Trial Judgement, para. 248; Tadić Trial Judgement, para. 616.

<sup>1322</sup> Prosecution Final Trial Brief, paras 693-694.

<sup>1323</sup> Prosecution Final Trial Brief, paras 695-696.

570. The Defence has made no specific submissions in relation to alleged violations of Article 3. However, it maintains that the Prosecution must prove beyond reasonable doubt each element of the crime - including the *chapeau* requirements.<sup>1324</sup>

### Findings

#### (i) The existence of an armed conflict in Sierra Leone during the period relevant to the Indictment

571. The Trial Chamber took judicial notice of the fact that there was an armed conflict in Sierra Leone, lasting from March 1991 until January 2002.<sup>1325</sup> The parties agree that “[d]espite temporary lulls in the fighting occasioned by a 30 November 1996 peace agreement and a 7 July 1999 peace agreement, active hostilities continued in the Republic of Sierra Leone until about 18 January 2002”.<sup>1326</sup> Therefore, the Trial Chamber finds that it is established beyond reasonable doubt that there was an armed conflict in Sierra Leone at all times relevant to the Indictment period.

572. The Trial Chamber took judicial notice of the fact that

Armed groups who participated in the armed conflict in Sierra Leone included:  
a) The Revolutionary United Front (RUF); b) The Armed Forces Revolutionary Council (AFRC); c) The Civil Defence Forces (CDF).<sup>1327</sup>

#### Conclusions on the *Chapeau* Requirements for Article 3 of the Statute

573. The Trial Chamber finds that the Prosecution proved beyond reasonable doubts that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving among others members of the RUF, AFRC and CDF.

<sup>1324</sup> Defence Final Trial Brief, para. 1557; Defence Pre-Trial Brief, para. 42.

<sup>1325</sup> Decision on Judicial Notice, Fact C (“There was an armed conflict in Sierra Leone from about March 1991 until about 18 January 2002”).

<sup>1326</sup> Admitted Facts and Law, Fact 28. The Trial Chamber does not consider that the ceasefire agreements between the Government of Sierra Leone and the rebel forces during the Indictment period disrupted the nexus between the crimes charged and the armed conflict. Despite temporary lulls in the fighting occasioned by the November 1996 Abidjan Peace Accord, the October 1998 Conakry Accord, the May 1999 ceasefire agreement, the July 1999 Lomé Peace Accord and the November 2000 Abuja ceasefire agreement, active hostilities continued in Sierra Leone. International humanitarian law applies in the case of internal conflicts beyond the cessation of hostilities until a peaceful settlement is achieved. Such a settlement was not brought about until about 18 January 2002.

<sup>1327</sup> Decision on Judicial Notice, Fact M.







574. The questions of whether (i) nexus existed between the alleged violation and the armed conflict, (ii) that the victim was not directly taking part in the hostilities at the time of the alleged violation and (iii) that the perpetrator knew or had reason to know that the victim was not taking a direct part in the hostilities at the time of the alleged act or omission are considered on a case by case basis in the findings on the crimes section.<sup>1328</sup>

**C. Article 4: Other Serious Violations of International Humanitarian Law**

575. The Accused is charged with one count of other serious violations of international humanitarian law pursuant to Article 4(c) of the Statute: conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities (Count 9).

576. Article 4(c) of the Statute provides:

The Special Court shall have the power to prosecute persons who committed the following serious violations of international humanitarian law:

[...]

c. Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities.

577. The crimes listed in Article 4 of the Statute possess the same *chapeau* requirements as those in Article 3 of the Statute.

578. The Trial Chamber finds that the Prosecution proved beyond reasonable doubts that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving among others members of the RUF, AFRC and CDF.

579. The questions of whether (i) nexus existed between the alleged violation and the armed conflict, (ii) that the victim was not directly taking part in the hostilities at the time of the alleged violation and (iii) that the perpetrator knew or had reason to know that the victim was not taking a direct part in the hostilities at the time of the alleged act or omission are considered on a case by case basis in the findings on the crimes section.<sup>1329</sup>

<sup>1328</sup> See Factual and Legal Findings on Alleged Crimes.

<sup>1329</sup> See Factual and Legal Findings on Alleged Crimes.

## VII. FACTUAL AND LEGAL FINDINGS ON ALLEGED CRIMES

### General submissions and findings regarding Crime-base evidence

580. The Prosecution observes that the Indictment timeframes as well as locations within a District are pleaded using “the inclusive language”. The Prosecution accordingly submits that the Trial Chamber should consider for guilt of the Accused all relevant evidence adduced where the evidence falls within the District and the approximate timeframes specified by the Indictment.<sup>1330</sup> Similarly, the Prosecution submits that given the “inclusive language” used in Count 6 of the Indictment, the Trial Chamber should consider for guilt evidence of all forms of sexual violence (including male sexual violence victims)<sup>1331</sup> and not just evidence of rape or sexual slavery; and all forms of physical violence constituting “cruel treatment” under Count 7 or “inhumane treatment” under Count 8.<sup>1332</sup> In support, the Prosecution argues that it has provided “timely, clear and consistent notice” to the Accused of the material facts underpinning the charges, by the original Indictment, First Amended Indictment, Second Amended Indictment, Case Summary, Amended Case Summary, Pre-Trial Brief, Opening Statement and/or witness statements.<sup>1333</sup> The Prosecution makes specific submissions in relation to the specific Counts as shown hereunder.

581. The Defence submits that it has not substantively addressed crime base evidence in its submissions because its position from the outset is that it accepts that crimes were indeed committed in Sierra Leone although it denies that the Accused is responsible for these crimes.<sup>1334</sup> The Defence maintains however, that the onus of proving beyond reasonable doubt the elements of the crimes charged in the Indictment, as well as the guilt of the Accused, lies squarely upon the Prosecution.<sup>1335</sup> In addition, the Defence requests the Trial Chamber to exclude Prosecution evidence of crimes that fall outside the temporal or geographical scope of the Indictment, or to impose strict limits on the degree to which such evidence may be taken into consideration during deliberations.<sup>1336</sup>

<sup>1330</sup> Prosecution Final Trial Brief, para. 662.

<sup>1331</sup> Prosecution Final Trial Brief, para. 665.

<sup>1332</sup> Prosecution Final Trial Brief, para. 663.

<sup>1333</sup> Prosecution Final Trial Brief, para. 664.

<sup>1334</sup> Defence Final Trial Brief, para. 1557.

<sup>1335</sup> Defence Final Trial Brief, para. 27.

<sup>1336</sup> Defence Final Trial Brief, paras 42-46.





582. The Trial Chamber has, in the Chapter on Preliminary Issues, ruled on evidence falling outside the temporal and/or geographical scope of the Indictment,<sup>1337</sup> locations and criminal acts not specifically pleaded in the Indictment,<sup>1338</sup> as well as timeframes imprecisely pleaded in the Indictment.<sup>1339</sup> The submissions relating to specific Counts in the Indictment are appropriately handled under each Count. The Trial Chamber will now examine the evidence relating to the various Counts in the Indictment. For ease of reference Count 1 (Acts of terrorism) is examined after the other Counts as it encompasses evidence relating to all the other Counts. In examining the crime-base evidence, the Trial Chamber does not at this stage examine the role if any, played by the Accused or his alleged criminal responsibility for the said crimes, as these are matters more appropriately examined under the Chapter on the Role of the Accused and his alleged criminal responsibility.<sup>1340</sup> Accordingly, the Trial Chamber's findings in this Chapter are limited to the primary perpetrators.

**A. Counts 2 and 3 (Murder or "Unlawful Killings")**

Allegations and Submissions

583. Counts 2 and 3 of the Indictment allege the following particulars, namely, that "Between about 30 November 1996 and about 18 January 2002, members of RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters, assisted and encouraged by, acting in concert with, under the direction and control of, and/or subordinate to the Accused, throughout Sierra Leone, unlawfully killed an unknown number of civilians, including the following:<sup>1341</sup>

- i. In Kenema District between about 25 May 1997 and about 31 March 1998, in various locations including Kenema town and the Tongo Fields area;<sup>1342</sup>
- ii. In Kono District between about 1 February 1998 and about 31 January 2000, in various locations including Koidu, Tombodu or Tumbodu, Koidu Geiya or

<sup>1337</sup> Preliminary Issues: Evidence Outside of the Scope of the Indictment and/or Jurisdiction of the Court.

<sup>1338</sup> Preliminary Issues: Issues relating to the Pleadin in the Indictment.

<sup>1339</sup> Preliminary Issues: Issues relating to the Pleadin in the Indictment.

<sup>1340</sup> See Chapter VIII.

<sup>1341</sup> Indictment, para. 9.

<sup>1342</sup> Indictment, para. 10.

Koidu Gieya, Koidu Buma, Yengema, Paema or Peyima, Bomboa fuidu, Bumpe, Nimikoro or Njaima Nimikoro and Mortema;<sup>1343</sup>

- iii. In Kailahun District between about 1 February 1998 and about 30 June 1998, in various locations including Kailahun town;<sup>1344</sup> and
- iv. In Freetown and the Western Area between about 21 December 1998 and 28 February 1999, in locations throughout Freetown, including the State House, Kissy, Fourah Bay, Upgun, Calaba Town, Allen Town and Tower Hill areas of the city, and Hastings, Wellington, Tumbo, Waterloo and Benguema in the Western Area".<sup>1345</sup>

584. The Prosecution submits that throughout the Sierra Leone conflict, massive numbers of civilians were unlawfully killed at the hands of the Indictment perpetrators subordinate to the Accused, as an integral part of the campaign of terror unleashed upon villages, towns and cities;<sup>1346</sup> and/or in order to capture the attention of the international community;<sup>1347</sup> and/or as a punishment or example for failure to support the AFRC/RUF Junta Government and forces.<sup>1348</sup> The Prosecution further submits that the use of unlawful killings as an instrument of terror was ordered by senior RUF commanders like Foday Sankoh, Sam Bockarie, Issa Sesay and Morris Kallon as well as senior AFRC commanders like Johnny Paul Koroma and Alex Tamba Brima, and was endorsed by the Accused.<sup>1349</sup> Furthermore, the Prosecution submits that in addition to the evidence of unlawful killings in the locations specified in the Indictment, civilians were killed during the pre-Indictment period and in other villages, towns and districts not pleaded in the Indictment throughout Sierra Leone.<sup>1350</sup>

### Evidence and Deliberations

<sup>1343</sup> Indictment, para. 11

<sup>1344</sup> Indictment, para. 12

<sup>1345</sup> Indictment, para. 13.

<sup>1346</sup> Prosecution Final Trial Brief, paras 757-760.

<sup>1347</sup> Prosecution Final Trial Brief, paras 761-762.

<sup>1348</sup> Prosecution Final Trial Brief, paras 761-762.

<sup>1349</sup> Prosecution Final Trial Brief, paras 759-760.

<sup>1350</sup> Prosecution Final Trial Brief, para. 760.

1. Alleged unlawful killings in Kenema District (25 May 1997 to about 31 March 1998)

585. The Trial Chamber heard evidence establishing beyond reasonable doubt that after the 25 May 1997 overthrow of the Tejan Kabbah Government by the Junta forces, a large contingent of AFRC/RUF forces were based in Kenema Town<sup>1351</sup> until the ECOMOG Intervention in mid-February 1998 when they were forced to flee the area.<sup>1352</sup> The RUF forces led by Sam Bockarie (a.k.a. Mosquito) were based at the NIC Compound on Dama Road in Kenema Town, while the AFRC forces led by Eddie Kanneh, the Secretary of State East, were based at 14 Hangha Road.<sup>1353</sup> Notwithstanding that the AFRC and RUF forces had separate command structures, the two groups worked in collaboration with each other in Kenema Town during this period.<sup>1354</sup> Other commanders in Kenema Town at this time included Manawa, Morris Kallon, Issa Sesay, Akim<sup>1355</sup> and Massaquoi.<sup>1356</sup> Shortly after the establishment of the Junta Government in Freetown, the AFRC/RUF forces in Kenema Town attempted to have a reconciliation meeting with one Kamoh Brima Bangura, who was the leader of the Civil Defence Force (a.k.a. Kamajors).<sup>1357</sup> When the Kamajor leader refused to cooperate, Col. Eddie Kanneh and Col. Sam Bockarie ordered his arrest, sparking off hostilities between the AFRC/RUF forces on the one hand, and the Kamajors and ECOMOG forces on the other.<sup>1358</sup> After 5 June 1997, the AFRC/RUF forces drove out the

<sup>1351</sup> Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 14989, 14991, 15101 and 15108; Alex Bao, Transcript 18 September 2008, pp. 16649-16652; Exhibit P-178A, "TF1-125, RUF Transcript 12 May 2005", p. 15309. The AFRC was based at brigade headquarters near the reservation and the RUF was based on Dama Road at the NIC compound. Both the AFRC and the RUF shared a secretariat administrative building on Hangha Road. Alex Bao, Transcript 18 September 2008, p. 16652; Exhibit P-178A, "TF1-125, RUF Transcript 12 May 2005", p. 15309.

<sup>1352</sup> Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", p. 14991.

<sup>1353</sup> Alex Bao, Transcript 18 September 2008, pp. 16653; Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", pp. 15119, 15190. *See also* Exhibit P-178A, "TF1-125, RUF Transcript 12 May 2005", p. 15309; Abdul Conteh, Transcript 29 September 2008, pp. 17509-17511; TF1-360, Transcript 5 February 2008, p. 3090; TF1-371, Transcript 1 February 2008, pp. 2800-2803; Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 14992, 15110. *See also* Karmoh Kanneh, Transcript 8 May 2008, p. 9388.

<sup>1354</sup> Alex Bao, Transcript 18 September 2008, p. 16653; Exh. P178A, "TF1-125, RUF Transcript 12 May 2005" p. 15310.

<sup>1355</sup> These are described as RUF Commanders in Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 14991-14993; Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", pp. 15119-15120, 15130; TF1-590, Transcript 16 June 2008, pp. 11916-11917; Emmanuel Bull, Transcript 12 November 2008, p. 20148.

<sup>1356</sup> Massaquoi is described as an AFRC soldier who was a sergeant in charge of operations under Eddie Kanneh. Confidential Exhibit 178B, pp. 15368-15369. *See also* Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", p. 14992.

<sup>1357</sup> Exhibit P-178A, "TF1-125, RUF Transcript 12 May 2005", p. 15311.

<sup>1358</sup> Adesanya Hyde, Transcript 23 September 2008, pp. 17005-17006; Exh. P178A, "TF1-125, RUF Transcript 12 May 2005" p. 15311.

Kamajor and ECOMOG forces from Kenema Town.<sup>1359</sup> The said hostilities continued until the Junta forces were driven out of Kenema District in mid-February 1998. During the period May 1997 to February 1998 many civilians in Kenema District suspected of supporting or cooperating with the Civil Defence Force were murdered, and/or had their property looted or destroyed, by the AFRC/RUF forces.<sup>1360</sup>

586. On 11 August 1997, under the command of Issa Sesay, Akim, and Sam Bockarie, the AFRC/RUF forces travelled with heavy armaments from Kenema Town to Tongo Fields<sup>1361</sup> where they took control of the area from the Kamajors and subsequently looted civilian property for three days.<sup>1362</sup> Persons who fled the area reported that the RUF/AFRC forces captured able-bodied men to forcibly mine diamonds for them and in the process, killed many civilians who refused to cooperate.<sup>1363</sup> During the AFRC/RUF occupation of Tongo Fields, Sam Bockarie was in command and control of the Junta forces.<sup>1364</sup> Other AFRC commanders in Tongo Fields at this time included the PLO-2,<sup>1365</sup> Captain Yamao Kati, Captain Jalloh, Sergeant Junior, Seth Marrah, and Victor,<sup>1366</sup> while other RUF commanders included Captain Eagle (a.k.a. Karmoh Kanneh), Amuyepheh, and Banyan.<sup>1367</sup>

587. In relation to unlawful killings alleged to have taken place in Kenema District the Trial Chamber has considered the testimony of Prosecution Witnesses Alex Sheku Bao, Adesanya Sanya Hyde, Karmoh Kanneh, Augustine Mallah, Abdul Otonjo Conteh, Issac Tamba Mongor, Samuel Kargbo, protected Prosecution Witnesses TF1-062, TF1-375, TF1-567, TF1-590, Defence Witnesses Issa Sesay, Sam Kolleh, protected Defence Witnesses

<sup>1359</sup> Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", p. 14991; Exhibit P-174, "RUF Transcript of TF1-122, 7 July 2005", p. 15282; Alex Bao, Transcript 18 September 2008, p. 16651; Exhibit P-178A "TF1-125, RUF Transcript 12 May 2005", p. 15316; Adesanya Hyde, Transcript 23 September 2008, p. 17004.

<sup>1360</sup> Exhibit P-178A, "TF1-125, RUF Transcript 12 May 2005" pp. 15312-15316.

<sup>1361</sup> Tongo Fields is a diamond mining area located in Kenema District about 27 miles from Kenema Town and is made up of over ten villages spread out over an eight square kilometre area. See testimony of Abdul Conteh, Transcript 29 September 2001, pp. 17495-17496 and 30 September 2008, p. 17560.

<sup>1362</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14912-14918; Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 15055-15056; TF1-062, Transcript 27 January 2009, pp. 23632-23633; Abdul Conteh, Transcript 29 September 2008, p. 17511; Exhibit D-063, "Lower Bambura Chiefdom Situation Reports Prepared by Abdul Conteh", p. 1. See also TF1-567, Transcript 2 July 2008, p. 12884

<sup>1363</sup> Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 15055-15056; Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", p. 15159.

<sup>1364</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14953, 14960-14961.

<sup>1365</sup> Emmanuel Bull, Transcript 12 November 2008, pp. 20139, 20141, 20153.

<sup>1366</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14928-14929, 14956-14957.

<sup>1367</sup> Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", p. 15159.

DCT-068, DCT-146 and Exhibits P-078,<sup>1368</sup> P-173,<sup>1369</sup> P-174,<sup>1370</sup> P-175,<sup>1371</sup> P-178A,<sup>1372</sup> P-278,<sup>1373</sup> P-366<sup>1374</sup> and D-063.<sup>1375</sup>

(a) Kenema Town

(i) Killing of Mr Dowe

588. Witness Alex Bao<sup>1376</sup> testified that for the period of nine months from about the end of May 1997 to February 1998 when the AFRC/RUF forces were based in Kenema Town, he was working as a station sergeant based at Kenema Town Police Station.<sup>1377</sup> He stated that “right after the takeover”<sup>1378</sup> in Kenema Town a civilian housewife called Mrs. Dowe

filed a comprehensive report with Kenema Police Station to the effect that AFRC/RUF forces had attacked her home, looted all her property and shot her husband in the head and stomach when he intervened to prevent them from taking a deep freezer from his house. Mr Dowe

consequently died from the gunshot wounds.<sup>1379</sup> In his prior testimony, Bao stated that although he was not present when Mrs Dowe

made her statement to the Kenema Police, he subsequently went to Mrs Dowe

’s house to investigate the incident and saw the corpse of

<sup>1368</sup> Amnesty International Report entitled “Sierra Leone – 1998 – A year of Atrocities against Civilians” (SCSL/ERN/88).

<sup>1369</sup> *The Prosecutor v. Brima et al.*, SCSL-04-16-T, Transcript 24 June 2005, testimony of Witness TF1-122, pp. 14985-15113.

<sup>1370</sup> *The Prosecutor v. Sesay et al.*, SCSL-04-15-T, Transcript 7-8 July 2005, testimony of Witness TF1-122, pp. 15114-15303.

<sup>1371</sup> Copy of a Diary dated 13/1/98 to 7/2/98 tendered by Witness TF1-122 (AFRC Exhibit P24 and RUF Exhibit 28), pp. 15507-15705.

<sup>1372</sup> *The Prosecutor v. Sesay et al.*, SCSL-04-15-T, Transcript 12 May 2005, testimony of Witness TF1-125, pp. 15304-15342.

<sup>1373</sup> *The Prosecutor v. Brima et al.*, SCSL-04-16-T, Transcript 27 June 2005, testimony of Witness TF1-062, pp. 14908-14984 (SCSL/ERN/366).

<sup>1374</sup> Sierra Leone Country Report on Human Rights Practices for 1998, US Department of State, Bureau of Democracy, Human Rights and Labour, 26 February 1999; pp. 00025071-para 4, 00025072-para 6, 00025073- paras 3-4, 00025074-para 9, 00025075- para 2, 00025077-para 5, 00025072-para 3 (CMS pp. 22798-22802, 22804).

<sup>1375</sup> Reports of the Lower Bambara Chiefdom prepared by Witness TF1-060 Abdul Otonjo Conteh in September, October and November 1997.

<sup>1376</sup> Alex Bao (TF1-122) gave evidence for the Prosecution in the AFRC and RUF trials which was admitted into evidence in the Taylor Trial pursuant to Rule 92*bis* as Prosecution Exhibits P-173 and P-174, respectively (“prior testimony”). Alex Bao was cross-examined by the Defence in this trial regarding his prior testimony. Alex Bao, Transcript 18 September 2008, p. 16758.

<sup>1377</sup> Alex Bao, Transcript 18 September 2008, p. 16758. See also Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp 14991, 15101, 15108.

<sup>1378</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15087.

<sup>1379</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15011; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, pp. 15141-15412; See also Alex Bao, Transcript 18 September 2008, p. 16656.

Mr Doweï with two bullet wounds. However, he could not conduct a proper investigation as “the area was tense and there was shooting all over the place”.<sup>1380</sup>

### Findings

589. The Trial Chamber finds Bao’s account of this killing in the three trials, namely, the RUF, AFRC and the current trial, to be consistent and credible. His testimony is based on an official complaint filed by Mrs. Doweï, an eye witness to the killing. Although he could not carry out a thorough investigation due to the shooting going on in the area, Bao visited the Doweï residence and saw the body of the deceased bearing two bullet wounds as described by Mrs. Doweï in her Police Statement. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the AFRC/RUF forces, intentionally shot and killed Mr Doweï, a civilian taking no active part in the hostilities, in order to steal his property. Given that Mr Doweï was killed while trying to protect his property from being looted, the Trial Chamber finds beyond reasonable doubt that the perpetrators carried out this killing with the primary purpose of instilling terror in other civilians who would similarly attempt to resist the looting.

#### (ii) Killing of three civilians near Mambu Street

590. In his prior testimony, Alex Bao further stated that during the entire Junta period,<sup>1381</sup> both the RUF rebels and AFRC juntas looted excessively in Kenema Town. On one occasion they went to Mambu Street to loot, and for the rest of the day were shooting in the area.<sup>1382</sup> Later, Bao saw the RUF/AFRC fighters, including Commanders Akim and Bockarie, with looted property, singing that “they had driven the Kamajors out of the area”.<sup>1383</sup> That evening Bao went to a house on Mambu Street that belonged to one Pa Mansaray. When he arrived, the house was on fire.<sup>1384</sup> Bao testified that the house had

<sup>1380</sup> Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15141.

<sup>1381</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15047.

<sup>1382</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15047. Bao testified that “[t]hey take patrol, every day they go with their pickup from village to village and when they are coming back we see them with looted property. And most of the properties contained blood stains”, and that he knew this because “The police have more than 50 reports. Even above hundreds of looting and killing from village to village...reports that they attacked their village, killed their people, looted their properties. A hundred of cases reported of widespread looting and killing of innocent people”. Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15049-15050.

<sup>1383</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15048-15049.

<sup>1384</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15048, 15050.



supposedly been occupied by Kamajors, but by the time he went there, there were no Kamajors at the house.<sup>1385</sup> On cross-examination in this trial, Bao clarified that the AFRC and RUF fighters burned down Pa Mansaray's house because the Kamajors were using it as a base.<sup>1386</sup> Bao testified that he went down to the swamp behind Pa Mansaray's house where he saw three dead bodies lying in the street.<sup>1387</sup> He described the bodies as two elderly men and one young man, all wearing "civilian plain cloth".<sup>1388</sup> Bao testified that the attack on Mambu Street was planned by AFRC and RUF fighters including Sam Bockarie and Akim, and that he had seen Akim riding around Kenema Town that day on the bonnet of a Mercedes with an AK-47 rifle in his hand.<sup>1389</sup>

### Findings

591. Bao's testimony regarding his discovery of three corpses behind the house of Pa Mansaray is circumstantial and uncorroborated. Bao did not witness the actual killing of the three persons and is therefore unaware of the specific circumstances of their death. He merely assumed that the three victims were killed by the AFRC/RUF forces that were engaged in the looting of civilian property. The Prosecution did not adduce any evidence connecting those deaths in any way to the looting spree that had been taking place earlier that day or to the burning of Pa Mansaray's house. Given Bao's testimony that fighting between the AFRC/RUF fighters and the Kamajors was ongoing around the area and that Pa Mansaray's house was being used as a base for the Kamajors, it is possible that the three people could have been killed in the cross fire by either group. In the circumstances, the Trial Chamber finds that the Prosecution has not proved beyond reasonable doubt that the death of the three persons behind Pa Mansaray's house was unlawfully caused by the AFRC/RUF as alleged.

### (iii) Killing of Bonnie Wailer and other suspected burglars

<sup>1385</sup> Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 15051-15052; Exhibit P-174, p. 15135.

<sup>1386</sup> Alex Bao, Transcript 18 September 2008, p. 16658.

<sup>1387</sup> Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 15048, 15052; Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", p. 15136.

<sup>1388</sup> Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 15048, 15042. "[t]hey were in civilian plain cloth [...]. They were not in Kamajor uniform at all". Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 15048, 15042.

<sup>1389</sup> Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", p. 15136.

592. Alex Bao further testified that one morning in late June 1997,<sup>1390</sup> upon his arrival at the Police station, he found a man whom he knew well called Bonnie Wailer who had been taken into custody for alleged “house-breaking and larceny”.<sup>1391</sup> Bao described Wailer as wearing “combat trousers and plain cloth” at the time of his detention.<sup>1392</sup> When Bao asked Wailer why he was dressed in combat trousers, Wailer explained that he and his colleagues “went to run a mission” but he ran out of luck and was caught, beaten and then taken to the Police Station.<sup>1393</sup> Bao further testified that later on that day, RUF Commander Sam Bockarie accompanied by an AFRC Lieutenant and several RUF and AFRC men came to the Police Station and took away Bonnie Wailer, supposedly for him to show them where they could find Wailer’s “colleagues”. The group returned two hours later with Wailer and two other men.<sup>1394</sup> Bao knew one of the two men to be a “notorious criminal” but did not know the other one.<sup>1395</sup> Bonnie Wailer and the two men were lined up in front of the police officers and many civilians who had gathered and Bao heard Sam Bockarie order his men to kill the three suspects.<sup>1396</sup> The AFRC juntas publicly executed the three suspects and left their bodies on display for the rest of the day.<sup>1397</sup> Later on at night, the three corpses were loaded onto a military pickup vehicle and taken away.<sup>1398</sup>

<sup>1390</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15002.

<sup>1391</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15002-15003; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15131; Alex Bao, Transcript 18 September 2008, p. 16684.

<sup>1392</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15002-15003.

<sup>1393</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15002-15003; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15131; Alex Bao, Transcript 18 September 2008, p. 16684. Under cross-examination in the RUF trial the witness further explained that “[a]ccording to what Bonnie Wailer told me, he was arrested by civilian, right in the house where they went and broke into. The civilian beat him up and brought him to the police station, where he was detained”. Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15201.

<sup>1394</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15003-15004; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, pp. 15132-15133; Alex Bao, Transcript 18 September 2008, p. 16685.

<sup>1395</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15003; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15132; Alex Bao, Transcript 18 September 2008, p. 16686.

<sup>1396</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15006; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15133.

<sup>1397</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15006; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15133; Alex Bao, Transcript 18 September 2008, p. 16689.

<sup>1398</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15006-15007; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, 7 July 2005”, p. 15134.

593. Adesanya Hyde,<sup>1399</sup> a colleague of Alex Bao's who was a police officer and the second-in-command at the Kenema District Criminal Investigation Department in 1997 and 1998<sup>1400</sup>, also gave evidence regarding these killings. He stated in his prior testimony<sup>1401</sup> that in the first week of the coup in May 1997,<sup>1402</sup> Bonnie Wailer, Sydney Cole, Mr Bangura, and an unknown man were brought to the police station by civilians on suspicion of "burglary and larceny" charges.<sup>1403</sup> Hyde stated that he was one of the police officers who escorted Wailer to look for the other suspects. According to Hyde, the four men had impersonated the AFRC/RUF rebels by dressing up in military uniform and robbing civilians at gun point. Hyde testified that the AFRC/RUF fighters who arrested the suspects shot each suspect "more than ten times" in the legs before taking them to the police station.  
1404

594. According to Hyde, the AFRC/RUF rebels were upset because "the suspects were impersonating the juntas by wearing military fatigues and robbing civilians. As the revolution was in its early stages, the rebels did not want this incident to tarnish the Junta's image".<sup>1405</sup> After arresting the four suspects, the AFRC/RUF fighters sent word to the citizens of Kenema Town that they should come to the Police compound to witness the public executions.<sup>1406</sup> The AFRC hierarchy including Eddie Kanneh and Massaquoi were also present to witness the executions.<sup>1407</sup> Hyde stated that the four suspects were made to lie down on the floor of the Police station and an RUF man shot each of the men at close range on the orders of an AFRC officer.<sup>1408</sup> Hyde stated that he left the scene after the first shooting as he was too traumatised to watch and instead observed the scene from the safety of his office window.<sup>1409</sup>

<sup>1399</sup> Adesanya Hyde gave evidence for the Prosecution in the RUF trial which was admitted into evidence in the Taylor Trial pursuant to Rule 92*bis* as Prosecution Exhibits P-178A and P-178B ("prior testimony"). Adesanya Hyde, Transcript 23 September 2008, p. 17032. Hyde was cross-examined by the Defence in this trial regarding his prior testimony. Adesanya Hyde, Transcript 23 September 2008, p. 16980.

<sup>1400</sup> Exhibit P-178B (confidential), p. 15348; *See also* Adesanya Hyde, Transcript 23 September 2008, p. 16995.

<sup>1401</sup> Exhibit P-178B, (confidential); Adesanya Hyde, Transcript 23 September 2008, p. 16995.

<sup>1402</sup> Exhibit P-178A, "TF1-125, RUF Transcript 12 May 2005", pp. 15315-15316, 15375.

<sup>1403</sup> Exhibit P-178A, "TF1-125, RUF Transcript 12 May 2005", pp. 15314-15315; Exhibit P-178B (confidential), p. 15355

<sup>1404</sup> Exhibit P-178B (confidential), p. 15371.

<sup>1405</sup> Exhibit P-178A, "TF1-125, RUF Transcript 12 May 2005", pp. 15314-15315.

<sup>1406</sup> Exhibit P-178B, RUF Transcript p. 15365.

<sup>1407</sup> Exhibit P-178B, RUF Transcript p. 15365.

<sup>1408</sup> Exhibit P-178A, "TF1-125, RUF Transcript 12 May 2005", pp. 15314-15315.

<sup>1409</sup> Exhibit P-178B, RUF Transcript p. 15370.

Findings

595. Although there are differences between the accounts of Bao and Hyde regarding the number of suspects arrested and as to the person that pulled the trigger, their accounts corroborate each other in many important respects. First, both witnesses testified that the event happened soon after the coup of May 1997. Second, both witnesses stated that the suspects were arrested by a combined team of AFRC/RUF fighters on allegations of burglary and theft. Third, they both described at least one of the suspects as being a “notorious criminal”. Fourth, both witnesses stated that the execution of the suspects was public and witnessed by the citizens of Kenema Town. Fifth, both witnesses stated that although Bonnie Wailer was dressed in combat uniform he was, in fact, a civilian who was impersonating the rebels. Sixth, according to both witnesses, the suspects had not officially been charged in a court of law when they were executed. Lastly, the suspects were shot dead by one of the AFRC/RUF fighters present on the orders of a superior commander.

596. Given that Hyde was traumatised and left the scene soon after the first shot, the Trial Chamber relies more on the evidence of Bao who stayed and who testified that he heard Sam Bockarie give the order to shoot the suspects. Accordingly, based on the above evidence, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in late May or June 1997 at Kenema Town Police Station, a group of AFRC/RUF fighters acting under the orders of Sam Bockarie and in the presence of senior AFRC commander Eddie Kanneh, intentionally killed three persons. Bao testified that it was three persons suspected of burglary, including Bonnie Wailer, Sydney Cole and Bangura, all civilians who were not taking an active part in hostilities.

597. In this instance, the evidence establishes that the AFRC/RUF commanders, including Sam Bockarie and Eddie Kanneh, gathered the citizens of Kenema Town whom they specifically wanted to witness the punishment meted out to civilians who would dare to impersonate the rebels or bring their name into disrepute. These executions took place at the police station and in full view of the police personnel and members of the public, and the bodies were left at the scene on display for the rest of the day as an example to the residents of Kenema Town. The Trial Chamber accordingly finds beyond reasonable doubt that the perpetrators wilfully made the victims the object of such violence with the primary purpose of instilling terror in the civilian population in Kenema.

(iv) Killing of a farmer at the NIC Building

598. In his prior testimony, Alex Bao testified that at the end of the rainy season in 1997, which is in September,<sup>1410</sup> a group of RUF rebels caught a civilian man who was “brushing a swamp” which is a colloquial way to describe preparing a field for farming.<sup>1411</sup> Bao first saw the man when the RUF rebels were marching him up Maxwell Khobe Street in Kenema Town.<sup>1412</sup> The man was wearing a “working cloth”, had mud all over his body and was carrying a cutlass in his hand.<sup>1413</sup> Based on the man’s appearance, Bao concluded that he was a farmer who had been apprehended by his captors while he was working on his fields in the swamp.<sup>1414</sup> The rebels were dancing and singing that they had “captured a Kamajor, and that they would take him to Sam Bockarie”.<sup>1415</sup> Bao followed them out of curiosity<sup>1416</sup> but before he could catch up with them, he heard two gunshots from a pistol as he was approaching the NIC building. On arrival at the scene he saw Sam Bockarie brandishing a pistol in the air, standing over the farmer’s body which had bullet wounds in the head and stomach.<sup>1417</sup> The other onlookers confirmed to Bao that Bockarie had shot the farmer.<sup>1418</sup> Bao heard Bockarie say that he “must finish all of them”, meaning Kamajors, and ordering his “boys” to dump the farmer’s body into a hole behind the NIC building.<sup>1419</sup>

### Findings

599. The Trial Chamber finds Bao’s account of this killing in the three trials, namely, the RUF trial, AFRC trial and the current trial, to be detailed, consistent and credible. Based on that evidence, the Trial Chamber finds that the victim was a civilian farmer taking no active part in the hostilities when he met his death. Although Bao’s account of who actually shot

<sup>1410</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15096, 15099-15100; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15140.

<sup>1411</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15007-15010.

<sup>1412</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15007-15009, 15086; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15140, 15226.

<sup>1413</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15095-15096; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15140.

<sup>1414</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15007-15008; 15095-15096; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15140.

<sup>1415</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15010; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, pp. 15140, 15228.

<sup>1416</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15009; 15095-15096; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15140, 15227-15228.

<sup>1417</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15009, 15085, 15097-15098; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, pp. 15141, 15228.

<sup>1418</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15098.

<sup>1419</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15010; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, pp. 15141, 15228.

the farmer is based partly on circumstantial evidence and partly on hearsay from the bystanders, the Trial Chamber finds that the circumstances relating to the arrest and shooting of the victim, including: 1) the rebels dancing and singing while referring to the victim as “a Kamajor, that they had captured and would take to Sam Bockarie”; 2) the statements Sam Bockarie made at the scene of crime that he must finish all the Kamajors and his brandishing of the smoking gun over the victim’s body; and 3) the statements of bystanders implicating Bockarie in the killing, all lead to one reasonable inference that Sam Bockarie intentionally shot and killed a captured farmer in cold blood because he suspected that he was a Kamajor. The Trial Chamber accordingly finds that the Prosecution has proved beyond reasonable doubt that around September 1997 in front of the NIC building then housing the RUF rebels, Sam Bockarie intentionally shot and killed a farmer that was not taking an active part in hostilities.

600. In this instance, the AFRC/RUF fighters accused the farmer of being a Kamajor (i.e. a perceived enemy of the Junta forces) prior to handing him over to Bockarie. After killing the farmer in full view of the public, Bockarie announced that he would do the same to all Kamajors, thereby sending a clear and unequivocal message to the civilian population not to associate with the Junta’s enemies. The Trial Chamber finds beyond reasonable doubt that Sam Bockarie wilfully made the victim the object of such violence with the primary purpose of instilling terror in the civilian population of Kenema Town.

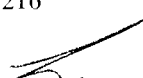
(v) Killing of Santos and an alleged thief

601. In his prior testimony, Alex Bao testified that during the rainy season in November 1997,<sup>1420</sup> an NGO<sup>1421</sup> filed a report with Kenema Police Station that thieves had broken into the NGO’s warehouse and stolen a large quantity of expensive drugs.<sup>1422</sup> No sooner had the police started investigating the complaint than Sam Bockarie came to the police station asking how far the investigation had gone. Bockarie told the police officers, including Bao, that he had information about the suspects and that he was going to “help the Police by

<sup>1420</sup> Exhibit P-173, “24 June 2005, AFRC Transcript of TF1-122”, pp. 15012, 15092.

<sup>1421</sup> Witness explained that he cannot remember whether this NGO was Medicines Sans Frontier (MSF) or the International Committee of the Red Cross (ICRC) as both were based in Kenema Town. See Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15093; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15142.

<sup>1422</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15012; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15143.





looking for the suspects”. Bao stated that shortly thereafter there was a widespread rumour that Bockarie had arrested and killed the alleged thief and a boy named Santos in front of Capital Cinema, where Santos worked.<sup>1423</sup> Bao stated that he knew Santos very well. Bao stated that the corpses of the two people were left in front of his house, opposite the Cinema for three days before Sam Bockarie and “his boys” loaded the bodies onto their vehicle and took them away.<sup>1424</sup>

### Findings

602. The Trial Chamber finds Bao’s account of these killings in the three trials, namely, the RUF, AFRC and the current trial, to be consistent and credible. Although Bao’s evidence as to who killed the two people is partly circumstantial and partly based on hearsay or “widespread rumour”, the Trial Chamber finds that the circumstances surrounding these deaths, including the inquiry by Sam Bockarie about the progress of the police investigation into the alleged theft, his unsolicited offer to help the police by looking for the suspects, and his collection of the bodies from the scene of crime three days later, all lead to one reasonable inference that Sam Bockarie intentionally killed these two people, neither of whom had properly been tried by a court of law. This circumstantial evidence corroborates the hearsay evidence implicating Sam Bockarie in these killings. Accordingly, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in November 1997 in front of Capital Cinema in Kenema Town, Sam Bockarie intentionally shot and killed two civilians, including one Santos, that were not taking an active part in hostilities.

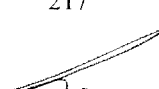
603. Given that perpetrators summarily executed the civilian suspects without trial and left their bodies lying in full public view for three days before taking them away, the Trial Chamber finds beyond reasonable doubt that Sam Bockarie wilfully made the victim the object of such violence with the primary purpose of the killings to instil terror in the civilian population in Kenema Town.

### (vi) Killing of an alleged “Kamajor Boss” on Hangha Road

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<sup>1423</sup> Exhibit P-173, “AFRC Transcript of TF1-122, 24 June 2005”, p. 15013, 15092; Exhibit P-174, “RUF Transcript of TF1-122, 7 July 2005”, p. 15143.

<sup>1424</sup> Exhibit P-173, “AFRC Transcript of TF1-122, 24 June 2005”, pp. 15012-15015; Exhibit P-174, “RUF Transcript of TF1-122, 7 July 2005”, p. 15144.



604. In his prior testimony, Alex Bao testified that in late December 1997, AFRC/RUF fighters launched an attack against the residents of Kenema Town which they named “Operation No Living Thing”.<sup>1425</sup> One morning during that operation, Bao saw the body of “a fat man dressed in plain clothes and not Kamajor uniform” lying motionless along Hangha Road by the Sierra Leone Telecommunications building in Kenema Town.<sup>1426</sup> Bao saw the RUF/AFRC juntas dancing and singing aloud that “they had captured and killed the Kamajor boss”.<sup>1427</sup> Bao saw one of the rebels split open the dead man’s belly with a bayonet, remove the intestines and stretch them across the street, using it as a checkpoint.<sup>1428</sup> The disembowelled body of the man remained at the “checkpoint” which was manned by the AFRC/RUF fighters, for three days after which the AFRC/RUF fighters took the corpse away.<sup>1429</sup> During cross-examination in this trial, Bao testified that “[t]he man is no Kamajor. When they want to kill innocent people, they brand you as a Kamajor. That man was just a peaceful citizen”.<sup>1430</sup>

### Findings

605. The Trial Chamber finds Bao’s account of this killing in the three trials, namely, the RUF, AFRC and the current trial, to be consistent and credible. Based on that evidence, the Trial Chamber is satisfied beyond reasonable doubt that the man described by the witness as “a peaceful citizen” and as wearing “plain clothes and not a Kamajor uniform” was a civilian not taking an active part in the hostilities when he was killed. Although Bao’s evidence as to who killed this man is circumstantial, the Trial Chamber finds that the circumstances surrounding that death, including the bizarre conduct of the AFRC/RUF fighters in dancing and singing aloud that “they had captured and killed the Kamajor boss”, and disembowelling his body and using the entrails as a “check point”, all reasonably lead to one inference that the AFRC/RUF fighters intentionally killed this civilian suspecting him of

<sup>1425</sup> Exhibit P-173, “AFRC Transcript of TF1-122, 24 June 2005”, pp. 15016, 15019; Exhibit P-174, “RUF Transcript of TF1-122, 7 July 2005”, p. 15144. Bao explained that during this “Operation” the AFRC/RUF routinely harassed civilians, stopping and searching them and looting their property under the pretext that the AFRC/RUF were “looking for Kamajors”.

<sup>1426</sup> Exhibit P-173, “AFRC Transcript of TF1-122, 24 June 2005”, p. 15017-15018; Exhibit P-174, “RUF Transcript of TF1-122, 7 July 2005”, pp. 15145-15146.

<sup>1427</sup> Exhibit P-173, “AFRC Transcript of TF1-122, 24 June 2005”, p. 15017; Exhibit P-174, “RUF Transcript of TF1-122, 7 July 2005”, pp. 15145-15146,

<sup>1428</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15018; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15145-15146.

<sup>1429</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15018.

<sup>1430</sup> Alex Bao, Transcript 18 September 2011, p. 16657.







being a member of the Civil Defence Force, a perceived enemy of the AFRC/RUF forces. Accordingly, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in December 1997 on Hangha Street near the Sierra Leone Telecommunication house, the AFRC/RUF fighters intentionally killed a civilian that was not taking an active part in hostilities.

606. Given that this killing was part of the operation code-named “Operation No living thing”, the AFRC/RUF fighters’ bizarre conduct in disembowelling the man’s body and using the entrails as a “check point”, and in leaving his body on public display for three days before removing it, the Trial Chamber finds beyond reasonable doubt that the perpetrators wilfully made the victim the object of such violence with the primary purpose of the killing to instil terror in the civilian population in Kenema Town.

(vii) Killing of Mohamed Fityia

607. Witness Karmoh Kanneh (a.k.a. Captain Eagle) a former civilian captured and enlisted as a fighter by the RUF in 1991<sup>1431</sup> stated that his RUF contingent led by Sam Bockarie was based at the NIC compound in Kenema Town for three to four months before the ECOMOG Intervention took place in Freetown,<sup>1432</sup> from where the RUF routinely conducted operations, including the capture of Tongo Fields.<sup>1433</sup> When Kanneh was in Kenema Town, members of the RUF and AFRC were looting civilian property. This led to Sam Bockarie issuing an order to put the looting under control.<sup>1434</sup> During the looting outbreak Kanneh investigated an allegation by a Mandingo man that Mohamed Fityia, a businessman, had driven soldiers in his car to loot the Mandingo man’s house.<sup>1435</sup> Kanneh found out that Fityia had only offered to drive his car hoping that the soldiers would not steal it.<sup>1436</sup> Kanneh told this to Bockarie, but the latter did not believe the story and became very angry with Kanneh. Bockarie then shot and killed Fityia in front of Kanneh.<sup>1437</sup>

<sup>1431</sup> Karmoh Kanneh, Transcript, 8 May 2008, p. 9312.

<sup>1432</sup> Karmoh Kanneh, Transcript, 8 May 2008, p. 9388. Since the ECOMOG intervention took place in February 1998, the Trial Chamber estimates that Kanneh was in Kenema Town from about October 1997 onwards.

<sup>1433</sup> Karmoh Kanneh, Transcript, 8 May 2008, pp. 9367-9369.

<sup>1434</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9411. The timing of the event is prior to the killing of BS Massaquoi. Karmoh Kanneh, Transcript 8 May 2008, p. 9411.

<sup>1435</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9409-9411.

<sup>1436</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9409-9410.

<sup>1437</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9411.

608. Another witness, Alex Sheku Bao, testified in this trial regarding what he had heard about the death of one businessman called Fityia in Kenema Town. Although Bao had said nothing about Fityia's death in his prior testimony in the AFRC and RUF trials, Bao testified in cross-examination in this trial, that sometime between 25 May 1997 and January 1998 he heard from people in Kenema that a businessman called Fityia hired two AFRC and two RUF fighters to rob a large amount of money from one Shekuna, a Lebanese diamond dealer in Kenema Town.<sup>1438</sup> Bao later heard rumours that Bockarie had killed Fityia because he was suspected of this crime.<sup>1439</sup> He went to the scene to investigate and found Fityia's dead body lying on Sombo Street.<sup>1440</sup> When asked by the Defence why his version of events differed from that given by Karmoh Kanneh, Bao admitted that his version of events based on hearsay was not as accurate as Kanneh's direct evidence, but that he had seen Fityia's body lying in Sombo Street.

#### Findings

609. The Trial Chamber finds Karmoh Kanneh's eyewitness account of the killing of Fityia credible and consistent. Kanneh was based at the RUF base at the NIC compound in Kenema Town and was personally involved in investigating the complaint against Fityia. He was also present when Sam Bockarie shot Fityia. The Trial Chamber accepts Bao's evidence that he saw Fityia's body lying in Sombo Street but finds his evidence as to Fityia's alleged involvement in the robbery of a Lebanese diamond dealer unreliable as it is based on uncorroborated hearsay. Accordingly, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that a few months before the ECOMOG intervention, in Sombo Street, Kenema Town, Sam Bockarie intentionally shot and killed Mohamed Fityia, a civilian not taking active part in the hostilities.

610. Given the summary execution of a civilian suspect without trial, including Bockarie's conduct in publicly exhibiting the corpse on Sombo Street, the Trial Chamber finds beyond reasonable doubt that Sam Bockarie wilfully made the victim the object of such violence with primary purpose of this killing to instil terror in the civilian population in Kenema Town.

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<sup>1438</sup> Alex Bao, Transcript 18 September 2008, pp. 16662-16664.

<sup>1439</sup> Alex Bao, Transcript 18 September 2008, pp. 16664, 16669, 16671; Alex Bao, Transcript 19 September 2008, 16681.

<sup>1440</sup> Alex Bao, Transcript 18 September 2008, pp. 16664, 16669, 16671.



(viii) The killing of Brima S. Massaquoi and others

611. In his prior testimony, Witness Alex Bao provides the most detailed account on the circumstances surrounding the killing of Brima S. Massaquoi, the Chairman of Kenema Town Council and other prominent residents in January 1998. Bao testified that in late January 1998, six prominent individuals, namely, Brima S. Massaquoi, the Chairman of Kenema Town Council,<sup>1441</sup> Brima Kpaka a prominent businessman in Kenema,<sup>1442</sup> Andrew Quee, a civil servant,<sup>1443</sup> Issa Ansumana, Abdulai Bockarie and John Swanay were arrested by the AFRC/RUF forces in Kenema Town and detained at the AFRC Secretariat located at 14 Hangha Road, on suspicion of being “Kamajor supporters”.<sup>1444</sup> Bao visited the AFRC Secretariat and saw the prisoners lying on a wet floor with their hands tied tightly behind their backs and with bruises on their bodies. The ropes had “eaten” into their flesh.<sup>1445</sup> Bao saw the RUF commander Sam Bockarie (a.k.a. Mosquito) brandishing his pistol in the air and heard him say that the detainees were “supporters of Kamajors and he was going to kill all of them”. The AFRC Lieutenant in charge of the Secretariat was also present.<sup>1446</sup> After being detained at the AFRC Secretariat for three or four days, the prisoners were on 28 January 1998<sup>1447</sup> transferred to the Kenema Police Station where Bao was deployed to be investigated on charges that they were supporting the Kamajors against the AFRC/RUF.<sup>1448</sup>

612. Bao stated that the Police found no evidence supporting the allegations that any of the six men were Kamajor collaborators and released them on bail.<sup>1449</sup> Three or four days later, when Bockarie learned that the six suspects had been released, he openly threatened the Police Commissioner with death if the men were not returned within two hours.<sup>1450</sup> As a

<sup>1441</sup> According to the police log book or Diary admitted in this trial as Exhibit P-175 his formal name is Brima S. Massaquoi, but he was commonly known as BS Massaquoi. Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15020, 15044.

<sup>1442</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15020

<sup>1443</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15020; Exhibit P-174, “TF1-122, RUF Transcript of, 7 July 2005”, p. 15148; Alex Bao, Transcript 19 September 2008, pp. 16689-16690.

<sup>1444</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15021.

<sup>1445</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15021-15022.

<sup>1446</sup> Bao stated that he does not remember the AFRC commander’s name. Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, p. 15021.

<sup>1447</sup> Exhibit P-175, “Copy of Diary”, p. 15621.

<sup>1448</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15019-15021; 15042-15043; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, pp. 15147-15148.

<sup>1449</sup> Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15023-15025; Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15150; Alex Bao, Transcript 19 September 2008, p. 16702-16703.

<sup>1450</sup> Exhibit P-174, “TF1-122, RUF Transcript 7 July 2005”, p. 15151; Exhibit P-173, “TF1-122, AFRC Transcript 24 June 2005”, pp. 15026-15027, 15043-15044, 15288; Alex Bao, Transcript 19 September 2008, pp.

result five of the suspects were re-arrested and detained at the Kenema Police Station<sup>1451</sup> on the orders of the Police Commissioner, with the exception of Brima Kpaka who had been admitted to the Kenema hospital for treatment.<sup>1452</sup> On 6 February 1998<sup>1453</sup> a lot of armed AFRC/RUF forces led by AFRC Lieutenant A.B. Turay came to Kenema Police Station in two military vehicles and took away five of the prisoners, namely, B.S. Massaquoi, Andrew Quee, Issa Ansumana, Abdulai Bockarie and John Swanay.<sup>1454</sup> Bao heard Lt. Turay tell the police that he was taking the prisoners to the AFRC Brigade headquarters on orders of the Secretary of State East.<sup>1455</sup>

613. Bao further stated that two days after the AFRC/RUF had taken the five prisoners into custody,<sup>1456</sup> there were widespread rumours in Kenema Town that the AFRC/RUF forces had killed the five prisoners and dumped their bodies in a river.<sup>1457</sup> Bao searched in vain for the five prisoners at the AFRC Brigade headquarters and Guinea Base.<sup>1458</sup> He found the dead bodies of the five prisoners lying in a stream at Dorwala, on the outskirts of Kenema Town.<sup>1459</sup> Bao described the bodies as having gunshot wounds all over. Also there was large cement block lying on Massaquoi's head.<sup>1460</sup>

614. Bao's testimony is to a large extent, corroborated by that of Adesanya Sanya Hyde who was a police officer, and the second in command at the Kenema District Criminal

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16704-16705.

<sup>1451</sup> Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", pp. 15151-15152; Exhibit P-173, "AFRC Transcript of TF1-122, 24 June 2005", pp. 15027, 15085.

<sup>1452</sup> Exhibit P-173, "AFRC Transcript of TF1-122, 24 June 2005", pp. 15027, 15079. The police log book records this as happening on 4 February 1998; Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", p. 15152.

<sup>1453</sup> Exhibit P-175, "Copy of Diary", p. 15690.

<sup>1454</sup> Exhibit P-173, "AFRC Transcript of TF1-122, 24 June 2005", pp. 15027; Exhibit P-175, "Copy of Diary", p. 15690.

<sup>1455</sup> Exhibit P-173, "AFRC Transcript of TF1-122, 24 June 2005", pp. 15027-15029, 15045; Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", pp. 15152, 15290.

<sup>1456</sup> Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", pp. 15154.

<sup>1457</sup> Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 15030-15031; Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", p. 15154.

<sup>1458</sup> Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 15030-15031; Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", pp. 15154-15155, 15243-15244; Alex Bao, Transcript 19 September 2008, p. 16710-16711.

<sup>1459</sup> Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 15031-15032; Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", pp. 15155-15156, 15244-15245; Alex Bao, Transcript 19 September 2008, p. 16710-16711.

<sup>1460</sup> Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", pp. 15031-15032; Exhibit P-174, "RUF Transcript of TF1-122, 7 July 2005", pp. 15155-15156; Alex Bao, Transcript 19 September 2008, pp. 16711-16712.

Investigation Department in 1997 and 1998. Hyde testified that close to the time of the Intervention, the “AFRC hierarchy”, including Eddie Kanneh and Sam Bockarie, ordered the arrest of seven suspected Kamajor collaborators including B.S. Massaquoi, the Chairman of the Kenema Town Council, Brima Kpaka, a prominent businessman, and Andrew Quee.<sup>1461</sup> Hyde stated that the prisoners were detained at the AFRC Secretariat for six days, and then transferred to the Kenema Town Police station for further investigation.<sup>1462</sup>

615. As the Police could not find any evidence to support charges against the men, and because of their injuries, the Chief of Police received permission from Eddie Kanneh to release the suspects on bail, and BS Massaquoi and Brima Kpaka were released.<sup>1463</sup> However, shortly after the ECOMOG Intervention, Sam Bockarie ordered that they be re-arrested.<sup>1464</sup> Kpaka was not taken back as he had been admitted to the hospital, but B.S. Massaquoi was returned to the station.<sup>1465</sup>

616. The next morning there was a rumour that the Kamajors and ECOMOG were five miles away from Kenema.<sup>1466</sup> At 6.30am the same day the AFRC forces, led by Lieutenant A.B. Turay, removed the suspects from the Police Station and took them to the AFRC Brigade Headquarters.<sup>1467</sup> Hyde later heard from other residents of Kenema that Sam Bockarie and his men had killed the suspects and that BS Massaquoi had been beheaded and that his head had been tied to a wooden pole and paraded around Kenema.<sup>1468</sup> Hyde testified however, that he never saw the dead bodies of any of the deceased.<sup>1469</sup>

617. Another witness, Karmoh Kanneh, (a.k.a. Captain Eagle)<sup>1470</sup> testified that Sam Bockarie arrested B.S. Massaquoi, the City Council Chairman, Ibrahim Gbacka, a motor-spares dealer, and Dr Momoh, a medical doctor, and detained them at the Secretariat,

<sup>1461</sup> Exhibit P-178A, “TF1-125, AFRC Transcript 12 May 2005”, pp. 15316-15317.

<sup>1462</sup> Exhibit P-178A, “TF1-125, AFRC Transcript 12 May 2005”, p. 15317.

<sup>1463</sup> Exhibit P-178A, “TF1-125, AFRC Transcript 12 May 2005”, p. 15318.

<sup>1464</sup> Exhibit P-178A, “TF1-125, AFRC Transcript 12 May 2005”, pp. 15318-15319.

<sup>1465</sup> Exhibit P-178A, “TF1-125, AFRC Transcript 12 May 2005”, p. 15319.

<sup>1466</sup> Exhibit P-178A, “TF1-125, AFRC Transcript 12 May 2005”, p. 15320.

<sup>1467</sup> Exhibit P-178A, “TF1-125, AFRC Transcript 12 May 2005”, pp. 15320-15321, 15334; *See also* Exhibit P-175, “Copy of Diary”, p. 15691.

<sup>1468</sup> Exhibit P-178A, “TF1-125, AFRC Transcript 12 May 2005”, p. 15321.

<sup>1469</sup> Exhibit P-178A, “TF1-125, AFRC Transcript 12 May 2005”, p. 15321.

<sup>1470</sup> This witness is a former civilian captured and enlisted as a fighter by the RUF in 1991. Karmoh Kanneh’s RUF contingent led by Sam Bockarie was based at NIC compound in Kenema Town for three to four months before the ECOMOG Intervention took place in Freetown.

accusing them of collaborating with the Kamajors.<sup>1471</sup> Kanneh and his colleague Manowai visited the suspects in detention and observed that they were badly beaten and bruised. Gbacka, who hailed from the same region as Kanneh, confirmed to the latter that they had been severely tortured.<sup>1472</sup> Kanneh persuaded Bockarie to allow him to transfer Gbacka and Dr Momoh to the hospital for treatment and while there, he assisted the two men to escape and hide because he was concerned for their safety. Kanneh stated that as ECOMOG advanced towards Kenema, Kanneh heard Bockarie say that “if the situations went out of control the prisoners would not be spared”.<sup>1473</sup> Upon learning that two of the prisoners had escaped while in the hospital, Bockarie ordered that B.S. Massaquoi be put under “tight custody”.<sup>1474</sup>

618. Kanneh testified that on the day that ECOMOG forces entered Kenema Town and as the AFRC retreated,<sup>1475</sup> he saw Bockarie put B.S. Massaquoi into a car and heard Bockarie say he was going to execute Massaquoi.<sup>1476</sup> Karmoh Kanneh and others including Eddie Kanneh, followed Bockarie as he took Massaquoi to the Government reservation. While there Kanneh saw Bockarie’s securities take Massaquoi out of the car and shoot him.<sup>1477</sup> Kanneh stated that after Massaquoi died, all of the men followed Bockarie back to the brigade but were not happy with him for having carried out the killings.<sup>1478</sup>

619. A number of other Prosecution and Defence witnesses testified of hearing of the death of B.S. Massaquoi as he was a key figure in Kenema Town. Prosecution Witness TF1-590 heard that Sam Bockarie and his men arrested and killed B.S. Massaquoi.<sup>1479</sup> However, TF1-590 did not see the corpse of B.S. Massaquoi, but only referred to the “widespread rumour” that Massaquoi’s body was lying in Hangha Road.<sup>1480</sup> Defence witness Issa Sesay testified that he heard from Major Gua and others that Sam Bockarie had, prior to the RUF retreat from Kenema Town, arrested and killed B.S. Massaquoi and others on suspicion of

<sup>1471</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9403-9404.

<sup>1472</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9405.

<sup>1473</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9406.

<sup>1474</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9407.

<sup>1475</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9407.

<sup>1476</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9406-9407.

<sup>1477</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9406-9408.

<sup>1478</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9408.

<sup>1479</sup> Witness TF1-590, Transcript 17 June 2008, p. 12021.

<sup>1480</sup> TF1-590, Transcript 17 June 2008, pp. 11917-11918, 12021.

sending ammunition and food to the Kamajors.<sup>1481</sup> Defence Witness Sam Kolleh (DCT-102), a commanding officer in the RUF who was stationed in Kenema in February 1998,<sup>1482</sup> also heard that Sam Bockarie had arrested B.S. Massaquoi and killed him on the day after the ECOMOG Intervention.<sup>1483</sup>

620. In addition to witness testimony, the Trial Chamber admitted into evidence two independent reports on the unlawful killings that took place in Sierra Leone in the year 1998. An Amnesty International report states:

[O]n 13 and 14 January 1998 several prominent members of the community in Kenema were arrested by members of the RUF under the supervision of Sam Bockarie. They included B.S. Massaquoi, the chairman of the Town Council, Dr P.B. Momoh, a medical doctor, Paramount Chief Moinama Karmor, a traditional leader and Ibrahim Kpaka, a businessman. They were arrested at a time of fierce fighting between the Kamajors and the AFRC and RUF forces around Kenema and were accused of supporting the Kamajors. They were held at the AFRC Secretariat building in Kenema, which had been the local SLPP headquarters, and some were later moved to the police station and army brigade headquarters. They were stripped and repeatedly beaten with sticks, electric cables and strips of tyres and were threatened with death. Their arms were tied tightly behind them. One of those detained sustained a serious head wound and injury to his eye after being beaten on his head with a gun. At least one of those detained died as a result of beatings. Some of those arrested were released on 26 January 1998 and escaped to safety. B.S. Massaquoi, however, was among those who remained held at army brigade headquarters. He was killed by members of the RUF on 8 February 1998 as news arrived of ECOMOG's offensive on Freetown and as Kamajors entered Kenema. Dozens of other people were also reported to have been killed. The mutilated body of B.S. Massaquoi and 35 other people were reported to have been found in mass grave near Kenema on 23 March 1998.<sup>1484</sup>

621. A 1998 Human Rights report on Sierra Leone states:

[T]hroughout the year, AFRC and RUF rebels committed numerous egregious abuses, including brutal killings, severe mutilations and deliberate dismemberments, in a widespread campaign of terror against the civilian population known as "Operation No Living Thing"....Many of the hundreds, if not thousands, of civilians killed by AFRC and RUF insurgent forces in the conflict were executed deliberately for political motives. In March RUF leader Sam Bockarie summarily executed 10 prominent residents of Kenema, including former cabinet minister Bockarie S. Massaquoi and Paramount Chief Momoh Tarawalie, for opposing the rebels.<sup>1485</sup>

## Findings

<sup>1481</sup> Issa Sesay, Transcript 8 July 2010, p. 44006.

<sup>1482</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48440-48442.

<sup>1483</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48786.

<sup>1484</sup> Exhibit P-078, "Sierra Leone – 1998 – A Year of Atrocities Against Civilians, Amnesty International Report", pp. 9-10.

<sup>1485</sup> Exhibit P-366, "Sierra Leone Country Report on Human Rights Practices for 1998, US Department of State, Bureau of Democracy, Human Rights and Labor, 26 February 1999", pp. 2-3, ERN 22798-22799.

622. The Trial Chamber finds the evidence of the two policemen, Alex Bao<sup>1486</sup> and Adesanya Sanya Hyde regarding the circumstances surrounding the death of B.S. Massaquoi, Andrew Quee, Issa Ansumana, Abdulai Bockarie and John Swanay, credible and reliable. Both witnesses were deployed as policemen at Kenema Police Station during the period of May 1997-February 1998 when the arrests, detention and killing of the prisoners took place. Their testimony is corroborated by the Kenema Police Diary documenting the arrest, detention and release of the prisoners by the police into the custody of the AFRC/RUF, which information was not challenged. Although the evidence of these two witnesses as to who killed the prisoners is partly circumstantial and partly based on hearsay or “widespread rumour”, the Trial Chamber finds that the circumstances surrounding these deaths, including the initial arrest, detention and torture of the prisoners by the AFRC/RUF fighters in Kenema; the unsubstantiated accusations by Sam Bockarie that the prisoners were “Kamajor supporters” and his threat to execute them; Bockarie’s furious conduct upon learning that the police had released the prisoners and his ordering their re-detention and repeated threat to execute them immediately prior to the ECOMOG Intervention; and the dumping of the prisoners’ bullet-riddled bodies in a river, all lead to one reasonable inference that the AFRC/RUF juntas led by Sam Bockarie intentionally killed the prisoners on suspicion that they were Kamajor supporters.

623. Furthermore, the Trial Chamber has considered the evidence of Karmoh Kanneh an RUF insider closely associated with Sam Bockarie and based at the RUF headquarters in Kenema Town at the material time, and finds it credible. His evidence relating to the arrest, detention and torture of the prisoners on the orders of Sam Bockarie, is consistent with other Prosecution evidence. More importantly, his eye-witness account of the killing of Massaquoi by Bockarie’s security men corroborates the earlier circumstantial evidence discussed above. The hearsay evidence of other Prosecution and Defence witnesses referred to above and the content of the two reports quoted above are further corroboration of these killings. Although there are variations in the names of the prisoners as given by the various witnesses, the Trial Chamber is of the view that a number of prominent civilians were executed on this occasion but that most witnesses recall the most prominent of the deceased persons, namely B.S. Massaquoi. Other witnesses including Kanneh recall particular prisoners like Dr Momoh

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<sup>1486</sup> In particular, the Trial Chamber notes that Bao’s account was consistent in each of the three trials in which he testified, namely: *Prosecutor v. Brima et. al.* (AFRC) trial; *Prosecutor v. Sesay et. al.* (RUF) trial and the *Prosecutor v. Taylor.*



and Ibrahim Gbacka having known them before. The Trial Chamber also finds the timing of the arrest, detention and killing of these civilians relevant. These events took place immediately after the AFRC/RUF forces had been driven out of Freetown by the ECOMOG forces and at a time when the AFRC/RUF forces in Kenema were anticipating a similar attack and defeat by ECOMOG and Kamajor forces in Kenema. The victims, suspected or perceived by the AFRC/RUF forces in Kenema to have been supporters of “the enemy forces” (albeit without proof), were thus killed in revenge or reprisal for perceived support of the Junta’s enemies.

624. Based on the above oral and documentary evidence, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in early February 1998 in Kenema Town, AFRC/RUF forces led by Sam Bockarie intentionally killed a number of civilians not taking an active part in hostilities, including B.S. Massaquoi, Andrew Quee, Issa Ansumana, Abdulai Bockarie and John Swanay. Given the timing and circumstances of these deaths described above, the Trial Chamber further finds beyond reasonable doubt that Bockarie wilfully made the victims the object of such violence with the primary purpose of these killings to instil terror in the civilian population.

(b) Tongo Fields area

(i) Killing of three persons in a residential house

625. In his prior testimony from the AFRC trial admitted in this trial as Prosecution Exhibit P-278, Witness TF1-062 testified that he was a trader and a diamond miner living in a town called Tongo Fields in Lower Bambara Chiefdom about 27 miles from Kenema Town when armed AFRC/RUF rebels<sup>1487</sup> led by Sam Bockarie<sup>1488</sup> took control of the area on 11 August 1997.<sup>1489</sup> Upon their arrival in Tongo Fields, the AFRC/RUF rebels carried out widespread looting and indiscriminate attacks against the civilian population for three days.<sup>1490</sup>

<sup>1487</sup> The witness stated that the group comprised a combination of ex-SLA soldiers wearing combat uniform and others that wore civilian clothing. See Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, pp. 14915.

<sup>1488</sup> Witness stated that Sam Bockarie introduced himself to the civilians. See Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, pp. 14916, 14949, 14960.

<sup>1489</sup> Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, pp. 14910-14916.

<sup>1490</sup> Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, pp. 14916-14918. Abdul Conteh, Transcript 29 September 2008, pp. 17496-17497.

626. Witness TF1-062 testified that one morning during this three day period, he was sitting in his house in Tongo Fields when armed soldiers came to a residential house opposite his.<sup>1491</sup> The soldiers ordered the occupants of the house to open the door. When the occupants declined to do so, the soldiers broke down the door and started shooting randomly into the room, killing the three occupants.<sup>1492</sup> The witness heard the soldiers refer to the deceased as Kamajors. The witness however, did not believe this as he knew that there were no Kamajors in Tongo Fields at that time.<sup>1493</sup> After the soldiers left the scene Witness TF1-062 helped some civilians to take the corpses away.<sup>1494</sup>

### Findings

627. The Trial Chamber finds the eye-witness account of Witness TF1-062 credible. The evidence establishes beyond reasonable doubt that the perpetrators carried out these killings in reprisal against persons they perceived or suspected to be enemies of the Junta forces. Based on that evidence, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in August 1997 in Tongo Fields, RUF/AFRC fighters intentionally shot to death three civilians that were not taking an active part in the hostilities. Given that the perpetrators accused the victims of being “Kamajors” at a time when the AFRC/RUF forces were under threat of attack from ECOMOG and the Kamajors, the Trial Chamber further finds beyond reasonable doubt that the perpetrators wilfully made the victims the object of such violence with primary purpose of these killings to instil terror in the civilian population by making an example of would-be enemies of the Junta forces, thereby guaranteeing civilian loyalty.

#### (ii) Killing of 15 civilians at Bumpe near Tongo Fields around September 1997

628. Abdul Otonjo Conteh (TF1-060), who was a Secondary School teacher, part-time miner and resident of Lalehun<sup>1495</sup> in Tongo Fields testified that the AFRC/RUF Junta forces under Eddie Kanneh and Sam Bockarie arrived in Kenema Town three days after the 25

<sup>1491</sup> Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, p. 14919.

<sup>1492</sup> Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, pp. 14919-14920; TF1-062, Transcript 27 January 2009, p. 23640.

<sup>1493</sup> Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, pp. 14919-14920.

<sup>1494</sup> Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, pp. 14919.

<sup>1495</sup> Abdul Conteh, Transcript 29 September 2008, p. 17512. Witness stated that this location is two miles on the outskirts of Tongo Town.

May 1997 coup<sup>1496</sup> and entered Tongo Fields on 11 August 1997 amid heavy shooting and rampant looting of civilian property.<sup>1497</sup> Abdul Conteh testified that in the days following the arrival of the AFRC/RUF forces in Tongo, the paramount Chief of Lower Bambara Chiefdom appointed a 13 man Committee known as the Lower Bambara Advisory Committee, to oversee the welfare of the citizens of the Chiefdom. The mandate of this committee was to receive reports from the citizens regarding any problems encountered and in turn to relay these complaints to the Paramount Chief and the AFRC/RUF administration.<sup>1498</sup> Conteh was appointed Secretary of that Committee and was resident in Tongo Fields from 11 August to 10 November 1997.<sup>1499</sup>

629. Conteh testified that in his capacity as committee member, he received a report from some citizens of Bumpe on 16 September 1997,<sup>1500</sup> that fifteen people had been killed at Bumpe, located about one mile on the outskirts of Tongo.<sup>1501</sup> He went to Bumpe to investigate and saw fifteen corpses of both men and women in civilian clothes, including two girls aged 14 and 18 years, respectively, lying in the open. All the bodies bore bullet wounds.<sup>1502</sup> Bumpe was deserted as everyone had run away. Conteh testified that some of the survivors of Bumpe told him that RUF fighters went to fight the Kamajors in Dodo Chiefdom on 16 September 1997 and lost. Out of frustration the returning RUF fighters killed whoever crossed their path during their retreat.<sup>1503</sup> Those reportedly killed by the RUF included the fifteen civilians at Bumpe; Chief Vandi Sei and a retired Policeman called John Dakowah at Panguma.<sup>1504</sup> Conteh further testified that the civilians who returned to their home from the bush were harassed, beaten or raped by the AFRC/RUF fighters who accused them of being “relatives of the Kamajors”.<sup>1505</sup>

<sup>1496</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17496-17511

<sup>1497</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17496-17512

<sup>1498</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17525-17528

<sup>1499</sup> Abdul Conteh, Transcript 29 September 2008, p. 17547

<sup>1500</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17531;

<sup>1501</sup> Abdul Conteh, Transcript 29 September 2008, p. 17529.

<sup>1502</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17529-17530.

<sup>1503</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17531; Exhibit D-063, “Lower Bambara Chiefdom Situation Report prepared by Abdul Conteh”, ERN 101408.

<sup>1504</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17531; Abdul Conteh, Transcript 30 September 2008, p. 17555; Exhibit D-063, “Lower Bambara Chiefdom Situation Report prepared by Abdul Conteh”, ERN 101406.

<sup>1505</sup> Abdul Conteh, Transcript 29 September 2008, p. 17532.

630. In addition, the Trial Chamber admitted into evidence several reports authored by Abdul Conteh as “Secretary General of the Lower Bambara Care-Taking Committee”.<sup>1506</sup> According to one of the reports, Col. Sam Bockarie (a.k.a. Mosquito) on 8 September 1997 led a group of about 300 RUF/AFRC combatants to Dodo Chiefdom to confront Kamajors. The group suffered heavy casualties and the survivors, on their return to Tongo Fields, killed a retired Policeman called John Dakowa claiming that he was a Kamajor.<sup>1507</sup> According to another report, on 16 September 1997 the O/C Secretariat Tongo<sup>1508</sup> led a group of about 800 RUF/AFRC combatants to Dodo Chiefdom to confront Kamajors. The RUF/AFRC combatants suffered heavy casualties and only 100 returned to Tongo. On their way back, the RUF/AFRC combatants killed 15 civilians at Bumpe including one Saffa Balie, a prominent youth leader, and Pa Vandi Sei, the Town Chief of Panguma. The Lower Bambara Care-Taking Committee reported these deaths to the O/C Secretariat Tongo who dismissed the report remarking that “all those killed were either Kamajors or collaborators of Kamajors” and threatening to kill anyone found in Bumpe trying to bury the dead.<sup>1509</sup>

### Findings

631. The Trial Chamber finds Conteh’s testimony credible. As a prominent member of the Lower Bambara Care-Taking Committee that was charged with overseeing the welfare of the citizens of the Chiefdom, he was privy to vital information regarding the treatment of these citizens by the AFRC/RUF administration. Oftentimes he not only documented the complaints received but also personally investigated some of them. The reports cited above corroborate his oral testimony with regard to the 15 deaths in Bumpe and the two deaths in Panguma. Based on that evidence the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that around 8 September 1997, at Bumpe on the outskirts of Tongo Fields, AFRC/RUF fighters retreating from battle intentionally shot and killed 15 civilians including one Saffa Balie, who were not taking an active part in the hostilities. In addition, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that around 16 September 1997 at Panguma, AFRC/RUF fighters retreating from battle

<sup>1506</sup> Exhibit D-063, “Lower Bambara Chiefdom Situation Report prepared by Abdul Conteh”.

<sup>1507</sup> Exhibit D-063 “Lower Bambara Chiefdom Situation Report prepared by Abdul Conteh”, ERN101406.

<sup>1508</sup> Conteh testified that the Officer in charge of the AFRC Secretariat in Tongo during the Junta period was Lt. Sakou Kunnateh, a former SLA soldier who joined the AFRC government. See Abdul Conteh, Transcript 29 September 2008, pp. 17520-17521.

<sup>1509</sup> Exhibit P-063 “A Confidential Report Against the Military Junta at Tongo (2) dated 17 September 1997”.

intentionally shot and killed Pa Vandí Sei, the Town Chief and John Dakowah, a retired Policeman, both of whom were civilians not taking an active part in the hostilities. However since the Prosecution did not specifically plead Panguma as a crime base in the Indictment, the evidence in relation to the two deaths at Panguma serves only to prove the Chapeau requirements of murder within Kenema District.<sup>1510</sup>

632. The above evidence establishes that the AFRC/RUF forces carried out revenge killings after suffering heavy casualties during a previous military operation against the Kamajors Civil Defence force. In this instance, the perpetrators, including Lt. Sekou Kunnateh, the O/C of the AFRC Secretariat at Tongo, justified the killing of innocent civilians by branding them “Kamajors or Kamajor collaborators” and preventing the other civilians from burying the dead by threatening them with death. The Trial Chamber finds beyond reasonable doubt that the perpetrators wilfully made the victims the object of such violence with the primary purpose of these killings to instil terror in the civilian population, thereby guaranteeing their loyalty.

(iii) Killing of civilians engaged in mining at Pandembu, Sandeyeima and Wuima in Tongo Fields Area

633. Witness Abdul Conteh testified that during the Junta period, the RUF/AFRC fighters forbade civilians to carry out any private or personal mining of diamonds in Tongo Fields and that any civilian caught mining for himself was severely punished. He also stated that the RUF/AFRC fighters would abduct civilians and force them to mine diamonds for the Junta Government.<sup>1511</sup> Conteh further testified that while serving on the Lower Bambara Care-Taking Committee, he received a report<sup>1512</sup> that Sam Bockarie sent RUF child combatants<sup>1513</sup> to Pandembu, a village in the Tongo Fields area,<sup>1514</sup> with orders to kill civilians who were carrying out personal mining instead of mining for the AFRC/RUF Government.<sup>1515</sup> The child soldiers shot and killed three civilians who were mining by a

<sup>1510</sup> Preliminary Issues: Issues relating to the Pleading in the Indictment. According to the Map of Sierra Leone Exhibit P-176, Panguma is not part of the Tongo Fields Area.

<sup>1511</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17532-17538.

<sup>1512</sup> Abdul Conteh, Transcript 29 September 2008, p. 17538.

<sup>1513</sup> Conteh described the ages of the RUF child combatants as being between 12 to 15 years old. Abdul Conteh, Transcript 29 September 2008, p. 17536.

<sup>1514</sup> Conteh stated that Pandembu was just 300 yards from the offices of the Lower Bambara Care-Taking Committee. See Abdul Conteh, Transcript 29 September 2008 p. 17538.

<sup>1515</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17537-17538.

church in Pandembu.<sup>1516</sup> Conteh and the other Caretaker Committee members went to investigate, and saw the three bullet-riddled corpses of the civilians as well as other people who had sustained bullet wounds.<sup>1517</sup>

634. Abdul Conteh testified that he received another report that RUF child soldiers killed two civilians who were doing private mining at Sandeyeima and wounded several others.<sup>1518</sup> He further testified that he received yet another report that RUF child soldiers killed three civilians who were doing private mining at Wuima and wounded several others. The Caretaker Committee reported these three incidents to Lieutenant Sekou Kunnateh, the O/C of the AFRC Secretariat in Tongo, who responded that “he was not going to take any action as he had confirmed that the child combatants were acting in accordance with Sam Bockarie’s orders”, and that “no civilian was allowed to mine privately in Lower Bambara Chiefdom except for the AFRC Government”.<sup>1519</sup>

#### Findings

635. Conteh’s evidence, although partly circumstantial, and partly based on the reports that he received from citizens of Tongo in his capacity as a member of the Care-Taker Committee, is credible. He and other members of the Lower Bambara Care-Taking Committee visited the scene of the shooting at Pandembu and saw the bullet riddled corpses as well as the wounded survivors. Although Conteh did not see the child combatants in action and was merely told about it, the response of Lt. Sekou Kunnateh, the O/C of the AFRC Secretariat in Tongo confirms the report that Conteh received, namely, that Sam Bockarie sent the child combatants to kill those civilians that were mining diamonds for themselves. The Trial Chamber therefore finds that the Prosecution has proved beyond reasonable doubt that during the Junta’s occupation of Tongo Fields,<sup>1520</sup> AFRC/RUF child combatants acting under the orders of Sam Bockarie and with the approval of Lt. Sekou Kunnateh, intentionally shot and killed three civilians at Pandembu, two civilians at Sandeyeima and three civilians at Wuima, all of whom were not taking an active part in hostilities.

<sup>1516</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17537-17538.

<sup>1517</sup> Abdul Conteh, Transcript 29 September 2008, p. 17538.

<sup>1518</sup> Abdul Conteh, Transcript 29 September 2008, p. 17538.

<sup>1519</sup> Abdul Conteh, Transcript 30 September 2008, pp. 17555-17556.

<sup>1520</sup> Conteh stated that the Junta forces entered Tongo on 11 August 1997, while Witness TF1-062 testified that

636. Given the slave-like conditions under which the AFRC/RUF Junta forced civilians to mine for them and forbade them from mining for personal benefit, the Trial Chamber finds beyond reasonable doubt that the perpetrators wilfully made the victims the object of such violence with the primary purpose of the killing of the civilian miners in Tongo Fields to instil terror in the civilian population, thereby guaranteeing their continued servitude and continuing to control the mining activities in the District.

(iv) Killing of civilian miners at Cyborg Pit

637. In his prior testimony admitted as an exhibit in this trial,<sup>1521</sup> protected Prosecution Witness TF1-062 testified that he was living in Tongo Fields, Lower Bambara chiefdom during the AFRC/RUF Junta's occupation of Tongo Fields. He and his family had been carrying on private mining of diamonds in Tongo Fields for 20 years before the AFRC/RUF forces arrived.<sup>1522</sup> After the AFRC/RUF forces took over control of Tongo Fields, the witness and other civilians were forced to mine for the AFRC/RUF forces using his equipment and employees. Although he himself would not physically mine, he always made sure that he personally supervised his workers on a daily basis and that any diamonds found were surrendered to the AFRC/RUF commanders.<sup>1523</sup> The AFRC/RUF forces referred to this forced mining as "Government work" but civilians were never compensated for work done or diamonds produced.<sup>1524</sup> TF1-062 testified that Sam Bockarie assigned an ex-SLA soldier called Set Marah to oversee the mining activities of the AFRC/RUF forces in Tongo Fields and that civilians were not allowed to mine without the permission of this commander.<sup>1525</sup> TF1-062 also testified that any diamonds retrieved by the civilians were supposed to be handed to the AFRC/RUF commanders who in turn would hand them over to Sam Bockarie. Civilians who disobeyed this practice were severely punished or even killed. TF1-062

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the junta forces left Tongo Fields in January 1998. See Transcript 27 January 2009 p. 23634.

<sup>1521</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14910-14916. In the present trial, the witness was cross-examined on his prior testimony. See TF1-062, Transcript 27 January 2009.

i.e. TF1-062 gave evidence concerning the killing of the child in Cyborg Pit in the AFRC trial, which was admitted as prior testimony under Rule 92*bis*. He was also cross-examined by the Defence concerning the Rule 92*bis* evidence in this trial.

<sup>1522</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", p. 14911; See also TF1-062 Transcript 27 January 2009, p. 23618.

<sup>1523</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14933-14945.

<sup>1524</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", p. 14938-14940.

<sup>1525</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", p. 14928.

witnessed a number of civilian miners killed for this reason by the AFRC/RUF soldiers at Cyborg Pit, a mining area operated by the AFRC/RUF forces.<sup>1526</sup>

638. TF1-062 testified that on one occasion he was standing by watching his workers mining at Cyborg Pit when he saw an AFRC/RUF soldier try to take a bag of gravel, by force, from a child miner. The child was preparing to “wash” the gravel in order to sort out any diamonds therein. However, when the child refused to turn over his bag of gravel to the soldier, the latter became angry and shot and killed the child.<sup>1527</sup> On another occasion at Cyborg Pit, an AFRC/RUF soldier who was guarding the civilian miners temporarily left his bag of gravel by the river side where the civilians used to “wash” their own gravel. When the soldier returned he found the bag missing and was very angry vowing that he would set an example by killing a civilian.<sup>1528</sup> The soldier then randomly fired into the crowd where TF1-062 was, killing one civilian in the process.<sup>1529</sup>

639. TF1-062 further testified that on many occasions when he went to supervise his workers as they were mining, he would see two to three corpses of dead miners who were brought out of the pit to the surface where he was standing. TF1-062 observed that the corpses were always “oozing blood”.<sup>1530</sup> TF1-062 concluded that the victims must have been shot and killed by the AFRC/RUF fighters guarding the miners Cyborg Pit, as they were the only people who were armed.<sup>1531</sup>

### Findings

640. The testimony of Witness TF1-062 regarding the various killings at Cyborg Pit is an eyewitness account. His role as supervisor of his miners accorded him a rare opportunity to observe the manner in which the AFRC/RUF commanders and guards were treating the civilian miners on site. His testimony in relation to the death of the child miner and that of the civilian killed by an angry soldier are therefore credible and reliable. As regards the two or three corpses that he observed being brought out of the pit on a regular basis, the Witness’

<sup>1526</sup> Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, pp. 14932-14945.

<sup>1527</sup> Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, pp. 14942.

<sup>1528</sup> Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, p. 14942.

<sup>1529</sup> Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, p. 14942.

<sup>1530</sup> Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, pp. 14943-14944. See also TF1-062, Transcript 27 January 2009, p. 23634.

<sup>1531</sup> Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, pp. 14943-14944. See also Witness TF1-062, Transcript 27 January 2009, p. 23634.



account is based on circumstantial evidence. Although he could not say whether the oozing of blood on these corpses was the result of bullet wounds or knife stabbings, nor attest to hearing any gunshots inside the pit, the Trial Chamber is of the view that these miners did not die from natural causes and must have met their death violently inside the pit. Secondly, since the only people armed at Cyborg Pit were the AFRC/RUF guards and since they were at liberty to mete out punishment or even death to disobedient or uncooperative miners, the only reasonable inference is that these civilians were killed by these guards. Accordingly, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between 11 August 1997 and January 1998 at Cyborg Pit in the Tongo Fields area, RUF/AFRC guards intentionally killed an unknown number of civilian miners including a child, all of whom were not taking an active part in the hostilities.

641. Given the slave-like conditions under which the AFRC/RUF Junta forced civilians to mine for them and forbade them from mining for personal benefit, the Trial Chamber finds beyond reasonable doubt that the perpetrators wilfully made the victims the object of such violence with the primary purpose of the killing of the civilian miners at Cyborg Pit to instil terror in the civilian population, thereby guaranteeing their continued servitude and continuing to control the mining activities in the District.

(c) Alleged unlawful killings in locations in Kenema District not pleaded in the Indictment

642. The Trial Chamber received credible evidence of murder of civilians in a number of locations within Kenema District not specifically pleaded in the Indictment including, Mendেকেlema, Neama and Sandaru.<sup>1532</sup> As previously held, this evidence will only be taken into account in relation to the chapeau requirements of the alleged crimes and not for proof of guilt.<sup>1533</sup>

Conclusions

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<sup>1532</sup> In Exhibit P-078, Amnesty International reported at p. 14 that “attacks by rebel forces also escalated in Kenema District from August 1998. Among the villages affected were Mendেকেlema, Neama and Sandaru, which was completely destroyed, less than 30 kilometres from the town of Kenema. One of the victims of the attack on Mendেকেlema in late August 1998 had both his hands amputated. Survivors of attacks consistently described mutilation, rape, torture, killing and burning of houses. Entire local communities were displaced from the area, many fleeing to the towns of Kenema, Segbwema and Daru”.

<sup>1533</sup> See Preliminary Issues, Issues Relating to the Pleading in the Indictment.



643. In conclusion, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between about 25 May 1997 and about 31 March 1998, in various locations in Kenema District including Kenema Town and the Tongo Fields area, members of the AFRC/RUF murdered an unknown number of civilians in Kenema District, as charged in the Indictment<sup>1534</sup> and as shown in the above evidence.

644. The Trial Chamber recalls that the Prosecution has established beyond reasonable doubt that at all times relevant to the Indictment, the RUF and/or AFRC forces directed a widespread or systematic attack against the civilian population of Sierra Leone.<sup>1535</sup> The Trial Chamber is satisfied that each of the killings proved by the Prosecution in respect of Kenema District formed part of the said attack and that the perpetrators were aware of this fact. The Trial Chamber also recalls that the Prosecution has proved beyond reasonable doubt that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving among others, members of the RUF, AFRC and CDF.<sup>1536</sup> The Trial Chamber is satisfied that for all of the aforementioned killings in Kenema District there was a nexus between the killings and the armed conflict, that each of the victims was not taking an active part in the hostilities at the time of death, and that the perpetrators knew this fact. Therefore, the Trial Chamber is satisfied that the aforementioned killings in Kenema District constitute murder as both a crime against humanity under Article 2 of the Statute and a war crime under Article 3 of the Statute.

2. Alleged unlawful killings in Kono District (Between about 1 February 1998 and 31 December 1998)

645. The Trial Chamber heard the following evidence, namely, that after the ECOMG Intervention in Freetown in February 1998, the AFRC/RUF forces that were driven out of Freetown fled northwards, trekking through a number of locations including Tombo, Fogbo and Newton,<sup>1537</sup> Masiaka, Lunsar, Makeni, Magbonkineh, Binkolo, Kabala, Matotoka, Makali, and Sewafe and were finally based in Kono District. Senior AFRC commanders in this group included Johnny Paul Koroma, Chairman of the AFRC, SAJ Musa, SFY Koroma, Col. Foday, Ibrahim Bazzy Kamara a.k.a. "Bazzy", Capt. Akim Turay, Moses Kabia a.k.a.

<sup>1534</sup> Indictment, para. 10

<sup>1535</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.

<sup>1536</sup> See Law and Findings on the General Requirements: Article 3: War Crimes, para. 573 *supra*.

<sup>1537</sup> These three places are in Koya rural District: Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7929.

“CSO Rambo”,<sup>1538</sup> Santigie Borbor Kanu a.k.a. “Five-Five”, Col. Avivo Kamara and Hassan Papa Bangura a.k.a. “Bomb-blast”.<sup>1539</sup> Senior RUF commanders in this group included Issa Sesay, Denis Mingo a.k.a. “Superman”, Morris Kallon, Mike Lamin and S.O. Williams.<sup>1540</sup> Other AFRC commanders that were involved in military operations in Kono District during this period included Colonels Foday Kallay, Franklyn Conteh a.k.a. “Woyoh”, Idrissa Kamara a.k.a. “Leatherboot”, Idrissa Kamara a.k.a. “Rambo Red Goat”, Ibrahim Bioh Sesay, Abdul Sesay, Momoh Bangura a.k.a. “Dorty” and Adams, and Lieutenants Tito, Amara Kallay, Mohamed Savage a.k.a. “Changa-Bulanga”, Mosquito,<sup>1541</sup> Junior, Staff Alhaji,<sup>1542</sup> and Alex Tamba Brima a.k.a. “Gullit”.<sup>1543</sup> Other RUF commanders involved in military operations within Kono District during this period included Emmanuel Williams a.k.a. “Rocky”, Isaac Mongor’, Komba Gbundema,<sup>1544</sup> Gogomeh, RUF Rambo a.k.a. “Premo”<sup>1545</sup> and Gibril Massaquoi.<sup>1546</sup>

646. The Trial Chamber heard further evidence that as the AFRC/RUF forces trekked towards Kono District they were under the overall command of Johnny Paul Koroma.<sup>1547</sup> Along the way, SAJ Musa addressed the AFRC/RUF forces at Kabala and ordered them to recapture Kono District and to establish a new base there. He said “Kono would serve as a strong base, since it was a diamondiferous area, and we will serve as a force to reckon with by the Government of Sierra Leone and the international community”.<sup>1548</sup> This order was endorsed and reinforced by Johnny Paul Koroma at Magbonkineh<sup>1549</sup> and at Makeni<sup>1550</sup> where he told the AFRC/RUF forces to “capture the able bodied civilians in Kono and to execute the rest”. Issa Sesay of the RUF also endorsed the order, remarking that “civilians

<sup>1538</sup> Moses Kabia was the Chief security Officer for Johnny Paul Koroma. See Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7875; Transcript 23 April 2008, p. 8383.

<sup>1539</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7927-7949.

<sup>1540</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7927-7949.

<sup>1541</sup> Witness explained that this was an ex-SLA soldier different from RUF Sam Bockarie whose alias was also “Mosquito”. Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7965.

<sup>1542</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7960-7972.

<sup>1543</sup> Witness TF1-375, Transcript 23 June 2008, p. 12504.

<sup>1544</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7969-7971.

<sup>1545</sup> RUF Rambo was a Liberian Mandingo by tribe and the RUF Deputy Operations Commander, Kono. Witness TF1-375, Transcript 23 January 2008, p. 2003; Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7947; Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8357.

<sup>1546</sup> TF1-189, Transcript 17 September 2008, p.1 6520.

<sup>1547</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7933.

<sup>1548</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7939.

<sup>1549</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7942.

<sup>1550</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7943; Transcript 18 April 2008, p. 7980.

were very dangerous to the Junta forces and the only way to ensure that they don't base in Kono is to burn down their houses and execute them".<sup>1551</sup> Sam Bockarie a.k.a. "Mosquito" of the RUF also endorsed this order amongst his forces and sent messages to all RUF bases to "make Kono District Fearful so that ECOMOG would not base there".<sup>1552</sup> Making an area fearful, one witness explained, entailed "destruction of life and property, where there will be killings, amputations, burning of houses, destruction of bridges, setting up road blocks. All those things would happen and that will have made the area fearful".<sup>1553</sup> After this order the AFRC troops led by Hassan Papa Bangura and the RUF forces led by Superman, reorganised themselves into a single fighting force to attack Kono.<sup>1554</sup> On arrival in Kono District around early March 1998, the AFRC/RUF forces captured a village called Sewafe and burnt down all civilian houses on the orders of Johnny Paul Koroma who called Sewafe "a Kamajor stronghold".<sup>1555</sup> Thereafter, AFRC/RUF forces led by Superman captured Koidu Town, the provincial capital of Kono District and executed the orders of their commanders.<sup>1556</sup>

647. While in Koidu, Johnny Paul Koroma reiterated his earlier order to the forces to establish a strong Junta base there and declared Kono a "civilian no go area". He also reiterated his orders to burn down any civilian homes so as to discourage civilians returning to live there, and to kill any civilians that attempted to return to the area, accusing them of being Kamajor supporters.<sup>1557</sup> After Johnny Paul Koroma and his wife left Kono District and went to Kailahun, the junta forces that remained in Koidu Town reorganised themselves.<sup>1558</sup> Ibrahim Bazy Kamara a.k.a. "Five Five" was the commander of the AFRC/RUF forces that went towards Bumpe, Yengema, Tombudu and Sewafe along the Masingbi Road axis while Hassan Papa Bangura a.k.a. "Bomb-Blast" was the Deputy Commander and Operations Commander.<sup>1559</sup>

<sup>1551</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7952-7954; Transcript 18 April 2008, pp. 7980.

<sup>1552</sup> Perry Kamara, Transcript 5 February 2008, p. 3150.

<sup>1553</sup> Perry Kamara, Transcript 5 February 2008, p. 3150.

<sup>1554</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7943.

<sup>1555</sup> Bobson Sesay testified that Sewafe is located about 22 miles from Koidu Town, the provincial capital of Kono district.

<sup>1556</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7954.

<sup>1557</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7950-7954.

<sup>1558</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7958.

<sup>1559</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7960.

648. In relation to unlawful killings alleged to have taken place in Kono District between 1 February 1998 and 31 January 2000, the Trial Chamber has considered the testimony of Prosecution witnesses Finda Gbamanja, Isaac Mongor, Alhaji Tejan Cole, Alimamy Bobson Sesay, Tamba Yomba Nbekia, Mustapha Mansaray, Emmanuel Bull; protected Prosecution Witnesses TF1-189, TF1-375, TF1-371; and Exhibit P-366,<sup>1560</sup> Exhibit P-077 and Exhibit P-078.<sup>1561</sup>

(a) Koidu Town

(i) Killing of civilians at Yardo Road, Hill Station and Superman Ground in February/ March 1998

649. Alimamy Bobson Sesay<sup>1562</sup> testified that after the 25 May 1997 coup, he joined the AFRC and was assigned as Military Transport Officer and security to Hassan Papa Bangura (a.k.a. Bomb-Blast), a member of the AFRC Supreme Council.<sup>1563</sup> Bobson Sesay stated that after the ECOMOG Intervention in February 1998, he along with Hassan Papa Bangura and the AFRC/RUF forces fled Freetown and trekked towards Kono District where they were to establish a new Junta base.<sup>1564</sup> As the AFRC/RUF forces approached Kono District around March 1998, a number of Junta commanders including Johnny Paul Koroma, the AFRC Chairman, SAJ Musa and Issa Sesay, ordered the forces to recapture Kono as it was “a diamondiferous area”, to abduct able-bodied civilians who would assist the forces and serve as recruits, to burn down all civilian houses in order to discourage civilians moving back into the area, to establish a strong Junta base in Kono against any Kamajor or ECOMOG attacks and to execute any civilians that attempted to return to the area.<sup>1565</sup>

650. Bobson Sesay testified that after receiving the orders, he and the AFRC forces under Hassan Papa Bangura together with RUF forces under Denis Mingo (a.k.a Superman), captured Koidu Town.<sup>1566</sup> Bobson Sesay told the court that in execution of the said orders,

<sup>1560</sup> Sierra Leone Country Report on Human Rights Practices for 1998, US Department of State, Bureau of Democracy, Human Rights and Labour, 26 February 1999; pp. 00025071-para 4, 00025072-para 6, 00025073-para 3-4, 00025074-para 9, 00025075- para 2, 00025077-para 5, 00025072-para 3.

<sup>1561</sup> Amnesty International Report entitled “Sierra Leone – 1998 – A year of Atrocities against Civilians”.

<sup>1562</sup> He is an ex-SLA soldier that joined the AFRC after the May 1997 coup.

<sup>1563</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7860.

<sup>1564</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7927-7949.

<sup>1565</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7939, 7943, 7943, 7952, 7954.

<sup>1566</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7954.

he together with Hassan Papa Bangura and the RUF forces went to Yardo Road where they met a group of civilians coming towards them. The AFRC/RUF forces opened fire on the civilians and killed all of them. Sesay testified that in order to comply with the orders given by their commanders to make the area “fearful”, the AFRC/RUF forces displayed the corpses of the civilians at the various junctions around Yardo Road in order to frighten off any other civilians that might have wanted to come to or remain in Koidu Town.<sup>1567</sup> Sesay did not recall how many civilians were killed at Yardo Road.<sup>1568</sup>

651. Another Prosecution witness, Isaac Mongor, testified about the operations of the AFRC/RUF forces in Koidu Town after the ECOMOG Intervention in February 1998.<sup>1569</sup> Mongor stated that he was part of the retreating RUF forces that advanced from Sewafe to Koidu Town, and that as they approached Koidu Town, they found many houses already burnt down.<sup>1570</sup> Mongor stated that he spoke to Morris Kallon who explained that Sam Bockarie had ordered the RUF forces “to burn down Koidu Town so that ECOMOG would not be able to enter there and occupy the town”.<sup>1571</sup> Mongor explained that the RUF in Kono District adopted a policy of “making the area fearful” which meant that “they would kill, burn down houses so that they make sure that the people who were living in the areas when there was those things going on they would be afraid and that even the enemies against whom they were fighting would also be afraid”.<sup>1572</sup> Morris Kallon and other RUF forces that carried out this order were promoted by Sam Bockarie as a reward.<sup>1573</sup> Mongor further testified that he went around Koidu Town and saw many houses that were burnt, and on looking inside the houses he saw property and an unspecified number of corpses of people that were burnt inside those houses.<sup>1574</sup>

652. Mongor testified that soon after the AFRC/RUF forces captured Koidu Town, an RUF commander called Denis Mingo (a.k.a. Superman) arrested a group of 13 civilians. Mongor stated that this group was composed of men, women and children and came from the direction of the Guinea border, the same direction that the Kamajors had fled to prior to

<sup>1567</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7954-7955.

<sup>1568</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7955.

<sup>1569</sup> Isaac Mongor, Transcript 31 March 2008, p. 6216.

<sup>1570</sup> Isaac Mongor, Transcript 31 March 2008, p. 6216.

<sup>1571</sup> Isaac Mongor, Transcript 31 March 2008, p. 6218.

<sup>1572</sup> Isaac Mongor, Transcript 31 March 2008, p. 6224.

<sup>1573</sup> Isaac Mongor, Transcript 31 March 2008, p. 6219.

<sup>1574</sup> Isaac Mongor, Transcript 31 March 2008, pp. 6218-6219.

the AFRC/RUF capturing Koidu Town.<sup>1575</sup> The children amongst the group carried loads on their heads.<sup>1576</sup> Mongor stated that on seeing the civilians coming from the same direction that the Kamajors had retreated, the AFRC/RUF forces suspected the civilians of being enemy spies, and Superman shot all 13 civilians to death. Mongor was present when the executions took place at a location called Hill Station.<sup>1577</sup>

653. Prosecution Witness TF1-189 testified that after the ECOMOG Intervention in February 1998, she and her whole family along with hundreds of other civilians, fled from Yengema<sup>1578</sup> and sought refuge at a location in Kono District.<sup>1579</sup> In March 1998 while at this location, TF1-189 heard gunshots and suddenly saw the community centre on fire.<sup>1580</sup> AFRC/RUF rebel forces gathered all the civilians in one location at which the civilians were held prisoner for a number of days. TF1-189 testified that rebels would routinely rape the women and young girls at this location. On one occasion in early March 1998, the witness saw the rebels light a candle and put it under an old man's scrotum. The old man screamed with pain and died later that day.<sup>1581</sup>

654. TF1-189 further testified that on 12 March 1998 the AFRC/RUF rebel forces who had captured her brought her to a location they called "Superman's compound" in Koidu Town.<sup>1582</sup> The rebels first offered her as a "wife" to CO Superman but the latter remarked that "he did not want a wife". TF1-189 testified that she was taken into a big house or hall filled with other captured civilians.<sup>1583</sup> The witness heard one of the rebels saying that "since Superman doesn't want any wife, they are going to kill all of us".<sup>1584</sup> One of the rebels took a woman from amongst the group, put her against the wall and shot her to death in the presence of the witness and the other people.<sup>1585</sup> TF1-189 stated that she managed to escape

<sup>1575</sup> Isaac Mongor, Transcript 31 March 2008, p. 6216.

<sup>1576</sup> Isaac Mongor, Transcript 31 March 2008, p. 6216.

<sup>1577</sup> Isaac Mongor, Transcript 31 March 2008, pp. 6215-6217.

<sup>1578</sup> Witness TF1-198 stated that in February 1998 she and her family fled because they heard bombardment and saw people running away with loads on their heads.

<sup>1579</sup> TF1-189, Transcript 17 September 2008, pp. 16482-16487.

<sup>1580</sup> TF1-189, Transcript 17 September 2008, p. 16497.

<sup>1581</sup> TF1-189 Transcript 17 September 2008, pp. 16497-16507.

<sup>1582</sup> TF1-189, Transcript 17 September 2008, pp. 16512-16513.

<sup>1583</sup> TF1-189, Transcript 17 September 2008, pp. 16513-16514. The witness said there were men and women in the hall.

<sup>1584</sup> TF1-189, Transcript 17 September 2008, p. 16514.

<sup>1585</sup> TF1-189, Transcript 17 September 2008, pp. 16513-16514.

from captivity but that all the other civilians at Superman's compound were killed by the AFRC/RUF rebels.<sup>1586</sup>

655. Prosecution Witness TF1-375, who was a security to RUF commander Denis Mingo (a.k.a Superman), and who took part in the attack on Koidu Town by the AFRC/RUF forces during this period, also described the attack.<sup>1587</sup> According to this witness, the first junta forces to attack Koidu Town led by Isaac Mongor and RUF Rambo were repelled by the Kamajors.<sup>1588</sup> The AFRC/RUF forces then planned a second attack led by Superman, which succeeded. AFRC Commanders involved in this joint attack included Gullit, Bazzy, Adams and Savage.<sup>1589</sup> After taking control of Koidu Town the AFRC/RUF forces burnt houses, looted private property and captured and raped women and girls.<sup>1590</sup> TF1-375 explained that the forces burnt houses where they suspected that Kamajors were hiding and stated that "when we set the houses on fire, we would hear people shouting inside, screaming, "Oh we are inside. We are inside" and sometimes the houses would burn down and we would see their skulls and their bones".<sup>1591</sup>

656. The Trial Chamber also considered the following documentary evidence. A Human Rights Report (Exhibit P-366) states:

[I]n March 1998, RUF forces executed 32 youths in Koidu for supporting Kamajor CDF forces that previously had taken the town".<sup>1592</sup>

657. A report by Amnesty International (Exhibit P-078) states:

[I]n the days immediately after their removal from power by ECOMOG, AFRC and RUF forces indiscriminately killed unarmed civilians, looted and burned houses, both in Freetown and other towns. As the rebel forces were pursued eastwards by ECOMOG forces through towns such as Bo in Southern Province, Kenema and Koidu in Eastern Province, and Makeni in Northern Province during February, March and April 1998, they were responsible for widespread killings, torture and ill treatment, including rape and other forms of sexual assault and abduction. Villages and towns were burnt to the ground, destroying thousands of homes. Koidu, a major town in the diamond-rich Kono District, was almost

<sup>1586</sup> TF1-189, Transcript 17 September 2008, p. 16520. The Witness explained in a closed session that she was told about the murder of these civilians by the rebel who had captured and enslaved her. See TF1-189, Transcript 18 September 2008, p. 16558.

<sup>1587</sup> Witness TF1-375, Transcript 23 June 2008, pp. 12503-12504.

<sup>1588</sup> Witness TF1-375, Transcript 23 June 2008, p. 12503.

<sup>1589</sup> Witness TF1-375, Transcript 23 June 2008, p. 12504.

<sup>1590</sup> Witness TF1-375, Transcript 23 June 2008, p. 12505.

<sup>1591</sup> Witness TF1-375, Transcript 23 June 2008, p. 12505.

<sup>1592</sup> Exhibit P-366, "Sierra Leone Country Report on Human Rights Practices for 1998, US Department of State, Bureau of Democracy, Human Rights and Labor, 26 February 1999", p. 4, ERN25073.



totally destroyed by AFRC and RUF forces and villages between Njaiama-Sewafe and Koidu repeatedly attacked.<sup>1593</sup>

### Findings

658. Alimamy Bobson Sesay was part of the AFRC forces that fled from Freetown after the February 1998 ECOMOG Intervention who were based in Koidu Town. He not only participated in the meetings at which certain operational orders were given by senior commanders but he also participated in the carrying out of those orders. The Trial Chamber finds Bobson Sesay's above evidence reliable and credible. Isaac Mongor was also part of the RUF forces that were based in Koidu Town after the ECOMOG Intervention. Like Bobson Sesay, Mongor too was privy to operational orders that were issued by senior RUF or AFRC commanders. The Trial Chamber finds his above evidence credible and reliable, and that it corroborates the account of Bobson Sesay. Witness TF1-189 was captured by the AFRC/RUF rebels and her testimony is based on her experience in captivity and on what she saw and heard. The Trial Chamber finds her above evidence reliable and credible. The Trial Chamber also finds the evidence of Witness TF1-375 reliable and credible. His eye-witness account is based on his participation in the operations of the AFRC/RUF forces that captured Koidu Town. Furthermore, the Trial Chamber finds that the accounts related by each of the four witnesses relating to the attacks by the AFRC/RUF on civilians in Koidu Town in the months following the ECOMOG Intervention, are consistent and accord with the documentary evidence contained in Exhibits P-366 and P-078.

659. Based on the evidence of Alimamy Bobson Sesay, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in early March 1998 at Yardo Road in Koidu Town, AFRC/RUF forces acting on the orders of SAJ Musa, Johnny Paul Koroma and Issa Sesay, intentionally shot and killed an unknown number of civilians, all of whom were not taking an active part in the hostilities.

660. Based on the evidence of Isaac Mongor, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in early March 1998 at Hill Station in Koidu Town, an RUF commander called Denis Mingo (a.k.a. Superman) intentionally shot and killed 13 civilians including men, women and children, all of whom were not taking an active part in the hostilities.

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<sup>1593</sup> Exhibit P-078, "Sierra Leone – 1998 – A Year of Atrocities Against Civilians, Amnesty International

661. Based on the evidence of Prosecution Witness TF1-189, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in early March 1998 at a location named "Superman compound" in Koidu Town, AFRC/RUF forces acting under the orders of Superman, intentionally shot and killed a woman; tortured to death an elderly man, and executed an unknown number of abducted civilians, all of whom were not taking an active part in the hostilities.

662. Based on the evidence of Witness TF1-375 and the documentary evidence above, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in early March 1998 AFRC/RUF forces acting under the command of Denis Mingo (a.k.a. Superman), deliberately burned to death an unknown number of civilians who were hiding in their houses and who were not taking an active part in the hostilities.

663. The above oral and documentary evidence clearly establishes that the perpetrators acting in accordance with orders given by their commanders, deliberately targeted civilians in Koidu Town in order to prevent them from staying in or returning to Koidu Town and in order to maintain the diamond-rich Kono District as a strong Junta base from which the AFRC/RUF fighters would finance and mount further attacks upon their enemies including ECOMOG and the CDF or Kamajors. In light of that evidence, the Trial Chamber finds beyond reasonable doubt that the perpetrators wilfully made the victims the object of such violence and the primary purpose of these killings to instil terror in the civilian population.

(ii) Killing of civilians in and around Koidu Town between April and May 1998

664. Witness Alex Tamba Teh, a church minister resident in Koidu Town, testified that in April 1998 fighting broke out between the Civil Defence Forces (a.k.a. Kamajors) and AFRC/RUF rebels,<sup>1594</sup> forcing the witness, his family and large numbers of civilians to flee to Tongoro bush.<sup>1595</sup> While in hiding, Teh, along with 250 civilians including men, women and children, were captured by a group of 5 armed AFRC/RUF rebels<sup>1596</sup> and taken to Sunna

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Report", p.11.

<sup>1594</sup> The witness stated that he heard that by this time (April 1998) ECOMOG had taken over control of Kono from the AFRC/RUF. Alex Tamba Teh, Transcript 8 January 2008, p. 687.

<sup>1595</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 680-686.

<sup>1596</sup> The witness described some of the rebels as wearing soldier uniforms worn by Sierra Leone army and others as plain clothed. Alex Tamba Teh, Transcript 8 January 2008, p. 687.

Mosque in Koidu Town.<sup>1597</sup> At Sunna Mosque three other rebels singled out one Aiah Abu amongst the civilian abductees and immediately shot him to death, remarking that the deceased had “escaped from them before”.<sup>1598</sup>

665. Teh further testified that at Sunna Mosque, AFRC/RUF rebels,<sup>1599</sup> pretending to be ECOMOG soldiers tricked the captives into “cheering and welcoming ECOMOG for saving the civilians from the rebels”.<sup>1600</sup> The rebels then led the civilians to a secluded place called “the Igbaleh” on Kamachende Street.<sup>1601</sup> On the way, Teh counted “up to 50” corpses.<sup>1602</sup> At the Igbaleh, Emmanuel Williams (a.k.a. Rocky) ordered the rebels to separate the captured men from the women and children.<sup>1603</sup> Teh heard Rocky saying to the civilians, “Today those of you who were saying thanks to us and you were saying thanks to the ECOMOG, now I want to tell you that we are not ECOMOG. We are the junta rebels, we are here...” After this, Rocky singled Teh out of the crowd because he was a pastor, and told him to pray for everybody.<sup>1604</sup> Rocky then asked one of the rebels to bring out his big gun called “Barge” and shot all the civilian men to death.<sup>1605</sup> Afterwards, the deceased were all decapitated by the SBUs on orders of commander Rocky.<sup>1606</sup> Later, Teh was taken back to Sunna Mosque, where he heard Rocky tell Rambo that he had killed 101 men.<sup>1607</sup>

666. Teh further testified that while at the Igbaleh, he saw a young boy who was killed by the SBUs after they amputated his arms and legs and then threw him in a pit latrine. The young boy was screaming and pleading with the SBUs asking them why they were doing this to him.<sup>1608</sup>

<sup>1597</sup> Alex Tamba Teh, Transcript 8 January 2008, p. 690.

<sup>1598</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 688-689.

<sup>1599</sup> The witness explained that in fact these were AFRC/RUF rebels led by Rambo the AFRC Brigade commander and an RUF commander called Emmanuel Williams a.k.a. “Rocky”. There were also a number of child soldiers or SBUs the witness describes as being 15-16 years of age and under. Alex Tamba Teh, Transcript 8 January 2008, pp. 691-698.

<sup>1600</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 691-696.

<sup>1601</sup> Alex Tamba Teh, Transcript 8 January 2008, p. 693. Teh explained that Igbaleh was about a half mile away from Sunna Mosque.

<sup>1602</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 693-694.

<sup>1603</sup> Alex Tamba Teh, Transcript 8 January 2008, p. 694.

<sup>1604</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 695-699.

<sup>1605</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 696-697.

<sup>1606</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 697-698.

<sup>1607</sup> Alex Tamba Teh, Transcript 8 January 2008, p. 700.

<sup>1608</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 699-700.

667. Another Prosecution witness, Isaac Mongor testified that in April 1998 after ECOMOG pushed the AFRC/RUF forces out of Koidu Town, the latter occupied a place code-named "Superman Ground" from where they carried out their operations. One such operation was the attack on Kissy Town, behind Koidu Town on the road leading towards the Guinea border.<sup>1609</sup> Mongor told the court that the rebel group to which he belonged went to attack the Kamajors in Kissy Town and in the process also killed all the civilians that they found there because they suspected everybody to be a Kamajor. Amongst those killed were men, women and children.<sup>1610</sup>

668. Confidential Exhibit P-077, a report documenting rebel actions from May 1998 to January 1999 states:

[A] teenage boy described an attack close to Koidu, in early May by "junta". He had gone there with his family because they thought that ECOMOG had arrived. They were wrong and instead encountered rebels. The boy reported that he was the only survivor in a group of 50. He had a deep laceration to the foot which doctors said was a clear case of a failed amputation. The boy was taken to Makeni by ECOMOG.<sup>1611</sup>

669. Exhibit P-078, a report by Amnesty International states:

[A]n even more grotesque pattern of killing, rape and mutilation became evident in April 1998 and the numbers of victims increased dramatically. Rebel forces called their campaign of terror against civilians "Operation no living thing". As fighting continued between ECOMOG and rebel forces around Koidu, attacks on civilians in villages in the area persisted and then spread west and north....Unarmed civilians who were taking no active part in the conflict were killed, their homes burned and their villages destroyed....More than 650 bodies, many of them women and children, were reported to have been buried following fighting in the area around Koidu in mid-June 1998.<sup>1612</sup>

An Amnesty international delegation which visited Sierra Leone in May 1998 met some of the victims of these atrocities at Connaught Hospital....Another victim, a 15-year-old schoolboy from Koidu who had arrived at Connaught Hospital on 10 May 1998, had suffered severe lacerations to his right ankle in an attempted amputation. He and his family - his parents and six brothers and sisters- had been hiding in the bush for more than two months after being driven from Koidu after it was attacked by rebel forces. They had no food throughout that time other than bananas. On 1 May 1998 the family had heard reports that ECOMOG had arrived in Koidu and they went to enter the eastern part of the town. They and those with them were attacked by rebel forces who accused them of supporting President Kabbah. Almost 50 people were killed. The young boy stayed for four days in a house without food or treatment of his severely injured leg".<sup>1613</sup>

<sup>1609</sup> Isaac Mongor, Transcript 31 March 2008 p. 6219.

<sup>1610</sup> Isaac Mongor, Transcript 31 March 2008 pp. 6219-6220.

<sup>1611</sup> Exhibit P-077 (confidential), para. 19.

<sup>1612</sup> Exhibit P-078, "Sierra Leone - 1998 - A Year of Atrocities Against Civilians, Amnesty International Report", p.11

<sup>1613</sup> Exhibit P-078, "Sierra Leone - 1998 - A Year of Atrocities Against Civilians, Amnesty International Report", p.12 This report seems to refer to the same incident referred to in paragraph 19 of Exhibit P-077

Findings

670. Teh spent some time with the AFRC/RUF forces while in captivity and witnessed some of their activities first hand. His evidence is based on an eye-witness account of what he saw and heard. The Trial Chamber finds his evidence in relation to the killing of civilians in Koidu Town between March and April 1998, reliable and credible. His evidence of how civilians were sometimes tricked by the AFRC/RUF forces into believing that the latter were ECOMOG, only to be killed by the rebels, is corroborated by the account given in Exhibit P-078 and confidential Exhibit P-077. Based on the above evidence, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between April and May 1998 during an attack on Koidu Town: 1) AFRC/RUF forces intentionally shot and killed one Aiah Abu at Sunna Mosque in Koidu Town; 2) an RUF Commander Emmanuel Williams a.k.a. "Rocky" acting under the orders of an AFRC Brigade commander called "Rambo", intentionally executed 101 captured men and had their bodies decapitated at a place called the Igbaleh in Koidu Town, and 3) child soldiers known as SBUs acting under the orders of Commander Emmanuel Williams a.k.a. "Rocky" intentionally dismembered and killed a young boy and threw his body in a pit latrine at the Igbaleh in Koidu Town. The Trial Chamber further finds that all the victims of the above-mentioned killings were civilians not taking an active part in the hostilities.

671. However, in relation to the 50 corpses that Teh saw on his way to Igbaleh, the Prosecution did not provide evidence as to whether the victims were active combatants or civilians, nor of who had killed them. Given Teh's testimony that heavy fighting was reportedly going on between ECOMOG and the Junta forces in the area at the time,<sup>1614</sup> the Trial Chamber is unable to make a conclusive finding as to who these 50 people were or how they died.

672. The above oral and documentary evidence clearly establishes that the perpetrators, acting in accordance with orders given by their commanders, deliberately targeted civilians in Koidu Town in order to prevent them from staying in or returning to Koidu Town. The deliberate tricking of civilians into showing their support for ECOMOG followed by mass execution of those civilians by the AFRC/RUF forces underlines the campaign of reprisal against the civilian population. The Trial Chamber finds beyond reasonable doubt that the

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(confidential), albeit in greater detail.

perpetrators wilfully made the victims the object of such violence and the primary purpose of these killings was to instil terror in the civilian population.

(iii) Other killings around Koidu Town between December 1999 and the disarmament<sup>1615</sup>

673. In his prior testimony,<sup>1616</sup> Prosecution Witness TF1-077 testified that in early 1998 in a month he does not recall, the whole of Kono District was attacked and he and his family moved from Tombodu to the Guinea border for refuge. He described the attack on Kono District at that time as “Operation No Living Thing”.<sup>1617</sup> The witness said he and his family stayed at the Guinea border “for a little while” and then they heard that ECOMOG had arrived in Kono District.<sup>1618</sup> The witness testified that following the ECOMOG Intervention and on hearing that ECOMOG had “cleared Koidu Town”, he left the Guinea border “in the dry season”<sup>1619</sup> in 1998 and returned to Koidu Town.<sup>1620</sup> The witness further testified that on 16 December 1999 after he had returned to Koidu Town,<sup>1621</sup> as he was sleeping he heard heavy gunfire. The gunfire went on for a long time. He went outside and heard shouting and wailing. He ran and hid behind his house until daybreak. At dawn, he saw many corpses of people that had been killed, including three children one of whom was his own child.<sup>1622</sup> The witness further told the court that an armed RUF man dressed in military uniform<sup>1623</sup> captured the witness and other civilians totalling 50 people in number and marched them to Tombodu with loads of looted property on their heads.<sup>1624</sup> On the way to Tombodu, the armed captors dressed in combat uniforms told the witness “We are the RUF. You are now

<sup>1614</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 683-694.

<sup>1615</sup> The disarmament in Sierra Leone was from approximately January 2001 to July 2001. See Transcript, 7 February 2008, p. 3391; Transcript 5 March 2008, pp. 5368; Transcript 9 June 2008, p. 11330; Transcript 8 April 2008, p. 6883.

<sup>1616</sup> Witness TF1-077 testified in the RUF trial and the transcript of his testimony was admitted in this trial pursuant to Rule 92*bis* as Prosecution Exhibit P-196 (“prior testimony”). In the present trial he was cross-examined on his prior testimony. See Witness TF1-077, Transcript, 14 October 2008, pp. 18232-18259.

<sup>1617</sup> Exhibit P-196, Witness TF1-077, RUF Transcript, pp. 18641, 18651.

<sup>1618</sup> Exhibit P-196, Witness TF1-077, RUF Transcript, p. 18642.

<sup>1619</sup> The Court took judicial notice of the fact that the dry season in Sierra Leone was in December. Exhibit P-196, Witness TF1-077, RUF Transcript, p. 18652,

<sup>1620</sup> Exhibit P-196, Witness TF1-077, RUF Transcript, p. 18642.

<sup>1621</sup> Exhibit P-196, Witness TF1-077, RUF Transcript, pp.18629-18631, 18651.

<sup>1622</sup> Exhibit P-196, Witness TF1-077, RUF Transcript, p. 18629; See also Witness TF1-077 Transcript 14 October 2008, p. 18236.

<sup>1623</sup> The witness explained that on their way to Tombodu, armed men wearing combat uniforms told the civilian captives that the RUF was now in control of Koidu Town and ECOMOG was driven out. Exhibit P-196, Witness TF1-077, RUF Transcript, p. 18630.

in our control. You are no longer in ECOMOG control”.<sup>1625</sup> In Tombudu Town the captives met other RUF commanders including Officer Med, Colonel Gibbo and Major Tactical who told the captives that Issa Sesay had ordered that the abductees be taken to Tombudu Bridge to mine.<sup>1626</sup> The witness testified that subsequently, he and many other civilians were forced to mine diamonds for the RUF at Tombudu Bridge “until the disarmament”.<sup>1627</sup> The witness testified that throughout this period, civilians forced to mine were heavily guarded by RUF child soldiers known as SBUs, mistreated and often died from disease for lack of medical treatment or were killed for refusing to mine for the RUF.<sup>1628</sup> The witness saw one S.E. Sogbeh who was summarily executed by an SBU for refusing to work and whose body was thrown into the river with a warning from the RUF that “anybody who refused to do this work, this will be your end”.<sup>1629</sup>

### Findings

674. The account by Witness TF1-077 of civilian deaths, including that of one of his children, is based on circumstantial evidence. From his evidence it is clear that there was exchange of fire between ECOMOG and the RUF forces the previous night. He was fortunate enough to survive by hiding behind his house, but the presence of many corpses the next morning is proof that a lot of civilians died during this exchange. His own child was amongst the casualties. Based on this evidence however, the Trial Chamber cannot rule out the possibility that the civilians were accidentally caught in the cross fire, nor can the Trial Chamber rule out the possibility that some were killed by ECOMOG forces. The Trial Chamber however, finds the witness’s evidence regarding the death of civilians forced by the RUF to mine at Tombudu Bridge, credible. Based on that evidence, the Trial Chamber finds that the Prosecution has proved that from December 1999 until the disarmament, RUF forces intentionally killed an unknown number of civilians who refused to mine for the AFRC/RUF at Tombudu Bridge or who were denied medical treatment.

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<sup>1624</sup> Exhibit P-196, Witness TF1-077, RUF Transcript, p. 18629.

<sup>1625</sup> Exhibit P-196, Witness TF1-077, RUF Transcript, p. 18630.

<sup>1626</sup> Exhibit P-196, Witness TF1-077, RUF Transcript, p. 18630.

<sup>1627</sup> Exhibit P-196, Witness TF1-077, RUF Transcript, pp. 18631-18633.

<sup>1628</sup> Exhibit P-196, Witness TF1-077, RUF Transcript, p. 18632-18634.

<sup>1629</sup> Exhibit P-196, Witness TF1-077, RUF Transcript, p. 18633.

675. Given the slave-like conditions under which the AFRC/RUF Junta forced civilians to mine for them and forbade them from mining for personal benefit, the Trial Chamber finds beyond reasonable doubt that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the killing of the civilians who refused to carry out forced mining at Tombodu Bridge was to instil terror in the civilian population and thereby to continue controlling the mining activities in Kono District.

(b) Bumpe

(i) Killings in Bumpe between March and June 1998

676. Alimamy Bobson Sesay testified that the AFRC/RUF continued their campaign of terror against the citizens of Kono District from March right through to June 1998 when he and Commander Hassan Papa Bangura (a.k.a. Bomb Blast) withdrew from Kono. He stated that the junta forces continued routinely attacking civilian homes and burning houses in Bumpe even when there was no enemy in sight, with the aim of discouraging civilians and ECOMOG from staying in or returning to Bumpe.<sup>1630</sup> Apart from the area where the battalion occupied, the whole of Bumpe was burnt down.<sup>1631</sup> Sesay further told the court that during the attack on Bumpe in March or April 1998, the SLA battalion commander at Bumpe,<sup>1632</sup> Lt. Amara Kallay and the AFRC/RUF troops that were present, decapitated several captured civilians, put their heads on sticks and fixed the sticks on guard posts.<sup>1633</sup> The witness stated that this was done to create fear amongst the civilians and ECOMOG.<sup>1634</sup> Bobson Sesay also told the court that this display of human heads on sticks at checkpoints was routinely done by the AFRC/RUF forces in other locations within Kono District including Tombodu,<sup>1635</sup> Njaiama Sewafe,<sup>1636</sup> and Yengema.<sup>1637</sup>

677. Bobson Sesay further testified that AFRC/RUF forces engaged in burning houses in Bumpe would lock and set houses on fire with civilians inside. Despite the cries, the Junta forces would guard the burning buildings at gun point to prevent anyone escaping. After the

<sup>1630</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7984.

<sup>1631</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7985.

<sup>1632</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7964.

<sup>1633</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7984-7985.

<sup>1634</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7984-7985.

<sup>1635</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7984-7985.

<sup>1636</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7987.

<sup>1637</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7988.



building was completely destroyed, the Junta forces “would not bother... to go and watch whether anything was in there because we knew the houses were completely burnt down”.<sup>1638</sup>

678. Alimamy Bobson Sesay’s account is corroborated by the hearsay evidence of Alice Pyne, a former radio operator for the RUF forces, who testified that she heard from Foday Lansana on the radio that the AFRC/RUF forces that attacked Bumpé killed many civilians in the process.<sup>1639</sup>

679. In addition Prosecution Witness TF1-375 who took part in the AFRC/RUF attack on Bumpé testified that the junta forces asked the civilians to leave Bumpé so that the junta forces would be based there and that those civilians who resisted were shot dead. The witness himself admitted that he participated in the killing of these civilians and in decapitating their heads and displaying them on sticks at various check points. He explained that this was done in accordance with the orders of their commanders to “make the area fearful” in order to scare off ECOMOG and other civilians.<sup>1640</sup> The witness also explained that the RUF slogan that “civilians have no blood” meant that the lives of civilians did not matter to the junta forces.<sup>1641</sup>

680. Another witness who was a victim of the rebel attacks in Bumpé after the ECOMOG Intervention is Witness TF1-218.<sup>1642</sup> Witness TF1-218 narrated how after the ECOMOG Intervention of February 1998,<sup>1643</sup> four rebels<sup>1644</sup> dressed in combat uniforms and black boots and armed with guns and knives<sup>1645</sup> attacked her home in Bumpé at night. She stated that the rebels captured her and locked her in a house at Cookery junction with other

<sup>1638</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7985-7987.

<sup>1639</sup> Alice Pyne, Transcript 18 June 2008, p. 12201.

<sup>1640</sup> TF1-375, Transcript 23 June 2008, p. 12511-12514.

<sup>1641</sup> TF1-375, Transcript 23 June 2008, p. 12513-12514.

<sup>1642</sup> Witness TF1-218 testified in the RUF trial and the transcript of her testimony was admitted in this trial pursuant to Rule 92*bis* as Prosecution Exhibit P-198 (“prior testimony”). In the present trial she was cross-examined on his prior testimony. See Witness TF1-218, Transcript 14 October 2008, pp. 18346-18359.

<sup>1643</sup> Although this witness was illiterate, she clearly explained in her prior testimony and in cross-examination that the rebels attacked Bumpé after ECOMOG had restored President Tejan Kabbah to power in Freetown and after the rebels had been driven away from Freetown. See Exhibit P-198, “TF1-218, RUF Transcript 1 February 2005”, pp. 18876 & 18887; and Witness TF1-218, Transcript 14 October 2008, pp. 18351-18352.

<sup>1644</sup> The witness described how after she was taken to the house at Cookery junction, one of the captors asked the civilians who they thought he was and when the civilians could not say he said “we are the rebels”. Exhibit P-198, “TF1-218, RUF Transcript 1 February 2005, p. 18879.

<sup>1645</sup> Witness TF1-218, Transcript 14 October 2008, pp.18353, 18355, 18358.

captured civilians.<sup>1646</sup> The witness described how two rebels stripped her naked and raped her.<sup>1647</sup> She testified that she managed to escape from the house after a rebel had threatened to kill all the civilians with an axe and shot the witness' left hand.<sup>1648</sup> She later returned to the house to look for her son the next morning and found her son alive but covered in blood.<sup>1649</sup> TF1-218 testified that her son, who was present during the attack, told her that all of the civilians she left in the house were killed in the room from which TF1-218 had escaped the night before.<sup>1650</sup> Her son explained to the witness that he escaped death only because "as the rebels were shooting these people, he was lying flat on the ground and most of the people who were shot fell on top of him".<sup>1651</sup>

681. Perry Kamara, a radio operator who was based at Superman ground after the ECOMOG Intervention in 1998, told the court that sometime before June 1998,<sup>1652</sup> the RUF forces under the command of Sam Bockarie, Morris Kallon and CO Rocky attacked Bumpo and its surrounding areas. Upon their return to Superman Ground after the operation, the RUF forces reported that they had killed civilians, amputated others and burnt most of the town in accordance with Bockarie's orders to "make the area fearful".<sup>1653</sup>

### Findings

682. Based on his aforesaid position within the AFRC/RUF and his participation in their operations in Kono District, the Trial Chamber finds Bobson Sesay's above evidence reliable and credible. The Trial Chamber also finds that Sesay's evidence is amply corroborated by the evidence of Alice Pyne and Witness TF1-375. Further, the Trial Chamber finds the account given by Witness TF1-218 credible. Although her account of the civilian deaths is based partly on her ordeal while in captivity and partly on the report by her son who witnessed the killings, the Trial Chamber finds the evidence compelling and draws the one reasonable inference that the rebels shot and killed many civilians in this house at Cookery Junction. The Trial Chamber also found the evidence of Perry Kamara credible and

<sup>1646</sup> Exhibit P-198, "TF1-218, RUF Transcript 1 February 2005", pp. 18878-18881.

<sup>1647</sup> Exhibit P-198, "TF1-218, RUF Transcript 1 February 2005", pp. 18878-18881.

<sup>1648</sup> Exhibit P-198, "TF1-218, RUF Transcript 1 February 2005", p. 18883.

<sup>1649</sup> Exhibit P-198, "TF1-218, RUF Transcript 1 February 2005", pp. 18884-18885.

<sup>1650</sup> Exhibit P-198, "TF1-218, RUF Transcript 1 February 2005", pp. 18885-18887.

<sup>1651</sup> Exhibit P-198, "TF1-218, RUF Transcript 1 February 2005", p. 18885.

<sup>1652</sup> Perry Kamara, Transcript 5 February 2008, pp. 3154-3155.

<sup>1653</sup> Perry Kamara, Transcript 5 February 2008, p. 3152.

reliable, given his position within the RUF at that time. His description of the orders by the various RUF commanders to “make Kono District fearful” is consistent with the evidence of Bobson Sesay.

683. Thus while the actual number of civilian deaths in Bumpe is unknown, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between March and June 1998, during an attack on Bumpe, the AFRC/RUF forces acting under the orders of several commanders including Lt. Amara Kallay, Hassan Papa Bangura, Superman, Sam Bockarie, Morris Kallon, CO Rocky and others, intentionally killed an unknown number of civilians, all of whom were not taking an active part in the hostilities.

684. The above evidence clearly establishes that the perpetrators acting in accordance with orders given by their commanders to “make Kono fearful”, deliberately targeted civilians in Bumpe in order to prevent them from staying in or returning to Bumpe. That campaign of terror entailed not only murders but also the burning down of homes; mass amputations and the bizarre display of human heads on sticks at various checkpoints. The Trial Chamber finds beyond reasonable doubt that the perpetrators wilfully made the victims the object of such violence and the primary purpose of these killings was to instil terror in the civilian population.

(c) Tombodu

(i) Massacre of more than 20 civilians in Tombodu around March or April 1998

685. Alimamy Bobson Sesay testified that he participated in an attack on Tombodu around March or April 1998<sup>1654</sup> along with other RUF forces and commanders Bomb Blast and Savage.<sup>1655</sup> The witness explained that when the AFRC/RUF forces first arrived in Tombodu, they were dressed in military uniforms and arrived in vehicles. Pretending to be government forces that had come to rescue the citizens, the AFRC/RUF forces gestured to the fleeing civilians to stop running and to approach the fighters, saying “we are government troops. We have come to reinforce and protect you”.<sup>1656</sup> The civilians stopped running and

<sup>1654</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8002.

<sup>1655</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7992.

<sup>1656</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7992-7993.

as soon as the civilians approached within firing range, the AFRC/RUF forces opened fire on the civilians, killing over 20 of them.<sup>1657</sup>

### Findings

686. The Trial Chamber finds the evidence of Alimamy Bobson Sesay, a participant in this attack, credible and reliable. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that around March or April 1998 the AFRC/RUF forces that attacked Tombodu intentionally massacred more than 20 civilians in Tombodu, all of whom were not taking an active part in the hostilities.

687. The above evidence clearly establishes that the perpetrators, acting in accordance with orders given by their commanders to “make Kono fearful”, deliberately targeted civilians in Tombodu in order to prevent them from staying in or returning to Tombodu. The deliberate tricking of civilians into showing their support for what they believed were “Government forces”, followed by mass execution of those civilians by the AFRC/RUF forces, demonstrates the Juntas’ reprisal against the civilian population. The Trial Chamber finds beyond reasonable doubt that the perpetrators wilfully made the victims the object of such violence and the primary purpose of these killings was to instil terror in the civilian population.

#### (ii) Second Massacre at Tombodu involving 77-78 civilians around April 1998

688. Alimamy Bobson Sesay testified that Tombodu was attacked again one month after Savage was based there as battalion commander.<sup>1658</sup> After capturing about 77-78 civilians, Savage sent a message to Masingbi headquarters inviting commanders Bomb-Blast, Bazy and Alimamy Bobson Sesay to come and meet the “civilian visitors”.<sup>1659</sup> Savage explained to the commanders and the witness that he had tricked the civilians into believing that ECOMOG had come to save them. The civilians had rejoiced at the news only to be captured by Savage.<sup>1660</sup> The witness described how Savage assembled and paraded the 78

<sup>1657</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7992-7993.

<sup>1658</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7994. From the context of the witness’s testimony, this event occurred approximately one month after the AFRC and RUF took control of Tombodu after Koidu Town had been captured. The attack was likely in March or April 1998. See Transcript 18 April 2008, pp. 7995, 8002.

<sup>1659</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7995-7997.

<sup>1660</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7996.

civilians before the commanders and the witness.<sup>1661</sup> Fifteen of these civilians were locked up in a building by Savage and burned alive.<sup>1662</sup> The witness heard them scream and saw their charred skeletons afterwards. Another 15 civilians were amputated by Savage and his subordinates including Guitar Boy and Staff Alhaji and some SBUs.<sup>1663</sup> The witness heard Savage telling the amputees to “go and tell ECOMOG that Savage was now the battalion commander in Tombodu”.<sup>1664</sup> The rest of the civilians were decapitated by Savage and their bodies thrown into a pit known as the “Savage pit”.<sup>1665</sup> Alimamy Bobson Sesay testified that after this incident, Commander Savage was nick-named “Changa Bulanga” because he was “very good at using machete. He was very good at amputating people”.<sup>1666</sup> Bobson Sesay further testified that Superman came to Tombodu just after this incident had taken place and that Savage showed Superman the decapitated bodies in the pit as well as the charred bodies of the civilians that he had burnt. Superman was reportedly shocked and warned Savage that what he had done amounted to crimes against humanity. However, Superman did not punish Savage and instead joined everybody in drinking palm wine to celebrate the incident.<sup>1667</sup>

689. Prosecution Witness TF1-375, a subordinate of Superman during this period, told the court that Savage led an attack on Tombodu.<sup>1668</sup> The witness travelled to Tombodu shortly after this attack and accompanied Superman whom Savage had invited to drink palm wine.<sup>1669</sup> On arrival, Savage showed Superman and the witness a big pit where he had dumped the corpses of executed civilians.<sup>1670</sup> Witness TF1-375 described the pit as a former diamond mining pit where he saw corpses of old people, young people and children and severed limbs.<sup>1671</sup>

<sup>1661</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7995-7997.

<sup>1662</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7995-7997.

<sup>1663</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7995-7997.

<sup>1664</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7997.

<sup>1665</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7995-7997.

<sup>1666</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7966 and Transcript 18 April 2008, p. 7999.

<sup>1667</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7999.

<sup>1668</sup> TF1-375, Transcript 23 June 2008, p. 12514.

<sup>1669</sup> TF1-375, Transcript 23 June 2008, p. 12514.

<sup>1670</sup> TF1-375, Transcript 23 June 2008, pp. 12514-12515.

<sup>1671</sup> TF1-375, Transcript 23 June 2008, pp. 12514-12515.

690. Perry Kamara, a radio operator with the RUF at Superman's headquarters known as Superman Ground, confirmed in his testimony that he received reports in 1998 that Savage had killed more than 30 civilians in Tombodu.<sup>1672</sup>

### Findings

691. The Trial Chamber finds the evidence of Alimamy Bobson Sesay credible as he was an eye-witness to the killings. Furthermore, his evidence is corroborated by that of Witness TF1-375, who saw the large pit containing bodies of civilians and severed limbs, and of Perry Kamara who received reports of the civilian killings. Based on the above evidence, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that around April 1998, AFRC/RUF forces led by Savage, and with the approval of commanders Superman and Bomb Blast, intentionally killed about 63 civilians in Tombodu, that were not taking an active part in the hostilities.

692. The evidence establishes that the AFRC/RUF Juntas acting in accordance with orders earlier given by their commanders to "make Kono fearful", deliberately targeted the civilian population in order to prevent them from staying in or returning to Tombodu. Furthermore, the circumstances surrounding these killings, including the deliberate tricking of civilians into believing that the rebels were ECOMOG forces that had come to their rescue only to then massacre those civilians; the indiscriminate amputations accompanied by sarcastic messages to the ruling Government; as well as the public disposal of numerous dead bodies into an open pit, demonstrate the rebel campaign of reprisal and terror against the civilian population. The Trial Chamber finds beyond reasonable doubt that the perpetrators wilfully made the victims the object of such violence and the primary purpose of these killings was to instil terror in the civilian population.

### (iii) Third Massacre of over 53 civilians in Tombodu in April 1998

693. Mustapha Mansaray and Ibrahim Fofana, two civilians that were captured by the AFRC/RUF forces and taken together to Tombodu around April 1998, testified before the Trial Chamber. Mustapha Mansaray was captured by "rebels and soldiers"<sup>1673</sup> from Wordu

<sup>1672</sup> Perry Kamara, Transcript 5 February 2008, p. 3159.

<sup>1673</sup> Mustapha Mansaray, Transcript 30 October 2008, p. 19592 (where witness describes his captors as "soldiers and rebels").

Sandor,<sup>1674</sup> while Ibrahim Fofana was captured by soldiers wearing military uniforms in Paema.<sup>1675</sup> Both men walked for three days carrying looted goods belonging to the captors and were taken to Tombodu where they met 53 other civilians that were also captured by the Junta forces.<sup>1676</sup> Mansaray, Fofana and the other captured persons were taken to Staff Alhaji's headquarters<sup>1677</sup> where they were stripped naked and forced to sit on the ground.<sup>1678</sup> Staff Alhaji, who the witness was told was the rebel commander, asked for a mortar to be brought and amputated the hands of six men including Mansaray and Fofana.<sup>1679</sup> Staff Alhaji told the amputees that "now they would never be able to vote for President Kabbah again and that they should keep their hands out of politics".<sup>1680</sup> Mansaray told the court that four of the amputees later died from their wounds and that only he and Fofana survived.<sup>1681</sup>

694. Mansaray testified that Staff Alhaji ordered the rebels to lock the 53 civilians in a building and to burn them alive. After locking the 53 civilians in a building, the rebels sprinkled petrol on the building and set it alight burning everyone inside to death.<sup>1682</sup> Mansaray heard the people inside, including women and children, crying.<sup>1683</sup> Mansaray explained that the people inside the building could not escape because the doors and windows were locked with nails and soldiers stood guard with guns.<sup>1684</sup> Mansaray and Fofana left before the house finished burning.<sup>1685</sup>

695. Witness Ibrahim Fofana was captured by soldiers wearing military uniforms in Paema.<sup>1686</sup> He testified that he was with five persons who carried loads for the captors to Tombodu at gunpoint.<sup>1687</sup> All five persons reached Tombodu on 5 April 1998<sup>1688</sup> and were taken to a person called Staff Alhaji. Fofana stated that while he and the others were tied to

<sup>1674</sup> Mustapha Mansaray, Transcript 30 October 2008, pp. 19592-19593.

<sup>1675</sup> Ibrahim Fofana, Transcript 28 October 2008, p. 19334.

<sup>1676</sup> Mustapha Mansaray, Transcript 30 October 2008, pp. 19597, 19599; Ibrahim Fofana, Transcript 28 October 2008, pp. 19334, 19336-19337.

<sup>1677</sup> Mustapha Mansaray, Transcript 30 October 2008, pp. 19601-19602.

<sup>1678</sup> Mustapha Mansaray, Transcript 30 October 2008, pp. 19602-19603.

<sup>1679</sup> Mustapha Mansaray, Transcript 30 October 2008, pp. 19603-19605.

<sup>1680</sup> Mustapha Mansaray, Transcript 30 October 2008, p. 19607.

<sup>1681</sup> Mustapha Mansaray, Transcript 30 October 2008, pp. 19606-19607.

<sup>1682</sup> Mustapha Mansaray, Transcript 30 October 2008, p. 19609.

<sup>1683</sup> Mustapha Mansaray, Transcript 30 October 2008, p. 19608.

<sup>1684</sup> Mustapha Mansaray, Transcript 30 October 2008, p. 19609.

<sup>1685</sup> Mustapha Mansaray, Transcript 30 October 2008, p. 19609.

<sup>1686</sup> Ibrahim Fofana, Transcript 28 October 2008, p. 19334.

<sup>1687</sup> Ibrahim Fofana, Transcript 28 October 2008, pp. 19334, 19336-19337.

<sup>1688</sup> Ibrahim Fofana, Transcript 28 October 2008, p. 19343.

an orange tree in the compound, the rebel soldiers brought 53 other captives from a village called Masundu and locked them in a big house.<sup>1689</sup> Fofana heard a soldier report to Staff Alhaji that the 53 civilians had been captured and Staff Alhaji gave an order that they be locked up in a house and the house be set on fire.<sup>1690</sup> The rebels locked the 53 civilians in the house, sprinkled petrol on it and set it on fire.<sup>1691</sup> Fofana testified that he heard people screaming until the house burned down completely.<sup>1692</sup>

696. Fofana said that after the house had been completely burnt, that he and the others in the group of five had their hands amputated by Rambo who was dressed in a military uniform.<sup>1693</sup> Fofana testified that only he and Mustapha Mansaray survived the amputations,<sup>1694</sup> as the other three were elderly and were bleeding profusely.<sup>1695</sup> The three fell down somewhere on the way to Lebanon and died.<sup>1696</sup>

### Findings

697. The Trial Chamber finds the evidence of both Mustapha Mansaray and Ibrahim Fofana reliable and credible. Although Mansaray's account of the events differs in a number of respects from that of Fofana,<sup>1697</sup> the Trial Chamber finds that their story is consistent and corroborated and is satisfied that the discrepancies in the witnesses' testimonies can be reasonably accounted for by the passage of time and the physical and emotional trauma suffered by both witnesses. Based on the evidence, the Trial Chamber finds that the Prosecution has proved beyond a reasonable doubt that in April 1998, AFRC/RUF forces under the orders of Staff Alhaji intentionally caused the deaths of 56 civilians in Tombodu, including 53 who were burned inside a building and 3 who subsequently died from amputations.

<sup>1689</sup> Ibrahim Fofana, Transcript 28 October 2008, p. 19338.

<sup>1690</sup> Ibrahim Fofana, Transcript 28 October 2008, p. 19340.

<sup>1691</sup> Ibrahim Fofana, Transcript 28 October 2008, p. 19340.

<sup>1692</sup> Ibrahim Fofana, Transcript 28 October 2008, p. 19340.

<sup>1693</sup> Ibrahim Fofana, Transcript 28 October 2008, p. 19341.

<sup>1694</sup> Ibrahim Fofana, Transcript 28 October 2008, p. 19341.

<sup>1695</sup> Ibrahim Fofana, Transcript 28 October 2008, p. 19342.

<sup>1696</sup> Ibrahim Fofana, Transcript 28 October 2008, pp. 19342-19343.

<sup>1697</sup> For example, Mansaray said they were captured on 12 April 1998 while Fofana said it was on 5 April 1998. Mansaray said he found the 53 civilians already in Tombodu while Fofana said the civilians were brought after he had already arrived in Tombodu. Mansaray said that Staff Alhaji himself carried out the amputations while Fofana said it was an officer called Rambo.



698. The circumstances under which the AFRC/RUF forces captured and collected in a single place such a large number of civilians, as well as the cruel manner in which their death was executed, demonstrate the campaign of terror unleashed by the Junta forces. The Trial Chamber further finds that the perpetrators wilfully made the victims the object of such violence and the primary purpose of these killings was to instil terror in the civilian population.

(iv) Killings of civilians in and around Tombodu between March and May 1998

699. The Trial Chamber heard evidence of other killings of civilians in Tombodu during the period April to May 1998. Prosecution Witness TF1-064 told court that “during the dry season”,<sup>1698</sup> while residing in Foendor, Kono District, civilians who fled from Koidu and Tombodu came and told her that “rebels have started killing people”.<sup>1699</sup> The witness and her family hid in the bush outside of Foendor. While in hiding, rebels<sup>1700</sup> claiming to be “ECOMOG soldiers”, including one she knew before named Tamba Joe,<sup>1701</sup> captured a group of civilians including the witness and her family members, and took them back to Foendor Town.<sup>1702</sup> Once in Foendor Town, the rebels killed all of the civilians including her family and her young children.<sup>1703</sup> TF1-064 testified that only she and a Temne man survived. The rebels forced her and the Temne man to carry a bag containing human heads to Tombodu.<sup>1704</sup> On the way, the rebels ordered the witness to laugh as she carried the bag dripping with blood. TF1-064 testified that when they arrived at Tombodu, the bag was emptied and she saw the heads of her children.<sup>1705</sup> In Tombodu, TF1-064 saw a commander called Capay cut the Temne man’s throat, killing him.<sup>1706</sup> The Temne man’s corpse was

<sup>1698</sup> TF1-064, Transcript 30 September 2008, pp. 17636, 17638.

<sup>1699</sup> TF1-064, Transcript 30 September 2008, p. 17636.

<sup>1700</sup> The witness said at that “some of the rebels were dressed in combat fatigues while some wore civilian clothing”. TF1-064, Transcript 30 September 2008, p. 17642.

<sup>1701</sup> TF1-064, Transcript 30 September 2008, pp. 17641-17644.

<sup>1702</sup> TF1-064, Transcript 30 September 2008, pp. 17647-17648.

<sup>1703</sup> TF1-064, Transcript 30 September 2008, pp. 17649, 17652-17653.

<sup>1704</sup> TF1-064, Transcript 30 September 2008, pp. 17656-17657. The children were killed in Foendor and their heads were taken to Tombodu. See TF1-064, Transcript 30 September 2008, pp. 17652-17653.

<sup>1705</sup> TF1-064, Transcript 30 September 2008, pp. 17657.

<sup>1706</sup> TF1-064, Transcript 30 September 2008, pp. 17658.

taken to a pit of water.<sup>1707</sup> The witness escaped from the rebels at night and went to Kokuima where ECOMOG was stationed.<sup>1708</sup>

700. Another Prosecution witness Sahr Bindi testified that AFRC/RUF forces first came to Tombodu sometime “between the rainy and dry seasons”.<sup>1709</sup> After addressing the citizens and telling them that the AFRC and RUF were in Koidu and that the civilians should not be afraid, the juntas returned to Koidu.<sup>1710</sup> Less than a month later, the rebels returned to Tombodu amidst heavy gunfire.<sup>1711</sup> Bindi said that some of the men had red cloth tied around their heads.<sup>1712</sup> The witness fled and hid in the bush.<sup>1713</sup> The shooting did not subside until almost evening.<sup>1714</sup> When Bindi returned from the bush, he saw two corpses of men who had been shot.<sup>1715</sup> One man was wearing civilian clothing.<sup>1716</sup> The other man was known to the witness to be a civilian.<sup>1717</sup>

701. After this incident Sahr Bindi fled to Guinea with his family and only returned to Tombodu a month later when they heard on the radio that ECOMOG had come to Kono District.<sup>1718</sup> On his way back from Guinea, Bindi was captured by RUF/AFRC fighters<sup>1719</sup> and taken to their commander called Staff Alhaji in Tombodu.<sup>1720</sup> Staff Alhaji ordered his men to lock up the witness and his brother saying that the group would be killed the next day.<sup>1721</sup> Towards the evening, Bindi heard people being beaten and pleading on the veranda not to be killed<sup>1722</sup> but at some point the screaming and pleading subsided.<sup>1723</sup> When the

<sup>1707</sup> TF1-064, Transcript 30 September 2008, pp. 17657, 17658.

<sup>1708</sup> Because the witness refers to ECOMOG being stationed in Kokuima, it can be inferred that the killing of the Temne man occurred around April or May 1998. Other witnesses have testified that ECOMOG was in Koikuma in February to May 1998. See Kumba Bindi, Transcript 29 October 2008, p. 19506; Sheku Bah Kuyateh, Transcript 31 October 2008, p. 19715.

<sup>1709</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18465-18466.

<sup>1710</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18464-18466.

<sup>1711</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18466-18467.

<sup>1712</sup> Sahr Bindi, Transcript 16 October 2008, p. 18466.

<sup>1713</sup> Sahr Bindi, Transcript 16 October 2008, p. 18467.

<sup>1714</sup> Sahr Bindi, Transcript 16 October 2008, p. 18467.

<sup>1715</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18467-18468.

<sup>1716</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18468-18469.

<sup>1717</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18468-1 8469.

<sup>1718</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18480-18481.

<sup>1719</sup> Describing his captors the witness said that “They had military clothes and a mixed uniform. Some would have the trousers and the civilian clothes and there were others who had the full uniform”. Sahr Bindi, Transcript 16 October 2008, p. 18483.

<sup>1720</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18482-18485, 18490-18491.

<sup>1721</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18491-18492.

<sup>1722</sup> Sahr Bindi, Transcript 16 October 2008, p. 18492.

witness came out of the cell, he saw three corpses lying on the ground with ropes tied around their waists and rocks attached to the ropes.<sup>1724</sup> The corpses were dressed in civilian clothing and appeared to have been beaten.<sup>1725</sup> Bindi and the others taken out of the cell were told to carry the bodies and dump them in an old mining pit that had a large quantity of water in it.<sup>1726</sup> Bindi later learnt that the pit was called “Savage pit”.<sup>1727</sup> The witness managed to escape from captivity in the night.<sup>1728</sup>

### Findings

702. The Trial Chamber finds the evidence of both witnesses above credible and reliable as they each give an eye-witness account of what they saw and heard. Based on the evidence of Witness TF1-064, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between April and May 1998 in Foendor near Tombodu, AFRC/RUF fighters pretending to be ECOMOG, beheaded an unknown number of civilians including two of the witnesses' children and that soon thereafter, an AFRC/RUF fighter named Capay intentionally killed a Temne man in Tombodu by slitting his throat. The Trial Chamber also finds that all the civilians murdered were not taking an active part in the hostilities. The Trial Chamber notes however, that since Foender is a location not pleaded in the Indictment, the evidence relating to the civilian deaths there can only be used to prove the chapeau requirements of the crime of murder and not for guilt.<sup>1729</sup>

703. Although Bindi's account of the death of three civilians at Staff Alhaji's veranda is based on circumstantial evidence, the Trial Chamber finds, based on the screams and pleading that Bindi heard; the threats of death made against him; the state of the corpses and the method of their disposal; that the only reasonable inference is that these civilians were murdered by the AFRC/RUF forces under the command of Staff Alhaji, who as the Trial Chamber has noted above, routinely killed civilians and threw their bodies into a pit named the “Savage pit”. Accordingly, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between April and May 1998 in Tombodu, AFRC/RUF forces

<sup>1723</sup> Sahr Bindi, Transcript 16 October 2008, p. 18492.

<sup>1724</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18493-18497.

<sup>1725</sup> Sahr Bindi, Transcript 16 October 2008, p. 18497.

<sup>1726</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18496, 18498.

<sup>1727</sup> Sahr Bindi, Transcript 16 October 2008, p. 18499

<sup>1728</sup> Sahr Bindi, Transcript 16 October 2008, p. 18501

<sup>1729</sup> See Preliminary Issues: Issues Relating to the Pleading in the Indictment *supra*.

under the command of Staff Alhaji, intentionally killed three civilians who were not taking an active part in the hostilities.

704. The above evidence further illustrates the campaign of terror waged by the AFRC/RUF forces in carrying out indiscriminate abductions and killings of innocent civilians in Kono District around this time. The bizarre practice of beheading victims and forcing civilians to carry the heads in a bag from one place to another, as well as the cruelty of forcing a mother to “laugh” at her own children’s beheading, are acts that demonstrate the brutality of the AFRC/RUF forces. The Trial Chamber finds beyond reasonable doubt that the perpetrators wilfully made the victims the object of such violence and the primary purpose of these killings was to instil terror in the civilian population.

(d) Koidu Geiya or Koidu Gieya

(i) Killings of civilians at Koidu Geiya around May to June 1998

705. The Trial Chamber heard the evidence of several witnesses regarding the killing of civilians in Koidu Geiya around the period of May to June 1998. These witnesses include Alimamy Bobson Sesay, Alice Pyne and Prosecution Witness TF1-375.

706. Witness Alimamy Bobson Sesay testified that the AFRC/RUF forces based in Gandorhun attacked Koidu Geiya around May or June 1998 and successfully captured it from Kamajors.<sup>1730</sup> Sesay testified that these forces comprising RUF and SLA members were commanded by an RUF commander called Rambo.<sup>1731</sup> In Koidu Geiya, the AFRC/RUF forces captured two Kamajors. Sesay testified that one of the AFRC/RUF forces called Ahchebe slit open one of the Kamajor’s stomach, removed the heart and ate it raw.<sup>1732</sup> Because of this, the other AFRC/RUF forces nicknamed Ahchebe “Charma-Raw”, a Krio word meaning “one who eats raw meat”. Sesay told the court that this was done in the presence of Commanders Hassan Papa Bangura, Dennins Mingo (a.k.a. Superman) and two other senior commanders, none of whom reprimanded Ahchebe for the killing of the

<sup>1730</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8014.

<sup>1731</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, p. 8060.

<sup>1732</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8014.

Kamajor. Mingo merely reprimanded Charma-raw for cannibalism but not for killing the Kamajor.<sup>1733</sup>

707. Witness TF1-375 confirmed that during the period May/June 1998, the AFRC/RUF forces fought against the Kamajors in Koidu Geiya and overpowered them.<sup>1734</sup> According to TF1-375, the AFRC/RUF forces needed to take control of Koidu Geiya from the Kamajors in order to enable Johnny Paul Koroma to cross through this area on his way to Kailahun.<sup>1735</sup> After defeating the Kamajors and taking control of the area, Superman designated an RUF commander called Rambo to be based in Koidu Geiya. Witness TF1-375 told the court that Rambo ordered his troops to burn down civilian homes, kill civilians and amputate others in order to “make the area fearful”.<sup>1736</sup> TF1-375 was not present when the civilians were allegedly killed, but he learnt of Rambo’s orders being carried out from some of Rambo’s bodyguards including CO Bakarr and one of the AFRC commanders, who came from “Rambo’s ground”.<sup>1737</sup> Soon afterwards, Superman sent the witness to Koidu Geiya to take ammunition to Rambo and that is when TF1-375 saw corpses of civilians, burnt houses and cars and a lot of destruction in Koidu Geiya.<sup>1738</sup>

708. Alice Pyne, a radio operator working for the RUF throughout the conflict testified that the RUF used to carry out attacks on civilians, especially in areas where ECOMOG troops were based and where the civilians thought they were safe. When the RUF attacked, the civilians were unable to escape as quickly as ECOMOG.<sup>1739</sup> Pyne told the court that Koidu Geiya was a location where the RUF would run such an operation in 1998 “while the witness was at PC ground and before the death of Sani Abacha”.<sup>1740</sup> Pyne further told the court that the RUF sent a message to her to the effect that they attacked Koidu Geiya, but the message made no mention of any civilian deaths.<sup>1741</sup> Pyne told the court that the attack was

<sup>1733</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8014-8015.

<sup>1734</sup> TF1-375, Transcript 23 June 2008, pp. 12518-12519.

<sup>1735</sup> TF1-375, Transcript 23 June 2008, p. 12518.

<sup>1736</sup> TF1-375, Transcript 23 June 2008, p. 12519.

<sup>1737</sup> TF1-375, Transcript 23 June 2008, pp. 12519-12520.

<sup>1738</sup> TF1-375, Transcript 23 June 2008, p.12519.

<sup>1739</sup> Alice Pyne, Transcript 18 June 2008, p. 12198.

<sup>1740</sup> Alice Pyne, Transcript 18 June 2008, p. 12198. The Trial Chamber notes according to Agreed Fact No. 11, “In June 1998, Sani Abacha died and was succeeded by Major General Abdulsalami Abubakar”. *Prosecutor v. Taylor*, SCSL-03-1-PT-227, Joint Filing by the Prosecution and Defence Admitted Facts and Law, 26 April 2007, Agreed Fact 11. The Trial Chamber finds accordingly that Pyne’s evidence relates to the period after ECOMOG had arrived in Kono following the Intervention in February 1998 but before June 1998.

<sup>1741</sup> Alice Pyne, Transcript 18 June 2008, pp. 12199.

led by RUF commanders Rambo and Banya because they were the commanders in Gandorhun from where the radio message came.<sup>1742</sup> Pyne stated that later she heard from Claris, another radio operator based in Gandorhun where the attacking RUF forces had come from, that the forces had indiscriminately killed a lot of civilians in Koidu Geiya, including children.<sup>1743</sup>

### Findings

709. The Trial Chamber finds the testimony of Alimamy Bobson Sesay more reliable with regard to the attack on Koidu Geiya as it is based on first-hand knowledge of the attack. The testimony of TF1-375 although based partly on hearsay and partly on circumstantial evidence, is also credible and reliable given his aforesaid position in the RUF at that time. Moreover, the destruction of Koidu Geiya that he described seeing, including corpses of civilians, accords with evidence that the Trial Chamber has considered above of the campaign of terror that the AFRC/RUF routinely carried out whenever they wanted to scare off the civilian population. The irresistible inference to be drawn is that the RUF forces that had carried out the attack on Koidu Geiya had deliberately killed these civilians. Pyne's evidence although based largely on hearsay, is corroborated by that of Bobson Sesay and TF1-375. Accordingly, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that during their attack on Koidu Geiya around May/June 1998, AFRC/RUF fighters intentionally caused the deaths of an unknown number of civilians including children and one Kamajor, all of whom were not taking an active part in the hostilities.

710. The evidence establishes that consistent with the rebel Commanders' orders to "make the area fearful", the rebel perpetrators targeted civilians by burning their homes, killing many indiscriminately and amputating others in Koidu Geiya. The bizarre act by one of the rebels ("Charma-Raw") of publicly eating a raw human heart demonstrates the campaign of terror that served as a warning to the civilian population not to oppose the Junta forces. The Trial Chamber finds that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the killings in Koidu Geiya was to instil terror in the civilian population there.

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<sup>1742</sup> Alice Pyne, Transcript 18 June 2008, pp. 12199.

<sup>1743</sup> Alice Pyne, Transcript 18 June 2008, pp. 12198-12200.

(e) Koidu Buma

38357

(i) Killings of civilians at Koidu Buma around May to June 1998

711. Alimamy Bobson Sesay testified that in May or June 1998<sup>1744</sup> the AFRC/RUF forces in Kono District heard on the radio that ECOMOG forces were in Makeni and were coming to recapture Kono.<sup>1745</sup> Immediately after this the AFRC forces under the command of Hassan Papa Bangura and Bazzy travelled from Masingbi and joined Superman's RUF forces at Dabundeh Street. The combined AFRC/RUF forces took the Gandorhun route to go to Koidu Geiya to attack the town.<sup>1746</sup> On the way to Koidu Geiya, the group met RUF Rambo, the Deputy Commander of Operations in Koidu Buma.<sup>1747</sup> Alimamy Bobson Sesay testified that he saw the corpses of 15 civilians who had been "hacked to death" by RUF Rambo, but he did not witness the actual killings.<sup>1748</sup> The witness explained that RUF Rambo had gone ahead of the other fighters and was waiting for them at Koidu Buma.<sup>1749</sup> RUF Rambo explained to the witness and the other commanders including Hassan Papa Bangura and Superman, that he killed the civilians and displayed their bodies in the street in order "to create fear so that no civilians would come to that area".<sup>1750</sup>

Findings

712. The Trial Chamber finds the evidence of Alimamy Bobson Sesay regarding the deaths of the 15 civilians in Koidu Buma, credible and reliable, as it is based on the corpses of civilians he saw and the explanation given by Rambo. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in May/June 1998, and with the approval of Commanders Hassan Papa Bangura, Bazzy and Superman, RUF Rambo intentionally caused the death of 15 civilians during an attack on Koidu Buma, all of whom were not taking an active part in the hostilities.

713. The evidence establishes that, consistent with the rebel Commanders' orders to "make the area fearful", the aim of the rebel commander known as RUF Rambo in targeting

<sup>1744</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8059.

<sup>1745</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8012.

<sup>1746</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8012, 8014.

<sup>1747</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8012-8013.

<sup>1748</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8012-8013.

<sup>1749</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8013.

<sup>1750</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8013.



these 15 civilians and displaying their corpses in the street was “to create fear so that no civilian would come to that area”. The Trial Chamber finds that the perpetrator wilfully made the victims the object of such violence and the primary purpose of the killings in Koidu Buma was to instil terror in the civilian population there.

(f) Yengema

(i) Killings of civilians at Yengema around March/April 1998

714. Witness Alimamy Bobson Sesay testified that in March or April 1998<sup>1751</sup> AFRC/RUF forces led by a commander called Tito attacked Yengema and completely burned the town down, killed every civilian they found there, and displayed the corpses and human heads on sticks at various checkpoints.<sup>1752</sup> Alimamy Bobson Sesay testified that he learned of the attack and killings while on patrol in Yengema with Commander Bomb Blast.<sup>1753</sup> Commander Tito explained to the Witness and Bomb Blast that some civilians escaped and had their houses set on fire, while others were captured and those amongst the captives who were “not strong enough” were killed.<sup>1754</sup> The witness also told the court that whenever he would go on patrol with this commander throughout Kono District, the AFRC/RUF forces would tell them that the burning of houses and killing of civilians was “a daily affair” and “an organised command”.<sup>1755</sup>

Findings

715. Based on his aforesaid position within the AFRC/RUF forces; what he was told during the patrols and the explanation he was given by Commander Tito, the Trial Chamber finds the evidence of Alimamy Bobson Sesay credible and reliable. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in March/April 1998 during an attack on Yengema, AFRC/RUF forces under the command of Tito and with the approval of patrol commander Hassan Papa Bangura (a.k.a. Bomb Blast), intentionally caused the death of an unknown number of civilians, all of whom were not taking an active part in the hostilities.

<sup>1751</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, p. 8058.

<sup>1752</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7988, 7991-7992

<sup>1753</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7988.

<sup>1754</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7990.

<sup>1755</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7988-7989.



716. The evidence establishes that consistent with the orders of their superior commanders to “make the area fearful”, the AFRC/RUF forces routinely mounted attacks upon civilians in many towns within Kono District including Yengema, which attacks involved burning of houses and killing of civilians, and the macabre practice of displaying dead bodies and human heads on sticks was an integral part of these attacks. The Trial Chamber finds that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the killings in Yengema was to instil terror in the civilian population there.

(ii) Killing of civilians at the Yengema Training base between December 1998 and January 2000

717. Prosecution Witness TF1-362, testified that the more than 100 trainees at the Yengema Base comprised civilian recruits transferred from the Bunumbu base as well as civilians captured by Superman, Morris Kallon and Rambo around Koidu Town.<sup>1756</sup> Other commanders at the Yengema Base included Issa Sesay, Denis Mingo, Richard Cooper, David Kanneh and a “Black guard” called Mohammed.<sup>1757</sup> TF1-362 told the court that civilian deaths were a regular occurrence at the base and that reports of the deaths were regularly made to General Issa Sesay, usually through radio communication and written records thereof kept.<sup>1758</sup> Recruits of all ages died during the rigorous physical training known as “halaka”<sup>1759</sup> or “crawling” and other recruits who attempted to escape from the training base were captured and either killed or had the letters “RUF” carved on their foreheads or chests using a knife or broken bottle.<sup>1760</sup> TF1-362 explained that Issa Sesay gave the order that any civilian recruit attempting to escape should be killed in order to deter the others from escaping.<sup>1761</sup> She further explained that recruits were “marked” with the letters “RUF” so that wherever they went, they would be easily identified, and also to scare off others from attempting to escape.<sup>1762</sup>

<sup>1756</sup> TF1-362, Transcript 27 February 2008, p. 4917.

<sup>1757</sup> TF1-362, Transcript 27 February 2008, pp. 4917-4919.

<sup>1758</sup> TF1-362, Transcript 27 February 2008, p. 4923.

<sup>1759</sup> Describing the training called “halaka” the witness told the court that the trainees would shoot live bullets over the heads of the recruits as the latter crawled and that many recruits were accidentally shot to death in this way. TF1-362, Transcript 27 February 2008, p. 4846 (CS).

<sup>1760</sup> TF1-362, Transcript 27 February 2008, pp. 4927-4929.

<sup>1761</sup> TF1-362, Transcript 27 February 2008, p. 4929.

<sup>1762</sup> TF1-362, Transcript 27 February 2008, p. 4927.

718. TF1-362 testified that on one occasion when General Issa Sesay was the over all commander of the RUF, six recruits including a child soldier or SBU, were caught attempting to escape from Yengema base. Upon receiving the witness's report of the attempted escape, Issa Sesay ordered the witness to kill all six recruits but the witness hesitated, pleading that the younger ones amongst them should be spared. The Black Guards at the training base reported the witness to Issa Sesay who took her to task for disobeying his orders. Issa Sesay's bodyguards summarily executed three of the errant recruits and the Black Guards killed the other two. One child soldier (SBU) was spared because of his tender age. After this incident, the SBU was nicknamed "Long life".<sup>1763</sup>

719. Witness TF1-362 also testified that the RUF forces at Yengema Training base would go on "food-finding missions" in surrounding villages whereby they would attack civilians and rob them of their food. Civilians who would resist were shot or beaten to death and their food taken.<sup>1764</sup>

720. Mustapha Mansaray, a member of the Internal Defence Unit of the RUF from 1994 to 1999, testified that while serving at Ngaiya in Kono District,<sup>1765</sup> he heard from miners who used to go to Yengema that Issa Sesay killed recruits at the Yengema training base.<sup>1766</sup> Mansaray stated that his colleague, Pa Kosia, a general security officer for the RUF,<sup>1767</sup> investigated the allegations and asked Issa Sesay about the deaths of recruits at Yengema. Pa Kosia told Mansaray that Issa Sesay told him that if he pursued the questioning then he too would be punished.<sup>1768</sup> Mansaray also testified that Pa Kosia told Mansaray that the training commander at Yengema training base confirmed to Pa Kosia that Issa Sesay came to the base and killed several recruits and that his bodyguards also shot some of the recruits.<sup>1769</sup>

### Findings

721. Based on her position in the RUF and particularly at Yengema training base, the Trial Chamber finds the evidence of Witness TF1-362 relating to the mistreatment and

<sup>1763</sup> TF1-362, Transcript 27 February 2008, p. 4929.

<sup>1764</sup> TF1-362, Transcript 27 February 2008, pp. 4904-4905.

<sup>1765</sup> Mustapha Mansaray, Transcript 4 March 2008, p. 5235 stated that he served as RUF mining commander in Ngaiya from January to June 2001.

<sup>1766</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5354-5355.

<sup>1767</sup> Mustapha Mansaray, Transcript 5 March 2008, p. 5356.

<sup>1768</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5354-5355.

<sup>1769</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5355-5356.

killing of civilians at the training base, credible and reliable. That evidence establishes that civilian recruits of all ages were regularly mistreated by the RUF trainers at the Yengema base and that many died in the course of training as a result of this mistreatment. The evidence of Mustapha Mansaray, although based on hearsay, confirms the account of TF1-362, who was present at Yengema training base when five civilian recruits were shot to death for attempting to escape. Accordingly, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between the end of 1998 and the disarmament in 2000 at Yengema training base, Issa Sesay and his body guards intentionally executed five civilians. The Trial Chamber further finds that the Prosecution has proved beyond reasonable doubt that RUF forces under the command of Issa Sesay and Sam Bockarie regularly intentionally killed civilian recruits at Yengema training base as a form of punishment for attempting to escape or during food finding missions. The Trial Chamber also finds that these civilians were not taking an active part in the hostilities.

722. Furthermore, the evidence shows that the execution of civilians caught trying to escape from the training base, or those trying to protect their food from being looted by the fighters, served as a warning to those who would dare to disobey the RUF fighters. The Trial Chamber finds that the perpetrators wilfully made the victims the object of such violence and the purpose of the killings at the Yengema Training base was to instil terror amongst the civilian population, thereby ensuring the continued loyalty of the abducted trainees.

(g) Paema or Peyima

(i) Killings of civilians in Paema around March/April 1998

723. Witness Ibrahim Fofana lived with his family in Paema Town, Kono District in February 1998.<sup>1770</sup> Fofana testified that a “squad of soldiers”<sup>1771</sup> arrived in Paema Town in February 1998 and forcibly took people’s property, in what the soldiers called “Operation Pay Yourself”.<sup>1772</sup> Fofana stated that the “soldiers” left Paema for Sefadu for an unspecified period of time and later returned.<sup>1773</sup> When the soldiers<sup>1774</sup> returned, Fofana heard them say

<sup>1770</sup> Ibrahim Fofana, Transcript 27 October 2008, p. 19316.

<sup>1771</sup> The witness stated that the soldiers who attacked Paema were armed with guns and were dressed in the military uniform worn by the Sierra Leone Army. Ibrahim Fofana, Transcript 27 October 2008, p. 19319.

<sup>1772</sup> Ibrahim Fofana, Transcript 27 October 2008, p. 19318.

<sup>1773</sup> Ibrahim Fofana, Transcript 27 October 2008, pp. 19320-19322.

<sup>1774</sup> The witness stated at that the soldiers who returned to Paema also wore military uniform and carried guns.

“Today there will not be any living thing”. He heard the soldiers refer to “Operation No Living Thing”.<sup>1775</sup> The witness stated that the soldiers killed three civilians whom he knew well, namely, Ali Bangali, Sori and Pa Janneh.<sup>1776</sup> Fofana testified that Ali Bangali was a farmer and that he was shot dead while making bricks for his house because he refused to give the soldier money or diamonds.<sup>1777</sup>

724. After the burial of Ali Bangali, Fofana heard a gunshot from the market area<sup>1778</sup> and when he went to check, he found the body of Sori, a caterpillar operator, lying in a pool of blood.<sup>1779</sup> Fofana testified that as he and his family were fleeing from Paema, he saw the corpse of Pa Janneh, a security man who used to guard the caterpillar, on the road going to Sandor.<sup>1780</sup> Fofana helped to bury all three “useful civilians” after the assailants had left the Town.<sup>1781</sup>

725. Fofana further told the court that after the death of the three civilians, he fled with his family towards the Guinea border where they took refuge for about a month and a half.<sup>1782</sup> He returned with his family to Paema on hearing over the BBC that ECOMOG forces had overcome the fighters and were calling all citizens of Paema to return and to take care of their property.<sup>1783</sup> Fofana stated that when they returned to Paema, they were ambushed by soldiers wearing military uniforms.<sup>1784</sup> Fofana and four other men were captured by soldiers and taken to Tombodu.<sup>1785</sup> Fofana’s children,<sup>1786</sup> his Aunt Isatu Bangura, and his mother called Mammy Isatu were also captured and burnt alive by the soldiers.<sup>1787</sup>

726. In cross-examination, the Defence tendered into evidence a video filmed at Connaught Hospital in Freetown in 1998 wherein Ibrahim Fofana was interviewed about his

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Ibrahim Fofana, Transcript 27 October 2008, p. 19323.

<sup>1775</sup> Ibrahim Fofana, Transcript 27 October 2008, p. 19322.

<sup>1776</sup> Ibrahim Fofana, Transcript 27 October 2008, pp. 19323-19324.

<sup>1777</sup> Ibrahim Fofana, Transcript 27 October 2008, pp. 19324-19325.

<sup>1778</sup> Ibrahim Fofana, Transcript 27 October 2008, p. 19325.

<sup>1779</sup> Ibrahim Fofana, Transcript 27 October 2008, p. 19325.

<sup>1780</sup> Ibrahim Fofana, Transcript 27 October 2008, p. 19326.

<sup>1781</sup> Ibrahim Fofana, Transcript 27 October 2008, p. 19326.

<sup>1782</sup> Ibrahim Fofana, Transcript 27 October 2008, p. 19328.

<sup>1783</sup> Ibrahim Fofana, Transcript 27 October 2008, p. 19328.

<sup>1784</sup> Ibrahim Fofana, Transcript 28 October 2008, p. 19334.

<sup>1785</sup> Ibrahim Fofana, Transcript 28 October 2008, p. 19334.

<sup>1786</sup> The witness stated that the children who died in the fire included a daughter Kadiatu Fofana and two sons, Mohammed Fofana and Dauda Fofana. Ibrahim Fofana, Transcript 28 October 2008, p. 19350.

<sup>1787</sup> Ibrahim Fofana, Transcript 28 October 2008, pp. 19334-19336.

experience during the war.<sup>1788</sup> In the interview, when asked by the interviewer what happened to his wife and children, Fofana answered that he “left them in the bush when those guys went and attacked us”.<sup>1789</sup> He did not mention his children or his aunt having been burnt alive.<sup>1790</sup> Explaining this apparent inconsistency in cross-examination, Fofana stated that he forgot to mention the fate of his family because “he was not in a good state of mind when he was being interviewed for the video”.<sup>1791</sup>

727. Ibrahim Fofana was also featured in Exhibit P-014, an excerpt from the documentary “Blood Diamonds”. In this second interview, Fofana did say that his wife and children were burnt alive, but indicated that he had learned this later.<sup>1792</sup>

728. The Trial Chamber has also taken into consideration the Amnesty International Report Exhibit P-078 which describes “Operation No Living Thing”.<sup>1793</sup>

### Findings

729. Ibrahim Fofana is a witness who suffered much physical and emotional trauma during the conflict, arising from the double amputations he sustained and the loss of his mother and children, amongst others. The Trial Chamber finds his evidence credible and compelling, notwithstanding the inconsistencies therein raised by the Defence. Those inconsistencies were well explained by the witness in cross-examination. Fofana’s description of “Operation No Living Thing” is corroborated by the account given by Amnesty International in their report cited previously. Based on that testimony, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that around March/April 1998, rebel soldiers of the AFRC/RUF who attacked Paema intentionally killed a number of civilians including Ali Bangali, Sori, Pa Janneh, Mammy Isatu, Isatu Bangura, Kadiatu Fofana, Mohammed Fofana and Dauda Fofana, all of whom were not taking an active part in the hostilities.

<sup>1788</sup> Exhibit D-072, “Video File - Interview of TF1-216 Taken at Connaught Hospital”.

<sup>1789</sup> Exhibit D-072B, “Witness TF1-216, 28 October 2008, English Interpretation of Exhibit D-72”; Ibrahim Fofana, Transcript 28 October 2008, p. 19359.

<sup>1790</sup> Exhibit D-072B, “Witness TF1-216, 28 October 2008, English Interpretation of Exhibit D-72”; Ibrahim Fofana, Transcript 28 October 2008, pp. 19358-19359.

<sup>1791</sup> Ibrahim Fofana, Transcript 28 October 2008, pp. 19362-19363.

<sup>1792</sup> Exhibit P-014, “Video Clip No. 4”.

<sup>1793</sup> Exhibit P-078, “Sierra Leone – 1998 – A Year of Atrocities Against Civilians, Amnesty International Report”, p.11.

730. The above evidence establishes that the perpetrators went on a rampage in the villages, indiscriminately looting civilian property and killing innocent civilians, in accordance with superior orders by rebel commanders to leave “no living thing” in the area. The Trial Chamber accordingly finds that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the murder of civilians at Paema was to instil terror in the civilian population there.

(h) Bombofa Fuidu

(i) Killings of civilians in Bombofa Fuidu around March/April 1998

731. Prosecution witness Musa Koroma was living in Bomboafuidu, Kono District at the start of the rainy season of 1998.<sup>1794</sup> He testified that during the remainder of the rainy season he and other civilians from Bomboafuidu hid in the bush after being warned that rebels were approaching the village.<sup>1795</sup> The warning was delivered by one Gbessey Sesay who had just had one of his hands amputated by the rebels.<sup>1796</sup> After spending two months in hiding,<sup>1797</sup> Koroma and about 20 other civilians went back to Bomboafuidu to “clear the road for ECOMOG”. While sleeping at night, the witness and his friend Sheku Mansaray were awakened by two armed men, one of whom wore a combat uniform and the other, native Kamajor dress. The two men described themselves as “saviours who had come to save the civilians of Bomboafuidu”.<sup>1798</sup> The rebels, numbering about 50, gathered a number of civilians including the witness on the veranda of a house belonging to one Alhaji Tejan Cole and told the civilians that they were “going to perform a sacrifice for the civilians”.<sup>1799</sup>

732. Koroma testified that he and the other civilians were forced to watch as three rebels laid a Limba woman on the floor, held her down and slit her throat until she died.<sup>1800</sup> Koroma testified that the Limba woman was “aged” and that he had known her for a long time because they had lived together in the same village.<sup>1801</sup> He further testified that before the rebels left, they ordered the civilians to strip naked and forced the men to have sexual

<sup>1794</sup> Musa Koroma, Transcript 15 February 2008, pp. 3959-3960.

<sup>1795</sup> Musa Koroma, Transcript 15 February 2008, pp. 3960-3963.

<sup>1796</sup> Musa Koroma, Transcript 15 February 2008, pp. 3961-3962.

<sup>1797</sup> Musa Koroma, Transcript 15 February 2008, p. 3962.

<sup>1798</sup> Musa Koroma, Transcript 15 February 2008, p. 3964.

<sup>1799</sup> Musa Koroma, Transcript 15 February 2008, pp. 3966-3968.

<sup>1800</sup> Musa Koroma, Transcript 15 February 2008, pp. 3966-3969.

<sup>1801</sup> Musa Koroma, Transcript 15 February 2008, p. 3967.

intercourse with the women as the rebels watched. The rebels then flogged the women and amputated or mutilated approximately 20 civilians, including the witness. The rebels told the amputees to “go and tell President Tejan Kabbah to give them new hands and feet”.<sup>1802</sup> The rebels also told the civilians to leave the village and that “if they come back next time and meet us in the village, they will kill all of us”.<sup>1803</sup> Koroma told the court that as he and the other amputees walked on foot for several days to Njiama Sewafe to seek medical help from ECOMOG, two of the amputees died along the way from their injuries.<sup>1804</sup>

733. The Trial Chamber also admitted in evidence the transcript of the testimony of Alhaji Tejan Cole from the AFRC trial.<sup>1805</sup> In his prior testimony Cole, who was a resident of Bomboafuidu in April 1998, confirmed that he was present during the events described by Musa Koroma. His prior testimony corroborates that of Koroma in all material respects. At the veranda of his father’s house the rebels gathered the civilians on the night of Saturday, 12 April 1998.<sup>1806</sup> He testified that the rebels, numbered over 200,<sup>1807</sup> were armed with guns and RPGs and had boxes of ammunition carried by civilians for them.<sup>1808</sup> Some rebels wore full combat uniform, while others wore a mixture of combat trousers and a civilian “polo”.<sup>1809</sup> The rebels spoke in a variety of languages including Krio, Mende and “Liberian accents”.<sup>1810</sup> They also had several child soldiers amongst their ranks.<sup>1811</sup>

734. Alhaji Tejan Cole confirmed how the rebels killed an old Limba woman calling it “a sacrifice”,<sup>1812</sup> how the rebels forced seven civilian men to have sex with seven civilian women,<sup>1813</sup> and how the rebels amputated several civilians including the witness, Musa, Mohammed, Sheku, Musa Marrah, Adama, Alfa Kabia, Ibrahim, Mohamed Kanu, Abdul

<sup>1802</sup> Musa Koroma, Transcript 15 February 2008, p. 3987.

<sup>1803</sup> Musa Koroma, Transcript 15 February 2008, p. 3990.

<sup>1804</sup> Musa Koroma, Transcript 15 February 2008, p. 3993.

<sup>1805</sup> Exhibit P-202, “Alhaji Tejan Cole, AFRC Transcript 28 June 2005”, pp. 19663-19737 (“prior testimony”).

<sup>1806</sup> Exhibit P-202, “Alhaji Tejan Cole, AFRC Transcript 28 June 2005”, p. 19673. It should be noted that 12 April 1998 was a Sunday.

<sup>1807</sup> Exhibit P-202, “Alhaji Tejan Cole, AFRC Transcript 28 June 2005”, p. 19677.

<sup>1808</sup> Exhibit P-202, “Alhaji Tejan Cole, AFRC Transcript 28 June 2005”, pp. 19673, 19677.

<sup>1809</sup> Exhibit P-202, “Alhaji Tejan Cole, AFRC Transcript 28 June 2005”, pp. 19674, 19677.

<sup>1810</sup> Exhibit P-202, “Alhaji Tejan Cole, AFRC Transcript 28 June 2005”, pp. 19675, 19678.

<sup>1811</sup> The witness stated that he saw more than six small boys aged 12 years, dressed in combat and armed with guns, amongst the rebels. Exhibit P-202, “Alhaji Tejan Cole, AFRC Transcript 28 June 2005”, p. 19692.

<sup>1812</sup> Exhibit P-202, “Alhaji Tejan Cole, AFRC Transcript 28 June 2005”, pp. 19679-19681.

<sup>1813</sup> Exhibit P-202, “Alhaji Tejan Cole, AFRC Transcript 28 June 2005”, pp. 19682-19684.

Kargbo, Pa Osman, Abdul Rahan, Sahr Aruna, Sahr Lebbie and Idrissa Gborie.<sup>1814</sup> He also confirmed that the rebels told the amputees to “go and tell President Tejan Kabbah to give them new hands”.<sup>1815</sup> Cole testified that when the events occurred Cole stated that during the amputations, a civilian named Pa Saiyo resisted and was immediately killed by the rebels.<sup>1816</sup>

### Findings

735. The Trial Chamber finds the evidence of witnesses Musa Koroma and Alhaji Tejan Cole credible and reliable. The witnesses corroborate each other in all material respects. That evidence shows that the rebels deliberately targeted and killed a number of civilians including an old Limba woman, one Pa Saiyo and two amputees who died on their way to seek help. The Trial Chamber also finds that the victims were not taking an active part in the hostilities. Based on the evidence of the manner of dress and languages spoken by the rebels, the Trial Chamber finds that the perpetrators were a mixed group of AFRC/RUF rebels. Accordingly, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in April 1998 during an attack on Bomboa Fuidu, AFRC/RUF rebels intentionally caused the death of several civilians including an old Limba woman, one Pa Saiyo and two amputees, all of whom were not taking an active part in hostilities.

736. The Trial Chamber further finds that the manner of the rebel attack, often surprising civilians at night when they were asleep in their homes; the indiscriminate killings, including the ritualistic murder of a helpless old woman; and the indiscriminate amputation of innocent civilians accompanied by sarcastic messages to “President Kabbah to give them new arms”, are all acts that demonstrate the campaign of terror waged by the rebel forces against the civilian population. The Trial Chamber finds that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the murders in Bomboa Fuidu was to instil terror in the civilian population there.

#### (i) Njaima Nimikoro or Nimikoro

##### (i) Killing of civilians in Nimikoro between February and June 1998

<sup>1814</sup> Exhibit P-202, “Alhaji Tejan Cole, AFRC Transcript 28 June 2005”, pp. 19685-19692.

<sup>1815</sup> Exhibit P-202, “Alhaji Tejan Cole, AFRC Transcript 28 June 2005”, p. 19691.

<sup>1816</sup> Exhibit P-202, “Alhaji Tejan Cole, AFRC Transcript 28 June 2005”, pp. 19688.







737. The Trial Chamber considered the following evidence of civilian killings in Nimikoro. Witness Perry Kamara, an RUF radio operator was with the RUF forces based at “Superman ground”<sup>1817</sup> in Kono District from where they launched an attack on Nimikoro and surrounding areas “sometime in 1998 before the death of President Sani Abacha of Nigeria”.<sup>1818</sup> Kamara told court that while he was based at Superman ground, he attended a parade where Morris Kallon addressed the RUF forces and gave them a message from Sam Bockarie that “they should try and make Kono District fearful to ECOMOG so that they could not base there”.<sup>1819</sup> Morris Kallon also appointed CO Rocky as commander over the attack. Kamara explained that “making the area fearful” entailed “destruction of life and property, where there will be killings, amputations, burning of houses, destruction of bridges, setting up road blocks. All those things would happen and that will have made the area fearful”.<sup>1820</sup> He further explained that the amputated civilians were to be sent to ECOMOG with a message to “keep their hands off the war”.<sup>1821</sup> Kamara testified that the RUF forces that attacked Nimikoro and its surrounding areas reported that they had killed civilians, amputated others and burnt most of the town in accordance with Bockarie’s orders.<sup>1822</sup> Kamara also told court that the RUF forces were based in Nimikoro “for some time”.<sup>1823</sup>

738. In April 1998,<sup>1824</sup> Emmanuel Bull was abducted with other members of his family, including his father, by members of the AFRC/RUF and taken to Njaima Nimikoro where he stayed for approximately one week.<sup>1825</sup> In Njaima Nimikoro, the AFRC/RUF set up a kind of headquarters at the home of Emmanuel Bull’s grandfather<sup>1826</sup> and reported to a commander called Bai Bureh.<sup>1827</sup> One morning, the AFRC/RUF declared that they “did not want any grandpa or old person at their headquarters and that everybody around must be

<sup>1817</sup> Perry Kamara Transcript, 5 February 2008, p. 3149.

<sup>1818</sup> Perry Kamara, Transcript 5 February 2008, pp. 3154-3155. Sani Abacha died in June 1998. *Prosecutor v. Taylor*, SCSL-03-1-PT-227, Joint Filing by the Prosecution and Defence Admitted Facts & Law, 26 April 2007, Agreed Fact 11.

<sup>1819</sup> Perry Kamara, Transcript 5 February 2008, p. 3150.

<sup>1820</sup> Perry Kamara, Transcript 5 February 2008, p. 3150.

<sup>1821</sup> The witness quoted a Krio expression frequently used by the rebels, namely, “Pul yu an pa di war”, meaning “take your hands off the war”. Perry Kamara, Transcript 5 February 2008, p. 3154.

<sup>1822</sup> Perry Kamara, Transcript 5 February 2008, p. 3152.

<sup>1823</sup> Perry Kamara, Transcript 5 February 2008, p. 3152.

<sup>1824</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17280-17281.

<sup>1825</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17289.

<sup>1826</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17281.

<sup>1827</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17281-17283.

active”.<sup>1828</sup> The AFRC/RUF assembled the old men and women amongst the captured civilians, stating that they were going to take them to Bumpe.<sup>1829</sup> Bull learned from an AFRC/RUF member named Esther Koroma, who he had befriended, that this was a false plan and that, in reality, the AFRC/RUF forces were going to kill the older civilians including the witness’ father.<sup>1830</sup> Esther helped Bull’s father escape from the group.<sup>1831</sup> About five AFRC/RUF members, including Cobra and Bobby, took about six or seven of the older men, including Pa Mansaray, a friend of Bull’s father, away in the direction opposite to Bumpe.<sup>1832</sup> After approximately three to five minutes, Bull heard two gun shots and approximately five minutes later, Bobby and Cobra returned.<sup>1833</sup> The older men were never seen again.<sup>1834</sup> Later the witness heard Cobra and Bobby bragging that they had lined the old men in two straight lines and used a single bullet to shoot through each line.<sup>1835</sup>

### Findings

739. The Trial Chamber is of the view that by virtue of his position as radio operator, Perry Mohammed was in a position to receive regular reports on the activities of the RUF forces that were based in Kono District after the ECOMOG Intervention. Thus although his evidence is based on reports and messages that he received from the fighters rather than on his own participation in the RUF operations in Nimikoro, the Trial Chamber finds that evidence credible and reliable. That evidence shows that the RUF forces in Nimikoro, like their colleagues elsewhere in Kono District, carried out a terror campaign against the civilian population in Nimikoro which involved the killing of civilians. The Trial Chamber also finds the evidence of Emmanuel Bull regarding the murder of seven old persons by the AFRC/RUF forces at Njaima Nimikoro, also credible and reliable. Although essentially circumstantial, his account leads to one reasonable conclusion that the seven senior citizens were murdered. Based on this evidence, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that members of the AFRC/RUF that attacked Njaima Nimikoro around April 1998, acting in accordance with the orders of their commanders

<sup>1828</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17292.

<sup>1829</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17291-17292.

<sup>1830</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17292.

<sup>1831</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17292-17293.

<sup>1832</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17293-17294.

<sup>1833</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17295.

<sup>1834</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17294.

<sup>1835</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17295

including Sam Bockarie, Morris Kallon, CO Rocky, Cobra and Bobby, intentionally killed an unknown number of civilians, including seven senior citizens, all of whom were not taking an active part in the hostilities.

740. The Trial Chamber further finds that in wantonly murdering innocent civilians, carrying out amputations and destroying civilian property in Nimikoro, the perpetrators were carrying out the orders of their superior commanders to “make the area fearful”. The Trial Chamber finds that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the murder of civilians at Nimikoro or Njaima Nimikoro was to instil terror in the civilian population there.

(j) Mortema

(i) Killing of civilians in Mortema (or Motema) between February and June 1998

741. The Trial Chamber has considered the following evidence relating to killings in Mortema. Prosecution Witness TF1-375 estimates that it was about three months after the ECOMOG Intervention in Freetown that the AFRC/RUF forces attacked Mortema.<sup>1836</sup> The witness told the court that the attack on Mortema was led by a commander called “Short Bai Bureh” and that before the attack he was given orders by senior officers in Kono at that time, including Superman, Gullit, Isaac Mongor and others<sup>1837</sup> to “go and make the area fearful”.<sup>1838</sup> The witness explained that to the RUF, making an area “fearful” meant “to kill civilians, burn houses and to instil fear into ECOMOG, or any other opposing troop that would want to get into that area easily”.<sup>1839</sup> The witness testified that when the AFRC/RUF attacked Mortema, there were only civilians there and no opposing force.<sup>1840</sup>

742. Although he himself did not participate in the Mortema attack, Witness TF1-375 testified that after the AFRC/RUF forces returned from Mortema, Short Bai Bureh directly called Superman over the RUF radio and gave him a report of the destruction that they had carried out on Mortema. The witness was present in the radio room with Superman and

<sup>1836</sup> Witness TF1-375, Transcript 23 June 2008, p. 12517.

<sup>1837</sup> Witness TF1-375, Transcript 23 June 2008, p. 12511.

<sup>1838</sup> Witness TF1-375, Transcript 23 June 2008, p. 12510.

<sup>1839</sup> Witness TF1-375, Transcript 23 June 2008, p. 12510.

<sup>1840</sup> Witness TF1-375, Transcript 23 June 2008, p. 12510.

heard the report.<sup>1841</sup> The witness further told the court that when the RUF forces returned from Mortema, some of his friends amongst them told the witness what had happened there and even brought some girls with them as their “wives”.<sup>1842</sup> In his testimony, Witness TF1-375 did not specifically attest to civilian killings in Mortema.

743. Another Prosecution witness, Samuel Bull, was in Mortema on 21 April 1998 when the AFRC/RUF or “People’s Army” attacked.<sup>1843</sup> The witness and his family hid in Fakoyia bush for almost two months.<sup>1844</sup> On 5 May 1998 the witness and his family returned to Mortema after hearing on the BBC Radio that ECOMOG had taken control of the area including Njaiama Nimikoro, Sewafe and Mortema. The witness found a lot of houses burnt in Mortema except one big building on the main Masingbi Highway where the witness and his family settled along with approximately 50 civilians.<sup>1845</sup> On the night of 12 June 1998, “rebels” attacked Mortema again.<sup>1846</sup> Samuel Bull observed fighting between ECOMOG troops and the rebels from the window of the house, and saw that the ECOMOG forces had begun to retreat.<sup>1847</sup> An RUF fighter entered the house where Bull was and shot dead an old woman called Ma Gbojo.<sup>1848</sup> The witness escaped through the window and hid in a banana plantation approximately 45 feet from the house.<sup>1849</sup> From the banana plantation, Samuel Bull saw the rebels gather all the other civilians who had remained in the house, line them outside and shoot them.<sup>1850</sup> The witness testified that in the morning he saw the bodies of 21 civilians killed in his neighbourhood including 17 who were killed at his house.<sup>1851</sup> Amongst the dead were six of his family members.<sup>1852</sup> The witness participated in burying the 21 civilians in a mass grave after ECOMOG arrived and drove away the rebels.<sup>1853</sup> The witness

<sup>1841</sup> Witness TF1-375, Transcript 23 June 2008, p. 12510.

<sup>1842</sup> Witness TF1-375, Transcript 23 June 2008, p. 12510.

<sup>1843</sup> Samuel Bull, Transcript 24 September 2008, pp. 17062-17063.

<sup>1844</sup> Samuel Bull, Transcript 24 September 2008, p. 17064. The witness explained that Fakoyia is about 3 miles from Mortema.

<sup>1845</sup> Samuel Bull, Transcript 24 September 2008, pp. 17113-17114.

<sup>1846</sup> Samuel Bull, Transcript 24 September 2008, pp. 17113-17114.

<sup>1847</sup> Samuel Bull, Transcript 24 September 2008, p. 17115.

<sup>1848</sup> Samuel Bull, Transcript 24 September 2008, p. 17116.

<sup>1849</sup> Samuel Bull, Transcript 24 September 2008, pp. 17117, 17119.

<sup>1850</sup> Samuel Bull, Transcript 24 September 2008, pp. 17119-17124.

<sup>1851</sup> Samuel Bull, Transcript 24 September 2008, p. 17124.

<sup>1852</sup> The witness named his family members as Aiah Sandy, Dorcos Sandy, Sia Sandy, Ma Gbojo, Komba Modeneh and Kadiatu Lebbie.

<sup>1853</sup> Samuel Bull, Transcript 24 September 2008, p. 17124

later learned that the rebel commander who led the attack in which the 21 civilians were killed was called Lt. Col. Fixo Bio.<sup>1854</sup>

744. The testimony of Samuel Bull is corroborated by that of Tamba Mondeh, one of many civilians who took refuge at Samuel Bull's house. Tamba Mondeh initially fled his home village of Mortema and hid in the bush with his family<sup>1855</sup> on hearing reports from various villages in Kono District that "rebels were killing and mutilating people".<sup>1856</sup> While in hiding he heard that "ECOMOG had gone to Freetown and they've come again to Nimikoro up to Motema and from Motema they went to Yengema and from there they also captured Koidu and were in Njaiama Nimikoro".<sup>1857</sup> Encouraged by these reports, the witness and his family returned to Mortema.<sup>1858</sup> On arrival, the witness stayed in a storeyed building that was incomplete and that belonged to one Samuel Bull.<sup>1859</sup> He explained that many other civilians including Samuel Bull (the owner's son) were staying in that house.<sup>1860</sup>

745. One night while everyone was asleep, rebels wearing uniforms and carrying guns surrounded the storeyed house and told the occupants to gather outside, saying "You people do not want us. You said that you want ECOMOG. You will know what will happen to you. When our boss passes the command, we will kill all of you".<sup>1861</sup> The witness told the court that when he went outside he met the rebel "boss" face to face and recognised him to be Fixo Bio, a person he knew before.<sup>1862</sup> One rebel entered the house and fired several shots in order to force out the civilians. The shots killed a man called Aiah with his daughter and injured the witness' chin.<sup>1863</sup> The rebels asked the civilians to queue in front of the house and shot at them, killing several and wounding others. The witness hid in a nearby bush until

<sup>1854</sup> Samuel Bull, Transcript 24 September 2008, pp. 17126-17127

<sup>1855</sup> Tamba Mondeh, Transcript 29 September 2008, pp.17438-17445.

<sup>1856</sup> Tamba Mondeh, Transcript 29 September 2008, pp. 17439-17444.

<sup>1857</sup> Tamba Mondeh, Transcript 29 September 2008, p. 17445

<sup>1858</sup> Tamba Mondeh, Transcript 29 September 2008, pp. 17447-17448.

<sup>1859</sup> The witness explained that the building belonged to Samuel Bull Senior and that the son, Samuel Bull Junior also took shelter in this building and was in charge of the refugees. The witness also explained that many other civilians took shelter at this house and that in the morning everybody would go to his respective place to find food. Tamba Mondeh, Transcript 29 September 2008, p. 17449.

<sup>1860</sup> Tamba Mondeh, Transcript 29 September 2008, pp. 17449, 17456.

<sup>1861</sup> Tamba Mondeh, Transcript 29 September 2008, pp. 17451-17452.

<sup>1862</sup> Tamba Mondeh, Transcript 29 September 2008, p. 17458.

<sup>1863</sup> Tamba Mondeh, Transcript 29 September 2008, pp. 17454-17455.

ECOMOG rescued him. Mondeh later learnt from Samuel Bull that the rebels killed 25 people during this incident and that the dead were buried in mass graves.<sup>1864</sup>

### Findings

746. The Trial Chamber finds both Samuel Bull and Tamba Mondeh to be credible witnesses. Their accounts are consistent, although at times diverged in details based on their different vantage points. Although Mondeh was, due to illiteracy, unable to give the date of the attack on Mortema, he made it clear that it was sometime after the ECOMOG Intervention. Samuel Bull however, placed the time of this attack around at 12 June 1998. The evidence also shows that these were reprisal killings against the civilians whom the rebels perceived to support ECOMOG. Based on the evidence of these two witnesses the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that around 12 June 1998, AFRC/RUF rebels led by “Fixo Bio” intentionally executed 17-25 civilians at the Bull residence in Mortema, all of whom were not taking an active part in the hostilities.

747. The evidence further shows that the perpetrators, in preying upon sleeping civilians at night and wantonly shooting them, were carrying out the orders of their superior commanders to “make the area fearful”. Accordingly the Trial Chamber finds that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the murder of civilians in Mortema was to instil terror in the civilian population there.

### (k) Alleged unlawful killings in Other Locations in Kono District not pleaded in the Indictment

748. The Trial Chamber received credible evidence of the murder of civilians in a number of locations within Kono District not specifically pleaded in the Indictment including, Baima,<sup>1865</sup> Goldtown,<sup>1866</sup> Yekeyor,<sup>1867</sup> Kondeya,<sup>1868</sup> Mambona,<sup>1869</sup> and others.<sup>1870</sup> As

<sup>1864</sup> Tamba Mondeh, Transcript 29 September 2008, pp. 17463-17464.

<sup>1865</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18502-18505 (The witness stated that he saw two corpses in civilian clothing following the AFRC/RUF attack on Baima in 1998). Finda Gbamanja, Transcript 29 January 2009, pp. 23850-23857 (The witness stated that upon returning to Baima after the ECOMOG Intervention, she was captured by rebels. A rebel shot and killed the witness’s father in her presence and then forced the witness and her mother to laugh).

<sup>1866</sup> Perry Kamara, Transcript 5 February 2008, pp. 3155-3156: The witness participated in an ambush of vehicles in Goldtown (between Masingbi and Sewafe along the Kono-Makeni highway), in which the rebels burned vehicles and killed civilians.

<sup>1867</sup> Komba Sumana, Transcript 6 October 2008, pp. 17891-17894, 17900-17903 (The witness stated that rebels killed his uncle and sister and that he saw the decomposing corpses of two males in civilian clothing at a location

previously held, this evidence is only taken into account in relation to the chapeau requirements of the alleged crimes and not for proof of guilt.<sup>1871</sup>

### Conclusion

749. In conclusion, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between about 1 February 1998 and about 31 January 2000, in various locations in Kono District including Koidu Town, Tombudu, Koidu Geiya, Koidu Buma, Yengema, Paema or Peyima, Bomboafuidu, Nimikoro or Njaiama Nimikoro and Mortema, members of the AFRC/RUF murdered an unknown number of civilians, as charged in the Indictment<sup>1872</sup> and as shown by the evidence.

750. The Trial Chamber recalls that the Prosecution has established beyond reasonable doubt that at all times relevant to the Indictment, the RUF and/or AFRC forces directed a widespread or systematic attack against the civilian population of Sierra Leone.<sup>1873</sup> The Trial Chamber is satisfied that each of the killings proved by the Prosecution in respect of Kono District formed part of the said attack and that the perpetrators were aware of this fact. The Trial Chamber also recalls that the Prosecution has proved beyond reasonable doubt that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving among others, members of the RUF, AFRC and CDF.<sup>1874</sup> The Trial Chamber is satisfied that for all of the aforementioned killings in Kono District there was a nexus between the killings and the armed conflict, that each of the victims was not taking an active part in the hostilities

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between Yekeyor and Dewawu).

<sup>1868</sup> In Exhibit P-078, Sierra Leone – A Year of Atrocities Against Civilians, Amnesty International Report, p. 12 (Amnesty International reported an incident in Kondeya in Kono District on 9 April 1998 when a group of about 50 rebels captured about 120 civilians; strangled one of the civilians and threw a crying baby into a river. Also 27 of the civilians were later attacked with machetes and some were decapitated.)

<sup>1869</sup> Samuel Bull, Transcript 24 September 2008, pp. 17093-17108 (The witness stated that in April 1998, RUF rebels killed at least 5 civilians in Mambona including one 'SK' who was stabbed to death with a knife. The witness saw all of the five corpses. The witness also described how the rebels killed a Kamajor called Kai Sandy and displayed his head and private parts on a stick.)

<sup>1870</sup> Mustapha Mansaray, Transcript 20 October 2008, pp. 19610-19616 (The witness testified that he saw five corpses of civilians on the road between Tombudu and Lebanon; Alex Tamba Teh, Transcript 8 January 2008, pp. 688-690 (The witness testified that one man was killed by rebel forces between Kania and Koidu Town); Isaac Mongor, Transcript 31 March 2008, pp. 6220-6221 (The witness testified that the RUF attacked a village called Kissy Town, which is behind Koidu Town, in Kono District where they suspected Kamajors to be. The RUF forces killed many civilians including men, women and children whom they suspected to be Kamajors or Kamajor supporters.)

<sup>1871</sup> See Preliminary Issues: Issues Relating to the Pleading in the Indictment.

<sup>1872</sup> Indictment, para. 11.

<sup>1873</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.

at the time of death, and that the perpetrators knew this fact. Therefore, the Trial Chamber is satisfied that the aforementioned killings in Kono District constitute murder as both a crime against humanity under Article 2 of the Statute and a war crime under Article 3 of the Statute.

3. Alleged unlawful killings in Kailahun District (between about 1 February 1998 and about 30 June 1998)

751. The Trial Chamber has considered the evidence of Prosecution witnesses Varmuyan Sherif, Mohamed Kabbah, Augustine Mallah and Witness TF1-168; Defence witnesses Fayia Musa, Issa Sesay, DCT-292 and DCT-068 as well as Exhibits P-277 and P-601B.

(a) Kailahun Town

(i) Massacre of around 60-65 civilians in Kailahun Town in February 1998

752. Augustine Mallah a member of the RUF<sup>1875</sup> testified that in February 1998, after ECOMOG had dislodged the AFRC/RUF Juntas from Freetown, Sam Bockarie (a.k.a. Mosquito) the RUF leader, assembled most of the RUF commanders in Daru and told them, "This is Kailahun District, we are not going to let it be occupied by anybody else, be you ECOMOG or Kamajors. You might resort to killing all of us, but we will not leave Kailahun for anybody. We had been in Kailahun here when the soldiers plotted a coup against Kabbah. They invited us, we went and joined them. Being that we have now returned to Kailahun, we should defend the place".<sup>1876</sup> Mallah stated that after this speech he travelled from Daru to Kailahun Town with Mosquito and over 100 ARFC and RUF soldiers whom Bockarie had instructed to "go and defend Kailahun District".<sup>1877</sup>

753. On their arrival in Kailahun Town, Mosquito went to Augustine Gbao<sup>1878</sup> to check on the fate of 65 civilians who Mosquito had arrested and sent to Gbao for "investigation"

<sup>1874</sup> See Law and Findings on the General Requirements: Article 3: War Crimes, para. 573 *supra*.

<sup>1875</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20057-20060 (stating that he was abducted and forcibly conscripted into the RUF at a very early age).

<sup>1876</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20185-20186.

<sup>1877</sup> Augustine Mallah, Transcript 13 November 2008, p. 20177. The witness also stated that the AFRC/RUF forces took more than 400 civilians with them to Kailahun as "manpower". Augustine Mallah, Transcript 13 November 2008, p. 20172.

<sup>1878</sup> Mallah explained that Augustine Gbao was an RUF Vanguard who also served as the G5 (in charge of civilians travelling with the RUF), the Agricultural Unit and the Intelligence Unit within the RUF.



because he suspected them of betraying the RUF by surrendering to the Government.<sup>1879</sup> On arrival in Kailahun Town, Mosquito asked Gbao how the investigations went. Mallah heard Gbao report to Mosquito that “Those people are all in the cell. They were about 65 in number. With all the investigations we have conducted we have realised that these people are Kamajors. They are not fit to live amongst us here as long as we are not satisfied with them and with the present circumstances”.<sup>1880</sup> On hearing Gbao’s report, Mosquito ordered Joe Fatoma<sup>1881</sup> to bring out the 65 civilians. Mosquito personally shot three of the civilians, remarking that “We need to kill these people”. Mallah told the court that up to 100 AFRC and RUF including Mallah himself, participated in the summary execution of those civilians and that he counted 45 bodies.<sup>1882</sup> Mallah also told the court that after the killing had started, he saw “a Liberian commander” talking to Mosquito. Mallah explained that he met this commander and his three bodyguards in Kailahun and that the commander did not participate in the killing of the Kamajors.<sup>1883</sup> The Liberian commander left for Buedu in a convoy with Sam Bockarie.<sup>1884</sup>

754. Augustine Mallah further told the court that after the massacre of the 65 civilians, he travelled with Sam Bockarie from Buedu to Daru, and they passed through Kailahun Town again because “Mosquito wanted to ensure whether the order that he had given was complied with”.<sup>1885</sup> Describing the atmosphere as they drove through Kailahun Town, Mallah told the court that it was obvious that people had been killed in the town because there were several human heads and skulls displayed on sticks on both sides of the road to Pendembu.<sup>1886</sup> Mallah told the court that on this occasion, Augustine Gbao and Joe Fatoma told Bockarie that they had accomplished the mission by killing all the civilians as Bockarie had ordered.<sup>1887</sup>

<sup>1879</sup> Augustine Mallah, Transcript 13 November 2008, p. 20177.

<sup>1880</sup> Augustine Mallah, Transcript 13 November 2008, p. 20177.

<sup>1881</sup> Mallah explained that Fatoma was an RUF Junior Commando and a MP (Military Police) within the RUF.

<sup>1882</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20178-20180.

<sup>1883</sup> Augustine Mallah, Transcript 13 November 2008, p. 20178.

<sup>1884</sup> Augustine Mallah, Transcript 13 November 2008, p. 20179.

<sup>1885</sup> Augustine Mallah, Transcript 13 November 2008, p. 20184.

<sup>1886</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20183-20184.

<sup>1887</sup> Augustine Mallah, Transcript 13 November 2008, p. 20184.

755. Witness Varmuyan Sherif testified that he arrived in Kailahun Town in February 1998 bearing a message for Mosquito “then leader of the RUF”<sup>1888</sup> from President Charles Taylor.<sup>1889</sup> On arrival in Kailahun Town, Sherif spoke to Bockarie’s bodyguards who pointed out Sam Bockarie and asked Sherif to wait until Bockarie had finished “talking to some Kamajors”.<sup>1890</sup> Sherif testified that he saw Sam Bockarie taking people out of a building and heard him saying “these people are Kamajors and we are going to finish them”. Sherif testified that he saw Bockarie personally shoot five of the men with a gun.<sup>1891</sup> Sherif further told the court that after executing the five people, Sam Bockarie said “I am moving now. Before I come back, the remaining people, I want all of them dead”,<sup>1892</sup> whereupon Bockarie drove away to Buedu in a convoy of three cars. Sherif followed the convoy to Kailahun and did not see what happened to the remaining people.<sup>1893</sup>

756. In cross-examination, the Defence confronted Sherif with a record of his first interview with members of the Prosecution on 23 February 2005 in which he did not mention Bockarie’s execution of civilians. In this interview, Sherif is recorded as stating that when he went to Kailahun Town, he arrived at night after Sam Bockarie had already left and proceeded to Buedu.<sup>1894</sup> Sherif explained that the incident described in the interview took place in Pendembu and that in this first interview, he was afraid and did not trust the investigators.<sup>1895</sup> Sherif insisted however, that in subsequent interviews with the Prosecution investigators, he did talk about Bockarie executing five persons.<sup>1896</sup> The Defence also confronted Sherif with a second interview with Prosecution investigators which took place on 29 and 30 November 2006 and 4 December 2006.<sup>1897</sup> In this interview Sherif is recorded as meeting Sam Bockarie in Kailahun Town upon the instruction of Charles Taylor and seeing Sam Bockarie shoot prisoners one at a time.<sup>1898</sup>

<sup>1888</sup> The witness explained that he did not personally know Sam Bockarie beforehand, but that he used to hear that Foday Sankoh was detained in Nigeria and that Sam Bockarie was the leader of the RUF. Varmuyan Sherif, Transcript 10 January 2008, pp. 985-987.

<sup>1889</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 828-829.

<sup>1890</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 831-832.

<sup>1891</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 832-833.

<sup>1892</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 832-833.

<sup>1893</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 833.

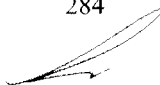
<sup>1894</sup> Varmuyan Sherif, Transcript 11 January 2008, pp. 1087-1088.

<sup>1895</sup> Varmuyan Sherif, Transcript 14 January 2008, pp. 1155-1158.

<sup>1896</sup> Varmuyan Sherif, Transcript 11 January 2008, pp. 1087-1091.

<sup>1897</sup> Varmuyan Sherif, Transcript 14 January 2008, p. 1155.

<sup>1898</sup> Varmuyan Sherif, Transcript 14 January 2008, pp. 1155-1158.





757. Witness Mohamed Kabbah<sup>1899</sup> was the RUF regional commander in charge of communications in Kailahun from the AFRC coup in May 1997 to the ECOMOG Intervention in February 1998.<sup>1900</sup> Part of his duties entailed receiving and dispatching radio messages between the front lines and other assignment areas and Sam Bockarie, the overall commander.<sup>1901</sup> Kabbah testified that he was present in Kailahun Town on the day of the killings.<sup>1902</sup> He testified that ECOMOG had pushed RUF fighters out of Daru and that they had regrouped in Kailahun Town.<sup>1903</sup> Sam Bockarie arrived in Kailahun Town with his bodyguards including a tall Liberian called Senegalese.<sup>1904</sup> On the evening of their arrival, an ECOMOG jet flew over Kailahun Town and caused damage.<sup>1905</sup> Kabbah testified that at this time, 60 male “civilians who were Kamajors but who were not carrying arms” were held in custody by the RUF at the MP prison in Kailahun Town.<sup>1906</sup>

758. Kabbah testified that after the jet passed, Sam Bockarie ordered five of the Kamajor prisoners to be brought to the roundabout so that “he may set an example of them”.<sup>1907</sup> A visibly distressed Kabbah told the court that when the prisoners were brought to the roundabout in the center of Kailahun Town, Bockarie shot two of the prisoners in the forehead and ordered Issa to execute the remaining three, and that Issa shot the remaining three prisoners with his pistol.<sup>1908</sup> Kabbah was approximately 7 to 8 metres away when he saw the prisoners killed.<sup>1909</sup> Kabbah stated that after the first five prisoners were killed, Issa, his bodyguards and Bockarie’s bodyguards went behind the police station and executed the

<sup>1899</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16088-16093. The witness stated that he was captured by RUF rebels and conscripted into their fighting forces in 1991. He was trained by various “Liberian commanders”.

<sup>1900</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16099-16100, 16105, 16111.

<sup>1901</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16111.

<sup>1902</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16112.

<sup>1903</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16112.

<sup>1904</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16113.

<sup>1905</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16112.

<sup>1906</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16112, 16125. See also Mohamed Kabbah, Transcript 12 September 2008, pp. 16113-16120 (describing that the prisoners had been investigated and that some had Kamajor markings on their bodies).

<sup>1907</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16114.

<sup>1908</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16112.

<sup>1909</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16122, 16124.

remaining 55 prisoners.<sup>1910</sup> Kabbah did not see these persons killed, but heard about it from “some boys”<sup>1911</sup>

759. Explaining how the 60 civilians had come to be detained by the RUF, Kabbah told the court that before the Intervention, Kamajors used to attack some of the RUF positions and this created panic within the RUF controlled areas. During that period, the RUF interrogated a civilian from Jojoima whom they said was sent to spy on RUF positions. Based on that information, Bockarie had sent a radio message to all military police within the Kailahun District to escort all those civilians that entered the RUF-controlled territory to Kailahun Town and to assemble them in Kailahun Town “so that they could be screened in order for the RUF to know who was a Kamajor or who was a genuine civilian”.<sup>1912</sup> This is how these 60 civilians came to be detained and later executed by the RUF in Kailahun Town. Kabbah told the court however, that the Kamajor suspects fell into two categories, namely, those who confessed to having been Kamajors in the past but had disarmed; and those that bore Kamajor markings on their bodies. Kabbah stated however, that none of the 60 suspects were armed or actively fighting when they were arrested.<sup>1913</sup>

760. Prosecution Witness TF1-168, a prominent member of the RUF, gave a vivid account of the Kailahun massacre. TF1-168 told court that he and six other colleagues were held in detention by senior RUF commanders<sup>1914</sup> for 30 months<sup>1915</sup> on suspicion of “betraying Foday Sankoh to the Nigerians”, and that while in detention they were tortured and moved around several prisons within Kailahun District.<sup>1916</sup> TF1-168 testified that he and his fellow-detainees were moved to a detention facility in the centre of Kailahun Town around the end of December 1997, and that on 19 February 1998 they were transferred to the town police station in Kailahun Town.<sup>1917</sup> At the police station the detainees were guarded by RUF MP John Duawo and his deputy Joe Fatoma. Augustine Gbao was the overall

<sup>1910</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16112-16113.

<sup>1911</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16124.

<sup>1912</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16114.

<sup>1913</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16115-16116.

<sup>1914</sup> TF1-168, Transcript 22 January 2009, p. 23315 (where the witness cited Issa Sesay, Sam Bockarie and others).

<sup>1915</sup> TF1-168, Transcript 22 January 2009, pp. 23320-23328 (where the witness stated that they were arrested in March 1997 and eventually released in October 1999).

<sup>1916</sup> TF1-168, Transcript 22 January 2009, pp. 23315-23322.

<sup>1917</sup> TF1-168, Transcript 22 January 2009, p. 23334.

commander in charge of Kailahun Town.<sup>1918</sup> TF1-168 told the court that there were 65 other civilian detainees in detention at the police station who told him that they were citizens of Luawa Chiefdom in Kailahun District who were being held by the RUF leadership.<sup>1919</sup> The detainees had fled Kailahun District before the 25 May 1997 coup d'etat but after the coup had been persuaded by Sam Bockarie to return to their homes. Upon their return to Kailahun District, these civilians had been arrested and detained by the RUF on suspicion of being Kamajors.<sup>1920</sup>

761. TF1-168 told the court that on the afternoon of 19 February 1998 John Duawo told all the detainees to go back inside their cells because Sam Bockarie had arrived and did not want to see anyone outside their cells. The witness returned to his cell from where he observed through a window what was going on outside. The witness told the court that he saw Duawo remove 10 of the Kamajor prisoners from their cells and take them outside towards the roundabout.<sup>1921</sup> TF1-168 testified that the prisoners were brought outside towards the roundabout and that not too long after, he heard gunfire.<sup>1922</sup> The witness stated that from his vantage point, he could see them fall.<sup>1923</sup> TF1-168 later learned from the military police that it was General Sam Bockarie (a.k.a. Mosquito) who had fired the first shot.<sup>1924</sup>

762. TF1-168 said that MP guards took the remaining Kamajor suspects from their cells in groups of four and five and took them towards the valley where they shot them to death.<sup>1925</sup> TF1-168 stated that as he was awaiting his own fate in his cell, he heard the guards saying "bring out the remaining five prisoners", and thought that they were referring to him. TF1-168 learnt from the MPs the following day that 64 of the prisoners, all males, were killed during this incident and that one person was saved.<sup>1926</sup>

<sup>1918</sup> TF1-168, Transcript 22 January 2009, pp. 23338-23339.

<sup>1919</sup> TF1-168, Transcript 22 January 2009, p. 23339.

<sup>1920</sup> TF1-168, Transcript 22 January 2009, pp. 23339-23341.

<sup>1921</sup> TF1-168, Transcript 22 January 2009, pp. 23344-23345. The witness testified that amongst the ten was an SLA called Charles Kaiyoko whom Duawo had accused of "being the cause of all this trouble".

<sup>1922</sup> TF1-168, Transcript 22 January 2009, p. 23345.

<sup>1923</sup> TF1-168, Transcript 22 January 2009, p. 23348.

<sup>1924</sup> TF1-168, Transcript 22 January 2009, p. 23346. The witness described that the first shot he heard was one of "suppressive" or "rapid firing" and made the sound "pop pop pop pop pop pop pop". Transcript 22 January 2009, p. 23348.

<sup>1925</sup> TF1-168, Transcript 22 January 2009, p. 23346.

<sup>1926</sup> TF1-168, Transcript 22 January 2009, p. 23349. The witness explained that he learnt that the prisoner who

763. TF1-168 stated that he had the opportunity to speak with some of the Kamajor suspects before they were killed and that they explained that although some of them belonged to the Kamajor society and bore Kamajor markings on their bodies, they never participated in the fighting against the AFRC/RUF.<sup>1927</sup> Others explained to the witness that they were civilians that had simply volunteered to carry loads for the Kamajor fighters but they did not participate in the fighting.<sup>1928</sup> TF1-168 told the court that he and his colleagues were transferred to Kangama on 21 February 1998 because the Kailahun Police station was filled with the stench of the decomposing bodies.<sup>1929</sup>

764. The Trial Chamber has also examined confidential Prosecution Exhibit P-277, which in the Trial Chamber’s view, corroborates the testimony of witness TF1-168.

765. Issa Sesay, a former RUF commander and Defence witness in this case, testified that he was in Gandorhun when he heard from one Major Gua that 60 suspected Kamajors had been arrested and executed in Kailahun Town on the orders of Sam Bockarie.<sup>1930</sup> Sesay stated that upon travelling to Kailahun Town shortly thereafter, he saw 10 corpses which had been moved from the roundabout to the roadside, but did not see corpses behind the MP office because he did not go there.<sup>1931</sup> Sesay estimated that from the way the bodies were starting to decompose, he must have arrived about five to six days after the killings had taken place.<sup>1932</sup> In cross-examination, Sesay ruled out the possibility of his own involvement in the Kailahun massacre, stating that “these people were killed before he arrived in Kailahun”.<sup>1933</sup> He also told the court that Sam Bockarie gave orders that the corpses of the people who were killed should not be buried and that is why there was such a stench in the air.<sup>1934</sup>

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got away was a relative of Fatoma and that the latter had helped this prisoner escape to safety after learning the fate of the other prisoners. Transcript 22 January 2009, p. 23351.

<sup>1927</sup> TF1-168, Transcript 22 January 2009, pp. 23351-23352.

<sup>1928</sup> TF1-168, Transcript 22 January 2009, pp. 23351-23352.

<sup>1929</sup> TF1-168, Transcript 22 January 2009, pp. 23353-23354.

<sup>1930</sup> Issa Sesay, Transcript 8 July 2010, pp. 44004-44008, 44010.

<sup>1931</sup> Issa Sesay, Transcript 13 August 2010, p. 44010.

<sup>1932</sup> Issa Sesay, Transcript 13 August 2010, p. 44010.

<sup>1933</sup> Issa Sesay, Transcript 13 August 2010, pp. 46207-46209.

<sup>1934</sup> Issa Sesay, Transcript 13 August 2010, p. 46209.

766. Witness Fayia Musa another prominent member of the RUF, confirmed to the court that he and six other colleagues were held in detention by senior RUF commanders<sup>1935</sup> for 30 months<sup>1936</sup> on suspicion of “betraying Foday Sankoh to President Kabbah and the Nigerians” and that while in detention they were tortured and moved around several prisons within Kailahun District.<sup>1937</sup> Fayia told the court that he and his fellow prisoners were transferred from Kangama to Kailahun Town “after the ECOMOG intervention” and remained in detention there until 29 March 1998. Fayia testified that in the same Kailahun Police station, the RUF had detained 69 civilians from Daru and some SLA soldiers who were arrested and brought to the prison in Kailahun Town.<sup>1938</sup> On 28 March 1998 Sam Bockarie came to Kailahun to check on the prisoners.<sup>1939</sup> The witness who was in another cell, stated that an SLA soldier called Kaioko and nine of the 69 prisoners were taken out of the cell on the order of Sam Bockarie and around five to ten minutes later he heard gunshots.<sup>1940</sup> Bockarie also ordered that the remaining prisoners be brought out in groups of five, with younger people being killed first.<sup>1941</sup> Fayia and his colleagues were terrified as they thought they too were going to die, but they were spared. Fayia told the court that he was told 68 of the other prisoners were shot or hacked to death, that their bodies were “scattered all over the place”, and that only one escaped.<sup>1942</sup> On 29 March 1998, the witness and his colleagues were transferred to Buedu where they remained until their release in August 1999.<sup>1943</sup>

767. The Trial Chamber also considered the evidence of Protected Defence Witnesses DCT-068, DCT-292 and DCT-102, all of whom gave hearsay accounts of the Kailahun Town massacre.<sup>1944</sup> These hearsay accounts accord with the direct evidence of the witnesses cited above and confirm the fact that the AFRC/RUF forces acting under the orders of Sam Bockarie massacred over 60 un-armed civilians in Kailahun Town.

<sup>1935</sup> Fayia Musa, Transcript 15 April 2010, pp. 39112-39126. The witness cited Issa Sesay, Sam Bockarie and others as being responsible for his detention. Fayia Musa, Transcript 15 April 2010, p. 39115.

<sup>1936</sup> The witness stated that they were arrested on 29 March 1997 and eventually released in August 1999. Fayia Musa, Transcript 15 April 2010, p. 39118.

<sup>1937</sup> Fayia Musa, Transcript 15 April 2010, pp. 39125-39126.

<sup>1938</sup> Fayia Musa, Transcript 15 April 2010, p. 39126.

<sup>1939</sup> Fayia Musa, Transcript 15 April 2010, pp. 39126-39128.

<sup>1940</sup> Fayia Musa, Transcript 15 April 2010, p. 39127.

<sup>1941</sup> Fayia Musa, Transcript 15 April 2010, pp. 39127-39129.

<sup>1942</sup> Fayia Musa, Transcript 15 April 2010, p. 39128.

<sup>1943</sup> Fayia Musa, Transcript 15 April 2010, p. 39129.

### Findings

768. The Trial Chamber finds the above evidence consistent. In particular the evidence proves that after the ECOMOG Intervention of February 1998, AFRC/RUF Junta forces fled to Kailahun District where they were temporarily based. While there, Sam Bockarie, the RUF leader issued orders to the senior AFRC/RUF commanders to “defend Kailahun District” against their perceived enemies including ECOMOG and the Kamajors. The evidence further proves Sam Bockarie’s distrust of the civilians from the Luawa and Bambara Chiefdoms, many of whom had fled their villages before the 25 May 1997 coup, but who had since returned to their homes having been encouraged by Bockarie to do so. Additionally, the evidence proves that around 60-65 unarmed male civilians from these two chiefdoms were arrested on suspicion of being Kamajors or Kamajor collaborators, on Bockarie’s orders and interrogated by Augustine Gbao. The evidence further proves that Gbao’s verdict against these civilians was based on mere suspicion and/or speculation that they were Kamajors or Kamajor collaborators and not as a result of due process. Moreover, the evidence proves that the executions in about mid to late February 1998 at the Kailahun Town roundabout and Military Police prison, were clearly reprisal killings by Sam Bockarie and AFRC/RUF forces acting under his orders, against unarmed civilians that were perceived to be enemies of the AFRC/RUF. The Trial Chamber accordingly finds that the Prosecution has proved beyond reasonable doubt that in about mid to late February 1998, the RUF forces under the command of Sam Bockarie intentionally killed around 60-65 civilians in Kailahun Town, all of whom were not taking an active part in the hostilities.

769. The Trial Chamber further finds in view of the above evidence that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the Kailahun massacre, including the bizzare public display of human heads and rotting corpses of the victims, was to instil terror in the civilian population in Kailahun.

### Conclusion

770. In conclusion, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between about 1 February 1998 and about 30 June 1998, in various locations in Kailahun District including Kailahun Town, members of the AFRC/RUF

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<sup>1944</sup> DCT-068, Transcript 11 March 2010, pp. 37092-37095; DCT-292, Transcript 2 June 2010, pp. 41982-41983 and Exhibit P-601B (RUF Trial Transcript, 3 June 2008, pp. 89-90).



murdered an unknown number of civilians, as charged in the Indictment<sup>1945</sup> and as shown by the evidence.

771. The Trial Chamber recalls that the Prosecution has established beyond reasonable doubt that at all times relevant to the Indictment, the RUF and/or AFRC forces directed a widespread or systematic attack against the civilian population of Sierra Leone.<sup>1946</sup> The Trial Chamber is satisfied that each of the killings proved by the Prosecution in respect of Kailahun District formed part of the said attack and that the perpetrators were aware of this fact. The Trial Chamber also recalls that the Prosecution has proved beyond reasonable doubt that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving among others, members of the RUF, AFRC and CDF.<sup>1947</sup> The Trial Chamber is satisfied that for all of the aforementioned killings in Kailahun District there was a nexus between the killings and the armed conflict, that each of the victims was not taking an active part in the hostilities at the time of death, and that the perpetrators knew this fact. Therefore, the Trial Chamber is satisfied that the aforementioned killings in Kailahun District constitute murder as both a crime against humanity under Article 2 of the Statute and a war crime under Article 3 of the Statute.

4. Alleged unlawful killings in Freetown and the Western Area (between about 21 December 1998 and about 28 February 1999)

772. The Trial Chamber received the following credible documentary evidence<sup>1948</sup> regarding the situation in Freetown and the Western Area during the period December 1998 to February 1999. One report records:

[I]n the early hours of January 6, 1999, rebels of the Revolutionary United Front (RUF) launched an offensive against the Sierra Leonean capital, Freetown, capturing it from government troops and the soldiers of the Nigerian-led peace keeping force known as ECOMOG.... The battle for Freetown and the ensuing three week rebel occupation of the capital was characterised by the systematic and widespread perpetration of all classes of atrocities against the civilian population of over one million inhabitants, and marked the most intensive and concentrated period of human rights violations in Sierra Leone's eight-year civil war. As the rebels took control of street after street, they turned their weapons on the civilian population. By the end of January, both government and independent sources estimated that several thousands of civilians had been killed....

<sup>1945</sup> Indictment, para.12.

<sup>1946</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.

<sup>1947</sup> See Law and Findings on the General Requirements: Article 3: War Crimes, para. 573 *supra*.

<sup>1948</sup> This evidence was received pursuant to Rule 92*bis* of the Rules of Procedure and Evidence.

In December 1998, following the capture of Kono District and Makeni, thousands of RUF fighters started moving towards Freetown and that by early January 1999 they had reached the peninsular on which Freetown is located and gathered less than 20 miles west of the capital. On 6 January 1999 the rebels broke through the highly stretched and poorly manned ECOMOG defences, and proceeded to march through the eastern suburbs and straight into the city centre....While the rebels were only able to occupy the city center for less than one week, it took ECOMOG forces over three weeks to flush them from the three densely populated eastern suburbs of Kissy, Wellington and Calaba Town. It was in these three suburbs, particularly towards the end of the occupation that the vast majority of atrocities occurred.

The rebels made little distinction between civilian and military targets. They repeatedly stated that they believed civilians should be punished for what they perceived to be their support for the existing government....The largest number of killings took place within the context of attacks on civilians gathered in houses, compounds and places of refuge such as churches or mosques....Human Rights Watch took testimonies from scores of witnesses to such atrocities including a January 6 attack on a family in which all but one of their seven children were killed; a January 19 attack on the church of the Brotherhood of the Cross and Star in Wellington, in which twelve people were gunned down; a January 21 attack on a compound in Kissy in which seventeen people were murdered and later burned; and a January 22 attack on the Rogbalan Mosque in Kissy, in which sixty-six people were massacred....There were also frequent accounts of people being burned alive in their houses, often having been wounded. Children and the elderly were particularly vulnerable. Witnesses described rebels throwing civilians, sometimes children, into burning houses and shooting at those trying to escape. Family members trying to rescue their children or other relatives from a burning house were threatened with death and forced to abandon them to the fire....While most victims were seemingly chosen at random, the rebels directly targeted a few groups, namely Nigerian nationals, unarmed Policemen and journalists. At least sixty-three Nigerians, most of whom were traders or businessmen, were hunted down and murdered in particularly brutal ways. The rebels also killed at least 85 unarmed Police officers, and several local and one international journalist....The Catholic archbishop, four Xavierian fathers, and six Sisters of Charity were abducted and held for over ten days. The rebels later killed four of the sisters and wounded one Xavierian father.<sup>1949</sup>

773. Another report records:

[R]ebel fighters belonging to the Armed Forces Revolutionary Council (AFRC) and Revolutionary United Front (RUF) attacked Freetown on 6 January 1999. The rebels attacked the city from the east and penetrated as far as the centre, which they held for four days before being forced to withdraw by a counterattack. The fighting resulted in the deaths of between 3000 and 5000 persons, including rebel fighters, soldiers of the Economic Community of West African States Monitoring Group (ECOMOG), members of the Civil Defence Force (CDF) militia who were defending the capital and large numbers of civilian inhabitants....

In late January and early February, UNOMSIL human rights officers visited Freetown to conduct an assessment of the situation there. The assessment team travelled extensively within the city and interviewed numerous people, including victims of mutilations and other human rights violations....The team found that the ultimate responsibility for the fighting, for most of the civilian casualties and for the related humanitarian emergency in Freetown rested with the rebel forces. Though it was impossible to state with precision the actual number of civilian casualties, most estimates put the total casualty figure at between 3000 and 5000, including rebel fighters, ECOMOG and CDF combatants. It is feared that at least 2000 of those casualties were civilian inhabitants of Freetown. Many civilians were killed while being used by rebels as human shields in combat, or because they reportedly refused

<sup>1949</sup> Exhibit P-328, Human Rights Watch Report, Sierra Leone - Getting away with murder, Mutilation, Rape, New Testimony from Sierra Leone, July 1999, Vol.11 No.3(A), Part I-Summary, ERN 22999-23001.

to come out on the streets to demonstrate in favour of the rebels. Many were killed while trying to protect family members from death or rape, or while trying to protect their property from looting and destruction.

Much of the killing seems to have been arbitrary and to have been carried out by child fighters or rebel fighters under the influence of drugs or alcohol. However, there is also evidence that some of the murders were targeted, including, reportedly, the murder of 200 Police personnel. The Solicitor general was killed during the fighting, as were the resident Minister for the North, an adviser to President Kabbah and at least two journalists. Other victims who appear to have been deliberately targeted include senior officials of the Sierra Leone National Commission for Democracy and Human Rights, the Council of Churches and the National Commission for Rehabilitation, Reconstruction and Reintegration, as well as Nigerian nationals.<sup>1950</sup>

774. An Expert Report that was admitted into evidence as Confidential Prosecution Exhibit P-077 stated the following concerning the killing of civilians in Freetown and the Western area during the period January-February 1999:

[R]ebel forces advancing into and through the city on 6 and 7 January, frequently forced civilians into the streets for use as human shields. People who refused to comply were either killed or had their properties destroyed. Many reports have also been received of the killing of persons who refused to obey instructions to dance and make music on the streets. A number of interviewees describe the execution of the entire populations of residential compounds for such misdemeanours. There are reports of compounds housing up to 50 people being targeted in this manner. Similar reports indicate that then and later, people were executed because of their efforts to deter looting and to protect family members from assault or rape. Persons caught attempting to escape from rebel custody, were frequently killed. One witness saw 6 children killed at Wellington in mid-January in one such incident.

Much of the killing also appears to have been entirely arbitrary. Witnesses report such killings of men, women and children by rebel fighters, including an instance in which the perpetrator is stated to have been about 10 years old, and another implicating an eight-year-old boy. It is frequently stated that the perpetrators of such acts were under the influence of cocaine and other drugs, including alcohol. Killing occasionally occurred in the context of games in which people were lined up and the executioners teasingly chose who to kill and who to spare. In one such incident at Fourah Bay Road, around 21 January, three children were executed and their three sisters had limbs amputated or mutilated. One man has described how he was ordered to choose between the execution of his entire family and the surrender of his daughter to a rebel fighter.

Some of those who were burned to death in their homes had been locked in or first been disabled by gunshots. A number of elderly people and infants also died in this manner. Others died while attempting to escape. One five-year-old girl survived being thrown into a fire, at Blackhall Road, on 28 January. A six-year-old girl was executed together with her mother on 23 January at Wellington.

Rebel forces targeted many individuals and categories of persons for execution. It is reported that over 200 Police officers were killed, either at home or at their barracks in such locations as CID Headquarters, Kingtom and Kissy. The means of execution included knives, machete and gunshot. One incident on January 6 at the city center Cotton Tree, involved the killing by stabbing of 11 Policemen. A number of prison officials appear to have been killed during and after the assault on Pademba Road Prison on 6 January. An escapee from Pademba Road Prison is reported to have allegedly led an attack on the

<sup>1950</sup> Exhibit P-310, UN Security Council, 5<sup>th</sup> Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1999/237, 4 March 1999, paras 20-22.

Solicitor General, who was killed and decapitated. Two senior Government officials, the Resident Minister for the North and an Advisor to the President, were captured and killed. At least 2 journalists were sought out and killed (while other journalists, including foreign nationals, though not specifically targeted, were killed, injured or abducted.)

A senior member of the human rights monitoring committee of the National Commission for Democracy and Human Rights (NCDHR) was killed together with her husband...Executed senior officers of the Council of Churches and the NCRRR may have been targeted on the basis of their positions.... Nigerian nationals also appear to have been targeted. One witness, on 8 January, observed 2 Nigerian traders whose throats were cut apparently on the basis of their nationality...".<sup>1951</sup>

775. The Trial Chamber heard the evidence of many witnesses that gave first-hand accounts of civilian killings in Freetown and the Western Area during the period December 1998 to about 28 February 1999. The Chamber took into account the following evidence which is corroborated by the documentary evidence referred to above.

776. Alimamy Bobson Sesay, a combatant who took part in the Freetown invasion of January 1999, testified that a group of about 1000 troops made up of members of the AFRC, RUF,<sup>1952</sup> 30 Special Task Force (STF) members<sup>1953</sup> and 20 other "Liberian fighters",<sup>1954</sup> captured Benguema from ECOMOG around Christmas of 1998 and while based there, reorganised themselves into seven "battalions"<sup>1955</sup> in preparation for a final assault on Freetown.<sup>1956</sup> Alex Tamba Brima, a.k.a. Gullit was the overall commander of the brigade after SAJ Musa died at Benguema. Other AFRC commanders included Ibrahim Bazy Kamara<sup>1957</sup> a.k.a. "Bazzy", Santigie Borbor Kanu<sup>1958</sup> a.k.a. "Five-Five", Franklin Conteh Woyoh,<sup>1959</sup> Hassan Papa Bangura<sup>1960</sup> a.k.a. "Bomb Blast", Col. "O-Five",<sup>1961</sup> Lt. Col. "Papa-

<sup>1951</sup> Exhibit P-077 (confidential), pp. 9292-9293.

<sup>1952</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8200-8201. Bobson Sesay testified that O-Five also came with a platoon of 30 RUF members to reinforce the troops preparing to invade Freetown.

<sup>1953</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8195-8199. In his testimony, Bobson Sesay explained that the Special Task Force were a group of Liberians that had served within the Sierra Leone Army during the NPRC Government of Valentine Strasser in the early 1990s.

<sup>1954</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8193-8195. In his testimony, Bobson Sesay explained that a Commander O-Five brought with him a group of 20 Liberians from Kailahun who were to reinforce the AFRC/RUF troops that would invade Freetown. According to the witness, O-Five explained to the brigade that these Liberians were former NPFL fighters who had undergone training with the Armed Forces of Liberia (AFL).

<sup>1955</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8248-8250. Bobson Sesay testified that the Brigade at Benguema was restructured to comprise the 1<sup>st</sup> Battalion, 2<sup>nd</sup> Battalion, 3<sup>rd</sup> Battalion, 4<sup>th</sup> Battalion, 5<sup>th</sup> Battalion, the Rapid Deployment or RDF Battalion and the Red Lion Battalion. Transcript 22 April 2008, pp. 8248-8250. Bobson Sesay explained that the STF and the former NPFL fighters who came to reinforce the invading troops were exclusively based in the Red Lion Battalion. Transcript 22 April 2008, p. 8203.

<sup>1956</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8243-8251.

<sup>1957</sup> Bazzy was the Deputy Chief in command of the Brigade.

<sup>1958</sup> Five-five was the Chief of Army Staff of the Brigade.

<sup>1959</sup> Woyoh was the Director/Operations of the Brigade.

17",<sup>1962</sup> FAT Sesay,<sup>1963</sup> Junior Sherrif,<sup>1964</sup> Major Tito,<sup>1965</sup> Foday Bah Marah<sup>1966</sup> a.k.a. "Bulldoze", Major Arthur,<sup>1967</sup> Junior George Johnson<sup>1968</sup> a.k.a. "Junior Lion", Lt. Col. Saidu Kambolai a.k.a. "Basky",<sup>1969</sup> Col. Lamin Sidique a.k.a. "Terminator" or "NPFL",<sup>1970</sup> Med Bajehjeh,<sup>1971</sup> Col. Foyoh,<sup>1972</sup> Lt. Col. Konjor,<sup>1973</sup> "Roadblock",<sup>1974</sup> Adamu a.k.a. "Chicken Soup", Adama "Cut Hand",<sup>1975</sup> Tarrawali a.k.a. "Gold Teeth",<sup>1976</sup> Idrissa Kamara a.k.a. "Rambo Red Goat",<sup>1977</sup> and Amidu Kamara Keforkeh. Bobson Sesay explained that he was in the 5<sup>th</sup> Battalion and served as Intelligence Officer.<sup>1978</sup> Amongst the RUF that came to reinforce the Freetown invasion were Captain Stagger, Washington, King Perry, Alfred Brown, and Dukulay.<sup>1979</sup> The evidence relating to the composition of these forces is corroborated by that of Perry Kamara, an RUF radio operator that travelled with the group to Freetown.<sup>1980</sup>

777. Bobson Sesay further testified that prior to the invasion of Freetown, while at Benguema, Gullit communicated on radio with Sam Bockarie informing him that the troops were ready to advance on Freetown but that they needed manpower reinforcement from

<sup>1960</sup> Bomb Blast was the Operations Commander of the Brigade.

<sup>1961</sup> Colonel O-Five was the deputy Operations Commander of the Brigade.

<sup>1962</sup> Bobson Sesay testified that Lt. Col. Papa 17 was appointed by SAJ Musa and is a different individual from Hassan Papa Bangura. Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8234.

<sup>1963</sup> FAT Sesay was the Brigade administrator. Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8289.

<sup>1964</sup> Junior Sherrif was the Deputy Operations Commander of the Brigade.

<sup>1965</sup> Tito was the Commander of the 1<sup>st</sup> Battalion.

<sup>1966</sup> Bulldoze was the Commander of the 2<sup>nd</sup> Battalion.

<sup>1967</sup> Arthur was the Commander of the 3<sup>rd</sup> Battalion.

<sup>1968</sup> Junior Lion was the Commander of the 4<sup>th</sup> Battalion.

<sup>1969</sup> Basky was the Commander of the 5<sup>th</sup> Battalion.

<sup>1970</sup> Terminator was the Commander of the RDF Battalion.

<sup>1971</sup> Bajehjeh was the Commander of the Red Lion Battalion.

<sup>1972</sup> Foyoh was the missions Commander.

<sup>1973</sup> Konjor was the Battlefield Inspector.

<sup>1974</sup> CO Roadblock was the Military Police Commander

<sup>1975</sup> Sesay testified that Adama was a female combatant who was given the nick-name "Cut Hand" because she always carried a machete with her and was not afraid to amputate people. Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8336.

<sup>1976</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8221. Adamu and Tarawali were some of the military inspectors/supervisors.

<sup>1977</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8358. The witness explains that this Rambo came to reinforce the rebel troops invading Freetown.

<sup>1978</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8251.

<sup>1979</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8201-8202. The witness explained that King Perry and Alfred Brown were RUF radio operators. Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8240.

<sup>1980</sup> Perry Kamara, Transcript 6 February 2008, pp. 3185-3188.

Bockarie.<sup>1981</sup> Bockarie responded saying that reinforcement was on its way from Kono, Kailahun and Daru but that the reinforcing troops under Issa Sesay and Superman needed to weaken the ECOMOG forces in Kono and Segbwema before they could arrive to reinforce the invading troops. Bobson Sesay further told the court that the invasion of Freetown was planned jointly between the AFRC and RUF, with three flanks planning to attack jointly. One flank led by Issa Sesay, Morris Kallon, RUF Rambo, Akim Turay and Isaac Mongor would come from Kailahun and attack from the eastern part around Kono area, and after capturing Kono and Makeni from ECOMOG they would proceed to reinforce the forces invading Freetown.<sup>1982</sup> The second flank led by Gullit, Bazzy and Five-Five would attack from the north. The third flank led by Denis Mingo a.k.a. Superman and Brigadier Mani would attack from the Kailahun-Daru axis and assist in capturing Makeni from ECOMOG, after which they too would proceed to reinforce the forces invading Freetown.<sup>1983</sup> Bobson Sesay learnt of this plan by monitoring conversations between the AFRC and RUF High Command in the areas that the SLA and RUF occupied.<sup>1984</sup>

778. Bobson Sesay further told the court that as the rebel troops were waiting on the outskirts of Freetown<sup>1985</sup> for reinforcement, they came under heavy bombardment by the ECOMOG jets and this caused Gullit to order the rebel troops to start the Freetown invasion without waiting for reinforcement.<sup>1986</sup> In the witness's presence, Gullit instructed the invading rebel troops to "ensure that they burn down all Police Stations; open the central prisons and free the prisoners including Foday Sankoh; kill all collaborators of the Government and ECOMOG and opponents of the AFRC/RUF forces; loot any valuables from the civilian population and kill any civilians that resist the looting; and capture a good number of civilians to use as human shields if the troops encountered any resistance".<sup>1987</sup> Sesay further told court that the over 1000 rebel troops who entered Freetown were "well-armed with support propelled grenades (SPGs), 60 millimetre commando motars; 81

<sup>1981</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8253.

<sup>1982</sup> Alimamy Bobson Sesay, Transcript 23 April 2008 p. 8305.


<sup>1983</sup> Alimamy Bobson Sesay, Transcript 22 April 2008 pp. 8254-8258.

<sup>1984</sup> Alimamy Bobson Sesay, Transcript 22 April 2008 pp. 8286, 8287, 8289, 8300-8312.

<sup>1985</sup> The witness stated that the troops were camped in a "primary jungle" around Allen Town until 5 January 1999. Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8269.

<sup>1986</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8270.

<sup>1987</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8270-8271.





millimetre motars; rocket propelled grenades (RPGs); light automatic rifles (LARs); sub-machine guns (SMGs); AK-47 and machetes”.<sup>1988</sup>

779. Bobson Sesay further testified that on 6 January 1999, the whole Brigade comprised of AFRC, RUF, STF and Liberian fighters moved from Allen Town and commenced their attack on Freetown.<sup>1989</sup> The invading rebel troops spent three and a half weeks in Freetown before they were repelled by ECOMOG forces.<sup>1990</sup>

780. The Trial Chamber heard the following evidence of civilian killings in Freetown and the Western Area.

(i) Killing of civilians and ECOMOG soldiers around State House in Freetown

781. Alimamy Bobson Sesay testified that the rebel forces led by Gullit captured “Statehouse” or the Office of the President at 6.00 a.m. on 6 January 1999.<sup>1991</sup> Sesay told the court that on that morning Major Tito captured 20 Nigerian ECOMOG soldiers and brought them to Gullit for instruction as to what to do with them.<sup>1992</sup> Gullit ordered Tito to have them summarily executed. The witness was present when Tito took the soldiers who were hors de combat to the washing bay behind State House and shot them all to death.<sup>1993</sup> Bobson Sesay explained that the invading rebel troops had a policy that required the civilians to show respect for the rebels and that any civilian perceived to “overlook” (i.e. disrespect) the rebels would be summarily shot”.<sup>1994</sup> Bobson Sesay told court that he saw “so many corpses of civilians littered around the State House axis” and counted over 20 dead bodies of civilians on 6 January 1999, all of whom had been shot dead by the invading rebel troops for simply “overlooking the rebels”.<sup>1995</sup>

<sup>1988</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p .8272.

<sup>1989</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8272-8280. The witness explained that the rebel troops attacked from two flanks and entered through the following locations within Freetown, namely, Calaba Town, Brewery, Old Wellington Road, New Freetown-Waterloo Road, Kissy Mess Mess, Saroula, Fisher Lane Old Road, PWD Junction, Kissy Road Cemetery, Uppun, Savage Square, Mountain Cut Junction, Eastern Police station and State House.

<sup>1990</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8294.

<sup>1991</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8280.

<sup>1992</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8289.

<sup>1993</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8292.

<sup>1994</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8291.

<sup>1995</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8291.

782. Perry Kamara, an RUF radio operator<sup>1996</sup> with the rebel troops that invaded Freetown, testified that when the troops entered Freetown they would either kill ECOMOG soldiers on the front line or capture them and present them to Gullit who was the commander in charge at State House.<sup>1997</sup> Kamara testified that Gullit consulted Sam Bockarie by radio as to what to do with these prisoners of war and that Bockarie responded that “he had no prison for ECOMOG”.<sup>1998</sup> Kamara testified that as a result of that response, the rebel forces never spared any ECOMOG soldiers and that a total of 10-15 captured ECOMOG soldiers were shot and killed under the Cotton Tree,<sup>1999</sup> which was 100 metres from State House.<sup>2000</sup> In his evidence, Kamara also refers to “massive killings around Cotton Tree” next to State House on 6 January 1999.

783. The Trial Chamber admitted into evidence the prior testimony of Abu Bakarr Mansaray.<sup>2001</sup> Mansaray, a mechanical engineer testified that while living on Waterloo Street in Freetown,<sup>2002</sup> he was abducted by three “rebel boys” dressed in ECOMOG uniforms on 8 January 1999<sup>2003</sup> and forcibly taken to State House where Gullit was in command.<sup>2004</sup> Mansaray explained that by the term “rebel” he meant a mixed group of RUF rebels and AFRC soldiers. The three rebels were armed with AK-47 rifles and spoke Krio with “a Liberian accent”.<sup>2005</sup>

<sup>1996</sup> The witness explained that although he was an RUF radio operator, he and another RUF radio operator called Alfred Brown were instructed by Mosquito and Morris Kallon to join Gullit’s AFRC group at Rosos in order to establish effective communications between the two groups (RUF and AFRC) in preparation for “a big joint operation”. Perry Kamara, Transcript 6 February 2008, pp. 3184-3185.

<sup>1997</sup> Perry Kamara, Transcript 6 February 2008, pp. 3230-3231.

<sup>1998</sup> Perry Kamara, Transcript 6 February 2008, pp. 3230-3231.

<sup>1999</sup> Perry Kamara, Transcript 6 February 2008, pp. 3230-3231.

<sup>2000</sup> Perry Kamara, Transcript 6 February 2008, p. 3231.

<sup>2001</sup> Abu Bakarr Mansaray’s testimony in the AFRC trial was admitted as Exhibit P-222 under Rule 92*bis* (“prior testimony”). In the present trial, Mansaray was cross-examined on his prior testimony. See Abu Bakarr Mansaray, Transcript 29 October 2008, pp 19517-19568.

<sup>2002</sup> Abu Bakarr Mansaray, Transcript 29 October 2008, p. 19518; Exhibit P-222, “TF1-024, AFRC Transcript, 7 March 2005”, p. 20427.

<sup>2003</sup> In his prior testimony, the witness testified that he was captured on 8 January 1998. However, in cross-examination at p.19543 he corrected himself to state that he was in fact abducted in January 1999. See Exhibit P-222, AFRC Transcript, 7 March 2005, Witness TF1-024, pp. 43/20427, 62-63/20446-20447; Abu Bakarr Mansaray, Transcript 29 October 2008, p. 19543.

<sup>2004</sup> Exhibit P-222, AFRC Transcript, 7 March 2005, Witness TF1-024, pp. 20428-20430.

<sup>2005</sup> In his prior testimony Mansaray stated that the three rebel boys spoke “Liberian English”. See Exhibit P-222, “TF1-024, AFRC Transcript 7 March 2005” at p. 20428. In cross-examination however, he stated that the rebels spoke Krio with a Liberian accent. See Abu Bakarr Mansaray, Transcript 29 October 2008, p. 19557.



784. At State House, on the orders of Gullit, the rebels tried in vain to force Mansaray and 50 other civilian captives to join them in fighting against ECOMOG.<sup>2006</sup> Mansaray and the 50 civilians refused to join the rebels as requested and were locked up in the kitchen of State House for four days. From the kitchen window Mansaray observed the rebels at State House gunning down about 35 civilians for refusing to join the rebels. He testified that the rebels shot and killed three women and two men in his presence, and thereafter shot and killed 30 of the 50 civilians that were with Mansaray.<sup>2007</sup> The rebels threw the bodies of the civilians over the State House wall and also into the Paramount Hotel's compound.<sup>2008</sup>

### Findings

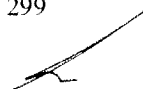
785. The Trial Chamber finds the evidence of Alimamy Bobson Sesay and Perry Kamara credible. Each of these witnesses took part in the Freetown invasion of 6 January 1999 and given their unique position among the invading forces, each was privy to the preparations that took place amongst the rebel troops immediately prior to that invasion. In particular each of them was present at State House during the first crucial hours after the take-over of power by the rebels and had a first-hand observation of what went on there. Bobson Sesay's testimony proves that on 6 January 1999 at the State House washing bay in Freetown, a rebel commander called Major Tito acting on the orders of Commander Alex Tamba Brima a.k.a. Gullit, intentionally killed 20 Nigerian soldiers who were hors de combat. The evidence further proves that on the same day at State House, rebel forces made of the AFRC/RUF/STF and Liberian fighters intentionally killed over 20 civilians that were not taking an active part in the hostilities, as punishment for "disrespecting" the rebel forces. The evidence of Perry Kamara, which largely corroborates that of Bobson Sesay, proves beyond reasonable doubt that on 6 January 1999 at the Cotton Tree near State House, rebel forces made of the AFRC/RUF/STF and Liberian fighters acting on the orders of Gullit and Sam Bockarie intentionally killed at least 10-15 Nigerian soldiers who were hors de combat and an unknown number of civilians that were not taking an active part in the hostilities.

786. The Trial Chamber further finds the first-hand account of Abu Bakarr Mansaray to be credible. His evidence, which also corroborates that of Sesay and Kamara, proves that on

<sup>2006</sup> Abu Bakarr Mansaray, Transcript 29 October 2008, pp. 19554-19555; Exhibit P-222, "TF1-024, AFRC Transcript 7 March 2005", pp. 20431-32.

<sup>2007</sup> Exhibit P-222, "TF1-024, AFRC Transcript 7 March 2005", pp. 20484-20485.

<sup>2008</sup> Exhibit P-222, "TF1-024, AFRC Transcript 7 March 2005", pp. 20431-32, 20456-20457, 20485-20490.





8 January 1999 at State House, rebels including members of the AFRC/RUF intentionally killed at least 35 civilians who were not taking an active part in the hostilities.

787. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between 6 and 8 January 1999 at State House in Freetown, rebel forces including members of the AFRC/RUF/STF and Liberian fighters intentionally killed (i) at least 35 Nigerian soldiers who were *hors de combat* at the time of death; and (ii) at least 55 civilians that were not taking an active part in the hostilities.

788. The Trial Chamber finds that the perpetrators were acting in accordance with the orders of the top Commander Alex Tamba Brima (a.k.a. Gullit) to carry out indiscriminate killings, mass abductions and raping of civilians, and burning and destruction of civilian and public property in Freetown during this period as part of the campaign of terror waged against the civilian population. The Trial Chamber finds that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the killings at State House was to instil terror in the civilian population.

(ii) Unlawful killing of civilians in Kissy area around January 1999

789. Mohamed Sesay, a petty trader living on Falcon Street in the Kissy Shell Company area testified that on 6 January 1999 he heard a lot of shooting in the night and in the morning and when he woke up he saw rebels everywhere.<sup>2009</sup> He and his family stayed indoors for five or six days after the rebels had taken over Freetown<sup>2010</sup> and then went with other civilians to buy food at the Marbela market in the eastern part of Freetown.<sup>2011</sup> On the way back they came to a checkpoint manned by the “rebels and SLAs” at PWD, which is near Ferry Junction.<sup>2012</sup> There were many people gathered at the checkpoint, including the former President Momoh who was being carried in a hammock.<sup>2013</sup> The rebels ordered the civilians to sit down and then took two men from the civilians saying they were going to

<sup>2009</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3901. The witness stated that “the rebels had guns. Some of them had machetes. Some of them had axes. Some of them, the way they were dressed, some of them had socks on without having shoes, some had military shirts on without the pants, some of them will have the military pants without shirts on”.

<sup>2010</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3901.

<sup>2011</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3902.

<sup>2012</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3902.

<sup>2013</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3903.

offer them as “a sacrifice”.<sup>2014</sup> In the witness’s presence, the rebels shot and killed one of the men and stabbed the other one to death after which they collected the latter man’s blood into a bowl.<sup>2015</sup> Sesay and the other civilians at the checkpoint were then allowed to pass through and he returned home.<sup>2016</sup>

790. Mohamed Sesay further testified that two or three days later he was sitting under a mango tree behind his house on Falcon Street with other civilians when five armed “rebels and SLAs” joined them including an RUF rebel called Issa Conteh that the witness previously knew.<sup>2017</sup> As they sat under the tree, two other “rebels” approached the witness.<sup>2018</sup> One of the rebels was a woman dressed in trousers, a T-shirt and boots but did not carry a gun. She also spoke “Liberian language”. The other rebel was a man who wore “full uniform” but no boots.<sup>2019</sup> The woman fighter told the fighters sitting under the tree that “because they refused to fight, Pa Kabbah had sent ECOMOG to fight against them, so now she was ordering them to begin Operation No Living Thing”.<sup>2020</sup> Sesay testified that he saw Issa Conteh shoot and kill an old woman that was passing by.<sup>2021</sup> Sesay also saw an old man who was passing fall down and die, but he did not see the person who shot him.<sup>2022</sup>

791. Mohamed Sesay further testified that two days later “rebels” carrying fuel in a container came and set fire to his home. The witness was in the house when it caught fire but escaped to hide first in the house of one Pa Bobodin, and later sought refuge in the house of one Mr Abass.<sup>2023</sup> There were more than 50 civilians, including old men and women, who had also sought refuge at Mr Abass’ house, which house had also been burnt.<sup>2024</sup> Sesay testified that on 19 January 1999<sup>2025</sup> he was on the veranda at Mr Abass’ house when he saw seven “rebels” arrive, including a “commando” who was giving the other rebels orders.<sup>2026</sup>

<sup>2014</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3902-3903.

<sup>2015</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3904.

<sup>2016</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3904, 3907.

<sup>2017</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3907, 3911-3912.

<sup>2018</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3907-3908.

<sup>2019</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3908.

<sup>2020</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3907-3910.

<sup>2021</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3911.

<sup>2022</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3910-3911.

<sup>2023</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3914-3916.

<sup>2024</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3917-3918.

<sup>2025</sup> Mohamed Sesay, Transcript 15 February 2008, p. 3936; Mohamed Sesay, Transcript 14 February 2008, p. 3931.

<sup>2026</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3917. The witness stated that the person referred to as

The witness testified that the commando carried a pistol, one rebel carried a machete, another rebel carried an axe and four others carried guns.<sup>2027</sup> The commando ordered the fighters to select the young men out of the house. The rebels selected 24 young men from the house, including the witness, and took them to the junction where they asked them to queue up in preparation for having their arms amputated on a log which had been placed in front of them.<sup>2028</sup> The commando ordered the first man in the line to put his arm down to be amputated, and when he pleaded with him not to, the commando shot the man in the face, killing him.<sup>2029</sup> When the second man in line pleaded with the commando not to amputate him, the commando shot him in the chest, killing him as well.<sup>2030</sup> When the third man pleaded with the commando not to amputate him, the commando used rapid fire to shoot and kill six of the men in the queue.<sup>2031</sup>

792. Mohamed Sesay further testified that after the commando had shot the first eight men, he ordered the fighters to split open the heads of the remaining young men in the queue with axes and machetes instead, saying “he was not going to waste his bullets anymore”.<sup>2032</sup> Sesay told the court that after the rebels had smoked marijuana, they used an axe and machete to split open the heads of five of the men and killed them.<sup>2033</sup> Although the witness wanted to look away because he was frightened, the rebels forced him and the other civilians to watch the gruesome executions.<sup>2034</sup> Mohamed Sesay further testified that after the rebels killed the civilians, they proceeded to amputate both his hands, and that the rebel that actually did this was barely 13 years old.<sup>2035</sup>

793. The Trial Chamber admitted in evidence the transcript of testimony Prosecution Witness TF1-098 from the AFRC trial.<sup>2036</sup> Witness TF1-098 testified that on 18 January

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“commando” was in fact the commander of the group and was issuing operational orders to the group.

<sup>2027</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3919.

<sup>2028</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3918-3919.

<sup>2029</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3919-3920.

<sup>2030</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3920.

<sup>2031</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3921-3922.

<sup>2032</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3922.

<sup>2033</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3922.

<sup>2034</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3923.

<sup>2035</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3924-3927.

<sup>2036</sup> Witness TF1-098 testified in the AFRC trial, which was admitted as Exhibit P-210 (“prior testimony”) under Rule 92*bis*. In the present trial, the witness was cross-examined on this evidence. See Witness TF1-098, Transcript 23 October 2008, p. 19147.

1999, “rebels”, whom the witness identified as members of the SLA,<sup>2037</sup> came to the house on Manfred Lane near Kissy road where he was hiding with his younger brother, cousins and other civilians and led them by gunpoint to a primary school on Fataraman Street.<sup>2038</sup> While there a Krio-speaking rebel named Tommy, who was from the Freetown area and who wore a combat uniform, amputated the witness’s left hand and the hands of 6 other civilians with an axe and told them “to go and tell Pa Kabbah that they were in control, and not ECOMOG”.<sup>2039</sup> One of the seven amputees who was related to the witness, died from the amputation.<sup>2040</sup> In cross-examination, Witness TF1-098 explained that Tommy belonged to the same group as “Captain Blood”.<sup>2041</sup>

794. Alimamy Bobson Sesay testified that in the third week of January 1999,<sup>2042</sup> as the rebel troops were retreating from the ECOMOG forces in Freetown, they hid in the hills overlooking the east of Freetown from where they observed “civilians singing and dancing as they welcomed the ECOMOG forces”.<sup>2043</sup> The witness heard Gullit remarking, “Now the people in Freetown have changed their song, the song which they were singing: that they were our brothers, we want peace. Now the people are singing it otherwise: That our brothers have come, they have come to steal. So now we should move to Ferry Junction. So wherever we meet people singing that song...those people were betraying us, we should kill them”.<sup>2044</sup> After this remark, Gullit reorganised the rebel troops and sent them to Ferry Junction, Low Cost area and Kissy, instructing them to “burn all the remaining houses and kill all the civilians”.<sup>2045</sup>

795. Bobson Sesay testified that upon receiving Gullit’s orders, his group which included Rambo Red Goat and Bajehjeh went to Kissy Market where they saw civilians singing “They are our brothers”. Immediately the rebels, including the witness, went and shot all the civilians. They even shot civilians who were in their homes.<sup>2046</sup> The witness said that while he used his gun to shoot the civilians, some of his colleagues used machetes to kill the

<sup>2037</sup> Witness TF1-098, Transcript 23 October 2008, p. 19131.

<sup>2038</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, pp. 20688-20689.

<sup>2039</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, pp. 20689-20690.

<sup>2040</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, p. 20692.

<sup>2041</sup> Witness TF1-098, Transcript 23 October 2008, p. 19131.

<sup>2042</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8361.

<sup>2043</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8353.

<sup>2044</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8351.

<sup>2045</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8353-8354.

civilians while others burnt civilians alive in their homes.<sup>2047</sup> The witness could not estimate the actual number of casualties but stated that they were many. The witness further testified that the rebel group that attacked Low Cost area came back afterwards and reported that they too had carried out burnings and amputated and killed civilians there. The witness explained that this second group was led by commander “Changa Bulanga”.<sup>2048</sup>

796. Bobson Sesay further testified that the day after the operations in Kissy Market and Low-Cost areas, Gullit informed the fighters that he had heard that civilians were hiding ECOMOG forces in the mosque on Old Shell Road by having them take off their uniforms and pose as civilians.<sup>2049</sup> Gullit then ordered “Five-Five” to lead a group of fighters to the mosque and to kill everyone there.<sup>2050</sup> The witness was in this group of fighters which was made up of over 100 AFRC, RUF, STF, and Liberian fighters, including “Rambo Red Goat” and Med “Bajehjeh”.<sup>2051</sup> Bobson Sesay testified that upon reaching the mosque, they saw that the mosque was full of people, they did not search and they just started shooting randomly into the crowd. The rebels killed everyone who was not able to escape, including people he believed to be ECOMOG officers, men, children, nursing mothers, and old women.<sup>2052</sup> Bobson Sesay estimated that his group killed more than 20 people in this attack.<sup>2053</sup> Bobson Sesay further testified that after the Lomé Peace Accord his uncle informed him that two of his female cousins were among the victims of the attack.<sup>2054</sup> Bobson Sesay testified that as they withdrew from the mosque they met Commander Gullit at Crazy Yard, and “Five-Five” reported to Gullit that they had destabilized the mosque and killed the people.<sup>2055</sup>

797. Bobson Sesay further testified that after the killings at Rogbalan Mosque, Gullit ordered Foday Bah Marrah (a.k.a. Bulldoze) to execute four white nuns they had captured when they were withdrawing from Eastern Police and that Bobson Sesay saw Bulldoze

<sup>2046</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8355-8356, 8359.

<sup>2047</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8360.

<sup>2048</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8360.

<sup>2049</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8361-8363.

<sup>2050</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8362.

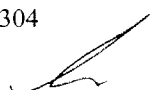
<sup>2051</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8362-8363.

<sup>2052</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8363-8365.

<sup>2053</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8364.

<sup>2054</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8364-8365.

<sup>2055</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8365-8367.





shoot and kill the four nuns at a location called “Crazy Yard”.<sup>2056</sup> The nuns had been captured along with a Bishop Ganda and a Father Mario, both of whom had managed to escape.<sup>2057</sup> Gullit gave the order to execute the four nuns saying “he did not want them to escape like Bishop Ganda and Father Mario as that would not be good for the rebel troops. The murder of four white nuns is corroborated by documentary evidence in Exhibit P-328 which describes the nuns as “Sisters of Charity”.

798. The Trial Chamber admitted in evidence pursuant to Rule 92quater the transcripts and confidential witness statement of Witness TF1-021 from the AFRC and RUF trials.<sup>2058</sup> He was not cross-examined in the present trial regarding his prior testimony as he is now deceased. In his prior testimony, Witness TF1-021 testified that he was leading prayers at the Rogbalan Mosque at about 12:30pm on a Friday in January 1999 when he saw more than 15 men armed with guns and machetes jumping over the fence and into the compound.<sup>2059</sup> They had disguised themselves in different ways, some wearing plastic bags on their heads, and some with their faces and/or bodies painted with blue, charcoal or white substances.<sup>2060</sup> Some of the men were wearing black polo shirts and long trousers or shorts.<sup>2061</sup> The mosque was overflowing with men, women and children, as people were there not only to pray but also to seek refuge.<sup>2062</sup>

799. Some of the armed men approached TF1-021 and told him that they were going to kill everyone in the mosque.<sup>2063</sup> TF1-021 tried to stop them by giving them 80,000 Leones collected from people at the mosque, but after taking the money the armed men said that they would still kill all the civilians in the mosque.<sup>2064</sup> TF1-021 then accepted his fate,

<sup>2056</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8365-8367, 8368.

<sup>2057</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8367.

<sup>2058</sup> Exhibit P-287, “TF1-021, AFRC Transcript 15 April 2005”; Exhibit P-289, TF1-021, “RUF Transcript 15 July 2004”; and Exhibit P-288A (confidential), were all admitted in evidence pursuant to Rule 92quater.

<sup>2059</sup> Exhibit P-287, “TF1-021, AFRC Transcript 15 April 2005”, pp. 18735-18737; Exhibit P-289, TF1-021, “RUF Transcript 15 July 2004”, pp. 18726-18728; Exhibit P-288A (confidential), p. 18814.

<sup>2060</sup> Exhibit P-287, “TF1-021, AFRC Transcript 15 April 2005”, p. 18736; Exhibit P-289, “TF1-021, RUF Transcript 15 July 2004”, p. 18727; Exhibit P-288A (confidential), p. 18815.

<sup>2061</sup> Exhibit P-288A (confidential), p. 18814.

<sup>2062</sup> Exhibit P-287, “TF1-021, AFRC Transcript 15 April 2005”, p. 18737; Exhibit P-289, “TF1-021, RUF Transcript 15 July 2004”, p. 18727; Exhibit P-288A (confidential), p. 18814.

<sup>2063</sup> Exhibit P-287, “TF1-021, AFRC Transcript 15 April 2005”, p. 18738; Exhibit P-289, “TF1-021, RUF Transcript 15 July 2004”, p. 18728; Exhibit P-288A (confidential), p. 18816.

<sup>2064</sup> Exhibit P-287, “TF1-021, AFRC Transcript 15 April 2005”, p. 18739; Exhibit P-289, “TF1-021, RUF Transcript 15 July 2004”, p. 18728; Exhibit P-288A (confidential), 25 February 2003”, p. 18816.

telling the armed men that “it would happen if it was God’s will”.<sup>2065</sup> The armed men taunted the civilians for believing in God and then began shooting randomly at the crowd inside the mosque.<sup>2066</sup> As the armed men were shooting, they said it was not their fault, but the fault of Tejan Kabbah, who refused to have peace talks with them.<sup>2067</sup> When the shooting ceased, TF1-021 counted 71 dead people inside and around the outside of the mosque.<sup>2068</sup>

800. The Trial Chamber also admitted in evidence pursuant to Rule 92quater the transcript of the testimony of Witness TF1-083 from the AFRC trial.<sup>2069</sup> He too was not cross-examined in the present trial regarding his prior testimony as he is now deceased. In his prior testimony, the witness stated that in January 1999 he was living in Kissy, Freetown.<sup>2070</sup> On 22 January 1999,<sup>2071</sup> he went to the Rogbalan Mosque to seek shelter after his hand was amputated.<sup>2072</sup> When he arrived at the mosque he saw what he estimated to be 70 corpses wearing civilian clothes outside of the fence surrounding the compound, inside the compound gates, and inside the mosque.<sup>2073</sup> Among the dead were children, old persons, men, and women.<sup>2074</sup> Inside the mosque he also saw tripods, spoons, and clothes spread about.<sup>2075</sup> He testified that he stayed in the mosque from after his hand was cut-off at about 12.00pm until about 6.00pm that evening.<sup>2076</sup>

<sup>2065</sup> Exhibit P-287, “TF1-021, AFRC Transcript 15 April 2005”, p. 18739; Exhibit P-289, “TF1-021, RUF Transcript 15 July 2004”, p. 18728; Exhibit P-288A (confidential), 25 February 2003”, p. 18816.

<sup>2066</sup> Exhibit P-287, “TF1-021, AFRC Transcript 15 April 2005”, p. 18739; Exhibit P-289, “TF1-021, RUF Transcript 15 July 2004”, p. 18728; Exhibit P-288A (confidential), pp. 18816-18817.

<sup>2067</sup> Exhibit P-287, “TF1-021, AFRC Transcript 15 April 2005”, pp. 18739, 18745; Exhibit P-289, “TF1-021, RUF Transcript 15 July 2004”, pp. 18728-18729; Exhibit P-288A (confidential), p. 18817.

<sup>2068</sup> Exhibit P-287, “TF1-021, AFRC Transcript 15 April 2005”, p. 18740; Exhibit P-289, “TF1-021, RUF Transcript 15 July 2004”, p. 18728. In both the AFRC and RUF trials, and in his confidential witness statement, TF1-021 identified a similar but different list of victims. In the AFRC Trial he listed Memuna Kalokoh, Mammy Bangura, Pa Alfred Bangura, Mammy Sawdatu from Kailuhun, Mrs. Farmer, and his son. Exhibit P-287, “TF1-021, AFRC Transcript 15 April 2005”, pp. 18741-18743. In the RUF trial he listed Mohammed Tombu, Pa Bangura, “[a]nother Mamie”, “another Ya Memuna”, Ibrahim, and TF1-021’s son. Exhibit P-289, “TF1-021, RUF Transcript 15 July 2004”, pp. 18730-18731. In his confidential witness statement he listed Pa Bangura, a Loko Pastor, Mammy Safratu, Memunata Kalokoh, Iman Issa Kamara, Mamie Bangura, Mariatu Kamara, Alieu Kamara, Alusine Sankoh, Musa Sankoh, and Amadu Tombo Bangura. Exhibit P-288A (confidential), p. 18819.

<sup>2069</sup> Exhibit P-290A, “TF1-083, AFRC Transcript, 8 April 2005”.

<sup>2070</sup> Exhibit P-290A, “TF1-083, AFRC Transcript, 8 April 2005”, p. 18764.

<sup>2071</sup> Exhibit P-290A, “TF1-083, AFRC Transcript, 8 April 2005”, pp. 18775-18786, 18803.

<sup>2072</sup> Exhibit P-290A, “TF1-083, AFRC Transcript, 8 April 2005”, p. 18787.

<sup>2073</sup> Exhibit P-290A, “TF1-083, AFRC Transcript, 8 April 2005”, pp. 18787-18788.

<sup>2074</sup> Exhibit P-290A, “TF1-083, AFRC Transcript, 8 April 2005”, p. 18788.

<sup>2075</sup> Exhibit P-290A, “TF1-083, AFRC Transcript, 8 April 2005”, pp. 18787-18788.

<sup>2076</sup> Exhibit P-290A, “TF1-083, AFRC Transcript, 8 April 2005”, pp. 18788-18789.



801. Witness Corinne Dufka,<sup>2077</sup> a senior researcher for the African Division of Human Rights Watch,<sup>2078</sup> testified that she reported on a massacre of 60 individuals at the Rogbalan Mosque on 22 January 1999.<sup>2079</sup> Dufka interviewed 10 witnesses to the massacre who told her that the rebels gave the people in the mosque two days advance warning that they would come to kill them, but the people inside the mosque stayed because they had nowhere else to go.<sup>2080</sup> Witnesses to the attack told Dufka that when the rebels came, one group went inside and randomly shot at the civilians in the women's and men's sections, while the other stayed outside and shot at people as they ran outside to escape.<sup>2081</sup>

802. Prosecution Witness Ibrahim Wai testified that rebels attacked his home village of Tombudu around 23 December 1998 and he fled to Kissy and took refuge at the home of his brother-in-law called Brima, in Kissy.<sup>2082</sup> While there in January 1999 a rebel commander that the witness previously knew very well, called Mohammed (a.k.a. Captain Blood)<sup>2083</sup> came to the house with his bodyguards and attacked the witness and his brother-in-law's family. Wai immediately recognised this same Captain Blood as the rebel that had attacked Ibrahim Wai's home in Tombudu on 23 December 1998. Captain Blood asked the witness for money and electronics and when the latter said he had nothing to give, Captain Blood amputated Wai's hand with a machete and told him to "go to Pa Kabbah who had brought many hands for the civilians".<sup>2084</sup> As Wai ran to hide inside a toilet, the rebels also amputated the hands of his brother-in-law's younger brother.<sup>2085</sup> Wai further told court that later on that night, the rebels set his brother-in-law's house on fire and his brother-in-law called Brima, who was trapped inside the house, was burnt to death.<sup>2086</sup>

<sup>2077</sup> Corinne Dufka initially prepared a Report for the Prosecution entitled "Report of Corinne Dufka, Human Rights Watch, to the Office of the Prosecutor, Special Court for Sierra Leone, 13 May 2007". This report was not admitted in evidence following an objection by the Defence. Ms. Dufka's oral testimony however, was admitted in court.

<sup>2078</sup> Corinne Dufka, Transcript 21 January 2008, p. 1745.

<sup>2079</sup> Corinne Dufka, Transcript 21 January 2008, pp. 1797, 1803.

<sup>2080</sup> Corinne Dufka, Transcript 21 January 2008, pp. 1802-1803.

<sup>2081</sup> Corinne Dufka, Transcript 21 January 2008, pp. 1802-1803.

<sup>2082</sup> Ibrahim Wai, Transcript, 16 October 2008, pp. 18581-18585

<sup>2083</sup> Wai testified that "Captain Blood" was one of Bazy's security men and that his real name was Bob Lahai. See TF1-334, Transcript 24 April 2008, pp. 8462, 8489.

<sup>2084</sup> Ibrahim Wai, Transcript 17 October 2008, pp. 18588-18592.

<sup>2085</sup> Ibrahim Wai, Transcript 17 October 2008, p. 18594.

<sup>2086</sup> Ibrahim Wai, Transcript 17 October 2008, pp. 18566-18597.

803. Exhibit P-328 documents the 22 January 1999 attack of Rogbalan Mosque in which 66 people were killed, as one of the events in a section describing mass killings and massacres.<sup>2087</sup>

804. Witness TF1-104 gave evidence in another trial and the Trial Chamber admitted the transcript of his prior testimony as evidence in the present trial.<sup>2088</sup> In his prior testimony, the witness told the Court that he was working as a nurse at the Good Shepherd Hospital in Kissy in January 1999.<sup>2089</sup> On 15 January 1999, while at the hospital, he saw a group of RUF/AFRC Juntas shoot a civilian man in the nearby cemetery. The civilian was from Fourah Bay and sustained serious gunshot wounds to the stomach from which he later died in the hospital.<sup>2090</sup> On 18 January 1999 a group of “RUF and juntas” went to search the Good Shepherd hospital accusing the staff there of “treating ECOMOG and Kamajors”. The Juntas forced every body out of the hospital, including staff, patients and visitors, and started beating them with a stick called a “coboko”.<sup>2091</sup> The juntas took Witness TF1-104 along with 200 other civilians<sup>2092</sup> to one Pa Zubay’s house located a short distance from the hospital. On the way to this house, the AFRC/RUF fighters shot to death a Nigerian businessman called Ike who had been admitted for treatment of his gunshot wounds in the Good Shepherd hospital.<sup>2093</sup> A number of Junta commanders had gathered at Pa Zubay’s house including one “Captain Shepherd” whom the witness had previously met and one “Captain Blood”. The civilians were made to stand against a wall and the Juntas opened fire, shooting randomly at the civilians. The witness testified that 15 civilians were shot to death as a result, and that he was lucky to escape with bullet wounds on his elbow, knee and hip.<sup>2094</sup>

## Findings

<sup>2087</sup> Exhibit P-328, “Human Rights Watch Report, Getting Away with Murder, Mutilation, Rape, New Testimony from Sierra Leone, July 1999”, pp. 23000-23001.

<sup>2088</sup> Exhibit P-212A, “TF1-104, AFRC Transcript, 8 April 2005” and Exhibit P-212B (confidential). The witness was cross-examined on his prior testimony on 23 October 2008.

<sup>2089</sup> Exhibit P-212B (confidential), pp. 5-9.

<sup>2090</sup> Exhibit P-212B (confidential), p. 19.

<sup>2091</sup> Exhibit P-212B (confidential), pp. 22-24.

<sup>2092</sup> Exhibit P-212B (confidential), p. 25.

<sup>2093</sup> Exhibit P-212B (confidential), p. 24.

<sup>2094</sup> Exhibit P-212B (confidential), pp. 24-29.

805. The Trial Chamber finds, based on the reliable and credible evidence of Mohamed Sesay, that the Prosecution proved that (i) around 12 January 1999 at PWD near Ferry Junction, two civilian men were intentionally killed in a ritualistic murder by the invading rebel forces described by the witness as “rebels and SLAs;” (ii) that around 15 January 1999 at Falcon Street, an RUF rebel called Issa Conteh intentionally killed an old civilian woman as part of “Operation No Living Thing;” (iii) that around 18 January 1999 at the house of one Abbas, a rebel called “Commando” intentionally shot and killed 8 young civilian men who had refused to surrender their hands to him for amputation; (iv) and that on the same occasion rebels acting under the orders of “Commando” intentionally hacked to death 5 other civilian men who had similarly refused to surrender their hands to him for amputation. The Trial Chamber also finds based on the credible evidence of Witness TF1-098 that (v) on 18 January 1999 a rebel called Tommy intentionally amputated and caused the death of one civilian at Fataraman Street in Kissy. Additionally, the Trial Chamber finds based on the credible evidence of Ibrahim Wai that (vi) in January 1999, rebels led by a commander called Captain Blood intentionally killed a civilian named Brima who was set ablaze in his house at Kissy. The Trial Chamber further finds based on the credible evidence of Witness TF1-104 that (vii) in January 1999, at the Good Shepherd Hospital in Kissy, AFRC/RUF junta forces under the command of Captain Blood intentionally executed 17 civilians including Ike the Nigerian businessman and another civilian shot at a nearby cemetery. The Trial Chamber further finds that none of the civilian victims in the above instances was taking an active part in the hostilities at the time of death.

806. The Trial Chamber further finds, based on the reliable and credible evidence of Alimamy Bobson Sesay (viii) that in the third week of January 1999, rebels comprising members of the AFRC, RUF, STF and other Liberian fighters acting on the orders of Commanders Gullit, Rambo Red Goat and Bajehjeh, intentionally killed an unknown number of civilians at Kissy Market and Low Cost area in Kissy whom they suspected of supporting ECOMOG; and (ix) that on 22 January 1999 after the massacre at Rogbalan mosque, a rebel called Foday Bah Marrah (a.k.a. Bulldoze) acting on the orders of Gullit, intentionally shot and killed four white nuns. The Trial Chamber finds that none of the civilians in the above instances were taking an active part in the hostilities at the time of death.

807. The Trial Chamber further finds, based on the reliable and credible evidence of Alimamy Bobson Sesay as corroborated by Witnesses TF1-021; TF1-083; Corinne Dufka and Exhibit P-328 that (x) on 22 January 1999 at Rogbalan Mosque in Kissy, rebels including members of the AFRC, RUF, STF and Liberian fighters under the command of Gullit, Five-Five, Rambo Red Goat and Bajehjeh, intentionally killed over 60 civilians who had taken refuge in the mosque, on suspicion that they were harbouring ECOMOG forces. The Trial Chamber also finds that none of the civilians in this instance was taking an active part in the hostilities at the time of death.

808. Further the Trial Chamber takes note of evidence relating to comments by rebel commander Gullit inciting the rebel forces to “burn all the houses and kill all the remaining civilians” in Kissy, all of whom he perceived to have “betrayed the AFRC/RUF”. The Trial Chamber particularly takes note of the indiscriminate killing of innocent civilians including Catholic nuns, women and children seeking refuge in places of worship like the Rogbalan Mosque. The Trial Chamber also takes particular note of the public or ritualistic execution of the civilians often by gruesome means as hacking by axe or machete, and the declaration of “Operation No Living Thing” as means by which the rebels terrified the civilian population. The Trial Chamber accordingly finds that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the murders in Kissy was to instil terror in the civilian population.

(iii) Unlawful killing of civilians in Fourah Bay in late January 1999

809. Alimamy Bobson Sesay testified that in the second week of January, ECOMOG forces dislodged the rebel forces from State House and the latter retreated to Eastern Police where they stopped to wait for reinforcement that had arrived and was waiting at Allen Town.<sup>2095</sup> While there, the rebel troops ambushed and captured a Government delegation consisting of one Doctor Daboe and two Ministers. The rebels sent the captives to Ferry Junction where Gullit was situated. Gullit ordered the summary execution of the three Government officials saying “they were collaborators and they were the people who fought

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<sup>2095</sup> Alimamy Bobson Sesay, Transcript 23 April 2008 pp. 8322-8324.

against us that led us to go into the bush”. Bobson Sesay testified that the three Government officials were executed at Ferry Junction and their bodies displayed there.<sup>2096</sup>

810. Bobson Sesay further testified that sometime after the third week of January 1999, when the rebel troops had been reinforced by a group of 50 SLAs and RUF members led by Rambo Red Goat and had recaptured State House,<sup>2097</sup> they heard on BBC radio that Sam Bockarie (a.k.a. Mosquito) had rejected a ceasefire and peace talks with the Government. Thereafter, Mosquito called Gullit on the radio set, and after warning the latter that the Government was “just trying to reorganise themselves to flush us out of Freetown”, Mosquito instructed Gullit “to kill civilians and burn down strategic areas so that there would be no government and there would be no one for the government to rule”.<sup>2098</sup> After this message, Gullit ordered his senior commanders to distribute fuel to the forces in Freetown, who started burning buildings as they withdrew from State House where ECOMOG had attacked them.<sup>2099</sup>

811. Bobson Sesay was with the advance team of the rebels during the withdrawal that moved from State House to Eastern Police and then Mountain Cut.<sup>2100</sup> Gullit, Five-Five, and Bazy met them near Savage Square<sup>2101</sup> and told them that civilians had challenged them by killing an AFRC fighter in Fourah Bay.<sup>2102</sup> In response, Gullit ordered Sesay and some other men, including the witness, Bazy and Five-Five, to burn down Fourah Bay and kill the people there.<sup>2103</sup> Bobson Sesay, who participated in this operation, stated that on arrival at Fourah Bay the rebels burnt a lot of houses and killed a lot of civilians by either burning them alive inside of their homes, or by forcing them outside of their homes and killing them.<sup>2104</sup> Explaining how the rebels attempted to burn all of the houses down and kill all of the civilians in Fourah Bay, the witness stated, “Whenever we went on such a mission we would always make sure that nobody escapes and even there we did not allow anybody to escape....we would not just set fire to a house and move. We will stand there until we see

<sup>2096</sup> Alimamy Bobson Sesay, Transcript 23 April 2008 pp. 8326.

<sup>2097</sup> Alimamy Bobson Sesay, Transcript 23 April 2008 pp. 8327-8328.

<sup>2098</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8328-8329.

<sup>2099</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8330-8331.

<sup>2100</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8332.

<sup>2101</sup> Witness TF1-104 testified that Fourah Bay is an area within Kissy, around Savage Square. See Exhibit P-212B (confidential), p. 20732.

<sup>2102</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8332-8333.

<sup>2103</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8333-8334.

that everything was burnt to the ground”.<sup>2105</sup> The witness told court that the whole team including Gullit, Bazy and Five-Five participated in the Fourah Bay operation, in vengeance for the death of one of the rebels.<sup>2106</sup>

812. The Trial Chamber also considered Exhibit P-077. In the context of describing arbitrary attacks by the retreating rebels against civilians in Freetown in January 1999, Exhibit P-077 referred to an incident around 21 January 1999 at Fourah Bay Road where three children were executed and the limbs of their three sisters were amputated or mutilated.<sup>2107</sup>

### Findings

813. The Trial Chamber further finds, based on the reliable and credible evidence of Alimamy Bobson Sesay (i) that in the second week of January 1999, three civilian Government officials including Dr Daboe and two Ministers, were intentionally killed at Ferry Junction on the orders of Gullit as punishment for being “collaborators” of the Government; and (ii) that in the third week of January 1999, rebels comprising members of the AFRC, RUF, STF and other Liberian fighters acting on the orders of Commanders Gullit, Bazy and Five-Five intentionally killed an unknown number of civilian in Fourah Bay area by either burning them alive inside of their homes, or by forcing them outside of their homes and killing them, in revenge for an AFRC fighter that had been killed in the area. The Trial Chamber further finds based on the documentary evidence in Exhibit P-077 (iii) that around 21 January 1999 at Fourah Bay Road, retreating rebels intentionally killed three civilian children. The Trial Chamber also finds that none of the civilians in the above instances was taking an active part in the hostilities at the time of death.

814. Further the Trial Chamber finds based on the above evidence that the civilian killings in Fourah Bay area were part of the reprisal killings by the rebel forces as they fled Freetown. In this regard, the Trial Chamber takes note of comments by rebel commanders that the captured Government officials were “collaborators” who deserved to die and that the civilians of Fourah Bay also deserved to die for killing an AFRC fighter. The Trial Chamber

<sup>2104</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8333-8334.

<sup>2105</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8334.

<sup>2106</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8334.

<sup>2107</sup> Exhibit P-077 (confidential), p. 9292.

particularly takes note of the public display of the bodies of the three Government officials at Ferry Junction and the random burnings and amputations that accompanied the civilian killings, as means by which the rebels terrified the civilian population. The Trial Chamber finds, based on the above oral and documentary evidence that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the murders in Fourah Bay was to instil terror in the civilian population.

(iv) Unlawful killing of civilians in Calaba Town in the third week of January 1999

815. Alimamy Bobson Sesay testified that after the rebel troops had withdrawn from Rogbalan Mosque and killed the nuns, Gullit told them that he had received information that the Guinean ECOMOG forces were moving from Kambia to Waterloo in pursuit of the rebels. Consequently, Gullit ordered the rebel troops to withdraw from PWD to Allen Town in order to escape the advancing ECOMOG forces and “to burn as many buildings and capture as many civilians as possible along the way in order to force the Government to recognise them”.<sup>2108</sup> Bobson Sesay explained that en route, the rebel forces<sup>2109</sup> went through Kissy Mess Mess, the Porty Market area, Brewery, Calaba Town and Allen Town, engaging ECOMOG forces, burning buildings, amputating and/or capturing many civilians as they went.<sup>2110</sup>

816. On this initial retreat from Kissy, Bobson Sesay testified that they passed through Calaba Town without stopping because there was an attack around the area, and then stopped in the hills of Allen Town.<sup>2111</sup> Although there were civilians in the hills of Calaba Town when the fighters went through, Gullit ordered the rebel troops to advance at once to Allen Town.<sup>2112</sup>

817. Describing the rebel withdrawal at this time, Bobson Sesay told the Court, “When we were moving we were like wounded lions, because the way we withdrew we were so

<sup>2108</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8340.

<sup>2109</sup> The witness explains that by this time, the initial rebel forces comprising members of the AFRC/RUF/STF and Liberian fighters were reinforced by SLA and RUF members who had come with Rambo Red Goat and some of the former prisoners that had been freed by the rebels from Pademba Road Prison. Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8340-8341.

<sup>2110</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8368-8369.

<sup>2111</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8370.

<sup>2112</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8371.

desperate that we were burning along the way whilst we were coming. Taking civilians from out of their houses, those that we saw were not fit enough we would execute them and we advanced because it was a mass withdrawal".<sup>2113</sup> Bobson Sesay testified that they captured many civilians as they withdrew from Freetown, including men, women and children and guarded them well so they could not escape, while executing those that were not fit enough to move with the rebel troops.<sup>2114</sup> When asked whether the houses they burnt had people in them, he testified that "Some were empty, some had people in them, but we were moving. Because the brigade was very long, so while the fighting force was ahead we would attack and burn and the other fighting forces on the back would do the same. Some would capture civilians and other would be executing them whilst we would be advancing and withdrawing from the area".<sup>2115</sup> Bobson Sesay further testified that when they set fire to a house with people inside, that the "people were screaming and they died".<sup>2116</sup>

818. Bobson Sesay told the Court that the retreating rebel forces met resistance from ECOMOG at Calaba Town and quickly proceeded to Allen Town. However, once they arrived at Allen Town, Gullit ordered Hassan Papa Bangura to organise fighters to go back to Cabala Town to attack the ECOMOG forces and to ensure that "anywhere civilians were and houses were they should burn down the area so that Freetown becomes ungovernable".<sup>2117</sup>

819. Bobson Sesay testified that a team of more than 200 fighters, including members of the RUF, AFRC, STF and former NPFL fighters led by Hassan Papa Bangura (a.k.a. Bomb Blast), Rambo Red Goat, Med Bejehjeh and the witness, attacked Calaba Town but did not see any ECOMOG forces there.<sup>2118</sup> Instead the rebel fighters set about burning buildings and killing civilians as ordered by Gullit. They shot and killed most of the civilians, but some of them were hacked to death in order to preserve bullets, and some burned to death

<sup>2113</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8369.

<sup>2114</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8346-8347, 8370. The witness stated that the civilians captured from Freetown, and in the course of the rebel withdrawal from Freetown, were referred to by the code name "family members" and were closely guarded by the whole brigade so that none escaped. These civilians were also used by the brigade to carry "loads" of food and ammunition as well as cook for the brigade. Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8350, 8371.

<sup>2115</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8370.

<sup>2116</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8370.

<sup>2117</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8371.

<sup>2118</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8371-8372.



inside their homes, which had been set on fire.<sup>2119</sup> Bobson Sesay testified that the rebel troops killed an unknown number of civilians and that “We all killed, let me tell you that. I myself, I killed. Other men killed”.<sup>2120</sup> After this mission ended they again withdrew to Allen Town.<sup>2121</sup>

820. The Trial Chamber admitted in evidence the transcript of testimony of Prosecution Witness TF1-029 given in the RUF trial.<sup>2122</sup> In her prior testimony, Witness TF1-029 testified that after she and 50 other civilians were captured in Wellington by RUF and AFRC fighters including the SLA soldier Major Arif on 22 January 1999, they all travelled en masse together to Calaba Town, where they stayed for two weeks.<sup>2123</sup> On the way from Wellington to Calaba Town TF1-029 saw the rebels burning houses and killing civilians.<sup>2124</sup> During the two weeks that TF1-029 stayed in Calaba Town she also testified that the rebels cut off the head of an ECOMOG fighter, and that an AFRC fighter named Colonel Tito shot and killed one nun and shot two other nuns in their hands.<sup>2125</sup> The body of the dead nun was buried near the kola tree.<sup>2126</sup>

821. While TF1-029 testified consistently concerning this event in both the RUF trial and this trial, the Defence did question TF1-029 regarding Prosecution interview notes from 24 November 2003 wherein she purportedly stated that all three nuns were killed by Colonel Tito. TF1-029 testified that the interviewer recorded her words incorrectly and that only one nun had died and the other two were injured.<sup>2127</sup>

822. Osman Jalloh testified that he was in Calaba Town in January 1999.<sup>2128</sup> Jalloh further told the Court that in the second or third week of January 1999, rebels travelled through Calaba Town into the hills with loads on their heads, but warned the residents of Calaba

<sup>2119</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8372-8373.

<sup>2120</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8371-8372.

<sup>2121</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8372.

<sup>2122</sup> Witness TF1-029 testified in the RUF trial. The transcript of her evidence was admitted as Exhibit P-206 (“prior testimony”) under Rule 92*bis*. In the present trial, the witness was cross-examined. See Witness TF1-029 Transcript 22 October 2008, pp. 18969-18983.

<sup>2123</sup> Exhibit P-206, “TF1-029, RUF Transcript 28 November 2005”, pp. 19415-19418.

<sup>2124</sup> Exhibit P-206, “TF1-029, RUF Transcript 28 November 2005”, p. 19418.

<sup>2125</sup> Exhibit P-206, “TF1-029, RUF Transcript 28 November 2005”, p. 19419.

<sup>2126</sup> TF1-029, Transcript 22 October 2008, p. 18979.

<sup>2127</sup> TF1-029, Transcript 22 October 2008, pp. 18978-18979.

<sup>2128</sup> Osman Jalloh, Transcript 1 October 2008, p. 17675.

Town that they would be back to “disturb” them.<sup>2129</sup> Jalloh had heard that ECOMOG had driven these rebels from Freetown, Wellington and Kissy.<sup>2130</sup> Jalloh testified that two to three hours after the rebels had gone into the hills he heard gunshots and went to the compound of his neighbour, Mr Jalloh, to hide.<sup>2131</sup> The witness and ten others, including elderly people and suckling children, hid in a little tin shack for six days, until an armed man wearing civilian clothes and a goat horn on his head knocked on the door asking for money.<sup>2132</sup>

823. The man searched the witness’s pockets and took 2,000 Leones that he found there.<sup>2133</sup> When the armed man did not find any money on the other civilians he put them back into the tin shack, set the straw mattress inside on fire, and left them there for about five minutes before allowing them to come out.<sup>2134</sup> The armed man then said that even though the other civilians did not have money, they should give him something else if they did not want to be burnt alive.<sup>2135</sup> Otick, the owner of the compound, told the armed man that he would give him 86 bags of rice.<sup>2136</sup> The armed man opened the compound door and about 100 rebels dressed in civilian clothes came into the compound, taking the bags of rice.<sup>2137</sup> The rebels left and the civilians remained in the compound.<sup>2138</sup>

824. The following day a tall rebel came to the house and took the civilians to Sayinoh Junction, which was between Calaba Town and Wellington.<sup>2139</sup> The rebel said that it was “for their safety because if another group of rebels came the civilians would have nothing to give them, and would be killed”.<sup>2140</sup> Jalloh testified that as they walked from Calaba Town to Sayinoh Junction he saw “a lot of corpses lying by the road”.<sup>2141</sup> Jalloh further testified that he could not identify the corpses lying in the street, but that he assumed that they were

<sup>2129</sup> Osman Jalloh, Transcript 1 October 2008, p. 17682.

<sup>2130</sup> Osman Jalloh, Transcript 1 October 2008, pp. 17678, 17682.

<sup>2131</sup> Osman Jalloh, Transcript 1 October 2008, p. 17683.

<sup>2132</sup> Osman Jalloh, Transcript 1 October 2008, pp. 17684-17690.

<sup>2133</sup> Osman Jalloh, Transcript 1 October 2008, p. 17688.

<sup>2134</sup> Osman Jalloh, Transcript 1 October 2008, p. 17691.

<sup>2135</sup> Osman Jalloh, Transcript 1 October 2008, p. 17692.

<sup>2136</sup> Osman Jalloh, Transcript 1 October 2008, p. 17693.

<sup>2137</sup> Osman Jalloh, Transcript 1 October 2008, pp. 17693-17694.

<sup>2138</sup> Osman Jalloh, Transcript 1 October 2008, p. 17695.

<sup>2139</sup> Osman Jalloh, Transcript 1 October 2008, pp. 17695-17698.

<sup>2140</sup> Osman Jalloh, Transcript 1 October 2008, p. 17696.

<sup>2141</sup> Osman Jalloh, Transcript 1 October 2008, p. 17698.

civilians because they were wearing civilian clothing and not military uniforms.<sup>2142</sup> There were old people, women and children among the corpses.<sup>2143</sup> Jalloh estimated that there were approximately 100 corpses over a 200 yard stretch of road, and testified that there were so many that they had to walk in a “zigzag” to avoid stepping on them.<sup>2144</sup> The only place he stopped seeing corpses was “the culvert” between Calaba Town and Wellington.<sup>2145</sup>

825. Jalloh testified that when they arrived at Sayinoh Junction, there were over 100 armed rebels there dressed in civilian clothes who spoke in bad Krio and sitting on the floor of one Mr Okabia’s house.<sup>2146</sup> The Commander was the only person seated in the house on a chair.<sup>2147</sup> Children around the age of 10 years old were 50 yards away from the house packing stones on the highway to prevent ECOMOG from coming through.<sup>2148</sup> The rebels ordered the captives to go to the top floor of the two story house, and to warn the rebels whenever the ECOMOG helicopter referred to by the rebels as the Alpha Jet or “Wowo Boy”, was going to come to attack them. The rebels warned the civilians that if they failed to warn the rebels as ordered, they would punish the civilians by amputating their hands.<sup>2149</sup> Jalloh told the court that when the Alpha Jet came and shot at them, the rebels ran outside and hid.<sup>2150</sup>

826. When the Alpha Jet had left, the rebels started amputating the hands of civilians. Otick refused to place his hand on the mortar two times, and the rebel then chopped him two times in the head with a cutlass.<sup>2151</sup> Jalloh testified that blood spilled out all over and that Otick fell to the ground. Jalloh testified that the rebels told him to place his hands on the mortar block and they chopped them both off, one at a time.<sup>2152</sup> The rebels then told Jalloh “to tell Pa Kabbah and the ECOMOG that if they came to meet the fighters that they would be chopped in the same way”.<sup>2153</sup> Jalloh left the house and walked until he came upon

<sup>2142</sup> Osman Jalloh, Transcript 1 October 2008, pp. 17699-17700.

<sup>2143</sup> Osman Jalloh, Transcript 1 October 2008, p. 17701.

<sup>2144</sup> Osman Jalloh, Transcript 1 October 2008, p. 17701.

<sup>2145</sup> Osman Jalloh, Transcript 1 October 2008, p. 17702.

<sup>2146</sup> Osman Jalloh, Transcript 1 October 2008, pp. 17703-17705.

<sup>2147</sup> Osman Jalloh, Transcript 1 October 2008, p. 17705.

<sup>2148</sup> Osman Jalloh, Transcript 1 October 2008, pp. 17707-17708.

<sup>2149</sup> Osman Jalloh, Transcript 1 October 2008, pp. 17709-17710.

<sup>2150</sup> Osman Jalloh, Transcript 1 October 2008, p. 17711.

<sup>2151</sup> Osman Jalloh, Transcript 1 October 2008, p. 17717.

<sup>2152</sup> Osman Jalloh, Transcript 1 October 2008, p. 17718.

<sup>2153</sup> Osman Jalloh, Transcript 1 October 2008, p. 17719.

ECOMOG soldiers who took him to Connaught Hospital.<sup>2154</sup> Jalloh saw Otick again at the Connaught Hospital, and testified that Otick died there three days later.<sup>2155</sup>

827. At Connaught Hospital Jalloh was also told that Ya Sampa, who was his neighbour and who had been with him at the house when his hands were amputated, had been “chopped up” and subsequently died.<sup>2156</sup> However he did not see her corpse, nor did the others that made their way to the hospital from the scene of the criminal event.<sup>2157</sup> Jalloh testified that he believed that his hand was amputated on 28 January 1999 because this was the date he was told it was when he was admitted to Connaught Hospital.<sup>2158</sup>

828. Paul Conteh<sup>2159</sup> testified that on 19 January 1999 he was in Calaba Town.<sup>2160</sup> At this time the fighting between ECOMOG and the “rebels” was “so immense” that he decided to flee to Jui by way of Allen Town.<sup>2161</sup> On the main road to Allen Town he was forced to turn back two days later because the ECOMOG were “shedding bombs” and there were civilians moving toward Allen Town.<sup>2162</sup> On his way back to Calaba Town, as he was passing through Thomas Place, he saw approximately 40 civilian corpses dressed in “plain cloth”.<sup>2163</sup> He testified however, that he did not know how they had died.<sup>2164</sup>

829. In his prior testimony, Prosecution Witness TF1-098<sup>2165</sup> testified that on 6 January 1999 he was near the East End Police and Mountain Cut area of Freetown when the rebels attacked.<sup>2166</sup> During this time he observed civilians, Kamajors, and ECOMOG soldiers coming from Calaba Town to the East End Police area.<sup>2167</sup> Two days later, Witness TF1-098

<sup>2154</sup> Osman Jalloh, Transcript 1 October 2008, pp. 17719-17721.

<sup>2155</sup> Osman Jalloh, Transcript 1 October 2008, p. 17718.

<sup>2156</sup> Osman Jalloh, Transcript 1 October 2008, p. 17726.

<sup>2157</sup> Osman Jalloh, Transcript 1 October 2008, p. 17726.

<sup>2158</sup> Osman Jalloh, Transcript 1 October 2008, p. 17734.

<sup>2159</sup> Paul Conteh gave evidence concerning murders in Calaba Town in the AFRC trial, which was admitted as prior testimony under Rule 92*bis*. Paul Conteh, Transcript 27 October 2008, p. 19314. He was cross-examined by the Defence concerning this testimony in this trial.

<sup>2160</sup> Exhibit P-215, “TF1-227, AFRC Transcript 8 April 2005”, p. 20814.

<sup>2161</sup> Exhibit P-215, “TF1-227, AFRC Transcript 8 April 2005”, p. 20815.

<sup>2162</sup> Exhibit P-215, “TF1-227, AFRC Transcript 8 April 2005”, p. 20816.

<sup>2163</sup> Exhibit P-215, “TF1-227, AFRC Transcript 8 April 2005”, p. 20816.

<sup>2164</sup> Exhibit P-215, “TF1-227, AFRC Transcript 8 April 2005”, p. 20816.

<sup>2165</sup> Witness TF1-098 gave evidence concerning murders in Calaba Town in the AFRC trial, which was admitted as prior testimony under Rule 92*bis*. Witness TF1-098, Transcript 23 October 2008, p. 19147. He was cross-examined by the Defence concerning this testimony in this trial.

<sup>2166</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, p. 20682.

<sup>2167</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, p. 20682.

left to attempt to find his mother in Calaba Town.<sup>2168</sup> From Ferry Junction he used the Old Road to travel to Calaba Town, and testified that he saw many corpses of men, women and children along the way.<sup>2169</sup> After locating her there, he returned back to the East End Police area using the New Road, and testified that he again saw many corpses of civilians.<sup>2170</sup>

### Findings

830. The Trial Chamber finds the above first-hand evidence credible and reliable. While Bobson Sesay participated in the Calaba Town attack, the other witnesses were civilian victims of the attack and gave first-hand accounts of their experiences. Based on the above evidence the Trial Chamber finds that the evidence proves that around 18 to 22 January 1999, on the orders of commanders Gullit, Bazzy and Five-Five, members of the RUF, AFRC, STF and former NPFL fighters led by Hassan Papa Bangura (a.k.a. Bomb Blast), Rambo Red Goat, Med Bejehjeh and the witness, intentionally massacred hundreds of civilians at Calaba Town by shooting, burning or hacking them to death including (i) a civilian nun who was intentionally shot dead by an AFRC commander called Tito, (ii) Otick and Ya Sampa who were civilians who were intentionally hacked to death with machetes and (iii) an ECOMOG soldier who was hors de combat was intentionally beheaded. The Trial Chamber finds that none of the victims in the above instances was taking an active part in the hostilities at the time of death.

831. Further the Trial Chamber is satisfied based on the above evidence that the civilian killings in Calaba Town were in reprisal for the defeat that the retreating Junta forces had suffered in Freetown. In this regard, the Trial Chamber takes note of the large numbers of Junta forces that participated in this attack, the mass abduction of civilians by the retreating rebel forces, the orders issued by rebel commanders Gullit “to burn as many buildings and capture as many civilians as possible along the way in order to force the Government to recognise them” and the comments by the rebels as they amputated Osman Jalloh and sent him “to tell Pa Kabbah and the ECOMOG that if they came to meet the fighters that they would be chopped in the same way”. The Trial Chamber also takes note of the public display of the hundreds of corpses of men, women and children left strewn along the highway in the area. The Chamber finds that the perpetrators wilfully made the victims the

<sup>2168</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, p. 20683.

<sup>2169</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, p. 20685.

object of such violence and the primary purpose of the murders committed in Calaba Town was to instil terror in the civilian population.

(v) Unlawful killing of civilians in Kingtom, Allen Town and Tower Hill areas

832. Alimamy Bobson Sesay testified that around the second week of January 1999, while the rebel forces still occupied State House, Gullit received information that ECOMOG forces were poised in Kingtom, a suburb of Freetown, and were preparing to attack the rebel forces at State House. Gullit remarked that “it was the civilians who went and called on the ECOMOG to go and base in Kingtom”.<sup>2171</sup> Consequently, Gullit declared the area from Siaka Stevens Street, Kingtom Road, the Cotton Tree Area through to Pademba Road area, up to Tower Hill, a “killing zone wherein anybody who came around that area was considered an enemy and that person should die”.<sup>2172</sup> Gullit ordered his commanders including Basky to go to Kingtom “to repel the ECOMOG forces and put the situation under control”. Bobson Sesay testified that he was part of the group of 150 rebels comprising members of the AFRC/RUF/STF and Liberian fighters that attacked Kingtom on Gullit’s orders.<sup>2173</sup> Sesay further testified that in Kingtom, the rebels attacked ECOMOG but also killed many civilians and burnt buildings before withdrawing back to State House.<sup>2174</sup> Sesay told the Court that the civilians in Kingtom were killed “because they had gone and called ECOMOG to base in there”, and that they were either pulled out of their houses and shot to death or burnt alive in their homes.<sup>2175</sup>

833. Bobson Sesay testified that other Commanders who killed civilians in this “killing zone” during the second week of January 1999 included Junior Lion, who told the witness that “he went on patrol in the Tower Hill area and had captured and executed some civilians”,<sup>2176</sup> and “Captain Blood”<sup>2177</sup> who captured and beheaded seven young men in Guard Street for “collaborating with the Nigerians”.<sup>2178</sup> Bobson Sesay also testified that while the rebel troops were temporarily based for two days at Allen Town awaiting further

<sup>2170</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, p. 20685.

<sup>2171</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8294.

<sup>2172</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8296-8297.

<sup>2173</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8295,8298.

<sup>2174</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8295-8298.

<sup>2175</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8295-8296.

<sup>2176</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8297.

<sup>2177</sup> The Witness explained at p. 8299 that Captain Blood was assigned to commander Bazy.

orders from Gullit, they would go out into the surrounding areas looking for food, and that any civilians they found on the way were killed because the rebels “did not want any civilian in that area for them to go and tell ECOMOG that we were based around that area. So when we met them we killed them”.<sup>2179</sup>

834. Akiatu Tholley testified that she was at home with her family in Wellington on 5 January 1999 when she heard that rebels had attacked Wellington.<sup>2180</sup> She and her family were hiding inside their house when a group of armed rebels dressed in black T-shirts<sup>2181</sup> and black jeans with bandanas or mufflers on their heads<sup>2182</sup> forced their way into the witness’s house. Three of these men dragged Tholley out of the house while kicking and whipping her with belts. The rebels also amputated the hand of a three-year-old child they found hiding in the witness’s house and threatened to amputate the witness’s mother.<sup>2183</sup> The witness stated that when the rebels dragged her outside, she “saw rebels killing and burning down houses”.<sup>2184</sup> However, she did not specify who she saw killed in Wellington.

835. Tholley testified that rebels came for a second time to her house at night and wanted to rape her, but her mother pleaded with them.<sup>2185</sup> The rebels stayed with their wives at Tholley’s house for two days.<sup>2186</sup> An STF rebel named James<sup>2187</sup> captured the witness and took her and many other civilian captives (including men and women) from Wellington to Allen Town. The witness and other civilian male and female captives were forced by the rebels to carry ammunition.<sup>2188</sup> Although Tholley’s condition was not feeling well from the beatings she had suffered, she forced herself to carry the ammunition because she “had seen

<sup>2178</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8299.

<sup>2179</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8373.

<sup>2180</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19172-19173.

<sup>2181</sup> Tholley stated that the T-shirts had the inscription “2-pac”(or “Tupac”) on them. Akiatu Tholley, Transcript 23 October 2008, p. 19174.

<sup>2182</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19194.

<sup>2183</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19175.

<sup>2184</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19175; Akiatu Tholley, Transcript 27 October 2008, pp. 19193-19194.

<sup>2185</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19193-19195.

<sup>2186</sup> The witness explained in cross-examination that in fact the rebels visited her house three times, on 5, 6 and 7 January 1999 and that on the third time it was her mother that invited one of the rebel commanders with his two bodyguards to come and stay at their house. Akiatu Tholley, Transcript 27 October 2008, pp. 19240-19241.

<sup>2187</sup> Tholley testified that James told her he was a former member of ULIMO and that he was an STF, and had fought in Liberia. Akiatu Tholley, Transcript 27 October 2008, pp. 19236-19237, 19272.

<sup>2188</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19176-19178.

people killed for refusing to carry loads”.<sup>2189</sup> The witness did not however, specify where she saw people killed in this way. Tholley further testified that as the group moved from Wellington to Allen Town she saw the rebels killing people, burning down houses, amputating people, and looting people’s property.<sup>2190</sup>

836. The witness further testified that when they reached Allen Town, she and a group of the civilians decided to drop the boxes of ammunition because they were tired of carrying them.<sup>2191</sup> Rebels (referred to by the witness as “James’s boys”) stripped the witness and her companions naked and pushed them to the ground, threatening to hack them to death for refusing to carry the loads of ammunition.<sup>2192</sup> At that moment, fighter jets came and flew over them, and everybody ran to hide.<sup>2193</sup> Tholley hid in the house of a woman named Fatmata who was one of James’s wives. Fatmata gave the witness clothes to wear.<sup>2194</sup> James found Tholley in Fatmata’s house, and took her to Mammy Dumbuya’s church.<sup>2195</sup> In the church Tholley saw the beating and raping of many “small girls” who were “not even adult” and the killing of some of them.<sup>2196</sup> Tholley testified that the fighters were killing the girls who refused to be raped by stabbing them with their bayonets.<sup>2197</sup>

837. Tholley further testified that while she was in the church, James raped her and she became unconscious.<sup>2198</sup> Tholley told the Court that she herself was a virgin and “had not yet begun her menses” at the time of capture.<sup>2199</sup> She regained consciousness in a small hut in “a place after Allen Town” where an old woman was tending to Tholley’s wounds with medicine in order to stop her bleeding.<sup>2200</sup> The old woman told Tholley that some people had brought the witness to her for treatment.<sup>2201</sup> Later, the rebel called James came to the hut

<sup>2189</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19179.

<sup>2190</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19179.

<sup>2191</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19180.

<sup>2192</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19180-19181.

<sup>2193</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19181.

<sup>2194</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19181-19182.

<sup>2195</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19182.

<sup>2196</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19182.

<sup>2197</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19183.

<sup>2198</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19184.

<sup>2199</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19183; Akiatu Tholley, Transcript 27 October 2008, p. 19224.

<sup>2200</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19184-19185.

<sup>2201</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19185.



and killed the old woman by shooting her in the forehead as Tholley was pleading to him stop,<sup>2202</sup> and then forcefully took Tholley with him on the way to Waterloo.<sup>2203</sup>

838. In cross-examination the Defence questioned Tholley as to inconsistencies between her pre-trial statements and her testimony concerning how many times she had been forced by the fighters to eat human hearts. In particular, in 2003 she had told the Prosecution that James had forced her to eat the heart of the old woman in the hut after he had killed her.<sup>2204</sup> Tholley insisted on cross-examination that she had not been forced to eat the heart of the old woman, but she did not explain the discrepancy. The witness was also confronted with her prior statement where she told the OTP investigators that in her presence, rebels killed her uncle and aunt and raped her cousin to death in the jungle.<sup>2205</sup> The witness made no mention of these alleged murders in her evidence in-chief. While admitting that she gave the said statement to the OTP investigators, the witness testified that the deaths of her uncle, aunt and cousin did not in fact take place “in her presence” and that instead it was her mother who had told her about the alleged deaths.<sup>2206</sup>

### Findings

839. The Trial Chamber finds the evidence of Akiatu Tholley relating to the deaths she witnessed in Wellington too general and unreliable. Consequently, The Trial Chamber has not relied on her evidence in relation to the killings that took place in Wellington. The Trial Chamber however, finds her testimony credible in relation to (i) the killing of civilians she saw on the way from Wellington to Allen Town; (ii) the young girls she saw killed in a church for resisting rape and (iii) the death of the old woman shot in the forehead by a rebel called James. The Trial Chamber finds on the basis of the above evidence that the Prosecution has proved beyond reasonable doubt that members of the AFRC/RUF/STF intentionally killed an unknown number of civilians in the vicinity of Wellington and Allen Town in January 1999.

840. The Trial Chamber further finds the first-hand evidence of Alimamy Bobson Sesay who took part in the rebel attacks, credible. That evidence proves that in the second and third

<sup>2202</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19230.

<sup>2203</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19185.

<sup>2204</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19230-19233.

<sup>2205</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19250-19253.

<sup>2206</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19252.

weeks of January 1999, on the orders of Gullit, (i) rebels comprising members of the AFRC/RUF/STF and Liberian fighters intentionally killed an unknown number of civilians suspected of collaborating with ECOMOG forces, in Kingtom, Allen Town and Tower Hill, an area referred to by the perpetrators as a “killing zone;” (ii) a rebel commander called Junior Lion intentionally executed several civilians in Tower Hill and, (iii) a rebel called “Captain Blood” intentionally beheaded seven young civilian men suspected of collaborating with ECOMOG, in Guard Street. The Trial Chamber finds on the basis of the above evidence that the Prosecution has proved beyond reasonable doubt that in the second and third weeks of January 1999, members of the AFRC/RUF/STF and Liberian fighters intentionally killed an unknown number of civilians in Kingtom, Allen Town and Tower hill areas.

841. Further the Trial Chamber is satisfied based on the above evidence that the civilian killings in Kingtom, Allen Town and Tower Hill, were in reprisal for the humiliating defeat suffered by the retreating Junta forces at the hands of the ECOMOG troops. In this regard, the Trial Chamber takes note of the large number of rebels that participated in this attack, the orders issued by rebel commander Gullit declaring this particular area a “killing zone wherein anybody who came around that area was considered an enemy and that person should die” because in his view, the civilians “had gone and called ECOMOG to base there”. The Trial Chamber also notes that the civilian killings were often coupled with rampant amputations and burning of buildings in these areas as part of a deliberate plan to terrorise the civilians whom the Junta forces perceived to support their enemies including the Government, ECOMOG and the Kamajors. The Trial Chamber finds that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the murders in Kingtom, Allen Town and Tower Hill, was to instil terror in the civilian population.

(vi) Unlawful killing of civilians in Tumbo

842. The Trial Chamber has considered the evidence of Prosecution Witness Ibrahim Wai in relation to the unlawful killings alleged to have taken place during this time period in Tumbo. Ibrahim Wai was a fisherman living in Tumbo in December 1998.<sup>2207</sup> He testified that on 23 December 1998, at 3:00a.m. in the morning, AFRC and RUF soldiers attacked

<sup>2207</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18559.

Tumbo by burning houses and killing people.<sup>2208</sup> The attack was led by a man dressed in full combat uniform called Captain Mohamed, also known as “Captain Blood”,<sup>2209</sup> who had been a friend of the witness.<sup>2210</sup> During the attack Wai hid in the hills, and then returned to Tumbo the next morning.<sup>2211</sup> As he walked toward Krio Town he saw the three dead bodies of Pa Pratt’s children lying next to a burnt down house.<sup>2212</sup> One of the dead children was named Eku and the other two were twins.<sup>2213</sup> He also testified that the rebels killed Bai Usu’s 10-year-old son, whose head had been “shattered, probably by a bullet”,<sup>2214</sup> a man named Joseph who had been shot,<sup>2215</sup> and one other man that he did not identify,<sup>2216</sup> and that he saw their corpses. Wai testified that Captain Blood subsequently met him again in Kissy and amputated Wai’s hand, telling him to “go to Pa Kabbah who had brought many hands for the civilians”.<sup>2217</sup>

### Findings

843. The Trial Chamber finds the evidence of Ibrahim Wai credible. Although his evidence relating to the deaths in Tumbo is circumstantial in that he only saw the dead bodies of the six civilians when he came out of hiding and did not see the killers, the fact that AFRC and RUF rebels had attacked Tumbo the previous night looting, shooting and burning a lot of houses, points to one reasonable conclusion that these rebels were the cause of death of the three children of Pa Pratt as well as the death of three other civilians including Bai Usu’s son. The Trial Chamber accordingly finds that the Prosecution has proved beyond reasonable doubt that AFRC/RUF fighters led by Commander Mohammed a.k.a. Captain Blood, intentionally killed six civilians including a 10 year-old boy, in Tumbo on 23 December 1998.

844. The Trial Chamber is satisfied that the killings in Tumbo or Tombo were part of the campaign of reprisal and terror waged by the retreating Junta forces against the civilians of

<sup>2208</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18560.

<sup>2209</sup> Ibrahim Wai, Transcript 17 October 2008, pp. 18586-18588, 18609.

<sup>2210</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18561; Ibrahim Wai, Transcript 17 October 2008, p. 18577.

<sup>2211</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18563.

<sup>2212</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18565; Ibrahim Wai, Transcript 17 October 2008, p. 18620.

<sup>2213</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18567.

<sup>2214</sup> Ibrahim Wai, Transcript 16 October 2008, pp. 18565-18566; Ibrahim Wai, Transcript 17 October 2008, p. 18620.

<sup>2215</sup> Ibrahim Wai, Transcripts 16 October 2008, pp. 18565-18566; Transcript 17 October 2008, pp. 18578, 18620.

<sup>2216</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18567.

Freetown and the Western Area. In this regard, the Trial Chamber notes that the widespread burnings, amputations and killings that occurred in Tumbo as the rebels advanced towards Freetown, the fact that these atrocities involved innocent civilians including children, and that one child's head was shattered by a bullet. The Trial Chamber also notes the rebel instructions to amputees to "go to Pa Kabbah who had brought many hands for the civilians", as indicative of the reprisals that civilians were subjected to for supposedly supporting President Kabbah's government or ECOMOG. Accordingly the Trial Chamber finds that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the murders in Tumbo was to instil terror in the civilian population.

(vii) Unlawful killing of civilians in Waterloo

845. The Trial Chamber has considered the oral evidence of Prosecution Witnesses TF1-028 and TF1-026, Witness Patrick Sheriff, as well as documentary evidence contained in Prosecution Exhibits P-308, P-341A, and P-341B admitted pursuant to Rule 92bis, in relation to the unlawful killings alleged to have taken place at Waterloo by rebels during their advance towards, and withdrawal from, Freetown between late December 1998 and early January 1999.

846. Exhibit P-308 is a UN Security Council, Special Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone (UNOMSIL) S/1999/20, dated 7 January 1999. It reported that on 22 December 1998, rebels in the Western area attacked Waterloo, resulting in heavy casualties among the civilian population,<sup>2218</sup> and the looting and burning of property, and the displacement of around 12,000 persons that fled from Waterloo to Freetown.<sup>2219</sup>

847. Exhibits 341A and 341B are an audio clip and its accompanying transcript, respectively, of a BBC "Focus on Africa" interview that took place on 22 December 1998 between Kwabena Mensah, a BBC reporter and Abubakar Sesay, a forest guard for the Waterloo district.<sup>2220</sup> In the interview Mensah reported that an ECOMOG commander had

<sup>2217</sup> Ibrahim Wai, Transcript 17 October 2008, pp. 18593-18594.

<sup>2218</sup> Exhibit P-308, "UN Security Council, Special Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 7 January 1999", p. 21473.

<sup>2219</sup> Exhibit P-308, "UN Security Council, Special Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 7 January 1999", p. 21477.

<sup>2220</sup> Exhibit P-341A, "BBC Focus on Africa Clip, 22 December 1998"; Exhibit P-341B, "BBC Focus on Africa Transcript, 22 December 1998".

confirmed that the RUF had attacked Waterloo in the early hours of the morning.<sup>2221</sup> Abubakar Sesay explained to Mensah that “collaborators of the AFRC and RUF juntas in an extension of Waterloo called Lumpa had secretly brought approximately 50 fighters into their homes two nights previously”.<sup>2222</sup> At 3:00a.m. the rebels began their attack, which lasted for two hours until ECOMOG, who had initially retreated, returned with ammo tanks and drove them out.<sup>2223</sup> Sesay stated that during the two-hour attack there was a lot of shooting and that the rebels burnt some houses and killed some civilians, including Mr Whenzle, the Secretary-General of the YWCA.<sup>2224</sup> Sesay reported that the rebels were fighting because they wanted their leader released and stated that “they are just bandits, going around villages, stealing people’s goods, and...killing innocent people....Their target is...civilian targets – that’s what they do”.<sup>2225</sup> Sesay did not witness the attack, as he was in a different section of Waterloo.<sup>2226</sup>

848. Prosecution Witness TF1-028 testified that she was captured in Karina, Bombali District by AFRC and RUF fighters around the time of the ECOMOG Intervention in Freetown.<sup>2227</sup> She lived in captivity in Rosos for six months and then was moved to a location called Tufayim or Eddie Town.<sup>2228</sup> The witness testified that Commanders at Eddie Town included Gullit, Five-Five, Woyoh, Col. Eddie, FAT and Leather Boot, and that Commanders Tito, Alabama, and RUF Mohammed all brought troops to reinforce the ones in Eddie Town. The witness stated that RUF Superman also sent troops and ammunition from Kurubonla to reinforce the rebel troops at Eddie Town, as they prepared to invade Freetown.<sup>2229</sup> The witness told the Trial Chamber that the RUF group that came from Kurubonla were led by Mohammed Bajehjeh, and comprised about 100 men, some of whom

<sup>2221</sup> Exhibit P-341A, “BBC Focus on Africa Clip, 22 December 1998”; Exhibit P-341B, “BBC Focus on Africa Transcript, 22 December 1998”, p. 23590.

<sup>2222</sup> Exhibit P-341A, “BBC Focus on Africa Clip, 22 December 1998”; Exhibit P-341B, “BBC Focus on Africa Transcript, 22 December 1998”, p. 23590.

<sup>2223</sup> Exhibit P-341A, “BBC Focus on Africa Clip, 22 December 1998”; Exhibit P-342B, “BBC Focus on Africa Transcript, 22 December 1998”, pp. 23590-23591.

<sup>2224</sup> Exhibit P-341A, “BBC Focus on Africa Clip, 22 December 1998”; Exhibit P-342B, “BBC Focus on Africa Transcript, 22 December 1998”, p. 23590.

<sup>2225</sup> Exhibit P-341A, “BBC Focus on Africa Clip, 22 December 1998”; Exhibit P-342B, “BBC Focus on Africa Transcript, 22 December 1998”, pp. 23590-23591.

<sup>2226</sup> Exhibit P-341A, “BBC Focus on Africa Clip, 22 December 1998”; Exhibit P-342B, “BBC Focus on Africa Transcript, 22 December 1998”, p. 23590.

<sup>2227</sup> TF1-028, Transcript 7 May 2008, pp. 9136, 9151, 9163, 9166.

<sup>2228</sup> TF1-028, Transcript 7 May 2008, p. 9201.

<sup>2229</sup> TF1-028, Transcript 7 May 2008, p. 9205-9210.

were Liberians and were called the “Red Lion” group.<sup>2230</sup> A week after the arrival of the reinforcements, the rebel troops left Eddie Town and trekked to Freetown, taking the witness and other captured civilians with them.<sup>2231</sup>

849. On the way to Freetown they passed through Port Loko Road, Freetown Highway, Four Mile and stopped at Waterloo, where she saw the rebel fighters burning houses and killing people.<sup>2232</sup> She saw the corpses of women and children in civilian clothes lying in the streets.<sup>2233</sup> From Waterloo, the rebel troops moved through Benguema, Tumbo, Grafton, Calaba Town and then into Freetown.<sup>2234</sup>

850. Prosecution Witness TF1-026 was also captured by RUF rebels led by a commander called CO Rocky<sup>2235</sup> on 6 January 1999, from her home in Wellington at the age of 14 years. She and 50 other civilian captives from her village travelled for several days with the rebels from Wellington through Calaba Town, Waterloo and then to Makeni.<sup>2236</sup> The witness testified that when the rebel troops and captured civilians arrived in Waterloo, the residents of Waterloo were frightened of the rebels and started running away. The witness saw the rebels shooting and killing the civilians as the latter tried to flee.<sup>2237</sup> The witness told the Trial Chamber that the rebels stayed in Waterloo for about one week under the command of one RUF commander called CO Rambo<sup>2238</sup> before moving to Makeni.<sup>2239</sup>

851. Patrick Sheriff testified that in December 1998 he was living in Lumpa<sup>2240</sup> in the Waterloo Rural District.<sup>2241</sup> He testified that on 17 December 1998 rebels attacked Lumpa

<sup>2230</sup> TF1-028, Transcript 7 May 2008, pp. 9216-9218.

<sup>2231</sup> TF1-028, Transcript 7 May 2008, pp. 9220-9223.

<sup>2232</sup> TF1-028, Transcript 7 May 2008, pp. 9223-9224.

<sup>2233</sup> TF1-028, Transcript 7 May 2008, p. 9224.

<sup>2234</sup> TF1-028, Transcript 7 May 2008, pp. 9224-9226.

<sup>2235</sup> TF1-026, Transcript 14 February 2008, p. 3847

<sup>2236</sup> TF1-026, Transcript 14 February 2008, pp. 3847-3865.

<sup>2237</sup> TF1-026, Transcript 14 February 2008, p.3864.

<sup>2238</sup> TF1-026, Transcript 14 February 2008, p.3865.

<sup>2239</sup> TF1-026, Transcript 14 February 2008, p.3865.

<sup>2240</sup> Patrick Sheriff, Transcript 3 October 2008, pp. 17807-17809. The witness explained that Lumpa and Waterloo share a common boundary at a bridge where the motor park is located. Patrick Sheriff, Transcript 3 October 2008, p. 17870; Patrick Sheriff, Transcript 1 October 2008, pp. 17765-17766. See also the statement of Abubakar Sesay, who was interviewed by the BBC concerning the attacks on Waterloo and described Lumpa as an extension of Waterloo. Exhibit P-341A, “BBC Focus on Africa Clip, 22 December 1998;” Exhibit P-341B, “BBC Focus on Africa Transcript, 22 December 1998”, p. 23590.

<sup>2241</sup> Patrick Sheriff, Transcript 1 October 2008, p. 17765.

with guns at about 4.00a.m.<sup>2242</sup> Sheriff hid in the bush for five days before being captured and whipped by the rebels. During the five days, the rebels burnt hundreds of civilian homes in Lumpa and Waterloo Town, in what appeared to the witness to be a coordinated campaign. The witness described the rebel operations stating “When they came they distributed themselves into various groups, Lumpa, Waterloo and all other villages around, and they set a time. And at any time they were doing something at a particular place, the other groups in the other areas were doing similar things in the other places. It was like simultaneous exercise”.<sup>2243</sup> After he was captured by rebels dressed in “black polo shirts with the inscription “Tupac, All Eyes on Me” and “short trousers”, Sheriff witnessed the rebels shoot and kill three civilian captives who had been told to lie on the ground.<sup>2244</sup> Sheriff himself narrowly escaped death but the rebel commander ordered that he be given 150 whip lashes, which the rebels carried out.

852. Sheriff further testified that on 10 January 1999 he was living in Malambay, about half an hours walk from Lumpa,<sup>2245</sup> when he learnt that rebels had burnt down Lumpa village and Waterloo Town for the second time. The rebels also announced that they would kill any civilian found hiding in the bush around Lumpa.<sup>2246</sup> Sheriff moved back to Lumpa and was staying at the Mannor Connor section of the village of Lumpa which was under the control of a rebel commander named Peleto, who was also known as “Friday” because he was known to go on killing sprees of civilians every Friday of the week around Lumpa.<sup>2247</sup> One early Friday morning in February 1999<sup>2248</sup> Sheriff saw Peleto shoot and kill a man named Mr Kai who had been reading his Bible and a Limba man who had been eating rice in a pot.<sup>2249</sup> Both victims were close neighbours of Sheriff.<sup>2250</sup> Sheriff saw Peleto coming toward his house and before running into the bush to hide he told an old woman who was staying there to flee.<sup>2251</sup> She could not run and went to hide in her room instead.<sup>2252</sup> Shortly after leaving the house, Sheriff heard a gunshot, and that evening when he returned to town

<sup>2242</sup> Patrick Sheriff, Transcript 1 October 2008, p. 17766.

<sup>2243</sup> Patrick Sheriff, Transcript 1 October 2008, p. 17770.

<sup>2244</sup> Patrick Sheriff, Transcript 1 October 2008, pp. 17771-17777.

<sup>2245</sup> Patrick Sheriff, Transcript 3 October 2008, pp. 17804-17806.

<sup>2246</sup> Patrick Sheriff, Transcript 3 October 2008, pp. 17807-17808.

<sup>2247</sup> Patrick Sheriff, Transcript 3 October 2008, pp. 17809, 17811.

<sup>2248</sup> Patrick Sheriff, Transcript 3 October 2008, p. 17811.

<sup>2249</sup> Patrick Sheriff, Transcript 3 October 2008, pp. 17809, 17812-17813, 17867-17868.

<sup>2250</sup> Patrick Sheriff, Transcript 3 October 2008, p. 17813.

<sup>2251</sup> Patrick Sheriff, Transcript 3 October 2008, pp. 17810, 17813.

he found the dead body of the woman in the house lying in a pool of blood.<sup>2253</sup> Sheriff had heard of Peleto before these killings, but was able to identify him at the time because after he killed Kai and before he killed the Limba man the people in the area were very afraid of this commander and were yelling “Peleto is coming”.<sup>2254</sup>

### Findings

853. The Trial Chamber finds the evidence of Witnesses TF1-028 and TF1-026 credible. They each spent a long time with the rebel forces in captivity during the rebel invasion of Freetown and moved with them during the withdrawal from Freetown. Their first hand evidence of civilians being indiscriminately killed by rebels in Waterloo is corroborated by the documentary evidence in Exhibits P-308, P-341A, and P-341B. Furthermore, the Trial Chamber also finds the evidence of Patrick Sheriff, who was a victim of rebel attacks on his village of Lumpa in Waterloo, credible. His evidence relating to the coordination of rebel attacks in Waterloo is corroborated by the description provided by Abubakar Sesay in Exhibits P-341A and P-341B. Based on the above oral and documentary evidence, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between late December 1998 and February 1999 rebels, including members of the AFRC/RUF/STF and Liberian fighters, attacked Waterloo and intentionally killed an unknown number of civilian men, women, children including (i) Mr Whenzle, the Secretary-General of the YWCA; (ii) Mr Kai, a Limba man and an old woman, who were summarily executed by Commander Peleto in Lumpa Village in Waterloo. The Trial Chamber finds that none of the victims in the above incidents were taking an active part in the hostilities.

854. The Trial Chamber is satisfied that the evidence of such callous indifference to human life by the rebels clearly indicates that the killings in Waterloo were part of the campaign of reprisal and terror waged by the retreating Junta forces against the civilians of Freetown and the Western Area. In this regard, the Trial Chamber notes the evidence of Sheriff referring to the fact that the rebels would attack in the early hours of the morning while civilians were sleeping in their homes, and that Commander Peleto, who used to go on regular killing rampages “every Friday”, was greatly feared by the civilians. The Trial Chamber also notes the vindictive manner in which the rebels carried out massive burnings

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<sup>2252</sup> Patrick Sheriff, Transcript 3 October 2008, pp. 17810, 17813.

<sup>2253</sup> Patrick Sheriff, Transcript 3 October 2008, pp. 17810, 17813-17814, 17868.



and afterwards lured back civilians who had fled the area, pretending to protect those civilians, only to harm or kill them. The Trial Chamber finds that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the murders in Waterloo was to instil terror in the civilian population.

(viii) Unlawful killing of civilians in Wellington

855. Prosecution Witness TF1-026, referred to above,<sup>2255</sup> told the Trial Chamber that nine armed RUF rebels attacked her house in Wellington on 6 January 1999.<sup>2256</sup> The rebels ordered the whole family to go outside on the veranda but the witness's sister kept crying out of fear. The rebels shot TF1-026's sister to death because they said "she was causing noise".<sup>2257</sup> Witness TF1-026 further testified that as she was held in captivity by RUF rebels in Wellington, she saw the rebels amputating a lot of civilians and burning a lot of houses.<sup>2258</sup> The witness heard the rebels tell one man whose hands they amputated to "go and tell the people that the rebels were coming". The amputated civilian fell down and died from his wounds.<sup>2259</sup> TF1-026 also saw the rebels set a house on fire in which Mr Wilson, a crippled teacher, was burnt to death.<sup>2260</sup> The witness also testified that she saw the rebels shoot and kill another civilian man on the way to Calaba Town.<sup>2261</sup>

856. The Trial Chamber admitted in evidence the transcript of the testimony of Prosecution Witness TF1-023 given in another trial.<sup>2262</sup> In her prior testimony, Witness TF1-023 testified that she was a captive of the AFRC from 22 January 1999 until August 1999.<sup>2263</sup> She testified that at one point during this time, on the way to being taken to

<sup>2254</sup> Patrick Sheriff, Transcript 3 October 2008, p. 17815.

<sup>2255</sup> This witness was captured by RUF rebels led by a commander called CO Rocky on 6 January 1999, from her home in Wellington at the age of 14 years. She and 50 other civilian captives from her village travelled for several days with the rebels from Wellington through Calaba Town, Waterloo and then to Makeni.

<sup>2256</sup> TF1-026, Transcript 14 February 2008, p. 3843.

<sup>2257</sup> TF1-026, Transcript 14 February 2008, p. 3843.

<sup>2258</sup> TF1-026, Transcript 14 February 2008, p. 3844.

<sup>2259</sup> TF1-026, Transcript 14 February 2008, p. 3845.

<sup>2260</sup> TF1-026, Transcript 14 February 2008, p. 3846.

<sup>2261</sup> TF1-026, Transcript 14 February 2008, p. 3849.

<sup>2262</sup> Witness TF1-023 testified in the AFRC trial. The transcript of her evidence was admitted as Exhibit P-205A and P-205B ("prior testimony") under Rule 92*bis*. In the present trial, the witness gave further evidence. See Witness TF1-023 Transcript 22 October 2008, pp. 18928-18967.

<sup>2263</sup> Exhibit P-205A, "TF1-023, AFRC Transcript 9 March 2005", pp. 19314-19354 and Exhibit P-205B (confidential), pp. 19356-19375. See also TF1-023, Transcript 22 October 2008, pp. 18950, 18956.

Waterloo, she heard, but did not see, that the rebels killed some nuns.<sup>2264</sup> However, the Defence confronted Witness TF1-023 with a previous written statement that she gave to Prosecution investigators wherein she stated that “she had seen the nuns, and then had not seen them again”, and that she “had not seen the rebels commit abuses during the walk to Waterloo but many civilians and rebels were killed by the Alpha Jets”.<sup>2265</sup> The witness confirmed that she had made these statements and that they were truthful.<sup>2266</sup>

857. Witness Sarah Koroma was living in Loko Town, Wellington with her husband and six children on 6 January 1999.<sup>2267</sup> The witness and her family ran and hid in the bush for a week, on hearing that rebels armed with guns and knives had attacked Wellington.<sup>2268</sup> The witness stated that when the rebels arrived, they were dressed in combat uniforms and found no civilians in Wellington as everybody had run away. The rebels then sent a message telling all the civilians to return to their homes and that anyone found in the bush thereafter would be considered an enemy.<sup>2269</sup> The witness and her family left the bush to return home but on the way, the rebels captured them and hacked her husband to death.<sup>2270</sup>

858. The rebels abducted the witness along with many other civilians. While in captivity, she saw them hack to death a six-year-old child whose mother had attempted to escape. In addition, the rebels amputated the witness’s left hand and sent her to “go and tell President Kabbah that they want peace”. They also tried to amputate her right hand but it was not severed.<sup>2271</sup> On her way to the hospital, the witness ran into a group of drunken rebels who made fun of her injuries and accused her of being “Tejan Kabbah’s mother”.<sup>2272</sup> The witness fell in a gutter where the rebels repeatedly kicked her, pelted her with empty beer bottles and stole her money. She finally made it to Conaught Hospital alive.

## Findings

<sup>2264</sup> TF1-023, Transcript 22 October 2008, p. 18956.

<sup>2265</sup> TF1-023, Transcript 22 October 2008, pp. 18956-18957.

<sup>2266</sup> TF1-023, Transcript 22 October 2008, p. 18957.

<sup>2267</sup> TF1-331, Transcript 22 October 2008, pp 18983-18987.

<sup>2268</sup> TF1-331, Transcript 22 October 2008, p. 18989.

<sup>2269</sup> TF1-331, Transcript 22 October 2008, p 18990.

<sup>2270</sup> TF1-331, Transcript 22 October 2008, p. 18991.

<sup>2271</sup> TF1-331, Transcript 22 October 2008, p. 18994.

<sup>2272</sup> TF1-331, Transcript 22 October 2008, p. 18999.

859. Given the major inconsistency in the evidence of Witness TF1-023 relating to any alleged killings that she might have or have not seen committed in Wellington, the Trial Chamber cannot rely on that evidence. The Trial Chamber however, finds the evidence of Witness TF1-026 reliable and credible. Based on that evidence the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between late December 1998 and February 1999 rebels, including members of the AFRC/RUF/STF and Liberian fighters, attacked Wellington and intentionally killed an unknown number of civilians including (i) the sister of witness TF1-026 who was shot and killed simply because she was crying; (ii) Mr Wilson, a crippled teacher who was burnt to death in his house; and (iii) another man who was shot to death on the way to Calaba Town. Based on the evidence of Sarah Koroma, the Trial Chamber also finds that the Prosecution has proved beyond reasonable doubt that around mid-January 1999, AFRC/RUF rebels in Loko Town, Wellington, intentionally killed her husband and a six-year old girl, both civilians, by hacking them with machetes. The Trial Chamber finds that the victims were not taking an active part in the hostilities.

860. The Trial Chamber is satisfied that the killings in Wellington were part of a campaign of reprisal and terror directed against the civilians of Freetown and the Western Area by the retreating Junta forces. In this regard, the Trial Chamber notes the widespread burnings and amputations that accompanied the indiscriminate killing of innocent civilians in Wellington and the callous comments by rebels to amputees to “go and tell the people that the rebels were coming”, or “tell Kabbah that they want peace” which comments coupled with the amputation were intended to instil fear in the civilian population perceived by the rebels to have voted Kabbah’s Government into power. The Trial Chamber finds that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the murders in Wellington was to instil terror in the civilian population.

(ix) Unlawful killing of civilians in Hastings

861. Alimamy Bobson Sesay testified that he was part of the rebel troops led by commanders Basky, Junior Lion and others that attacked Hastings on 3 January 1999, on the orders of Gullit,<sup>2273</sup> in order to fight the ECOMOG troops that were based there. Bobson

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<sup>2273</sup> Alimamy Bobson Sesay, Transcript 22 April 2008 p. 8267.

Sesay told the Court that during the attack, the rebels captured three Nigerian soldiers and shot them to death.<sup>2274</sup>

### Findings

862. The Trial Chamber finds beyond reasonable doubt that on 3 January 1999 at Hastings, rebel forces comprising of members of the AFRC/RUF/STF and Liberian fighters, intentionally killed three Nigerian ECOMOG soldiers who were hors de combat at the time of death.

#### (x) Unlawful killing of civilians in Benguema

863. Prosecution Witness TF1-143 was 12 years old<sup>2275</sup> when he and 50 other boys and girls were captured by RUF rebels in September 1998 in Konkoba. The rebels turned him into a child soldier after carving the letters “RUF” on his chest.<sup>2276</sup> TF1-143 testified that when he was with the fighters in Colonel Eddie Town<sup>2277</sup> that his direct superior, Kabila, told him that SAJ Musa had ordered them to go to Freetown to overthrow the Government.<sup>2278</sup> Kabila said that SAJ Musa had further ordered that when they arrived in Freetown they should not kill any civilian or burn any houses.<sup>2279</sup> The witness heard Commander Kabila state that SAJ Musa’s order would not work, and that instead the rebel troops would carry out an earlier order from O-Five called “Operation Spare No Soul”, which meant that “even humans, ants, goats, all should be killed”.<sup>2280</sup>

864. TF1-143 further testified that when his group of rebel fighters reached Benguema on their way to Freetown, SAJ Musa was injured when a bomb exploded in the weapons stock room and died.<sup>2281</sup> Kabila told TF1-143 that after SAJ Musa had died, “a priest prayed on the corpse and O-Five and Gullit gave an order for a sacrifice for us to perform so we would go to Freetown and succeed, the mission would be successful, that we should bury the corpse together with a fair complexion lady and the lady should be buried alongside SAJ

<sup>2274</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8263.

<sup>2275</sup> TF1-143, Transcript 5 May 2008, p. 8970.

<sup>2276</sup> TF1-143, Transcript 5 May 2008, pp. 8970-8977.

<sup>2277</sup> TF1-143, Transcript 5 May 2008, pp. 8970-8976.

<sup>2278</sup> TF1-143, Transcript 5 May 2008, pp. 9013-9014.

<sup>2279</sup> TF1-143, Transcript 5 May 2008, pp. 9013-9018.

<sup>2280</sup> TF1-143, Transcript 5 May 2008, pp. 9013-9018.

<sup>2281</sup> TF1-143, Transcript 5 May 2008, pp. 9023-9024, 9060.

Musa alive”.<sup>2282</sup> According to Kabila, they tied a woman’s legs up and buried her alive with SAJ Musa’s body.<sup>2283</sup>

865. Witness TF1-029<sup>2284</sup> referred to above<sup>2285</sup> testified that after she and 50 other civilians were captured in Wellington by RUF and AFRC fighters led by Major Arif on 22 January 1999, they all travelled together to Calaba Town and then to Benguema.<sup>2286</sup> TF1-029 further testified that as they travelled from Calaba Town to Benguema, the rebels were attacked by ECOMOG and Kamajors in a battle that involved a lot of civilian deaths.<sup>2287</sup> The rebels killed babies that were travelling with them because “they did not want them to make noise”.<sup>2288</sup> TF1-029 testified that when the group reached Benguema, a rebel called Colonel “Coal Boot” killed a civilian woman prior to them leaving Benguema on 10 March 1999.<sup>2289</sup>

866. Paul Conteh,<sup>2290</sup> who was captured on 23 January 1999 by AFRC soldiers, including Colonel Bastard, testified that one night while he was a captive under the control of a rebel called Lt. Gunboot at Benguema, Conteh heard a 16 year-old girl crying next door. Conteh knew this girl as she used to pass by his residence to fetch water. Conteh said that although he could not see what happened, the apartment that he was staying in was close enough to Gunboot’s apartment that he could hear the young woman crying and asking him “to leave her alone”.<sup>2291</sup> One of Gunboot’s “boys” confirmed to Conteh that Gunboot had killed the young woman with an axe.<sup>2292</sup> Conteh did not see the young woman again after this incident.<sup>2293</sup>

<sup>2282</sup> TF1-143, Transcript 5 May 2008, p. 9025.

<sup>2283</sup> TF1-143, Transcript 5 May 2008, p. 9025.

<sup>2284</sup> Witness TF1-029 testified in the RUF trial. The transcript of her evidence was admitted as Exhibit P-206 (“prior testimony”) under Rule 92*bis*. In the present trial, the witness was cross-examined. See Witness TF1-029, Transcript 22 October 2008, pp. 18969-18983.

<sup>2285</sup> In her prior testimony, Witness TF1-029 testified that after she and 50 other civilians were captured in Wellington by RUF and AFRC fighters including the SLA soldier Major Arif on 22 January 1999, they all travelled en masse together to Calaba Town, where they stayed for two weeks.

<sup>2286</sup> Exhibit P-206, “TF1-029, RUF Transcript 28 November 2005”, pp. 19415-19418.

<sup>2287</sup> Exhibit P-206, “TF1-029, RUF Transcript 28 November 2005”, pp. 19422-19423

<sup>2288</sup> Exhibit P-206, TF1-029, RUF Transcript 28 November 2005”, p. 19423.

<sup>2289</sup> Exhibit P-206, TF1-029, RUF Transcript 28 November 2005”, pp. 19424-19425, 19436.

<sup>2290</sup> Paul Conteh gave evidence concerning murders in Benguema in the AFRC trial, which was admitted as prior testimony under Rule 92*bis*. Paul Conteh, Transcript 27 October 2008, p. 19314. He was cross-examined by the Defence concerning this testimony in this trial.

<sup>2291</sup> Exhibit P-215, “TF1-227, AFRC Transcript 11 April 2005”, 11 April 2005, p. 20838.

<sup>2292</sup> Exhibit P-215, “TF1-227, AFRC Transcript 11 April 2005”, p. 20838.

<sup>2293</sup> Exhibit P-215, “TF1-227, AFRC Transcript 11 April 2005”, pp. 20839-20840.

### Findings

867. The Trial Chamber finds the evidence of Witnesses TF1-143, TF1-029 and Paul Conteh credible. Based on that evidence, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between December 1998 and February 1999 at Benguema, rebels including members of the AFRC/RUF intentionally killed an unknown number of civilians, including (i) a woman who was buried alive with the body of SAJ Musa as a sacrifice, (ii) a young woman killed by a rebel called "Coal Boot" or "Gun Boot", and (iii) babies travelling with the fighters were also killed because they were "making noise". The Trial Chamber finds that none of the victims in the above incidences was taking an active part in the hostilities at the time of death.

868. The Trial Chamber is satisfied that the killings at Benguema were part of a wider campaign of terror waged against the citizens of Freetown and the Western Area by AFRC/RUF forces. The Trial Chamber notes in this regard, the fact that civilians, including the said witnesses were captured and kept by the rebels against their will and often tortured, including Witness TF1-143 who was at a young age branded with the letters "RUF" on his chest and sent out to fight, as well as the female victims of rape. The Trial Chamber finds that the perpetrators wilfully made the victims the object of such violence and the primary purpose of the murders in Benguema was to instil terror in the civilian population.

### Conclusion

869. In conclusion, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between about 21 December 1998 and 28 February 1999, in various locations in Freetown and the Western Area including State House, Kissy, Fourah Bay, Uppun, Calaba Town, Allen Town, Tower Hill, Hastings, Wellington, Tumbo, Waterloo and Benguema, members of the AFRC, RUF, STF and Liberian fighters murdered an unknown number of civilians, as charged in the Indictment<sup>2294</sup> and shown in the evidence above.

870. The Trial Chamber recalls that the Prosecution has established beyond reasonable doubt that at all times relevant to the Indictment, the RUF and/or AFRC forces directed a widespread or systematic attack against the civilian population of Sierra Leone.<sup>2295</sup> The Trial Chamber is satisfied that each of the killings proved by the Prosecution in respect of

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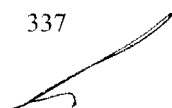
<sup>2294</sup> Indictment para. 13

Freetown and the Western Area formed part of the said attack and that the perpetrators were aware of this fact. The Trial Chamber also recalls that the Prosecution has proved beyond reasonable doubt that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving among others, members of the RUF, AFRC and CDF.<sup>2296</sup> The Trial Chamber is satisfied that for all of the aforementioned killings in Freetown and the Western Area there was a nexus between the killings and the armed conflict, that each of the victims was not taking an active part in the hostilities at the time of death, and that the perpetrators knew this fact. Therefore, the Trial Chamber is satisfied that the aforementioned killings in Freetown and the Western Area constitute murder as both a crime against humanity under Article 2 of the Statute and a war crime under Article 3 of the Statute.

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<sup>2295</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.

<sup>2296</sup> See Law and Findings on the General Requirements: Article 3: War Crimes, para. 573 *supra*.



**B. Counts 4, 5 and 6 (Sexual Violence)**General Allegations and Submissions

871. The Prosecution submits that “Throughout the war in Sierra Leone, the Indictment perpetrators engaged in widespread sexual violence against women and girls. Widespread sexual violence included rape, sexual slavery and outrages upon personal dignity. Sexual violence was an integral part of the fighting forces’ *modus operandi* that peaked during the rebels’ military operations and occurred countrywide as the rebels sought to capture more territory. These widespread and systematic acts of sexual violence against civilian women and girls typically began with an armed attack against a civilian village, town or city and/or as part of operations. After taking control of all or part of the village, town or city, the attackers would exercise control over that area and against the women and girls by raping them, often repeatedly, many of whom they later abducted and used as “bush wives”.<sup>2297</sup>

872. The Prosecution further submits that “While the RUF, like the NPFL, had an official line against rape, the evidence shows that the practice was to selectively use sexual violence against women to fit into the RUF’s general policy of using terror against civilians and to motivate its own unpaid soldiers. The only rape or abuse of women which was punished was where the woman was the wife or “property” of another RUF fighter. But the purpose of such punishment was to maintain organisational control rather than punish the crime. However, as with periods of looting, rape and sexual slavery were used as rewards and motivation for fighters<sup>2298</sup>....Moreover, the nature, extent and brutality of the sexual violence used to terrorize civilians is reflected by women and girls repeatedly being raped by one or more combatants including with foreign objects, in the presence of husbands or other family members. These rapes were carried out under threat or other forms of coercion, often in public. These women had generally been forcibly abducted from their homes or hiding places and then held in captivity for the purpose of sexual gratification and to perform domestic chores for their “rebel husbands”.<sup>2299</sup>

873. Furthermore, the sexual violence unleashed caused terror as it violated cultural norms. Young girls, in particular virgins, women old enough to be grandmothers and

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<sup>2297</sup> Prosecution Final Trial Brief, paras. 847-848.

<sup>2298</sup> Prosecution Final Trial Brief, para. 849.

<sup>2299</sup> Prosecution Final Trial Brief, para. 852.



mothers of the perpetrators, pregnant women and breastfeeding mothers were all targeted. Part of the terror experienced by victims included the fear of being stigmatised as victims of rape or other sexual violence, and the children conceived through such violence were often rejected by family and society”.<sup>2300</sup>

#### 1. Count 4 (Rape)

##### Allegations and Submissions

874. The Indictment alleges that “members of the RUF, AFRC, AFRC/RUF Junta or alliance and/or Liberian fighters, assisted and encouraged by, acting in concert with, under the direction and/or control or, and/or subordinate to the Accused, committed widespread acts of sexual violence against civilian women and girls”, including rape.<sup>2301</sup>

875. Rape is alleged to have occurred between about 1 February 1998 and about 31 December 1998 in Kono District,<sup>2302</sup> between about 30 November 1996 and about 18 January 2002 in Kailahun District,<sup>2303</sup> and between about 21 December 1998 and about 28 February 1999 in Freetown and the Western Area.<sup>2304</sup>

876. The Prosecution submits that rape was committed as part of widespread acts of sexual violence against civilian women and girls throughout Sierra Leone and that the evidence proves beyond reasonable doubt the Accused’s guilt with respect to rape (Count 4).<sup>2305</sup> The Prosecution further submits that “[r]ape was used in myriad forms to instill terror amongst the civilian population, often in association with the other crimes charged in the Indictment. For instance, the fact that rapes were committed with other gruesome and horrific atrocities, including killings, mutilations, brutal gang rapes, rapes of children, rapes in front of family members, rapes with objects and in public, clearly show that the ultimate objective of rape was to terrorize the innocent civilian population. Arbitrary terror was further instilled by sexual acts that directly assailed accepted cultural norms, violating not only the victim but also their family or the wider community. The rebels forced civilians to commit incest; a brother forced to rape his sister, fathers forced to rape their daughters. Old

<sup>2300</sup> Prosecution Final Trial Brief, para. 853.

<sup>2301</sup> Indictment, para. 14.

<sup>2302</sup> Indictment para. 15.

<sup>2303</sup> Indictment para. 16.

<sup>2304</sup> Indictment para. 17.

women and breastfeeding mothers were also raped, which violated a Sierra Leonean cultural norm in which these women are presumed not to be sexually active. Child combatants raped women who could have been their mothers or grandmothers. Sacred places were deliberately targeted; victims report being raped in mosques, churches, and sacred places of initiation”.<sup>2306</sup>

(a) Kono District

877. The Indictment alleges that between about 1 February 1998 and about 31 December 1998 members of the RUF, AFRC, AFRC/RUF Junta or Alliance, and/or Liberian Fighters, assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused, raped an unknown number of women and girls at various locations throughout Kono District including Koidu, Tombodu or Tumbodu, Wonedu and AFRC and/or RUF camps such as “Superman Ground”, “Guinea Highway” and “PC Ground”.<sup>2307</sup> The Trial Chamber will not consider instances of rape in locations that have not been specifically pleaded in the Indictment for findings of guilt,<sup>2308</sup> although this evidence has been considered in relation to the chapeau requirements.

878. In arriving at its factual findings in Kono District, the Trial Chamber has considered the evidence of witnesses Gibril Sesay, Finda Gbamanja, Corrine Dufka, Alimamy Bobson Sesay, Alex Tamba Teh, TF1-375, Isaac Mongor, Alice Pyne and TF1-189 in addition to relevant documentary evidence in P-073, P-336 and P-078.

(i) Evidence of widespread rape in Kono District

879. In her expert report,<sup>2309</sup> Prosecution expert witness Beth Vann reported that an estimated 500,000 refugees fled from the conflict in Liberia and Sierra Leone into Guinea in 1998-1999. The report did not specify precisely the numbers of Liberian refugees or of Sierra Leonean refugees. Sierra Leonean refugees fled from the RUF and AFRC forces in approximately March to April 1998. They were primarily from the Kono and Kailahun Districts and arrived in camps along the border in neighbouring Guinea. Another “large

<sup>2305</sup> Prosecution Final Trial Brief, paras 854-855.

<sup>2306</sup> Prosecution Final Trial Brief, paras 857-858.

<sup>2307</sup> Indictment, para. 15.

<sup>2308</sup> See Preliminary Issues: Issues Relating to the Pleading of the Indictment.

<sup>2309</sup> Exhibit P-073, “Report to the Office of the Prosecutor, The Special Court for Sierra Leone, Conflict-

group of Sierra Leoneans sought refuge in Guinea from the January 1999 joint AFRC/RUF attack of Freetown”.<sup>2310</sup> The largest concentration of camps was in the Gueckedou-Kissidougou prefectures, just across the border from the Kono and Kailahun Districts of Sierra Leone. The refugees described atrocities committed by armed groups, including the RUF and AFRC, in Kono and Kailahun Districts. These atrocities included war-related sexual violence.<sup>2311</sup>

880. Vann is a master’s level social worker with 25 years experience in health and social services. Since 1996 her work focused on sexual and gender based violence against women and children in populations affected by armed conflict. She interviewed approximately 60 victims of sexual violence during the course of her work in Guinea in 1998-1999 and reported: “[g]irls as young as 13 and women up to age 55 described having been abducted while fleeing fighting or gathering food or firewood, and then raped, often repeatedly, and often by several men. Some were held for only a day, others were held for two months before they were able to escape. All described seeing many other captives who were also raped, forced to serve as ‘wives’ (cooking, cleaning and used for sex)”.<sup>2312</sup> She reported that during the year she worked in Guinea, several times a month 13-20 year old girls would arrive at one of the camps and most would eventually disclose that they have been abducted and held as sexual slaves or “wives”, and had been repeatedly raped by one or more combatants. Eighty-four percent of those interviewed were able to identify their attackers; the RUF was “clearly...the perpetrator in the majority of sexual violence incidents reported”. Other named armed groups or “rebels” were also named.<sup>2313</sup>

881. Vann also conducted focus group sessions with groups of refugee men, women and adolescent girls taken from a total of 110 people living in three camps comprised exclusively of refugees from Kono and Kailahun Districts who fled in the first half of 1998. She states, “All of the participants described witnessing at least one public rape of a civilian female in or near their home town/village just before flight or during the time they were running to

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Related Sexual Violence in Sierra Leone”.

<sup>2310</sup> Exhibit P-073, “Report to the Office of the Prosecutor, The Special Court for Sierra Leone, Conflict-Related Sexual Violence in Sierra Leone”, p. 4.

<sup>2311</sup> Exhibit P-073, “Report to the Office of the Prosecutor, The Special Court for Sierra Leone, Conflict-Related Sexual Violence in Sierra Leone”, p. 4.

<sup>2312</sup> Exhibit P-073, “Report to the Office of the Prosecutor, The Special Court for Sierra Leone, Conflict-Related Sexual Violence in Sierra Leone”, p. 8.

<sup>2313</sup> Exhibit P-073, “Report to the Office of the Prosecutor, The Special Court for Sierra Leone, Conflict-

refuge in Guinea. Approximately one-third of the women participants disclosed that they themselves had been sexually assaulted – some with weapons or other objects inserted into the vagina, others forced to perform oral sex. Most participants identified the attackers as “rebels” or “RUF” or “Junta”. “Many indicated that it was sometimes impossible to know for sure which faction the group belonged to” but later studies showed 40% of rape attackers were RUF. Notably, all participants disclosed that they knew of at least one woman or girl from their community who had been taken by the ‘rebels’ and was never seen again”.<sup>2314</sup>

882. Vann reported that in “the middle to late 1998 and beyond”, a group of medical personnel reported to her that there were very high rates of sexually transmitted infections, unwanted pregnancies due to sexual violence, and large numbers of women/girls with traumatic injuries in the genital and anal areas.<sup>2315</sup> Vann reported that, as a consequence of war-related sexual violence among the 60 victims she interviewed, the primary concern related to their mental health. They exhibited signs of post-traumatic stress disorder; most were socially isolated and expressed feelings of shame, anger and depression and feared stigmatisation, rejection and retribution. Many feared others would find out what had happened to them. They also suffered from sexually transmitted diseases.<sup>2316</sup> Based on reports and interviews Vann concluded that war-related sexual violence among the refugee population in Guinea was underreported due to fears of stigma and rejection, and the lack of assistance services.<sup>2317</sup>

883. Vann reported that some women and girls who were abducted remained with their captors. Based on reports and her research she concluded that the reasons for this included a belief that they had no choice once they had children and particularly economic dependence, identification with the abductor, drug addiction, more desirable food options reportedly

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Related Sexual Violence in Sierra Leone”, p. 11.

<sup>2314</sup> Exhibit P-073, “Report to the Office of the Prosecutor, The Special Court for Sierra Leone, Conflict-Related Sexual Violence in Sierra Leone”, p. 8.

<sup>2315</sup> Exhibit P-073, “Report to the Office of the Prosecutor, The Special Court for Sierra Leone, Conflict-Related Sexual Violence in Sierra Leone”, p. 10.

<sup>2316</sup> Exhibit P-073, “Report to the Office of the Prosecutor, The Special Court for Sierra Leone, Conflict-Related Sexual Violence in Sierra Leone”, p. 10.

<sup>2317</sup> Exhibit P-073, “Report to the Office of the Prosecutor, The Special Court for Sierra Leone, Conflict-Related Sexual Violence in Sierra Leone”, p. 10.

available in the bush, fear of rejection by their families and communities, and customisation to their new way of life and surrogate families were also factors.<sup>2318</sup>

884. Vann's observations are mirrored by an Amnesty International Report, entitled "Sierra Leone, 1998 – a year of atrocities against civilians", which documents that as the AFRC and RUF rebels were pursued eastwards by ECOMOG forces to towns including Koidu from February through April 1998, the rebels were responsible for widespread rape and other forms of sexual assault and abduction.<sup>2319</sup> Similarly, Médecins Sans Frontières (MSF) reported that "[a]ccording to the patients, the civilian population of Kono is terrorised by various armed groups, who have been carrying out executions, mutilations, rapes and kidnappings. Attacks are reported to be very systematic, with groups of people rounded up and killed, wounded, or raped, one by one".<sup>2320</sup>

885. While this evidence is not sufficiently specific to prove any individual instances of rape, it demonstrates that rape was committed on a widespread basis in Kono District and may be relevant as corroboration for specific instances of rape described by witnesses testifying before the Trial Chamber.

(ii) Koidu Town

886. The Prosecution submits that following the ECOMOG Intervention of February 1998, retreating AFRC/RUF forces travelled to Kono District, specifically Koidu Town. "Their pattern of terror by committing widespread rapes reached unprecedented levels in February, March and April 1998".<sup>2321</sup> The Trial Chamber has considered the evidence of Prosecution witnesses Gibril Sesay, TF1-189 and Finda Gbamanja in relation to these allegations.

a. Evidence of Rape upon the Capture of Koidu Town

<sup>2318</sup> Exhibit P-073, "Report to the Office of the Prosecutor, The Special Court for Sierra Leone, Conflict-Related Sexual Violence in Sierra Leone", pp. 17-19.

<sup>2319</sup> Exhibit P-078, "Sierra Leone, 1998- a year of atrocities against civilians- Amnesty International", p. 11.

<sup>2320</sup> Exhibit P-079, "Médecins Sans Frontières Press Release: Mutilation of Civilians on the Increase in Sierra Leone".

<sup>2321</sup> Prosecution Final Trial Brief, para. 862.





887. Witness Gibril Sesay testified that after the ECOMOG Intervention, rebels arrived in Koidu Town.<sup>2322</sup> The witness stated that when the rebels arrived, they began looting and raping civilians.<sup>2323</sup> He learned about the rapes when he went to the hospital and spoke to Dr Gborie as well as some of the women who explained what had happened to them.<sup>2324</sup>

888. The Trial Chamber cannot make findings on this evidence without further information regarding the perpetrators and circumstances of the rapes alleged, however, the evidence demonstrates that rape was widespread in Koidu Town and may be relevant as corroboration for specific instances of rape described by witnesses testifying before the Trial Chamber.

b. Rape of Finda Gbamanja

Evidence

889. In February 1998, witness Finda Gbamanja, her parents and siblings lived in Koidu Town.<sup>2325</sup> Gbamanja testified that she was captured with her family by Peppe, a rebel in Superman's group,<sup>2326</sup> in Baima Town where they were hiding.<sup>2327</sup> After having been taken to Koidu Town by the rebels, she was detained by Peppe despite "his colleague" telling him that she was "a small girl".<sup>2328</sup> Her parents interceded and sought her release but Peppe beat her mother and killed her father.<sup>2329</sup> That night, Peppe took Gbamanja to Koidu Town. On the way, a rebel named "Sergeant Foday" who also was a member of Superman's group,<sup>2330</sup> fought Peppe for possession of Gbamanja. Peppe threatened to kill Gbamanja so that neither could have her. Another rebel, named "Well Man", intervened and "awarded" Gbamanja to

<sup>2322</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19383-19384.

<sup>2323</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19383-19384.

<sup>2324</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19383-19384.

<sup>2325</sup> Finda Gbamanja, Transcript 28 January 2009, p. 23835.

<sup>2326</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23851-23853, 23860. Superman was an RUF commander.

<sup>2327</sup> Finda Gbamanja, Transcript 28 January 2009, pp. 23836, 23840; Transcript 29 January 2009, pp. 23851-23852.

<sup>2328</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23852.

<sup>2329</sup> See Factual and Legal Findings on the Alleged Crimes, Sexual Slavery *infra*.

<sup>2330</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23863.

Peppe.<sup>2331</sup> Peppe later took her to his house and “slept” with her. She testified that he raped her causing her to bleed and be so weak that she could not stand.<sup>2332</sup>

890. Subsequently, Peppe took Gbamanja to his sister Hawa’s “place” where she found many other “wives of rebels” who had been trained as fighters.<sup>2333</sup> She was forced to work. Hawa sent Gbamanja and two other girls to search for vegetables.<sup>2334</sup> Gbamanja stated that while she was harvesting pepper Sergeant Foday met her, threatened her and, under duress, she followed him to his house close to the Opera in Koidu Town.<sup>2335</sup> She stated, “I was there as his wife”, and that “I was there for some time”,<sup>2336</sup> which she explained meant that Sergeant Foday had sex with her every night.<sup>2337</sup> Gbamanja testified that she did not “volunteer” to have sex with Sergeant Foday but “had no option” but to do so.<sup>2338</sup> She remained at Koidu Town until it was attacked by ECOMOG. She then travelled with Sergeant Foday to Superman Ground.<sup>2339</sup> She could not specify how long she was with Sergeant Foday.

891. The witness did not know her age at the time of the incident<sup>2340</sup> but she had not yet started her menses.<sup>2341</sup> Gbamanja was able to recall that she was captured after Johnny Paul Koroma was overthrown from power in Freetown<sup>2342</sup> on or about 14 February 1998<sup>2343</sup> as she had heard that over the radio.<sup>2344</sup> The Trial Chamber is therefore satisfied that the crimes took place during the Indictment period.

892. The Defence challenged several aspects of Gbamanja’s testimony as compared with her prior statements.<sup>2345</sup> She was not challenged on her evidence that she was raped by

<sup>2331</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23857-23859.

<sup>2332</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23856, 23859.

<sup>2333</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23860-23862.

<sup>2334</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23860, 23862.

<sup>2335</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23862.

<sup>2336</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23862.

<sup>2337</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23862.

<sup>2338</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23862.

<sup>2339</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23864-23865, 23936-23937.

<sup>2340</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23890-23893.

<sup>2341</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23859, 23893.

<sup>2342</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23898-23899.

<sup>2343</sup> *Prosecutor v. Taylor*, SCSL-03-1-T, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, Annex A, Fact AD.

<sup>2344</sup> Finda Gbamanja, Transcript 28 January 2009, p. 23837.

<sup>2345</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23897-23898, 23896, 23900-23901, 23941-23942.

Peppe and Sergeant Foday. The witness explained the inconsistencies highlighted by the Defence as errors of transcription.<sup>2346</sup> The Trial Chamber considers that these inconsistencies are immaterial to the substance of Gbamanja's testimony of the rapes. The Trial Chamber is satisfied that Gbamanja's testimony of the rapes she suffered is reliable.

### Findings

893. Gbamanja testified that Sergeant Foday had sex with her every night and that she had no option but to comply. Considering the coercive environment, Gbamanja's young age at the time, and her testimony that Sergeant Foday threatened her and that she followed him under duress, the Trial Chamber finds beyond reasonable doubt that Sergeant Foday, a member of the RUF, intentionally engaged in non-consensual sexual intercourse with Gbamanja during the time that she stayed in his house and that he knew of the victim's non-consent.

894. Given the coercive circumstances and the young age of Gbamanja, her capture by Peppe and her testimony that she was "raped" by him, the Trial Chamber also finds beyond reasonable doubt that Peppe, a member of the RUF, intentionally engaged in non-consensual sexual intercourse with Gbamanja and that he knew of her non-consent.

### c. Rape of TF1-189

### Evidence

895. Witness TF1-189 testified that she was raped by five male "rebels" whose ages ranged, in her estimation, from 15-25 years in the living room of a house in a village in Kono in March 1998. Other villagers were outside on the veranda.<sup>2347</sup> The witness testified to similar rapes of other girls and young women on preceding days in a house with the door

<sup>2346</sup> The Defence cross-examined the witness on the reliability of her memory, particularly considering her very young age. She may have been too young to remember such details as dates and her length of stay at various locations. *See e.g.*, Finda Gbamanja, Transcript 29 January 2009, pp. 23897-23899. During an interview, the witness was recorded as saying "JPK was escorted through Baiama after they had spent nearly a month. Witness states at the time she was too young to know how long they took in the village but they had stayed for long which looks like about a month". Finda Gbamanja, Transcript 29 January 2009, p. 23903.

<sup>2347</sup> TF1-189, Transcript 17 September 2008, pp. 16510-16513.



open and people gathered on the veranda.<sup>2348</sup> She stated "... they do it deliberately for us to see what they are doing".<sup>2349</sup>

896. She was then abducted by the five rebels and brought into Koidu Town to their "boss Superman" and offered to him as a wife. When he rejected her she was taken to a hall where other people were held.<sup>2350</sup> Following an attempted escape and recapture she was held in a house with 13 other girls.<sup>2351</sup> She remained there from approximately mid-March 1998 to August 1998.<sup>2352</sup> At this house she and other girls were forced to work and she had to be a "wife" to the person who brought her and to other men. She explained that she had to have sexual intercourse with men at "any time anyone can just...".<sup>2353</sup> TF1-189 explained that this meant that she had sexual intercourse with these men.<sup>2354</sup> She named several SLA, Junta and RUF perpetrators including one referred to as Commander A in private session.<sup>2355</sup>

897. TF1-189 testified that five other females who stayed in the same compound were similarly forced to be "wives" to their captors.<sup>2356</sup> She never refused to have sexual intercourse with her captors because she was afraid of the consequences. She was forbidden to leave the compound under threat of death.<sup>2357</sup>

### Findings

898. Based on the evidence, the Trial Chamber finds beyond reasonable doubt that several men who were members of the RUF/AFRC junta, including those named in closed session, intentionally engaged in non-consensual sexual intercourse with TF1-189. Given the coercive circumstances of captivity and threat in which these acts occurred the Trial Chamber is satisfied beyond reasonable doubt that the perpetrators knew of TF1-189's non-consent.

<sup>2348</sup> TF1-189, Transcript 17 September 2008, pp. 16497-16506.

<sup>2349</sup> TF1-189, Transcript 17 September 2008, p. 16506.

<sup>2350</sup> TF1-189, Transcript 17 September 2008, p. 16513.

<sup>2351</sup> TF1-189, Transcript 17 September 2008, pp. 16514-16516.

<sup>2352</sup> TF1-189, Transcript 17 September 2008, pp. 16512, 16517.

<sup>2353</sup> TF1-189, Transcript 17 September 2008, p. 16518.

<sup>2354</sup> TF1-189, Transcript 17 September 2008, p. 16518.

<sup>2355</sup> TF1-189, Transcript 17 September 2008, pp. 16516-16518. See also Transcript 18 September 2008, pp. 16556-16558 (PS).

<sup>2356</sup> TF1-189, Transcript 17 September 2008, p. 16518.

<sup>2357</sup> TF1-189, Transcript 17 September 2008, p. 16519.

(iii) Tombodu

899. The Prosecution submits that AFRC and RUF forces settled in Tombodu in or about March 1998, with Mohamed Savage as commander, and that rapes were committed.<sup>2358</sup> The Trial Chamber has examined the evidence of Alimamy Bobson Sesay, Perry Kamara and Sahr Bindi in relation to allegations of rape in Tombodu during this period.

Evidence

900. Perry Kamara provided evidence regarding the practice of having “wives” in Tombodu.<sup>2359</sup> His evidence is insufficient to prove the elements of the crime of rape, but may be relevant as corroboration for specific instances of rape described by witnesses testifying before the Trial Chamber.

901. Alimamy Bobson Sesay testified that “many” young women between the ages of 8 and 15 were captured by AFRC and RUF fighters in Kono District. The witness stated, “[w]e captured them, so whatever they did we were forcing them to do it because we had guns” and explained that this meant “we had sex with them” and some became pregnant.<sup>2360</sup> The witness testified that the young women lived with various SLA and RUF commanders and that some of the commanders made them into their “wives”. The witness explained that he had captured a young girl in Kono District who stayed with him. He did not marry the girl he had captured. Alimamy Bobson Sesay further testified that the young women cooked, laundered and helped to pound rice in addition to having sexual intercourse with the commanders, both senior and junior.<sup>2361</sup>

902. Alimamy Bobson Sesay stated that this conduct occurred between March and June 1998 and that it occurred in various locations in Kono District, including Koidu Town, Bumpe, Tombodu and Yengema.<sup>2362</sup>

<sup>2358</sup> Prosecution Final Trial Brief, para. 867.

<sup>2359</sup> Perry Kamara, Transcript 5 February 2008, p. 3157.

<sup>2360</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8006-8007.

<sup>2361</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8006-8008.

<sup>2362</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8064-8065.

903. Witness Sahr Bindi testified that he was captured by AFRC/RUF soldiers<sup>2363</sup> and taken to Tombodu in around April 1998.<sup>2364</sup> Bindi testified that while he and two other men were tied to a mango tree, he saw a Limba woman named Sia Lappia, a suckling mother with a child strapped on her back, being “brought” to Staff Alhaji who was on the veranda of a house.<sup>2365</sup> Staff Alhaji told her to take the child off her back and when she was “reluctant” and “refused” he then pointed a gun at Lappia’s ear. Bindi watched as the woman put down her child and was forced to take off her clothes at gunpoint. He saw Staff Alhaji hit Lappia on her genitals and then have sex with her.<sup>2366</sup>

### Findings

904. Alimamy Bobson Sesay, an SLA commander and perpetrator, provided clear and reliable evidence of how commanders captured women, forced them to have sex with commanders and of the coercive environment in which such acts took place. Based on his evidence, the Trial Chamber finds beyond reasonable doubt that in Tombodu between March and June 1998, commanders of the AFRC, including Alimamy Bobson Sesay, intentionally engaged in non-consensual sexual intercourse with an unknown number of women and that they knew of the women’s non-consent.

905. Bindi’s evidence was clear, based on direct observation and reliable. Based on this evidence, the Trial Chamber finds beyond reasonable doubt that Staff Alhaji intentionally engaged in non-consensual sexual intercourse with Sia Lappia and that he knew of the victim’s non-consent.

#### (iv) Wondedu

906. The Prosecution submits that rape was also widespread in Wondedu.<sup>2367</sup> The Trial Chamber has considered the evidence of Alex Tamba Teh in relation to this incident.

### Evidence

<sup>2363</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18482-18484, 18543 (while on direct examination, Mr Bindi stated that he was captured by RUF and AFRC, and on cross-examination it was elicited that the man who led the captors was a member of the AFRC).

<sup>2364</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18480, 18482-18484.

<sup>2365</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18486-18488.

<sup>2366</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18488-18489.

<sup>2367</sup> Prosecution Final Trial Brief, para. 869.

907. Teh testified that at some time after the Intervention, he and fellow villagers were captured by armed men, some in military uniform and some in “ordinary trousers” under the command of Rocky and Rambo.<sup>2368</sup> Teh was taken by Rocky to Wonedu.<sup>2369</sup> There the witness heard women screaming at night and heard them say “[y]ou have not married me, now you want to use me as your wife”. He often spoke to these women the next day. He described a conversation in which one woman, Rebecca, told him that women had been abducted at gun point and forced to have sex with their captors. She stated, “They [...] bring us, use us, use – forcefully sex us”. The witness concluded that “this was the time I realised that they were being raped”.<sup>2370</sup>

### Findings

908. Teh clearly heard women objecting to being “used” during the night and Rebecca gave a contemporaneous account of her rape following her abduction. The Trial Chamber finds that the direct evidence of the women’s protests and the words used clearly show that Rebecca and other women were forced to have sex with their captors. Accordingly the Trial Chamber finds beyond reasonable doubt that men under the command of Rocky intentionally engaged in non-consensual sexual intercourse with Rebecca and with an unknown number of other women, and that they knew of the victims’ non-consent.

#### (v) AFRC and/or RUF Camps

909. The Prosecution submits that on or about April 1998, the AFRC/RUF lost control of Koidu Town, but retained bases in Kono District, including Superman Ground, Guinea Highway and PC Ground. The Prosecution further submits that Isaac Mongor, SLA, STF and RUF fighters captured civilians and brought them to the bases where women captives had sex with fighters under coercive circumstances.<sup>2371</sup>

910. The Trial Chamber has considered the evidence of Isaac Mongor, Finda Gbamanja, TF1-375 and Alice Pyne in relation to allegations at AFRC and RUF camps in Kono District during this period.

<sup>2368</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 686-697. The Trial Chamber has found that Emmanuel Williams (a.k.a Rocky) was a member of the RUF.

<sup>2369</sup> Alex Tamba Teh, Transcript 8 January 2008, p. 704.

<sup>2370</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 704-705.

<sup>2371</sup> Prosecution Final Trial Brief, paras 870-873.





a. Superman GroundEvidence

911. Witness Isaac Mongor, a high ranking RUF commander, testified that armed members of the RUF, SLA, and STF including the witness himself would take civilian women to “Superman Ground” as wives.<sup>2372</sup> Mongor explained that “to take as [...] wife” meant “they will take them to go and sleep with them, to use them, to have sex with them”.<sup>2373</sup> A captured civilian woman “had no choice. You were under the sole control of the gunman and the gunman was going to take you as his wife”.<sup>2374</sup>

912. Finda Gbamanja, who was abducted and taken to Kono, testified that after staying in Sergeant Foday’s house, AFRC/RUF members including Sergeant Foday and Peppe, took her and other captured civilians to Superman Ground in Meiyor when ECOMOG attacked Koidu Town.<sup>2375</sup> Gbamanja testified that at Superman Ground, she and a captured boy stayed with Sergeant Foday “for a long time” and that Sergeant Foday “used to have sex with” her.<sup>2376</sup> She testified that she never agreed to have sex with Sergeant Foday but that “there was no option”.<sup>2377</sup> Sergeant Foday sent her to “Mamie’s house” when his wife Fatty came from Kailahun. Fatty was jealous and fought Gbamanja but Sergeant Foday continued to have sex with Gbamanja at Mamie’s house “whenever he needed [her] to have sex”.<sup>2378</sup> Gbamanja testified that she was with Foday for “a long time” and at Mamie’s house “for some time again”.<sup>2379</sup>

Findings

913. Isaac Mongor, an RUF commander and perpetrator, provided clear and reliable evidence of how captured civilian women were forced to have sexual intercourse with members of the RUF, AFRC, and STF, including the witness himself, and of the coercive environment in which such acts took place. Based on his evidence, the Trial Chamber finds

<sup>2372</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5764-5765.

<sup>2373</sup> Isaac Mongor, Transcript 11 March 2008, p. 5763.

<sup>2374</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5762-5763.

<sup>2375</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23864-23866.

<sup>2376</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23866.

<sup>2377</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23866.

<sup>2378</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23867.

<sup>2379</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23866-23867.

beyond reasonable doubt that members of the RUF, AFRC, and STF, including the witness himself, intentionally engaged in non-consensual sexual intercourse with an unknown number of women at Superman Ground in April 1998. Considering the coercive environment where the sexual intercourse occurred, the Trial Chamber finds beyond reasonable doubt that the perpetrators knew of the women's non-consent.

914. The Trial Chamber finds the testimony of Finda Gbamanja to be credible. Based on her evidence, the Trial Chamber is satisfied beyond reasonable doubt that Sergeant Foday, a member of the RUF, intentionally engaged in sexual intercourse with the witness at Superman Ground and that, owing to the coercive environment, the witness did not consent and Sergeant Foday knew of her non-consent.

b. Guinea Highway

915. The Prosecution did not adduce any evidence of rape at the AFRC/RUF camp called "Guinea Highway" in Kono District.

c. PC Ground

Evidence

916. Witness TF1-375 testified that when the AFRC/RUF rebels retreated to PC Ground after being forced out of Koidu Town by ECOMOG, women and girls were taken by the rebels to PC Ground. The witness further testified that "[a]ll women had men. All of them had their husbands ... they were with them as wives".<sup>2380</sup> When asked to clarify the meaning of the term "wife" as used by the witness, TF1-375 explained that "[w]hen you captured somebody, whether she was willing or not when you want her you would make her your wife, so forcibly or willingly she has to become a wife for you have to become the wife [of] whoever liked you".<sup>2381</sup> TF1-375 elaborated that there was no ceremony involved, "[t]he only ceremony is to go and sleep",<sup>2382</sup> meaning that RUF rebels had sexual intercourse with abducted women and girls.<sup>2383</sup> The Trial Chamber finds that this evidence is insufficient to

<sup>2380</sup> TF1-375, Transcript 23 June 2008, p. 12522.

<sup>2381</sup> TF1-375, Transcript 24 June 2008, p. 12601.

<sup>2382</sup> TF1-375, Transcript 24 June 2008, p. 12601.

<sup>2383</sup> TF1-375, Transcript 24 June 2008, pp. 12601-12602.

establish the elements of the crime of rape, but that it may be relevant as corroboration for specific instances of rape described by witnesses testifying before the Trial Chamber.

917. Alice Pyne testified that AFRC/RUF fighters at PC Ground would capture civilians, men, women, and children. Fighters would take women away, bring them to the base and turn the women into their wives.<sup>2384</sup> Pyne explained that “they would sleep together”.<sup>2385</sup> When questioned as to whether women volunteered to become wives of the combatants, Pyne answered no.<sup>2386</sup> Although this evidence suggests that involuntary sexual intercourse occurred, the Trial Chamber finds that it does not establish the elements of the crime of rape. However, this evidence may be relevant as corroboration for specific instances of rape described by witnesses testifying before the Trial Chamber.

918. Mongor also testified that at PC Ground civilian women would be taken to be the wives of the gunmen, members of the RUF, AFRC and STF and that captured civilian women had “no choice”.<sup>2387</sup> The witness further clarified that the wording “to take as [...] wife” meant “they will take them to go and sleep with them, to use with them, to have sex with them”.<sup>2388</sup> Mongor testified that he had taken a civilian woman as a “wife” at that time at PC Ground and stated “I did not give any money for her, I did not ask her parents, so I take her as my wife too”.<sup>2389</sup> Mongor’s evidence shows that he and other RUF, AFRC and STF members had sex with captured women who had “no choice”.<sup>2390</sup>

### Findings

919. Isaac Mongor, an RUF commander and a perpetrator, provided clear and reliable evidence of how captured civilian women were forced to have sexual intercourse with members of the RUF, AFRC, and STF, including the witness himself, and the coercive environment in which such acts took place. Mongor’s evidence is corroborated by TF1-375 and Pyne. Based on the evidence, the Trial Chamber finds beyond reasonable doubt that members of the RUF, AFRC, and STF, including Isaac Mongor, intentionally engaged in

<sup>2384</sup> Alice Pyne, Transcript, 18 June 2008, pp. 12195-12197.

<sup>2385</sup> Alice Pyne, Transcript 18 June 2008, p. 12196.

<sup>2386</sup> Alice Pyne, Transcript 18 June 2008, pp. 12195-12196.

<sup>2387</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5762-5764.

<sup>2388</sup> Isaac Mongor, Transcript 11 March 2008, p. 5763.

<sup>2389</sup> Isaac Mongor, Transcript 11 March 2008, p. 5764.

<sup>2390</sup> Isaac Mongor, Transcript 11 March 2008, p. 5763.

non-consensual intercourse with an unknown number of women in PC Ground in or about April 1998. Given the coercive environment in which the sexual intercourse occurred, the Trial Chamber finds that perpetrators knew that the women did not consent to sexual intercourse.

(vi) Rape of Sia Kamara

Evidence

920. Witness Sia Kamara, whose testimony in the RUF trial was received pursuant to Rule 92*bis*, was cross-examined in the present trial on 15 October 2008. In her prior testimony Kamara testified that she, her husband and his younger brother fled Tongo when it was attacked by Kamajors. They fled to Segbwema, Bunumbu, and Gandorhun and arrived in Kainako, Kono “Chiefdom” in the dry season. Two days later they fled to the bush when they were informed by other civilians that Kamajors “who had transformed into soldiers/rebels” had entered Koidu. Kamara explained that she meant that “they ran away from Kamajors”, but later they were told that “it was now rebels and not Kamajors again”.<sup>2391</sup> On cross-examination, she explained that she had encountered civilians fleeing from Koidu Town who told her that Kamajors had entered Koidu Town.<sup>2392</sup> Kamara testified that the bush she fled to was close to Yegbema,<sup>2393</sup> about two and a half miles from Gandorhun and about one and a half miles from Kainako.<sup>2394</sup>

921. Approximately three weeks later, Kamara saw about seven vehicles passing by. She “heard” that it was Johnny Paul Koroma heading towards the “Guinea end”. She saw the same vehicles “coming towards Koidu end” about a week later.<sup>2395</sup> On cross-examination, Kamara confirmed that she first saw Johnny Paul Koroma after the ECOMOG Intervention, when the AFRC and RUF were driven out of Freetown and he passed through the area where she was living. He was disguised as a woman.<sup>2396</sup>

<sup>2391</sup> Exhibit P-201, “RUF Trial Transcript 1 February 2005, Sia Kamara”, p. 7.

<sup>2392</sup> Sia Kamara, 15 October 2008, p.18437.

<sup>2393</sup> See Exhibit P-201, “RUF Trial Transcript 1 February 2005, Sia Kamara”, p. 8 (the location was recorded as “Ngegbema [phoen]”). During cross-examination during this trial, the location was spelt on the record as “Yegbema”. See Sia Kamara, 15 October 2008, pp. 18436-18437.

<sup>2394</sup> Exhibit P-201, “RUF Trial Transcript 1 February 2005, Sia Kamara”, p. 8.

<sup>2395</sup> Exhibit P-201, “RUF Trial Transcript 1 February 2005, Sia Kamara”, p. 9.

<sup>2396</sup> Sia Kamara, 15 October 2008, pp. 18434 -18435.



922. As the ECOMOG Intervention that ousted the AFRC and RUF from Freetown occurred in February 1998; Koidu Town was captured by the RUF in late February to early March;<sup>2397</sup> the Trial Chamber is satisfied that Kamara was in the bush near Yegbema in approximately March/April, 1998.

923. Kamara testified that while her husband was away finding food, she was discovered by two “rebels”. The first was wearing a soldier’s uniform and was armed with a gun. The second was wearing civilian clothing with combat khaki trousers and was armed with a stick with red cloth tied to it. The rebel with the gun pointed it at Kamara and ordered her to undress and lie down, which she did. He raped her. Kamara was unable to refuse due to the coercive circumstances. As this was happening, a third rebel, also armed with a stick, arrived. The other two rebels stood by as the rape occurred. After the first rebel raped her, Kamara was raped by “the other one”. She testified that she did not agree to have sex with him, but the rebel with the gun was standing by them so she could not fight. After she had been raped by the second rebel, she was raped by the third. Kamara testified that these rapes happened in the “middle of the forest in the open”.<sup>2398</sup>

924. After the three rapes, the rebels took Kamara “into the hills” where she saw a number of other civilians who had been captured, some of whom she recognised. She and the other civilians were given loads to carry to Sawoa while the rebels walked in front and behind them. Kamara testified that she thought the rebels were going to kill her and could not think of escaping. Kamara estimates that it was over two and a half miles to Sawoa which was in the Kono “area”.<sup>2399</sup>

925. In Sawoa, Kamara heard the rebels address a man as “Lieutenant T” and heard him say that ECOMOG had captured Kailahun Town and Kono, that they were going to “show them that we own the country” and that it was now Operation No Living Thing. Lieutenant T ordered the rebels to kill the civilians.<sup>2400</sup> The Trial Chamber has found that the AFRC forces lost control of Kono District in April 1998.<sup>2401</sup>

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<sup>2397</sup> Military Operations: Operations in Kono (Early 1998).

<sup>2398</sup> Exhibit P-201, “RUF Trial Transcript 1 February 2005, Sia Kamara”, pp. 9-14.

<sup>2399</sup> Exhibit P-201, “RUF Trial Transcript 1 February 2005, Sia Kamara”, pp. 15-18.

<sup>2400</sup> Exhibit P-201, “RUF Trial Transcript 1 February 2005, Sia Kamara”, p. 19.

<sup>2401</sup> Military Operations: Operation Fitti-Fatta.

926. Kamara testified that the rebels asked one of the captured civilians about Kamajors and Kabbah. When the civilian replied that she knew nothing, the rebels beat the civilians. Kamara testified that a boy of approximately 14 years brought a mortar and cut off the right hands of all the captured men, five in total, including Kamara's brother, who was seated next to her. After the five men had their hands amputated, Kamara was also struck on the upper arm. The rebels then separated out the young "virgins" from the women and took them away.<sup>2402</sup>

927. Kamara testified that the rebels took her and the remaining captured women, six in total, in the direction of Benguema Fiama. Some of the rebels were armed with guns and some with sticks. At Fall Road, the rebels ordered the women to undress and lie down, which they did. Kamara thought that the rebels were going to kill them. A rebel with a gun undressed and had sex with her. She was unable to refuse. There were many other rebels standing by. Then another rebel, armed with a stick, also had sex with her. When he had finished, he took the stick and shoved it into her vagina. Kamara testified that she experienced great pain and bleeding and that she continued to feel pain at the time of her testimony some years later. Kamara testified that she then heard another rebel say that the women were to be killed.<sup>2403</sup> She then fled to a swamp, where she spent the night. She was bleeding and became unconscious. The following day, she was able to find her husband and three days later, she was brought to Connaught Hospital in Freetown by ECOMOG. She testified that she remained there "until the time the rebels entered Freetown".<sup>2404</sup>

928. On cross-examination, Kamara admitted that she could not distinguish between the SLA and RUF, and that she considered anyone who was carried a gun and who "terrorised" civilians was a rebel.<sup>2405</sup> She insisted, however, that she was captured by "rebels" and not Kamajors and testified that the persons who captured her threatened to amputate her hand because they suspected her of being a Kamajor or a Kamajor supporter. She was unable to say who Lieutenant T's "boss" was but testified that the rebels said they had come from Freetown and were heading for Fiama. She stated that the men spoke Krio, Mende and

<sup>2402</sup> Exhibit P-201, "RUF Trial Transcript 1 February 2005, Sia Kamara", pp. 21-24.

<sup>2403</sup> Exhibit P-201, "RUF Trial Transcript 1 February 2005, Sia Kamara", pp. 24-27.

<sup>2404</sup> Exhibit P-201, "RUF Trial Transcript 1 February 2005, Sia Kamara", pp. 27-28.

<sup>2405</sup> Exhibit P-201, "RUF Trial Transcript 1 February 2005, Sia Kamara", pp. 53-54; Sia Kamara, 15 October 2008, pp.18434 -18437.

“Liberian”.<sup>2406</sup> By “Liberian” Kamara clarified that she heard them use the phrase “My meh, let’s go” which she testified is the way Liberian people speak.<sup>2407</sup>

### Findings

929. Kamara’s description of events corresponds with the movements of the AFRC and RUF. Given her testimony that one of the rebels who captured her was dressed in a soldier’s uniform; that “Lieutenant T” stated that they would show ECOMOG that “we own the country” and that it was now Operation No Living Thing; that the rebels asked the civilians about Kamajors and Kabbah and that they suspected Kamara of being a Kamajor; and her testimony that the rebels stated that they had come from Freetown, the Trial Chamber is satisfied beyond reasonable doubt that Kamara was abducted by members of the AFRC/RUF and not Kamajors.

930. On the basis of Kamara’s testimony, the Trial Chamber finds that Kamara was abducted from a location in the bush near Yegbema in March/April 1998 by members of the AFRC/RUF, that she was forced to engage in sexual acts by three members of the AFRC/RUF in this same location, and that she was later forced to engage in sexual acts and sexually brutalised by two other members of the same group of AFRC/RUF at Fall Road between Sawoa and Benguema Fiana. The Trial Chamber finds from Kamara’s testimony of her inability to refuse to submit to these acts and from the environment of violence and coercion that Kamara did not consent to these acts. The Trial Chamber finds that the five members of the AFRC/RUF who detained, raped and forced Kamara to carry loads intended to exercise these acts. Based on the evidence, the Trial Chamber finds beyond reasonable doubt that members of the RUF and AFRC intentionally engaged in non-consensual intercourse with Kamara in approximately March/April 1998 in Kono District. Given the coercive environment in which the sexual intercourse occurred, the Trial Chamber finds that perpetrators knew that Kamara did not consent to sexual intercourse.

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<sup>2406</sup> Sia Kamara, 15 October 2008, pp. 18437-18439.

<sup>2407</sup> Sia Kamara, 15 October 2008, pp. 18439-18441.

Conclusion

931. The Trial Chamber finds the elements of the crime of rape have been proved beyond reasonable doubt for each of the following incidents:

- i. Finda Gbamanja was raped in Koidu Town by an RUF rebel named Peppe in February 1998;
- ii. Finda Gbamanja was raped by RUF Sergeant Foday in Koidu Town and at Superman Ground in 1998;
- iii. TF1-189 was raped in Koidu Town by her SLA and RUF captors between March and August 1998;
- iv. AFRC commanders, including Alimamy Bobson Sesay, raped an unknown number of women and girls in Tombodu between March and June 1998;
- v. Sia Lappia was raped by RUF Staff Alhaji in Tombodu in approximately April 1998.
- vi. Rebecca and an unknown number of women were raped at Wonedu by RUF men under the command of Rocky in 1998;
- vii. An unknown number of women were raped in Superman Ground by RUF, AFRC and STF fighters in or about April 1998;
- viii. An unknown number of women and girls were raped at PC Ground by RUF, AFRC and STF fighters including Isaac Mongor in or about April 1998;
- ix. Sia Kamara was repeatedly raped by AFRC and RUF fighters in approximately March/April 1998 in Kono District.

932. The Trial Chamber recalls that the Prosecution has established beyond reasonable doubt that at all times relevant to the Indictment, the RUF and/or AFRC forces directed both a widespread and systematic attack against the civilian population of Sierra Leone.<sup>2408</sup> The Trial Chamber is satisfied that each of the rapes proved by the Prosecution in respect of

<sup>2408</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.

Kono District formed part of the said attack and that the perpetrators were aware of this fact. Therefore, the Trial Chamber is satisfied that the aforementioned rapes in Kono District constitute rape as a crime against humanity under Article 2 of the Statute.

(b) Kailahun District

933. The Indictment alleges that between about 30 November 1996 and about 18 January 2002 members of the RUF, AFRC, AFRC/RUF Junta or Alliance, and/or Liberian Fighters, assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused, raped an unknown number of women and girls in locations throughout Kailahun District.<sup>2409</sup>

934. Several witnesses testified to acts of rape in areas of Kailahun District. As no locations were pleaded in the Indictment for Count 4 in relation to Kailahun District such evidence does not fall within the scope of the Indictment, and is relevant only insofar as it demonstrates that the activity was widespread or systematic, and therefore assists in establishing the chapeau requirements.

935. Witnesses Mustapha Mansaray, Perry Kamara, Isaac Mongor, Issa Sesay, TF1-168, TF1-375, Edna Bangura and DCT-068 gave evidence relevant to allegations of rape in Kailahun District, in addition to Exhibits P-073, P-078, P-077 and P-277.

936. In 1998, Amnesty International reported that “[i]n those areas of the country which remained under the control of rebel forces thousands of civilians, including women and children, effectively remained captive, many of them in Kailahun District, a stronghold of the RUF since the beginning of the internal armed conflict. Some estimates put this number as high as 10,000. They were used to carry goods, as human shields or for sexual slavery”.<sup>2410</sup> Expert Witness Vann reported that a majority of rape victims from Sierra Leone that she interviewed in Gueckedou Camp in Guinea named the perpetrators as members of the AFRC/RUF or “rebels”.<sup>2411</sup>

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<sup>2409</sup> Indictment, para. 16.

<sup>2410</sup> Exhibit P-078, “Sierra Leone: 1998 – a year of atrocities against civilians – Amnesty International”, p. 12, 15.

<sup>2411</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, p. 11.

937. Expert witness TF1-150 documented human rights abuses in Sierra Leone from May 1998 through 2000. This witness had published a report by July 1998 which documented that “rebels” were holding large numbers of civilian captives, including women and girls who were being used for forced sexual activity, in various areas of Sierra Leone, but mostly in Kailahun District.<sup>2412</sup>

938. TF1-174 worked at an interim care centre in Makeni where captured girls were provided with assistance. TF1-174 stated that the girls at the centre had been captured from districts including Kailahun District. The girls that TF1-174 worked with had been raped and turned into “wives” of RUF commanders. One girl was said to have been a “wife” of Issa Sesay. She was 14 or 15 years old.<sup>2413</sup>

939. While this evidence is not sufficiently specific to prove any individual instances of rape, it demonstrates that rape was committed on both a widespread and systematic basis in Kailahun District.

(i) Rape of women by the RUF throughout Kailahun District

940. Witness Isaac Mongor testified that he would visit Kailahun District at unspecified times.<sup>2414</sup> Mongor stated that RUF fighters used captured women in Kailahun District for sexual purposes and some were trained as soldiers.<sup>2415</sup>

941. TF1-371 testified that after the 1991 attacks on Sierra Leone by RUF and NPFL fighters, captured women and girls would become the “bush wives” of RUF commanders.<sup>2416</sup> These women and girls would be the sexual partners of the commanders and have children by them, and would also do domestic chores.<sup>2417</sup>

Defence Evidence

<sup>2412</sup> Exhibit P-077 (confidential), para. 28.

<sup>2413</sup> TF1-174, Transcript 28 January 2009, pp. 23779-23780, 23792.

<sup>2414</sup> Isaac Mongor, Transcript 31 March 2008, p. 6208.

<sup>2415</sup> Isaac Mongor, Transcript 31 March 2008, p. 6208.

<sup>2416</sup> TF1-371, Transcript 25 January 2008, p. 2232 (CS); Transcript 29 January 2008, pp. 2506-2507 (CS).

<sup>2417</sup> TF1-371, Transcript 29 January 2008, pp. 2506-2507.

942. Issa Sesay testified that rape was not allowed and that rape was punishable by death.<sup>2418</sup> Sesay testified that he did not hear about or see rape in Kailahun from 1992 through disarmament.<sup>2419</sup> Sesay stated that he did hear about rape occurring in other parts of Sierra Leone, but said that actions were taken against the perpetrators.<sup>2420</sup>

943. DCT-068, who had been a member of the RUF from August 1992,<sup>2421</sup> was in Kailahun District from 1992 to 1998.<sup>2422</sup> The witness testified that he had never seen women being raped and that anyone in the RUF who committed rape would be disciplined.<sup>2423</sup> He further testified that women were not assigned to commanders and only women combatants would be assigned work in a particular area. DCT-068 gave the example of Sam Bockarie, and explained that if Bockarie wanted a woman for love, he would talk to that woman in respect of love<sup>2424</sup> and stated that the RUF members could not force anyone to have any kind of relationship with them.<sup>2425</sup> However, DCT-068 also stated that “in that situation because of fear certain people accept certain things because they want their life to be saved”.<sup>2426</sup> DCT-068 conceded that he had never seen an RUF commander in an area where the RUF had taken control approach women to offer their love,<sup>2427</sup> but he also stated he had received no complaints about rape in his capacity as a G5,<sup>2428</sup> responsible for civilians.<sup>2429</sup>

944. Based on the witness’s admission that women were in an environment of fear and his evasive demeanour while giving evidence on this topic, the Trial Chamber finds DCT-068’s statements that abducted women were not forced to have sexual relations to be contrary to the overwhelming volume of evidence and to be disingenuous and unreliable. The Trial Chamber recalls its finding that Issa Sesay’s evidence must be treated with caution and requires corroboration.

<sup>2418</sup> Issa Sesay, Transcript 26 July 2010, pp. 44614-44616.

<sup>2419</sup> Issa Sesay, Transcript 26 July 2010, pp. 44614-44616.

<sup>2420</sup> Issa Sesay, Transcript 26 July 2010, pp. 44614-44616.

<sup>2421</sup> DCT-068, Transcript 11 March 2010, p. 37075

<sup>2422</sup> DCT-068, Transcript 11 March 2010, p. 37085

<sup>2423</sup> DCT-068, Transcript 11 March 2010, p. 37119-37120.

<sup>2424</sup> DCT-068, Transcript 11 March 2010, p. 37119.

<sup>2425</sup> DCT-068, Transcript 11 March 2010, p. 37120.

<sup>2426</sup> DCT-068, Transcript 11 March 2010, p. 37120.

<sup>2427</sup> DCT-068, Transcript 11 March 2010, p. 37120.

<sup>2428</sup> DCT-068, Transcript 11 March 2010, p. 37121.

<sup>2429</sup> DCT-068, Transcript 11 March 2010, p. 37120

945. Witness Edna Bangura testified that she was captured from her school in Masingbi, Tonkolili District in 1994.<sup>2430</sup> At the time, she was 10 years old.<sup>2431</sup> Bangura testified that an RUF patrol commander named “CO Blood”,<sup>2432</sup> took her to Buedu where she was forced to remain until November or December 1998.<sup>2433</sup>

946. Bangura testified that shortly after arriving in Buedu in 1994, she was assigned to stay with a rebel commander named CO Scorpion and his wife, Hawa.<sup>2434</sup> She was assigned to a small girls unit.<sup>2435</sup> She did domestic chores for Hawa.<sup>2436</sup> Bangura’s testimony is inconsistent as to how long she stayed with Hawa, stating at one point that it was less than a year and at another point, that it was many years.<sup>2437</sup> However, Bangura stated that she stayed with Hawa after CO Scorpion left for Freetown, and that she left Buedu with Hawa, following the fighters.<sup>2438</sup> Bangura testified that when she went to Makeni, she was still with Hawa.<sup>2439</sup>

947. Bangura testified as to two specific rapes being committed against her in Buedu prior to 30 November 1996.<sup>2440</sup> Both instances of rape were perpetrated by CO Ray,<sup>2441</sup> who

<sup>2430</sup> Edna Bangura, Transcript 20 October 2008, pp. 18665-18667.

<sup>2431</sup> Edna Bangura, Transcript 20 October 2008, pp. 18665-18667.

<sup>2432</sup> Edna Bangura, Transcript 20 October 2008, pp. 18667-18668.

<sup>2433</sup> Edna Bangura, Transcript 20 October 2008, pp.18668-18671, 18677.

<sup>2434</sup> Edna Bangura, Transcript 20 October 2008, pp. 18672, 18676, 18679.

<sup>2435</sup> Edna Bangura, Transcript 20 October 2008, p. 18678-18679.

<sup>2436</sup> Edna Bangura, Transcript 20 October 2008, p. 18679.

<sup>2437</sup> During examination-in-chief, the witness testified that she was almost always with Hawa, Edna Bangura, Transcript 20 October 2008, pp. 18690, Edna Bangura, Transcript 20 October 2008, pp. 18701-18702 (during cross-examination, the witness agreed that she was with Hawa for many years, then stating that she was only with Hawa until the time CO Ray was her “husband”, then stating that she was with Hawa for less than a year, and then stating that she was still with Hawa after 1995 because CO Ray was under Scorpion’s command, so they all lived in the same house). *See also* Edna Bangura, Transcript 20 October 2008, p. 18724-18726 (in a prior statement to Prosecution investigators, Bangura stated “I was with Hawa until Johnny Paul sent a message that we come out of the bush to join them”); Transcript 20 October 2008, p. 18730 (Bangura states that she and Ray lived with Hawa in the same house so she was with Hawa throughout and seeks to explain her earlier discrepancy by stating that she had confused Hawa and CO Ray, which would mean that she was with CO Ray for less than a year); Transcript 20 October 2008, pp. 18730-18731 (witness disavows prior statement indicating that she had gone to Makeni with CO Ray).

<sup>2438</sup> Edna Bangura, Transcript 20 October 2008, pp. 18693-18694.

<sup>2439</sup> Edna Bangura, Transcript 20 October 2008, pp. 18695, 18724.

<sup>2440</sup> The witness’s first two children were fathered by CO Ray. Only one of these children is living. Bangura testified that the surviving child was born on 27 February 1995. It follows that the surviving child was conceived about nine months earlier, which would have been sometime around May 1994, unless the child was not carried to full term. In any event, this child was conceived in the pre-indictment period. Bangura testified that the deceased child was born before the surviving child. Necessarily, both sex acts must have occurred prior to 30



Bangura stated, "...raped me. He forced me. He forced me into sex" but these instances occurred before the Indictment period.

948. Bangura testified that women would be captured by fighters when they went to the war front and that these women became "wives" or would stay with fighters as either house help or as bodyguards.<sup>2442</sup>

949. Bangura also testified that CO Musa was her husband in Buedu after CO Ray died.<sup>2443</sup> She did not provide any details during her direct examination as to the length or nature of her relationship with CO Musa other than that he was her husband. On cross-examination, when asked for how long she was CO Musa's "wife", Bangura explained,

No, I cannot tell now. Like I am saying, if it was like when I am at this age now that such a thing happened to me I would have been able to tell you the exact particulars, but at that time I was a small child. I was not mature enough to be thinking about or remembering a whole lot of things. I was a small child at that time.<sup>2444</sup>

950. The Defence challenged the witness on a record of an interview with the Prosecution which records her as saying, "CO Musa was killed some time in 1994 during one of the attacks, after which the witness was raped by one CO Ali, an RUF rebel. The witness was taken as a wife by CO Ali, and not CO Musa".<sup>2445</sup>

951. During her cross-examination before this Trial Chamber, Bangura stated that CO Ali and CO Musa was the same person. It was only when Defence counsel confronted the witness with exhibits and testimony in a prior case before the Special Court for Sierra Leone which indicated that CO Ali and CO Musa were different people did the witness agree,<sup>2446</sup> stating that counsel's question confused her.<sup>2447</sup>

952. Issa Sesay testified that Bangura could not have been taken to Buedu from 1994 to 1998 because the NPRC, not the RUF, controlled Buedu from October/November 1993 until

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November 1996. *See* Edna Bangura, Transcript 20 October 2008, pp. 18664-18665; 18683-18684.

<sup>2441</sup> Edna Bangura, Transcript 20 October 2008, p. 18684.

<sup>2442</sup> Edna Bangura, Transcript 20 October 2008, p. 18685.

<sup>2443</sup> Edna Bangura, Transcript 20 October 2008, p. 18965.

<sup>2444</sup> Edna Bangura, Transcript 20 October 2008, p. 18736.

<sup>2445</sup> Edna Bangura, Transcript 20 October 2008, p. 18738.

<sup>2446</sup> *See* Edna Bangura, Transcript 20 October 2008, pp. 18741-18744.

<sup>2447</sup> Edna Bangura, Transcript 20 October 2008, pp. 18746-18747. Q: Why? What was it about the question that I asked that you suddenly thought Musa and Ali were one and the same person? A: You confused me. I was confused and so I couldn't say the right thing.

April 1995.<sup>2448</sup> Sesay further testified that people were not brought from Kangari Hills to Kailahun until the AFRC coup in 1997.<sup>2449</sup>

953. Issa Sesay's testimony on this point is corroborated by the testimony of TF1-168 and by Exhibit P-277.

### Findings

954. Given the inconsistencies in Bangura's testimony regarding the time of the alleged rapes in 1994-1998, the Trial Chamber is unable to find beyond reasonable doubt that these events occurred after 30 November 1996.

#### (ii) Rape of women in Buedu that were abducted in Kenema in the wake of "Operation Pay Yourself"

955. The Prosecution submits that "[i]n February 1998, when 'Operation Pay Yourself' was declared by Sam Bockarie in Kenema, more than 400 civilians [...] were abducted and taken to Daru in Kailahun District".<sup>2450</sup> The Prosecution further submits that "these abducted women were taken to Buedu and forced to have sex with their captors".<sup>2451</sup>

956. The Trial Chamber has considered the testimony of Augustine Mallah and Aruna Gbonda in making its findings.

### Evidence

957. Witness Augustine Mallah testified that when the AFRC and RUF left Kenema District in February 1998,<sup>2452</sup> they captured civilians, including beautiful women who were held against their will and would become "wives".<sup>2453</sup> He estimated that more than 400 civilians were captured and taken to locations controlled by the AFRC and RUF throughout

<sup>2448</sup> Issa Sesay, Transcript 16 August 2010, pp. 46380-46381. *See also* Transcript 5 July 2010, pp. 43681-43682 (testifying that by the end of 1993, NPRC forces had pushed back the RUF to the border and that the only areas still controlled by the RUF were Giema and small villages around Koindu by the border); TF1-168, Transcript 21 January 2009, pp. 23230-23233, 23236-23243 (CS).

<sup>2449</sup> Issa Sesay, Transcript 16 August 2010, pp. 46380-46381.

<sup>2450</sup> Prosecution Final Trial Brief, para. 877.

<sup>2451</sup> *Ibid.*

<sup>2452</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20165-20167.

<sup>2453</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20172-20173.

Kailahun District, including Kailahun Town, Pendembu and Dodo.<sup>2454</sup> The AFRC and RUF also brought civilians who had been previously captured and who had been with the troops for some time.<sup>2455</sup> Mallah testified that he went to Buedu with Sam Bockarie, RUF and AFRC troops and most of the captured civilians.<sup>2456</sup>

958. Mallah testified that he found his niece, Aminata, who was approximately 13 years old, in Daru.<sup>2457</sup> She told him that she had been captured by an “RUF boy” called Ibrahim in Kenema, who had sex with her and told her that she was going to be his “wife”.<sup>2458</sup> Mallah took his niece away from Ibrahim.<sup>2459</sup>

959. Mallah stayed in Buedu for approximately two months.<sup>2460</sup> Both the AFRC and RUF were in Buedu and everyone reported to Bockarie.<sup>2461</sup> Mallah testified that the captured civilians in Buedu were there to cook and to have sexual intercourse with the AFRC and RUF soldiers who captured them.<sup>2462</sup> Mallah did not witness women refusing sexual intercourse, and stated that the women were forced by their captors to have sex.<sup>2463</sup>

960. Witness Aruna Gbonda testified that after Tejan Kabba had been reinstated,<sup>2464</sup> which was in March 1998,<sup>2465</sup> he saw that Mosquito and the other rebels came to Kailahun District from Kenema District with male and female civilians.<sup>2466</sup> The captured civilians included adult women and girls who were from Kenema.<sup>2467</sup> The women were taken to Kailahun Town and other villages.<sup>2468</sup> When the rebels and the civilians arrived in Kailahun Town, food was scarce and Gbonda stated that they would ask him where they could find bananas.<sup>2469</sup> When Gbonda spoke to the women and girls, they said that the rebels under

<sup>2454</sup> Augustine Mallah, Transcript 13 November 2008, p. 20172.

<sup>2455</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20172-20173.

<sup>2456</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20172-20173, 20176-20177.

<sup>2457</sup> Augustine Mallah, Transcript 13 November 2008, p. 20175.

<sup>2458</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20175-20176.

<sup>2459</sup> Augustine Mallah, Transcript 13 November 2008, p. 20176.

<sup>2460</sup> Augustine Mallah, Transcript 13 November 2008, p. 20203.

<sup>2461</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20203-20204.

<sup>2462</sup> Augustine Mallah, Transcript 13 November 2008, p. 20206.

<sup>2463</sup> Augustine Mallah, Transcript 13 November 2008, p. 20207.

<sup>2464</sup> Aruna Gbonda, Transcript 20 February 2008, pp. 4293-4294.

<sup>2465</sup> Decision on Judicial Notice, Fact E.

<sup>2466</sup> Aruna Gbonda, Transcript 20 February 2008, p. 4294.

<sup>2467</sup> Aruna Gbonda, Transcript 20 February 2008, pp. 4294-4295.

<sup>2468</sup> Aruna Gbonda, Transcript 20 February 2008, pp. 4294-4295.

<sup>2469</sup> Aruna Gbonda, Transcript 20 February 2008, pp. 4294-4295.

Mosquito and Issa Sesay had forcefully captured them and that when they were dislodged from Freetown, some were brought by the rebels to Buedu and some to Kailahun Town.<sup>2470</sup> The women told Gbonda that the rebels had turned them into their wives and “put them into their homes forcefully”.<sup>2471</sup> Gbonda stated that there were many captured women and girls, and that he had personally spoken to about twenty.<sup>2472</sup>

### Findings

961. Based on the evidence of Augustine Mallah and Aruna Gbonda, the Trial Chamber is satisfied beyond reasonable doubt that in Buedu and Kailahun Town beginning in February 1998, AFRC and RUF fighters held an unknown number of women in captivity, and intentionally engaged in non-consensual sexual intercourse with them. Given the coercive circumstances that resulted from the women being held captive, the Trial Chamber is satisfied beyond reasonable doubt that the perpetrators knew of the victims’ non-consent.

### (iii) Rape after February 1998 of captured women in Buedu from March to December 1999

962. The Trial Chamber has considered the evidence of Dennis Koker in relation to the evidence of sexual slavery in Buedu from February 1998 to December 1999.

### Evidence

963. Witness Dennis Koker testified that he left Koidu Town in February 1998 and went to Kailahun District together with Issa Sesay, Eldred Collins and others.<sup>2473</sup> He passed through Gandorhun,<sup>2474</sup> Maburaka<sup>2475</sup> Mendeburma, Mendelaema, Manowa, and was sent to the front lines in Jokibu.<sup>2476</sup> He arrived in Buedu approximately one month after the ECOMOG Intervention.<sup>2477</sup> Sam Bockarie (a.k.a. “Mosquito”), was in charge in Buedu.

<sup>2470</sup> Aruna Gbonda, Transcript 20 February 2008, pp. 4295-4296.

<sup>2471</sup> Aruna Gbonda, Transcript 20 February 2008, p. 4296.

<sup>2472</sup> Aruna Gbonda, Transcript 20 February 2008, p. 4297.

<sup>2473</sup> Dennis Koker, Transcript 15 January 2008, p. 1250.

<sup>2474</sup> Dennis Koker, Transcript 15 January 2008, p. 1246.

<sup>2475</sup> Dennis Koker, Transcript 15 January 2008, p. 1319-1321.

<sup>2476</sup> Dennis Koker, Transcript 15 January 2008, pp 1250-1245, 1322-1325.

<sup>2477</sup> Dennis Koker, Transcript 15 January 2008, p. 1257.





Members of the RUF and AFRC were also present including Johnny Paul Koroma, Edward P. Kanneh, Issa Sesay, Morris Kallon and others.<sup>2478</sup>

964. Mosquito made Koker a Military Policeman (MP) and then an adjutant at the MP office, in which capacity he issued passes to civilians and soldiers.<sup>2479</sup> Koker testified that civilians captured in Masiaka, Makeni and Koidu were brought to Buedu.<sup>2480</sup> A pass and screening system through the MP Office was in place to count and manage the captured civilians in Buedu and to prevent them from escaping.<sup>2481</sup>

965. Koker testified that many women were captured by the RUF and AFRC and detained in Buedu and that “they would marry them without paying bride prices”.<sup>2482</sup> Sometimes, commanders would come to Koker’s office with women and ask him to “confine” them because they had “overlooked” i.e. been disrespectful. The commanders would ask Koker to “confirm” or charge the women. Koker left Buedu on 16 December 1999, the day after Sam Bockarie left for Liberia.<sup>2483</sup> During the entire time he was at the MP office, he believes there may have been up to 1,300 civilians captured, including men, women and children.<sup>2484</sup>

### Findings

966. Based on Koker’s evidence, the Trial Chamber finds beyond reasonable doubt that AFRC/RUF members detained women in a coercive environment and intentionally engaged in non-consensual sexual intercourse with them from March 1998 to December 1999. Given that they were forcibly detained against their will, the Trial Chamber finds beyond reasonable doubt that the perpetrators knew of the women’s non-consent.

(iv) TF1-189 raped by RUF members in Kailahun Town

### Evidence

967. Witness TF1-189, whom the Trial Chamber has found was captured by RUF/AFRC rebels in Kono District in March 1998 and raped in Koidu Town by Commander A (named

<sup>2478</sup> Dennis Koker, Transcript 15 January 2008, p. 1257-1260.

<sup>2479</sup> Dennis Koker, Transcript 15 January 2008, pp 1260-1261, 1326-1329.

<sup>2480</sup> Dennis Koker, Transcript 15 January 2008, p. 1261.

<sup>2481</sup> Dennis Koker, Transcript 15 January 2008, pp 1262-1265.

<sup>2482</sup> Dennis Koker, Transcript 15 January 2008, pp 1265-1266.

<sup>2483</sup> Dennis Koker, Transcript 15 January 2008, p. 1276-1278.

by the witness in closed session) and other RUF rebels from March through August 1998,<sup>2485</sup> testified that she was taken by the rebels and “SLA Juntas” to Kailahun Town when Koidu Town was attacked by ECOMOG. The overall leader of the group that left was an RUF commander named Superman.<sup>2486</sup>

968. TF1-189 testified that they arrived in Kailahun Town in August 1998, during the rainy season and remained there less than two months until September 1998. TF1-189 was forced to stay with a commander named Gogomeh, together with five other female captives and four rebels.<sup>2487</sup> TF1-189 testified that during this time, she and the other captured women and girls were forced to cook, wash the rebel’s clothes and were “wives”.<sup>2488</sup> In private session, TF1-189 testified that Commander A also continued to have sex with her in Kailahun Town.<sup>2489</sup>

969. In September, TF1-189 left Kailahun Town because it was being attacked by ECOMOG jets. She went to another location in Kailahun District together with 40 captives and a rebel.<sup>2490</sup> TF1-189 revealed the location in private session.<sup>2491</sup>

### Findings

970. The Trial Chamber finds beyond reasonable doubt that between August and September 1998 in Kailahun, an RUF rebel named Commander A intentionally engaged in non-consensual sexual intercourse with TF1-189, and that Commander A knew of TF1-189’s non-consent to these sexual acts.

### Conclusion

971. Based on the evidence above the Trial Chamber finds beyond reasonable doubt that between about 30 November 1996 and about 18 January 2002 members of the AFRC/RUF raped TF1-189 and an unknown number of women in the Kailahun District.

<sup>2484</sup> Dennis Koker, Transcript 15 January 2008, p. 1277.

<sup>2485</sup> Rape, Kono District, Findings.

<sup>2486</sup> TF1-189, Transcript 17 September 2008, pp. 16520-16522.

<sup>2487</sup> TF1-189, Transcript 17 September 2008, pp. 16523-16524.

<sup>2488</sup> TF1-189, Transcript 17 September 2008, p. 16524.

<sup>2489</sup> TF1-189, Transcript 18 September 2008, p. 16559 (PS).

<sup>2490</sup> TF1-189, Transcript 18 September 2008, p. 16532.

<sup>2491</sup> TF1-189, Transcript 18 September 2008, p. 16560 (PS).

972. The Trial Chamber recalls that the Prosecution has established beyond reasonable doubt that at all times relevant to the Indictment, the RUF and/or AFRC forces directed both a widespread and systematic attack against the civilian population of Sierra Leone.<sup>2492</sup> The Trial Chamber is satisfied that each of the rapes proved by the Prosecution in respect of Kailahun District formed part of the said attack and that the perpetrators were aware of this fact. Therefore, the Trial Chamber is satisfied that the aforementioned rapes in Kailahun District constitute rape as a crime against humanity under Article 2 of the Statute.

(c) Freetown and the Western Area

973. The Indictment alleges that between about 21 December 1998 and about 28 February 1999, members of the RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused “raped an unknown number of women and girls throughout Freetown and the Western area”.<sup>2493</sup> The Prosecution further submits that rape was an intrinsic element of the “reign of terror” unleashed by the AFRC and RUF when they entered Freetown on 6 January 1999,<sup>2494</sup> and that rape was a standard practice of the rebels as they advanced towards and attacked Freetown.<sup>2495</sup>

974. The Prosecution led evidence of acts of rape occurring in the Western area outside of Freetown.<sup>2496</sup> In arriving at its factual findings in Freetown, the Trial Chamber has examined the testimony of Perry Kamara, James Kpungbu, Abu Bakarr Mansaray, Alimamy Bobson Sesay, TF1-085, TF1-028, Ibrahim Wai and TF1-083, TF1-029 and TF1-023 in addition to relevant documentary evidence.

(i) Rape in Freetown

975. Witnesses Perry Kamara and James Kpungbu provided evidence that rape occurred as part of the January 1999 Freetown attack without providing details about the victims,

<sup>2492</sup> See *supra* para. 57.

<sup>2493</sup> Indictment, paras. 14, 17.

<sup>2494</sup> Prosecution Final Trial Brief, para. 883.

<sup>2495</sup> Prosecution Final Trial Brief, para. 881.

<sup>2496</sup> See, e.g., Exhibit P-206, RUF Trial Transcript, 28 November 2005, TF1-029, pg. 19415-19422; Exhibit P-205A, AFRC Trial Transcript, 9 March 2005, TF1-023, pp. 19330-19340; TF1-026, Transcript 14 February 2008, pp. 3851-3862.

perpetrators or the specific circumstances.<sup>2497</sup> Witness TF1-358, a doctor, testified that a number of female patients, mostly from Freetown, narrated histories of rape during January 1999 by “rebels” to him.<sup>2498</sup> Histories included “gang rape” and rape in front of husbands and relatives<sup>2499</sup> in various locations including Freetown.<sup>2500</sup> Reports from organisations such as Human Rights Watch,<sup>2501</sup> Amnesty International,<sup>2502</sup> FAWE,<sup>2503</sup> UNOMSIL<sup>2504</sup> and experts<sup>2505</sup> also provide evidence of widespread rape and sexual abuse occurring as part of the Freetown invasion in January 1999. The evidence contained in the documentary evidence is hearsay and/or not sufficiently specific to prove any individual act of rape.<sup>2506</sup> However, as the evidence demonstrates that rape was widespread throughout Freetown in the Indictment period, it may be relevant as corroboration for specific incidents of rape described by witnesses testifying before the Trial Chamber. The evidence has been considered for the chapeau requirement that the crimes be widespread or systematic.

a. State House

976. The Prosecution submits that while AFRC and RUF fighters were based at the State House, commanders forced young girls aged 14 to 16 to have sexual intercourse with them.<sup>2507</sup> The Trial Chamber has considered the evidence of witnesses Abu Bakarr

<sup>2497</sup> Perry Kamara, Transcript 6 February 2008, p. 3231, 3251-2; James Kpumgbu, 13 October 2008, pp. 18115-18116.

<sup>2498</sup> TF1-358, Transcript 19 November 2008, pp. 20649.

<sup>2499</sup> TF1-358, Transcript 19 November 2008, pp. 20656

<sup>2500</sup> TF1-358, Transcript 20 November 2008, pp. 20723

<sup>2501</sup> Exhibit P-328 “Human Rights Watch Report, Sierra Leone – Getting Away with Murder, Mutilation, Rape, New Testimony from Sierra Leone, July 1999, Vol. 11 No.3(A), Part I – Summary”, p. 22999-23001; Exhibit P-330 “Human Rights Watch Report, Sierra Leone – We’ll Kill You If You Cry – Sexual Violence in the Sierra Leone Conflict, Vol. 15, No. 1 (A), January 2003”, pp. 23142-23159. *See also* Corrine Dufka, Transcript 21 January 2008, p. 1798, Transcript 22 January 2008, pp. 1822-1823.

<sup>2502</sup> Exhibit P-331 “Amnesty International Report, Sierra Leone – Rape and Other Forms of Sexual Violence Against Girls and Women, 29 June 2000 (parts marked) – CMS pgs 23194-23197”.

<sup>2503</sup> Exhibit P-204B (confidential), p. 20587-20591.

<sup>2504</sup> Exhibit P-310 “UN Security Council, Fifth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1999/237, 4 March 1999”, p. 21599.

<sup>2505</sup> Exhibit P-077 (confidential), p. 9620; Exhibit P-073 “Expert Report of Beth Vann Conflict-Related Sexual Violence in Sierra Leone, MSW, 14 May 2007 – 00031550-00031571”.

<sup>2506</sup> For example, the alleged systematic rape of virgins in Cline Town: Prosecution Final Trial Brief, para. 884; Exhibit P-330 “Human Rights Watch Report, Sierra Leone – We’ll Kill You If You Cry – Sexual Violence in the Sierra Leone Conflict, Vol. 15, No. 1 (A), January 2003, pages 25-46 – CMS pgs 23140-23161”, p. 23156. *See also* Prosecution Final Trial Brief, paras 885, 888-889.

<sup>2507</sup> Prosecution Final Trial Brief, paras 890-891.



Mansaray and Alimamy Bobson Sesay in relation to rapes allegedly taking place in the State House area.

i. Rape of women and girls on the grounds of the State House

Evidence

977. Witness Abu Bakarr Mansaray, whose testimony in the AFRC trial was tendered into evidence through Rule 92bis, was cross-examined in this trial on 29 October 2008. He testified that he was captured by rebels in Freetown in January 1999 and taken to State House where he was detained in a kitchen for four days.<sup>2508</sup> Mansaray testified that each night he was detained at State House he observed “many women” and young girls being raped outside.<sup>2509</sup> He was able to witness the rapes through the window, as the rebels around the State House used a lamp.<sup>2510</sup> Mansaray testified that he knew what he saw was rape, because all the women were crying, and some said, in Krio, “we not agree. We are small child. We are school-going girls”.<sup>2511</sup> The victims included women and little children and the perpetrators were rebels.<sup>2512</sup> Mansaray did not know which faction the perpetrators belonged to.<sup>2513</sup> However, Mansaray testified earlier that Gullit and “his boys” had been at the State House.<sup>2514</sup>

978. Although the witness initially gave the date of his capture as January 1998, he later clarified that he meant January 1999.<sup>2515</sup> As it is clear that his capture occurred in the context of the January 1999 attack on Freetown, the Trial Chamber is satisfied that the alleged rapes fall within the Indictment period.

<sup>2508</sup> Exhibit P-222, AFRC Trial Transcript, 7 March 2005, TF1-024, pp. 20427-20428, 20432-20434, 20447.

<sup>2509</sup> Exhibit P-222, AFRC Trial Transcript, 7 March 2005, TF1-024, pp. 20424, 20429, 20433-20434, 20458-20461.

<sup>2510</sup> Exhibit P-222, AFRC Trial Transcript, 7 March 2005, TF1-024, pp. 20433-20434, 20458-20461.

<sup>2511</sup> Exhibit P-222, AFRC Trial Transcript, 7 March 2005, TF1-024, pp. 20433-20434, 20458.

<sup>2512</sup> Exhibit P-222, AFRC Trial Transcript, 7 March 2005, TF1-024, pp. 20433-20434.

<sup>2513</sup> Exhibit P-222, AFRC Trial Transcript, 7 March 2005, TF1-024, p. 20434.

<sup>2514</sup> Exhibit P-222, AFRC Trial Transcript, 7 March 2005, TF1-024, pp. 20430-20432.

<sup>2515</sup> Exhibit P-222, AFRC Trial Transcript, 7 March 2005, TF1-024, p. 20447.

979. Mansaray stated that he saw some of the victims being raped and sexual intercourse taking place. He also testified that he heard screaming and all of the victims crying, and the voices of some of the women and girls.<sup>2516</sup>

### Findings

980. Mansaray was cross-examined on his tendered evidence but not on that part of his evidence cited above, which the Trial Chamber finds credible. On the basis of his direct observations, the Trial Chamber finds beyond reasonable doubt that “rebels”, which included AFRC, RUF, STF and Liberian fighters under Gullit’s command, intentionally engaged in sexual intercourse with an unknown number of women and girls on the grounds of the State House, over a period of three nights in January 1999. The Trial Chamber further notes that these instances of sexual intercourse occurred in a public area, perpetrated by rebels who had just invaded the city. Considering the evidence that the women and girls were crying and protesting, the Trial Chamber finds beyond reasonable doubt that the sexual intercourse was non-consensual, and that the perpetrators knew of the victims’ non-consent.

#### ii. Rape of girls inside State House

### Evidence

981. Witness Alimamy Bobson Sesay testified that after the junta captured State House on 6 January 1999, the SLA and RUF captured young girls in Freetown and brought them to State House, which had many rooms.<sup>2517</sup> All of the commanders captured young girls,<sup>2518</sup> most of the girls were aged 14 to 16. The SBUs also captured girls, aged around 8 to 9 to use for sex.<sup>2519</sup> Alimamy Bobson Sesay testified that the girls “were forced to do anything, so they accepted...to have sexual intercourse with the commanders”.<sup>2520</sup>

982. When asked in cross-examination if he raped any women between 1997 and June 2000, Alimamy Bobson Sesay testified that he captured a young girl and had sex with her

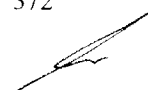
<sup>2516</sup> Exhibit P-222, AFRC Trial Transcript, 7 March 2005, TF1-024, pp. 20458-20461.

<sup>2517</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8279-8280, 8289-8290.

<sup>2518</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8290.

<sup>2519</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8290.

<sup>2520</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8289-8290.





“when we came to Freetown”.<sup>2521</sup> As Bobson Sesay distinguished this from events in Freetown after the 1997 coup the Trial Chamber is satisfied that he is referring to the time of the 1999 Freetown attack. The Trial Chamber is satisfied that this incident falls within the Indictment period.

### Findings

983. The Trial Chamber finds that it is clear from Alimamy Bobson Sesay’s testimony that the girls who were brought to State House were captured by members of the AFRC, RUF, STF and Liberian fighters who intentionally engaged in sexual intercourse with them. Based on his statement that the girls “were forced to do anything, so they accepted to have sexual intercourse with the commanders” and in light of the coercive circumstances of their capture by these forces, the Trial Chamber finds beyond reasonable doubt that the girls did not consent to sexual intercourse with the forces and that the perpetrators knew of their non-consent.

984. The Trial Chamber further finds Alimamy Bobson Sesay, a commander in the AFRC, captured and intentionally had sexual intercourse with a young girl in Freetown during the 1999 attack. Given the coercive environment and the fact that the girl was captured the Trial Chamber finds that she did not consent to the sexual intercourse and that Bobson Sesay knew of her non-consent.

#### b. Blackhall Road

##### i. Rape of captured girls in January 1999

985. The Prosecution submits that when RUF and Junta fighters entered Freetown, RUF rebels brought girls aged 12 to 13 years to a house on Blackhall Road and raped them.<sup>2522</sup> The Trial Chamber has considered the evidence of TF1-028 in relation to the allegation.

### Evidence

<sup>2521</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, p. 8866.

<sup>2522</sup> Prosecution Final Trial Brief, para. 887.

986. Witness TF1-028 testified that she was captured by Juntas in Karina,<sup>2523</sup> and then travelled through Rosos to Eddie Town.<sup>2524</sup> In Eddie Town, SAJ Musa held a meeting announcing that everyone was to go Freetown.<sup>2525</sup> The witness and the Juntas travelled to Benguema, where SAJ Musa died, and then continued towards Freetown.<sup>2526</sup> Once the group arrived in Freetown, the witness stayed at Ferry Junction for about two weeks.<sup>2527</sup> TF1-028 was then moved to Blackhall Road, where she was held for approximately one week and several days.<sup>2528</sup>

987. At Blackhall Road, the witness testified that the Juntas and the RUF would bring “small children”, girls of about 12 to 13 years, to the house she was staying in and rape them in her presence. The witness testified that she pleaded with the RUF, but that they did not listen to her.<sup>2529</sup>

988. The witness could not remember the year that this occurred, but she remembered it was in January.<sup>2530</sup> However, in light of her description of her journey and of SAJ Musa’s death, it is clear that she is referring to the Freetown attack which occurred in January 1999.<sup>2531</sup> As such, the alleged rapes fall within the Indictment period.

### Findings

989. TF1-028’s evidence that members of the RUF intentionally engaged in sexual intercourse with young girls is based on her direct observations while in the same room as the victims, and is credible. The witness provided an estimate of the ages of the victims. Given that this was a situation in which young girls were captured by rebel forces in the context of an attack on a city, and noting that the rebels had sexual intercourse with them in the presence of others including TF1-028, who pleaded with them, the Trial Chamber finds beyond reasonable doubt that the victims did not consent, and that the perpetrators knew of their non-consent.

<sup>2523</sup> TF1-028, Transcript 7 May 2008, pp. 9146, 9151-9157.

<sup>2524</sup> TF1-028, Transcript 7 May 2008, pp. 9192, 9205.

<sup>2525</sup> TF1-028, Transcript 7 May 2008, pp. 9221-9223.

<sup>2526</sup> TF1-028, Transcript 7 May 2008, pp. 9224-9226.

<sup>2527</sup> TF1-028, Transcript 7 May 2008, pp. 9227-9229.

<sup>2528</sup> TF1-028, Transcript 7 May 2008, pp. 9227-9229.

<sup>2529</sup> TF1-028, Transcript 7 May 2008, p. 9229.

<sup>2530</sup> TF1-028, Transcript 7 May 2008, p. 9226.

<sup>2531</sup> Military Operations: The Freetown Invasion.

(ii) Kissya. Rape of girls in Kissy on or about 22 January 1999

990. The Prosecution submits that in Kissy, rebels raped girls aged 13 to 15.<sup>2532</sup> The Trial Chamber has considered the testimony of witness Ibrahim Wai in relation to the allegation.

Evidence

991. Ibrahim Wai was in his family's house in Kissy around 22 January 1999<sup>2533</sup> when a rebel named Captain Blood<sup>2534</sup> and another rebel entered the house and amputated his hand.<sup>2535</sup> After his amputation, the rebels pushed him outside, and he went to the nearby outside toilet where he sat for some time.<sup>2536</sup> While he was in the toilet, he testified that he saw the rebels bringing girls, laying them outside in the open and raping them.<sup>2537</sup> The rebels asked the girls how old they were, and some replied that they were 13, 14 or 15.<sup>2538</sup> The witness testified that when the last rebel came to rape one of the girls, she said she was tired.<sup>2539</sup> She screamed and cried and asked "that the guy should get up away from her".<sup>2540</sup> The rebel then called his leader, who was a woman. This leader said if the girl did not lie down she would tell the rebel boy to kill her.<sup>2541</sup> After that "the boy" had sex with her.<sup>2542</sup> The witness testified that he was able to see what was happening, because the toilet he was in had no door, the girls were in an open place, and although it was night the area was bright because of the flames from burning houses.<sup>2543</sup>

Findings

<sup>2532</sup> Prosecution Final Trial Brief, para. 882.

<sup>2533</sup> Ibrahim Wai, Transcript 17 October 2008, p. 18634.

<sup>2534</sup> Captain Blood was a "rebel commander". See paras. 181, 319, 555, 658 [paragraphs subject to change].

<sup>2535</sup> Ibrahim Wai, Transcript 17 October 2008, pp. 18580, 18585-18592.

<sup>2536</sup> Ibrahim Wai, Transcript 17 October 2008, p. 18594.

<sup>2537</sup> Ibrahim Wai, Transcript 17 October 2008, pp. 18584, 18597-18600.

<sup>2538</sup> Ibrahim Wai, 17 October 2008, p. 18597.

<sup>2539</sup> Ibrahim Wai, 17 October 2008, p. 18597.

<sup>2540</sup> Ibrahim Wai, 17 October 2008, p. 18597-18598.

<sup>2541</sup> Ibrahim Wai, 17 October 2008, p. 18597-18600.

<sup>2542</sup> Ibrahim Wai, 17 October 2008, pp. 18697-18600.

<sup>2543</sup> Ibrahim Wai, 17 October 2008, p. 18598.

992. Based on Wai's direct observation, the Trial Chamber finds beyond reasonable doubt that AFRC rebels under the Command of Captain Blood intentionally engaged in sexual intercourse with young girls, aged 13-15 years, in an open area, despite resistance by at least one victim, in circumstances in which there was violent coercion. The Trial Chamber is satisfied beyond reasonable doubt that, given the coercive environment and threats, there was no consent by the girls and that the perpetrators knew that the victims did not consent.

(iii) Rape of TF1-029 in Wellington, Calaba Town and Benguema

993. The Prosecution submits that TF1-029 was abducted by Major Arif and taken to Calaba Town and Benguema where she was forced to have sex with him. The Trial Chamber has considered the evidence of TF1-029.<sup>2544</sup>

Evidence

994. Witness TF1-029's evidence in the RUF trial was introduced through Rule 92bis. She was cross-examined in the instant trial on 22 October 2008. TF1-029 testified that she was abducted from her house in Wellington by the "RUF and the SLAs" on 22 January 1999.<sup>2545</sup> On cross-examination in the RUF case, she confirmed that the men who came to her house were all wearing soldier's uniforms, carried weapons and were part of a mixed group of soldiers and RUF rebels including five small boys.<sup>2546</sup> She was captured by an SLA soldier named "Major Arif".<sup>2547</sup>

995. The mixed group of RUF and SLA fighters brought the witness, together with 50 other civilians who were captured in the same house, to Calaba Town.<sup>2548</sup> The witness was held there for two weeks.<sup>2549</sup> The witness testified that during this time she lived in Major Arif's house together with his cousins and other RUF and SLA soldiers<sup>2550</sup> and was raped there by Major Arif ten times.<sup>2551</sup> By "rape", the witness stated that she meant he "forced me

<sup>2544</sup> Prosecution Final Trial Brief, para. 921.

<sup>2545</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", pp. 7, 9.

<sup>2546</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", pp. 23-26.

<sup>2547</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", pp. 7-9.

<sup>2548</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", pp. 8-10.

<sup>2549</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", p. 10.

<sup>2550</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", p. 10.

<sup>2551</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", p. 12.

to have sex”.<sup>2552</sup> The witness was sixteen years old when this occurred.<sup>2553</sup> TF1-029 further testified that she saw that the other women who were abducted were also raped.<sup>2554</sup>

996. The rebels then took the witness to Benguema.<sup>2555</sup> She testified that when they arrived in Benguema, she was again raped ten times by Major Arif.<sup>2556</sup>

997. TF1-029 testified that the RUF and SLAs also raped other girls while in Benguema. The witness knows this because the girls who had been captured and raped told her what had happened to them.<sup>2557</sup>

998. Major Arif permitted the witness to leave Benguema on 10 March 1999.<sup>2558</sup> On cross-examination, TF1-029 insisted that the rebels were mixed RUF and SLA but that most of the people she “dealt with” were SLAs, including Colonel O-Five, Brigadier Five-Five, Colonel Tito, and Colonel Rambo. O-Five, Tito and Five-Five were in control of the soldiers from Calaba Town up to Four Mile.<sup>2559</sup>

### Findings

999. On the basis of this evidence, the Trial Chamber finds beyond reasonable doubt that between 22 January 1999 and 10 March 1999, which is during and after the Indictment period, in Wellington, Calaba Town and Benguema, Major Arif, an SLA soldier, intentionally engaged in sexual intercourse with TF1-029. Based on the evidence of the environment of violence and abduction, as well as the witness’s testimony that she was “forced to have sex”, the Trial Chamber finds beyond reasonable doubt that she did not consent to these acts of sexual intercourse and that Major Arif knew of her non-consent.

#### (iv) Rape of Akiatu Tholley in Allen Town and Waterloo

<sup>2552</sup> Exhibit P-206, “RUF Trial Transcript 28 November 2005, TF1-029”, p. 12.

<sup>2553</sup> Exhibit P-206, “RUF Trial Transcript 28 November 2005, TF1-029”, p. 12.

<sup>2554</sup> Exhibit P-206, “RUF Trial Transcript 28 November 2005, TF1-029”, p. 12.

<sup>2555</sup> Exhibit P-206, “RUF Trial Transcript 28 November 2005, TF1-029”, pp. 13-15.

<sup>2556</sup> Exhibit P-206, “RUF Trial Transcript 28 November 2005, TF1-029”, pp. 15-16.

<sup>2557</sup> Exhibit P-206, “RUF Trial Transcript 28 November 2005, TF1-029”, pp. 15-16.

<sup>2558</sup> Exhibit P-206, “RUF Trial Transcript 28 November 2005, TF1-029”, pp. 17-18.

<sup>2559</sup> Exhibit P-206, “RUF Trial Transcript 28 November 2005, TF1-029”, pp. 30-31.

1000. The Prosecution submits that Akiatu Tholley was abducted from Wellington and raped in the Western Area.<sup>2560</sup> The Trial Chamber has considered the evidence of Akiatu Tholley.

### Evidence

1001. Witness Akiatu Tholley testified that she was in Wellington when “rebels” came to her house on the night of 5 January 1999.<sup>2561</sup> Rebels came to her home on three subsequent occasions as detailed in the section on unlawful killings.<sup>2562</sup> On cross-examination, Tholley denied a prior statement taken by the Prosecution in which she stated that the rebels came to her house for the first time on 6 January 1999, the day after they entered Wellington.<sup>2563</sup>

1002. Tholley was captured by a rebel named James. Tholley testified that James was accompanied by his “boys” whom he had captured and who carried his ammunition. James’ boys gave Tholley and other captured civilians ammunition to carry and took them to Allen Town. James also had his “wives” with him.<sup>2564</sup> On cross-examination, Tholley testified that her cousin Amina was captured again on this occasion and that she did not see Amina again until she returned to Freetown.<sup>2565</sup>

1003. Tholley testified that James took her to the Mammy Dumbuya Church<sup>2566</sup> where she saw rebels raping, beating and killing many young girls, although she was not able to estimate how many.<sup>2567</sup> Tholley testified that she refused to have sex with James, and that he raped her and damaged her in her vagina. She had not yet had her menses. Tholley lost consciousness<sup>2568</sup> and when she awoke, she found herself in a small hut with an old woman who told her that “they” had brought Tholley to her and that she had treated Tholley’s injuries with herbs. Tholley testified that James then arrived and killed the old woman.<sup>2569</sup>

<sup>2560</sup> Prosecution Final Trial Brief, para. 923.

<sup>2561</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19172-19174.

<sup>2562</sup> Cross reference paras 259-261.

<sup>2563</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19237-19239.

<sup>2564</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19176-19179.

<sup>2565</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19245-19250.

<sup>2566</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19181-19182.

<sup>2567</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19182-19183.

<sup>2568</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19183-19184.

<sup>2569</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19184-19185.



1004. James took Tholley to Waterloo, Western Area together with his “wives” and “boys”, the other rebels and other captured civilians.<sup>2570</sup> The group was led by Five-Five.<sup>2571</sup> Tholley testified that she remained with James in Waterloo for a “long time” but was unable to say how long.<sup>2572</sup> Tholley testified that after James captured her and raped her in the Mammy Dumbuya Church, he continued to have sex with her against her will.<sup>2573</sup> Tholley did not want to be his “wife”.<sup>2574</sup>

1005. Tholley testified that the rebels she was with were a “mixed group” and the leader was Five-Five.<sup>2575</sup> James told Tholley that he belonged to the STF and ULIMO and that he had been part of the Liberian war until “the time they joined the rebels”. She did not know to which group Five-Five belonged.<sup>2576</sup>

1006. The Trial Chamber finds that Tholley’s evidence of her movements with the rebels is consistent with other evidence of the pattern of RUF/AFRC movements at this time. The Trial Chamber is satisfied that James was an STF member and that he captured Tholley prior to the retreat from Freetown in late January 1999 and that she remained under his control in the Western Area until early April 1999.

### Findings

1007. On the basis of this evidence, the Trial Chamber finds beyond reasonable doubt that between late January and early April 1999, James, an STF fighter, intentionally engaged in sexual intercourse with Tholley in Allen Town and in Waterloo. Based on the evidence of the environment of violence and her abduction, as well as the witness’s testimony that she was “forced to have sex”, the Trial Chamber finds beyond reasonable doubt that Tholley did not consent to these sexual acts and that James knew of her non-consent.

### (v) Rape of TF1-023 in Calaba Town, Benguema and Four Mile by a member of the AFRC from late January until March, 1999

<sup>2570</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19185-19187.

<sup>2571</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19187-19189.

<sup>2572</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19198, 19258.

<sup>2573</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19202-19203.

<sup>2574</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19202.

<sup>2575</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19187-19188; Transcript 27 October 2008 pp. 19197-19198.

<sup>2576</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19205; pp. 19236-19237.

Evidence

1008. Witness TF1-023, whose evidence in the AFRC trial was introduced through Rule 92bis, was cross-examined in the present case on 22 October 2008. She testified that she and her family sought refuge when the AFRC invaded Freetown. They moved from Cline Town, where they were living, back and forth to various places including Wellington and Portee in Eastern Freetown.<sup>2577</sup> On 22 January 1999, TF1-023 was in Wellington when it was attacked so she fled to Consider Lane in Calaba Town. That same afternoon, she and five or six others were captured by a group of rebels. The witness was captured by a “young boy” who was wearing combat trousers and a T-shirt and who was armed with a gun. He was part of a group of approximately 200 people, some of whom were wearing combat uniforms and others civilian clothes with head ties. They were armed with guns and cutlasses. There were also captured civilians among the group. The witness was 16 years old at the time and was not armed.<sup>2578</sup>

1009. The rebels brought TF1-023 and the other captured civilians to an unidentified location and then to Allen Town. There, they encountered a group of approximately 300-400 rebels and captured civilians. The witness and other captured civilians were prevented from escaping by the Small Boys Unit.<sup>2579</sup> The witness was held at Allen Town for about 3 days<sup>2580</sup> and was then taken by a rebel, whom she named in a Confidential Exhibit,<sup>2581</sup> to Calaba Town.<sup>2582</sup> Trial Chamber will refer to the rebel as “Captain A”. The witness testified that there were approximately 50-100 rebels in Calaba Town. Some were in combat uniform and some were wearing jeans and T-shirts.<sup>2583</sup>

1010. In Calaba Town, Captain A handed TF1-023 over to a commander, whom she named in a Confidential Exhibit.<sup>2584</sup> The Trial Chamber will refer to the commander as “Colonel B”. Captain A told the witness that she should be Colonel B’s “wife” and Colonel B

<sup>2577</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, pp. 29-30; Exhibit P-205B (confidential), pp. 7-9; TF1-023 Transcript 22 October 2008, p. 18953.

<sup>2578</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, pp. 30-31; Exhibit P-205B (confidential), pp. 10-11.

<sup>2579</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, pp. 33-35.

<sup>2580</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, p. 36.

<sup>2581</sup> Exhibit P-267 (Confidential).

<sup>2582</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, pp. 37-39.

<sup>2583</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, p. 38.

<sup>2584</sup> Exhibit P-268 (Confidential).

accepted this. Colonel B did not ask for the witness's consent. There was no marriage ceremony.<sup>2585</sup> That night, Colonel B threatened the witness, shouted at her and forced her to have sex with him. It was the first time she had sex. After that night, she continued to "sleep with" Colonel B.<sup>2586</sup>

1011. TF1-023 remained in Calaba Town for three days. On the third day, she and the rebels walked to Allen Town, Waterloo and then Benguema where they remained for about four days. They then continued on to Lumpa and Four Mile where they stayed for about a month.<sup>2587</sup> On cross-examination, the witness clarified that she remained with "the armed men" in Freetown from 22 to 29 January. She left Freetown on 29 January, and it took about two days to reach Benguema, where they spent about three days. From Benguema TF1-023 and the other captured civilians were forcefully taken to Four Mile where they stayed for approximately a month.<sup>2588</sup> Colonel B was not always with the witness; he joined her in Benguema and again in Four Mile. The witness does not know where he was in the interim.<sup>2589</sup>

1012. The witness lived with Colonel B for about three weeks in Four Mile, after which he left her and went to Makeni. During those three weeks, he asked her to cook, but she did not as she did not know how. During those three weeks she continued to sleep with him because he told her that she was his "wife". He never asked her consent before sex. The witness was not able to leave.<sup>2590</sup> There were approximately 400 armed rebels at Four Mile. Some "people" at Four Mile tried to escape but they were beaten. This made the witness afraid and she decided not to try to run away.<sup>2591</sup> Colonel B also had an armed guard follow her so she could not escape.<sup>2592</sup>

1013. When Colonel B left for Makeni, he left the witness in the "care of" a captain, whom the witness identified in a Confidential Exhibit.<sup>2593</sup> The Trial Chamber will refer to the

<sup>2585</sup> Exhibit P-205A, "AFRC Trial Transcript 9 March 2005, TF1-023", pp. 45-46.

<sup>2586</sup> Exhibit P-205A, "AFRC Trial Transcript 9 March 2005, TF1-023", pp. 46-47.

<sup>2587</sup> Exhibit P-205A, "AFRC Trial Transcript 9 March 2005, TF1-023", pp. 47-49.

<sup>2588</sup> Exhibit P-205B (confidential), pp. 31-32.

<sup>2589</sup> Exhibit P-205A, "AFRC Trial Transcript 9 March 2005, TF1-023", pp. 47-49.

<sup>2590</sup> Exhibit P-205A, "AFRC Trial Transcript 9 March 2005, TF1-023", pp. 49-52.

<sup>2591</sup> Exhibit P-205A, "AFRC Trial Transcript 9 March 2005, TF1-023", pp. 52-53.

<sup>2592</sup> Exhibit P-205A, "AFRC Trial Transcript 9 March 2005, TF1-023", p. 53.

<sup>2593</sup> Exhibit P-205A, "AFRC Trial Transcript 9 March 2005, TF1-023", p. 49; Exhibit P-269, (Confidential).

captain as “Captain C”. The witness remained in the custody of Captain C from approximately March through August.<sup>2594</sup>

1014. TF1-023 testified that the rebels she named in the exhibits told her that they were members of the AFRC. She first saw their senior commander, Brima or “Gullit” in Benguema. He was a Brigadier at the time. At Four Mile, Colonel B told her that the senior commander was “Bazzy”. He used to visit Colonel B and the witness would see him regularly.<sup>2595</sup> On cross-examination, TF1-023 testified that a boy called Alhassan identified Bazzy to her at Four Mile, but that “everyone” told her that Bazzy was the senior commander. She did not talk with Bazzy.<sup>2596</sup> On cross-examination, TF1-023 testified that throughout her “journey” the rebels were a mixed group of AFRC and RUF, but that the ones she had direct contact with were all AFRC.<sup>2597</sup>

### Findings

1015. The Trial Chamber finds beyond reasonable doubt that between 22 January and approximately March 1999, which extends beyond the Indictment period for Freetown and the Western Area, Colonel B, a member of the AFRC, intentionally engaged in sexual intercourse with TF1-023. The Trial Chamber finds, based on the evidence of the environment of violence and coercion to which TF1-023 testified, that she did not consent to these sexual acts, and that Colonel B knew that she did not consent.

### Conclusion

1016. Based on the evidence above, the Trial Chamber finds that the Prosecution has established beyond reasonable doubt that:

- i. Men and boys, members of AFRC, RUF, STF and Liberian fighters, under the command of Gullit, raped an unknown number of women and girls in the grounds of the State House over three nights in January 1999;
- ii. AFRC, RUF, STL and Liberian commanders and fighters raped an unknown number of girls inside State House during the Freetown attack of January 1999;

<sup>2594</sup> Exhibit P-205A “AFRC Trial Transcript 7 November 2005, TF1-023”, p. 53 (CS).

<sup>2595</sup> Exhibit P-205B (confidential), pp. 13-16, 24-33.

<sup>2596</sup> Exhibit P-205B (confidential), pp. 26-28.

<sup>2597</sup> TF1-023, Transcript 22 October 2008, pp. 18958-18959.

- iii. Alimamy Bobson Sesay, a commander in the AFRC, captured and raped a young girl in Freetown during the 1999 attack;
- iv. RUF fighters raped an unknown number of girls in a house on Blackhall Road during the Freetown attack of January 1999;
- v. Rebels under the command of Captain Blood raped an unknown number of girls in Kissy on or about 22 January 1999;
- vi. Major Arif, an SLA soldier, raped TF1-029 between 22 January 1999 and 10 March 1999, which is during and after the Indictment period, in Wellington, Calaba Town and Benguema;
- vii. James, an STF fighter, between late January and early April 1999 raped Akiatu Tholley in Allen Town and in Waterloo;
- viii. Colonel B, a member of the AFRC, raped TF1-023 between 22 January and approximately March 1999.
- ix. The Trial Chamber recalls that the Prosecution has established beyond reasonable doubt that at all times relevant to the Indictment, the RUF and/or AFRC forces directed both a widespread and systematic attack against the civilian population of Sierra Leone.<sup>2598</sup> The Trial Chamber is satisfied that each of the rapes proved by the Prosecution in respect of Freetown and the Western Area formed part of the said attack and that the perpetrators were aware of this fact. Therefore, the Trial Chamber is satisfied that the aforementioned rapes in Freetown and the Western Area constitute rape as a crime against humanity under Article 2 of the Statute.

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<sup>2598</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.

## 2. Count 5 (Sexual Slavery)

### Allegations and Submissions

1017. The Indictment alleges that “members of RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters, assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused, committed widespread acts of sexual violence against civilian women and girls”, including using them as sex slaves.<sup>2599</sup> These acts of sexual violence are alleged to have been carried out in various Districts of Sierra Leone, including Kono District between 1 February 1998 and about 31 December 1998; Kailahun District between about 30 November 1996 and 18 January 2002; and Freetown and the Western Area between about 21 December 1998 and 28 February 1999.

1018. The Prosecution has not pleaded specific locations with regard to sexual slavery. In accordance with established jurisprudence, the Trial Chamber has found that due to the continuous nature of the crime of sexual slavery, the pleading of particular locations is impracticable.<sup>2600</sup> Therefore, the Trial Chamber has considered evidence of sexual slavery in all locations in Kono District, Kailahun District and Freetown and the Western Area.

1019. In its Final Trial Brief, the Prosecution submits that “sexual slavery involved the abduction of women and girls and holding them in captivity as sex slaves. These women were often referred to as “wives”, “bush wives”, “jungle wives”, or “rebel wives”. The victims were expected to carry out the traditional functions of a wife and more. A wife carried loads on her head; gratified her “husband’s” sexual wishes without question; cooked and did his laundry. Moreover, she would be severely punished for refusing to perform her conjugal duties or if found to be unfaithful to him. In the vast majority of cases, the victims had no option to refuse the “marriage”. Rather, an atmosphere of coercion generally prevailed, characterised by the use of violence or the threat of violence by the Indictment perpetrators to force their victims into submission”.<sup>2601</sup>

1020. The Prosecution further submits that “The subjugation of women and concomitant reign of terror was instilled in numerous ways. The Indictment perpetrators instilled fear in

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<sup>2599</sup> Indictment, paras 14-17.

<sup>2600</sup> See Preliminary Issues: Issues Relating to the Pleading in the Indictment.

<sup>2601</sup> Prosecution Final Trial Brief, paras 896-897.

their “wives” by telling them their families would not take them back, that they would be blamed for what happened to them. Indeed, the practice of creating bush wives was not subject to customary marital practice, thus creating a sense of social stigma for the victims. The Indictment Perpetrators also terrorised their “wives” by beating or killing women that did not consent to them and in some cases, ordered armed guards to prevent their escape. In other instances, women were forced to choose between being the “wife” of one commander, which carried the benefits of food and protection, or risk being sexually used by multiple combatants. The insidious nature of sexual slavery made it difficult to escape from, demonstrating the potency of its terror. The Indictment Perpetrator’s practice of using women as sex slaves was accepted, open and endemic. Senior commanders enjoyed priority over lower ranking subordinates in their choice of the captured women assigned as wives. In addition, combatants traded assigned women amongst themselves. According to one former commander, “the SBUs also used women as wives, having sexual intercourse with them. The girls were from the ages of 8 and above”. Those girls not assigned to a single husband were called “government women” and were, therefore, free for any other person”.<sup>2602</sup>

1021. The Defence submits that it has not substantively addressed the crime base evidence in its submissions because its position from the outset is that it accepts that crimes were indeed committed in Sierra Leone although it denies that the Accused is responsible for these crimes.<sup>2603</sup> The Defence maintains however, that the onus of proving beyond reasonable doubt the elements of the crimes charged in the Indictment as well as the guilt of the Accused, lies squarely upon the Prosecution.<sup>2604</sup> In addition, the Defence requests the Trial Chamber to exclude Prosecution evidence of crimes that falls outside the temporal or geographical scope of the Indictment or to impose strict limits on the degree to which such evidence may be taken into consideration during deliberations.<sup>2605</sup>

(a) Kailahun District

1022. The Indictment alleges that from 30 November 1996 to 18 January 2002, members of the RUF, AFRC, AFRC/RUF junta or alliance, and/or Liberian fighters assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or

<sup>2602</sup> Prosecution Final Trial Brief, paras 898-899.

<sup>2603</sup> Defence Final Trial Brief, para. 1557.

<sup>2604</sup> Defence Final Trial Brief, para. 27.

<sup>2605</sup> Defence Final Trial Brief, para. 42-46.

subordinate to the Accused “abducted many victims from other areas of the Republic of Sierra Leone, brought them to locations throughout the District, and used them as sex slaves”.<sup>2606</sup>

1023. The Prosecution submits that “[T]he sexual slavery which occurred throughout Kailahun District is best understood in the context of the District’s role as an RUF stronghold throughout the conflict”.<sup>2607</sup>

1024. The Prosecution further submits that “[F]ollowing the Intervention, returning combatants took many captured women and girls to Kailahun. The women were distributed by the G5 to commanders or soldiers and were expected to work for and have sex with them. The women had little choice in the matter. The presence of specific personnel to organize and administer sexual slavery illustrates its acceptance and permanence in the rebel ranks”.<sup>2608</sup>

1025. Given the continuous nature of the crime of sexual slavery, the Trial Chamber will consider all evidence of sexual slavery in Kailahun District.

(i) Women used as sexual slaves by the RUF throughout Kailahun District

1026. Witnesses Mustapha M. Mansaray, Perry Kamara, Isaac Mongor, Dennis Koker, Finda Gbamanja, TF1-375, TF1-371, TF1-189 Edna Bangura, Issa Sesay, and DCT 068 gave evidence relevant to allegations of sexual slavery in Kailahun District, in addition to Exhibits P-073, P-078, P-077 and P-277.

Documentary evidence

1027. The expert report of Beth Vann stated that Sierra Leonean refugees fled AFRC and RUF forces in approximately March-April 1998 and arrived in camps along the border in neighbouring Guinea.<sup>2609</sup> The largest concentration of camps was in Gueckedou-Kissidougou prefectures, which borders Kono and Kailahun Districts in Sierra Leone.<sup>2610</sup> The refugees described atrocities committed by armed groups, including the AFRC and RUF

<sup>2606</sup> Indictment, paras 14, 16.

<sup>2607</sup> Prosecution Final Trial Brief, para. 912.

<sup>2608</sup> Prosecution Final Trial Brief, para. 913.

<sup>2609</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, p. 4.

<sup>2610</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, p. 4.



in Kono and Kailahun Districts.<sup>2611</sup> Vann reported that the refugees included many victims of war-related sexual violence.<sup>2612</sup>

1028. Vann further reported that according to the victims she interviewed, sexual slavery was a common practice, especially amongst the RUF and AFRC. The report explains that sexual slavery “involves the abduction of females – whether young girls or old women – who are then forced to serve as *de facto* ‘wives’ to officers and troops. Serving as a ‘wife’ includes finding food, cooking, cleaning, washing clothes, complying with forced sexual relations, bearing and caring for children”.<sup>2613</sup> The majority of rape victims from Sierra Leone that she interviewed in Gueckedou Camp named the perpetrators as members of the AFRC/RUF or “rebels”.<sup>2614</sup> The majority of documented incidents of sexual violence reported took place between 1997 and 1999.<sup>2615</sup>

1029. In 1998, Amnesty International reported that “[i]n those areas of the country which remained under the control of rebel forces thousands of civilians, including women and children, effectively remained captive, many of them in Kailahun District, a stronghold of the RUF since the beginning of the internal armed conflict. Some estimates put this number as high as 10,000. They were used to carry goods, as human shields or for sexual slavery”.<sup>2616</sup>

1030. Expert witness TF1-150 documented human rights abuses in Sierra Leone from May 1998 through 2000. This witness had published a report by July 1998 which documented that “rebels” were holding large numbers of civilian captives, including civilians who were being used for forced sexual activity, in various areas of Sierra Leone, but mostly in Kailahun District.<sup>2617</sup>

1031. Prosecution Witness TF1-174 worked at an interim care centre in Makeni where captured girls were provided with assistance. TF1-174 stated that the girls at the centre had been captured from different districts and brought against their will to Kailahun District,

<sup>2611</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, p. 4.

<sup>2612</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, p. 4.

<sup>2613</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, p. 8.

<sup>2614</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, p. 11.

<sup>2615</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, p. 9.

<sup>2616</sup> Exhibit P-078, “Sierra Leone: 1998 – a year of atrocities against civilians – Amnesty International”, p. 12, 15.

<sup>2617</sup> Exhibit P-077 (confidential), para. 28.

where they were forced to satisfy the fighters' "sexual desires". The girls that TF1-174 worked with had been raped and turned into "wives" of RUF commanders. One girl was said to have been a wife of Issa Sesay, a senior RUF commander. She was 14 or 15 years old.<sup>2618</sup>

1032. While this evidence is not sufficiently specific to prove any individual instances of sexual slavery, it demonstrates that sexual slavery was committed on a widespread basis in Kailahun District and may be relevant as corroboration for specific instances of sexual slavery described by witnesses testifying before the Trial Chamber.

1033. Prosecution Witness Isaac Mongor testified that he would visit Kailahun District at unspecified times.<sup>2619</sup> Mongor stated that RUF fighters used captured women in Kailahun District for sexual purposes and some were trained as soldiers.<sup>2620</sup> Mongor explained that captured women had no choice but to remain with the RUF fighters and submit to them, but did not indicate what duties "wives" were expected to perform.<sup>2621</sup>

1034. Prosecution Witness TF1-371 testified that after the 1991 attacks on Sierra Leone by RUF and NPFL fighters, captured women and girls would involuntarily become the "bush wives" of RUF commanders.<sup>2622</sup> These women and girls would be the sexual partners of the commanders and have children by them, and would also do domestic chores, such as cooking and laundry.<sup>2623</sup>

1035. Defence Witness Issa Sesay testified that rape was not allowed and that rape was punishable by death<sup>2624</sup> and that he did not see or hear about any instances of rape in Kailahun from 1992 through to the time of disarmament.<sup>2625</sup> Sesay stated that he did hear

<sup>2618</sup> TF1-174, Transcript 28 January 2009, pp. 23779-23780, 23792.

<sup>2619</sup> Isaac Mongor, Transcript 31 March 2008, p. 6208.

<sup>2620</sup> Isaac Mongor, Transcript 31 March 2008, p. 6208.

<sup>2621</sup> See Isaac Mongor, Transcript 31 March 2008, pp. 6206-6208.

<sup>2622</sup> TF1-371, Transcript 25 January 2008, p. 2232 (CS); Transcript 29 January 2008, pp. 2506-2507 (CS). TF1-371 testified that "I can't say they were voluntary because they captured these girls and before even coming into the [indiscernible] they already have them as a bush wife, you know? In our custom in Sierra Leone that is not the way for somebody to become a wife to somebody. I mean there are norms that govern how people become husband and wife, but that was a different situation". Transcript 29 January 2008, p. 2507 (CS).

<sup>2623</sup> TF1-371, Transcript 29 January 2008, pp. 2506-2507.

<sup>2624</sup> Issa Sesay, Transcript 26 July 2010, pp. 44614-44616.

<sup>2625</sup> Issa Sesay, Transcript 26 July 2010, pp. 44614-44616.

about rape occurring in other parts of Sierra Leone, but said that disciplinary action was taken against the perpetrators.<sup>2626</sup>

1036. Defence Witness DCT-068, who had been a member of the RUF from August 1992,<sup>2627</sup> and who was in Kailahun District from 1992 to 1998<sup>2628</sup> testified that he had never seen women being raped or assigned to commanders. DCT-068 gave the example of Sam Bockarie, and explained that if Bockarie wanted a woman for love, he would talk to that woman in respect of love.<sup>2629</sup>

1037. DCT-068 insisted that women were not coerced into working as domestic servants to commanders but did acknowledge that women, other than the wives of commanders, were relied upon when the RUF needed people to assist with domestic work or farming.<sup>2630</sup>

1038. Based on the witness's admission that women were in an environment of fear and his evasive demeanour while giving evidence on this topic the Trial Chamber finds the witness's statements that abducted women were treated with "love" and not forced to have sexual relations, to be contrary to the overwhelming volume of evidence and to be disingenuous and unreliable.

(ii) Captured civilians used as sexual slaves in Pendembu

1039. Prosecution Witness Mustapha M. Mansaray was a member of the RUF Defence Unit (IDU) in Kailahun District from approximately November 1996 until July 2000, with the exception of a two-week assignment in Makeni.<sup>2631</sup> Mansaray testified that the IDU was responsible for investigating violations of RUF laws. Investigations were undertaken by a panel of the Joint Security Board of Investigation composed of an IDU representative, an Intelligence Officer of the G5 (responsible for protection of civilians), a representative of the Military Police and representatives from other units.<sup>2632</sup>

<sup>2626</sup> Issa Sesay, Transcript 26 July 2010, pp. 44614-44616.

<sup>2627</sup> DCT-068, Transcript 11 March 2010, p. 37075.

<sup>2628</sup> DCT-068, Transcript 11 March 2010, p. 37085.

<sup>2629</sup> DCT-068, Transcript 11 March 2010, p. 37119.

<sup>2630</sup> DCT-068, Transcript 11 March 2010, p. 37122.

<sup>2631</sup> Mustapha Mansaray, Transcript 4 March 2008, pp. 5230-5234; Transcript 5 March 2008, p. 5318.

<sup>2632</sup> Mustapha Mansaray, Transcript 4 March 2008, p. 5237.

1040. Mansaray testified that while he was assigned as 1<sup>st</sup> Brigade IDU chief in Pendembu in May/June 1999, one of his duties was to “screen” civilians who had been captured by fighters.<sup>2633</sup> He recorded their names, dates of birth, their village or town of origin in addition to records of the numbers of captured civilians.<sup>2634</sup> Civilians were captured from the areas around Daru and Segbwema<sup>2635</sup> and others were “returnees” from Liberia.<sup>2636</sup> Mansaray estimated that there were about 500 captured civilians staying with the fighters at Pendembu.<sup>2637</sup>

1041. Mansaray testified that after the captured civilians had been screened, their captured family members already in Pendembu, if any, could “sign for them” and take them to live with them as the fighters did not have enough space to keep them or to provide food for them.<sup>2638</sup> Some of the civilians without family members were signed for by fighters who took the civilians to their houses to do domestic work.<sup>2639</sup> Mansaray testified that some of these fighters took the captured women to their homes to have sexual intercourse with them and would tell him that they had “married” them.<sup>2640</sup> Mansaray also testified that some fighters did not report the women they had captured.<sup>2641</sup> Rather, they took the women directly to their houses. Mansaray is not aware of what happened to such women.<sup>2642</sup>

1042. On cross-examination, Mansaray testified that after having been captured, some women were willing to stay with the fighters and others were not.<sup>2643</sup>

1043. The Trial Chamber finds that by depriving the women of their liberty, forcing them to engage in sexual acts, and in some cases forcing them to do labour, the perpetrators intentionally exercised powers of ownership over them, thus committing the crime of sexual slavery in Pendembu from November 1996 to July 2001.

(iii) Evidence of sexual slavery in Buedu from November 1996 until 1998

<sup>2633</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5319-5320.

<sup>2634</sup> Mustapha Mansaray, Transcript 5 March 2008, p. 5320.

<sup>2635</sup> Mustapha Mansaray, Transcript 5 March 2008, p. 5320.

<sup>2636</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5319-5321.

<sup>2637</sup> Mustapha Mansaray, Transcript 5 March 2008, p. 5321.

<sup>2638</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5320-5321.

<sup>2639</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5321-5323.

<sup>2640</sup> Mustapha Mansaray, Transcript 5 March 2008, p. 5327.

<sup>2641</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5323, 5326.

<sup>2642</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5323-5327.

<sup>2643</sup> Mustapha Mansaray, Transcript 6 March 2008, p. 5448.

1044. The Trial Chamber has considered the evidence of witness Edna Bangura, Issa Sesay, TF1-168 and Exhibit P-277 in relation to alleged instances of sexual slavery in Buedu.

1045. The Prosecution submits that “Buedu was the AFRC/RUF headquarters from about February 1998 to 2000. During this time, the RUF captured girls aged 15 and 16 through to their mid-20’s during combat missions. Some of the abducted women were forced to become sexual partners to RUF commanders”.<sup>2644</sup> It further submits that Edna Bangura was a sex slave in Buedu from 1994 to 1998.<sup>2645</sup>

#### Evidence

1046. The evidence of witness Edna Bangura of her capture and subsequent detention in Buedu has been recited in the section dealing with rape.<sup>2646</sup>

1047. Bangura testified that women would be captured by fighters when they went to the war front and that these women became “wives” or would stay with fighters as either house help or as bodyguards.<sup>2647</sup> Bangura explained that when a woman became a “wife” in the context of rebels capturing women, they did not go to perform marriage rites anywhere. They would just capture them and bring them and consider them to be their wives and the women in return would do everything to them just like a husband and wife.<sup>2648</sup>

1048. In relation to her own experience, Bangura stated from the day CO Ray “invited” her to his room to have sex with her; he regarded her as his “wife”.<sup>2649</sup> CO Ray died at an unspecified time before the witness left Buedu.<sup>2650</sup> Bangura also testified that CO Musa became her “husband” in Buedu after CO Ray died.<sup>2651</sup> She did not provide any details during her direct examination as to the length or nature of her relationship with CO Musa, other than that he was her “husband”.

<sup>2644</sup> Prosecution Final Trial Brief, paras 876, 914.

<sup>2645</sup> Prosecution Final Trial Brief, para. 915.

<sup>2646</sup> See Factual and Legal Findings on Alleged Crimes: Count 4 (Rape).

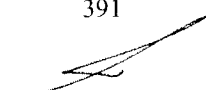
<sup>2647</sup> Edna Bangura, Transcript 20 October 2008, p. 18685.

<sup>2648</sup> Edna Bangura, Transcript 20 October 2008, p. 18685.

<sup>2649</sup> Edna Bangura, Transcript 20 October 2008, p. 18696.

<sup>2650</sup> Edna Bangura, Transcript 20 October 2008, pp. 18695-18696.

<sup>2651</sup> Edna Bangura, Transcript 20 October 2008, p. 18965.





1049. The Defence challenged the witness on the record of an interview with the Prosecution which records her as saying, “CO Musa was killed some time in 1994 during one of the attacks, after which the witness was raped by one CO Ali, an RUF rebel. The witness was taken as a wife by CO Ali, and not CO Musa”,<sup>2652</sup> and on a number of inconsistencies between her testimony and the statement that she gave to Prosecution investigators on 29 October 2003 concerning CO Musa.

1050. During cross-examination before this Trial Chamber, Bangura stated that CO Ali and CO Musa was one and the same person. It was only when Defence counsel confronted the witness with exhibits and testimony in a prior case before the Special Court for Sierra Leone which indicated that CO Ali and CO Musa were different people that the witness agreed,<sup>2653</sup> admitting that Counsel’s question confused her.<sup>2654</sup>

1051. Issa Sesay testified that Bangura could not have been taken to Buedu to be used as a sexual slave from 1994 to 1998 because the NPRC, not the RUF, controlled Buedu from October/November 1993 until April 1995.<sup>2655</sup> Sesay further testified that people were not brought from Kangari Hills to Kailahun until the AFRC coup in 1997.<sup>2656</sup>

1052. Issa Sesay’s testimony on this point is corroborated by the testimony of TF1-168 and by Exhibit P-277, which reports that “[t]owards the end of 1993, the RUF was almost pushed out of Kailahun district by the government forces and early in 1994 Cpl. Sankoh was forced to move out of Kailahun district for Kenema district”.<sup>2657</sup> The remaining RUF fighters in Kailahun were concentrated in Ngeima town, Luawa Chiefdom and other jungle hideouts, while government troops controlled the major villages and towns, including Buedu.<sup>2658</sup>

<sup>2652</sup> Edna Bangura, Transcript 20 October 2008, p. 18738.

<sup>2653</sup> See Edna Bangura, Transcript 20 October 2008, pp. 18741-18744.

<sup>2654</sup> Edna Bangura, Transcript 20 October 2008, pp. 18746-18747 (“Q: Why? What was it about the question that I asked that you suddenly thought Musa and Ali were one and the same person? A: You confused me. I was confused and so I couldn’t say the right thing.”)

<sup>2655</sup> Issa Sesay, Transcript 16 August 2010, pp. 46380-46381. See also Transcript 5 July 2010, pp. 43681-43682 (testifying that by the end of 1993, NPRC forces had pushed back the RUF to the border and that the only areas still controlled by the RUF were Giema and small villages around Koindu by the border); TF1-168, Transcript 21 January 2009, pp. 23230-23233, 23236-23243 (CS).

<sup>2656</sup> Issa Sesay, Transcript 16 August 2010, pp. 46380-46381.

<sup>2657</sup> Exhibit P-277 (Confidential), p. 77. See also TF1-168, Transcript 21 January 2009, pp. 23230-23233, 23236-23243 (CS).

<sup>2658</sup> Exhibit P-277 (Confidential), pp. 39-40. See also TF1-168, Transcript 21 January 2009, pp. 23230-23233

## Findings

1053. Given the inconsistencies in Bangura's testimony regarding the time of her alleged sexual enslavement(s) in 1994-1998, the Trial Chamber is unable to find beyond reasonable doubt that these events occurred after 30 November 1996. Further, due to inconsistencies relating to the perpetrators and the location of the alleged crimes, the Trial Chamber is also unable to determine the identity of the person or persons who committed the crimes alleged or the location in which they occurred. However the Trial Chamber accepts Bangura's evidence that women would be captured by fighters when they went to the war front and that these women became "wives" or would stay with fighters as either house help or as bodyguards.<sup>2659</sup> The Trial Chamber therefore finds that the Prosecution has not proved the required elements for the crime of sexual slavery in relation to this witness from November 1996 through November or December 1998 but that Bangura's evidence that women were captured and used as "wives" and house help demonstrates that sexual slavery was widespread in Buedu and may be relevant as corroboration for specific instances of sexual slavery described by witnesses testifying before the Trial Chamber.

### (iv) Evidence of sexual slavery in Kailahun District after February 1998

1054. The Prosecution submits that "[I]n February 1998, when 'Operation Pay Yourself' was declared by Sam Bockarie in Kenema, more than 400 civilians, including 'beautiful ladies to convert into a wife' were abducted and taken to Daru in Kailahun District".<sup>2660</sup> The Prosecution further submits that the "abducted civilians were distributed in villages within Kailahun District" and that "these abducted women were taken to Buedu and forced to have sex with their captors. These women feared for their safety within this group of armed men as refusing to have sex meant they would be kicked about like a football".<sup>2661</sup>

1055. The Trial Chamber has considered the testimony of Augustine Mallah and Aruna Gbonda in making its findings.

## Evidence

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(CS).

<sup>2659</sup> Edna Bangura, Transcript 20 October 2008, p. 18685.

<sup>2660</sup> Prosecution Final Trial Brief, para. 877.

<sup>2661</sup> Prosecution Final Trial Brief, para. 877.

1056. The testimony of witness Augustine Mallah of the capture of women and their forcible transfer and detention in locations controlled by the AFRC and RUF throughout Kailahun District, including Kailahun Town, Pendembu and Dodo <sup>2662</sup> has been recited in the section on rape. <sup>2663</sup>

1057. Mallah stayed in Buedu for approximately two months. <sup>2664</sup> Both the AFRC and RUF were in Buedu and everyone reported to Bockarie. <sup>2665</sup> Mallah testified that the captured civilians in Buedu were there to cook and have sexual intercourse with the AFRC and RUF soldiers who captured them. <sup>2666</sup> Mallah did not witness women refusing sexual intercourse, although he stated that it may have been possible for a woman who had been with the RUF for a long time to leave the man if she had a good reason <sup>2667</sup> but

[t]he moment you would be, say for example, leaving Vandi you should get married to Momoh, because if you did not do that you would just be there like a football [...] When Musa comes he will kick you and you will go to Vandi and he too will kick you. Like me, if I come and I want to have an affair to have sex with a woman and I don't have a woman and you are there without a husband, I would just go to you. <sup>2668</sup>

1058. Mallah explained that the women were forced by their captors to have sex <sup>2669</sup> if the women did not want to die. “[T]hey just have to do it, whether they were willing or not”. <sup>2670</sup> Mallah also testified that there was a pass system in Buedu which controlled the movements of captured civilians. <sup>2671</sup>

1059. Witness Aruna Gbonda testified that after Tejan Kabbah had been reinstated, <sup>2672</sup> which was in March 1998, <sup>2673</sup> he saw Mosquito and the other rebels come to Kailahun District from Kenema District with male and female civilians. <sup>2674</sup> The captured civilians

<sup>2662</sup> Augustine Mallah, Transcript 13 November 2008, p. 20172.

<sup>2663</sup> See Factual and Legal Findings on Alleged Crimes: Count 4 (Rape).

<sup>2664</sup> Augustine Mallah, Transcript 13 November 2008, p. 20203.

<sup>2665</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20203-20204.

<sup>2666</sup> Augustine Mallah, Transcript 13 November 2008, p. 20206.

<sup>2667</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20206-20207.

<sup>2668</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20206-20207.

<sup>2669</sup> Augustine Mallah, Transcript 13 November 2008, p. 20207.

<sup>2670</sup> Augustine Mallah, Transcript 13 November 2008, p. 20207. The pass system in Kailahun is described in more detail in the rape section. For example, in the testimony of Dennis Koker. See Factual and Legal Findings on Alleged Crimes: Count 4 (Rape).

<sup>2671</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20207-20208.

<sup>2672</sup> Aruna Gbonda, Transcript 20 February 2008, pp. 4293-4294.

<sup>2673</sup> *Prosecutor v. Taylor*, Decision on the Prosecution Motion for Judicial Notice, Fact E.

<sup>2674</sup> Aruna Gbonda, Transcript 20 February 2008, p. 4294.



included adult women and girls who were from Kenema.<sup>2675</sup> The women were taken to Kailahun Town and other villages.<sup>2676</sup> When the rebels and the civilians arrived in Kailahun Town, food was scarce and Gbonda stated that they would ask him where they could find bananas.<sup>2677</sup> When Gbonda spoke to the women and girls, they said that the rebels under Mosquito and Issa Sesay had forcefully captured them and that when they were dislodged from Freetown, some were brought by the rebels to Buedu and some to Kailahun Town.<sup>2678</sup> The women told Gbonda that the rebels had turned them into their wives and “put them into their homes forcefully”.<sup>2679</sup> Gbonda stated that there were many captured women and girls, and that he had personally spoken to about twenty.<sup>2680</sup>

### Findings

1060. Based on the evidence of Augustine Mallah and Aruna Gbonda, the Trial Chamber is satisfied beyond reasonable doubt that an unknown number of women were held in captivity by AFRC and RUF fighters, who thereby exercised powers of ownership over them and forced to work for them and to have sexual intercourse with them in Buedu and Kailahun Town. The Trial Chamber is further satisfied beyond reasonable doubt that the perpetrators intended to use the captured women and girls as sexual slaves as shown by the restriction on their movements and the repeated sexual acts perpetrated upon them under the threat of force. The Trial Chamber therefore finds that the Prosecution has established beyond reasonable doubt the elements of sexual slavery in Kailahun District from February to April 1998.

#### (v) Evidence of Sexual Slavery after February 1998 to December 1999 in Buedu

1061. The Trial Chamber has considered the evidence of Dennis Koker in relation to evidence of sexual slavery in Buedu from February 1998 to December 1999.

<sup>2675</sup> Aruna Gbonda, Transcript 20 February 2008, pp. 4294-4295. A 1998 Human Rights Report on Sierra Leone stated that the practice of “kidnapping youngsters and women” continued. Women were forced to act as sexual slaves. In particular seven girls aged between 7-15 years were abducted in March 1998 from the Ben Hirsh childcare centre in Kenema. Exhibit P-366, “Sierra Leone Country Report on Human Rights Practices for 1998, US Department of State, Bureau of Democracy, Human Rights, and Labor, 26 February 1999, p. 3, ERN 25072.

<sup>2676</sup> Aruna Gbonda, Transcript 20 February 2008, pp. 4294-4295.

<sup>2677</sup> Aruna Gbonda, Transcript 20 February 2008, pp. 4294-4295.

<sup>2678</sup> Aruna Gbonda, Transcript 20 February 2008, pp. 4295-4296.

<sup>2679</sup> Aruna Gbonda, Transcript 20 February 2008, p. 4296.

<sup>2680</sup> Aruna Gbonda, Transcript 20 February 2008, p. 4297.

## Evidence

1062. The testimony of Witness Dennis Koker that he left Koidu Town in February 1998 and went to Kailahun District where he was appointed as a military policeman and adjutant has been recited in the section on rape.<sup>2681</sup>

1063. Koker testified that during the period 1998-1999 many women were captured by the RUF and AFRC and detained in Buedu and that the captors “would marry them without paying bride price”.<sup>2682</sup> Sometimes, commanders would often come to Koker’s office with captured women and ask him to “confine” or discipline the women because they had “overlooked the commanders”, i.e. been disrespectful.<sup>2683</sup> While in detention, the women would in the absence of their captors, explain to Koker that the RUF commanders had captured them on the front line and forcibly “turned them into wives” but that in fact the commanders were not their real husbands.<sup>2684</sup>

1064. Koker recalled one incident when “CO Victor Kallon”, an RUF Major, brought a girl to the office and said she had disrespected him. CO Kallon had stripped the girl down to her underwear and given her 50 lashes with a long cable made from a vehicle tyre, before asking Koker to lock her up.<sup>2685</sup> CO-Kallon asked Koker to detain her. When CO Kallon left, the girl explained to Koker that CO Kallon had captured her in Kono and taken her “as his wife”, but that the commander was in fact not her husband. When she refused to have intercourse with him he beat her and brought to Koker’s MP office.<sup>2686</sup>

1065. Koker testified about the various things he observed happening to civilians in Buedu throughout the time he was there, some 21 months,<sup>2687</sup> until the ceasefire. Koker left Buedu on 16 December 1999, the day after Sam Bockarie left for Liberia.<sup>2688</sup> During the entire time

<sup>2681</sup> See Factual and Legal Findings on Alleged Crimes: Count 4 (Rape).

<sup>2682</sup> Dennis Koker, Transcript 15 January 2008, pp. 1265-1266.

<sup>2683</sup> Dennis Koker, Transcript 15 January 2008, pp. 1273-1274.

<sup>2684</sup> Dennis Koker, Transcript 15 January 2008, pp. 1272-1273.

<sup>2685</sup> Dennis Koker, Transcript 15 January 2008, pp. 1274-1276.

<sup>2686</sup> Dennis Koker, Transcript 15 January 2008, pp. 1273-1275.

<sup>2687</sup> Dennis Koker, Transcript 15 January 2008, pp. 1276-1278.

<sup>2688</sup> Dennis Koker, Transcript 15 January 2008, pp. 1276-1278.

he was at the MP office, he believes there may have been up to 1300 civilians captured, including men, women and children.<sup>2689</sup>

### Findings

1066. Based on Koker's evidence, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between 1998 and 1999 AFRC/RUF members in Buedu captured and detained women and girls for long periods thereby exercising powers of ownership over them, and that while in captivity, these women and girls were used for sexual purposes by their captors. The Trial Chamber further finds beyond reasonable doubt that the AFRC/RUF members intended to use the captured women as sexual slaves. The Trial Chamber therefore finds that the Prosecution has established beyond reasonable doubt that AFRC/RUF members in Buedu committed acts of sexual slavery against an unknown number of women and girls from March 1998 to December 1999.

(vi) TF1-189 used as a sexual slave by RUF members in Kailahun Town from August 1998 until September 1998

### Evidence

1067. Witness TF1-189, whom the Trial Chamber has found was captured by RUF/AFRC rebels in Kono District in March 1998 and subjected to sexual slavery in Koidu Town by Commander A (named by the witness in closed session) and other RUF rebels from March through August 1998, testified that she was taken by the rebels and "SLA Juntas" to Kailahun Town when Koidu Town was attacked by ECOMOG in August 1998. The overall leader of the group that left was an RUF commander named Superman.<sup>2690</sup>

1068. TF1-189 testified that they arrived in Kailahun Town in August 1998, during the rainy season and remained there less than two months until September 1998. TF1-189 was forced to stay with a commander named Gogomeh, together with five other female captives and four rebels.<sup>2691</sup> TF1-189 testified that during this time, she and the other captured women and girls were forced to perform the following duties, namely to cook, wash the

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<sup>2689</sup> Dennis Koker, Transcript 15 January 2008, p. 1277.

<sup>2690</sup> TF1-189, Transcript 17 September 2008, pp. 16520-16522.

<sup>2691</sup> TF1-189, Transcript 17 September 2008, pp. 16523-16524.

clothes of male and female rebels, and to be “wives” to the rebels.<sup>2692</sup> In private session, TF1-189 testified that in addition Commander A had continued to have sex with her in Kailahun Town.<sup>2693</sup>

1069. TF1-189 testified that she was allowed to leave Gogomeh’s place only twice, on both occasions to accompany a female rebel to shop for food items.<sup>2694</sup> She did not try to escape because she was warned that if she tried to do so “it would not be good for her”. None of the other captured women and girls escaped.<sup>2695</sup> The witness learned from Commander A<sup>2696</sup> that the commanders in Kailahun Town included Colonel Mike Lamin and Issa Sesay who were both members of the RUF, “Akim” who was an “AFRC Junta”, CO Gogomeh and Superman.<sup>2697</sup> Other commanders included CO Koko and “Old Ma Fatty”.<sup>2698</sup>

1070. In September, TF1-189 left Kailahun Town because it was being attacked by ECOMOG jets. She went to another location in Kailahun District that she named in private session,<sup>2699</sup> together with other 40 captives and a rebel.<sup>2700</sup>

Findings

1071. The Trial Chamber finds that between August and September, 1998 in Kailahun, an RUF rebel named Commander A, named by TF1-189 in private session and loyal to Superman, together with Gogomeh and/or other rebels, exercised the powers of ownership over TF1-189 by holding her in captivity and forcing her to labour for their benefit. The Trial Chamber also finds that Commander A forced TF1-189 to have sexual intercourse with him, as he had done previously in Koidu Town. The Trial Chamber finds that Commander A intended to use TF1-189 as a sexual slave. Accordingly the Trial Chamber is satisfied that the elements of the crime of sexual slavery have been proved beyond reasonable doubt.

1072. Given the coercive capture of female civilians, their forced detention and inability to leave, and the forced sexual acts perpetrated upon them during their capture the Trial

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<sup>2692</sup> TF1-189, Transcript 17 September 2008, p. 16524.  
<sup>2693</sup> TF1-189, Transcript 18 September 2008, p. 16559 (PS).  
<sup>2694</sup> TF1-189, Transcript 17 September 2008, pp. 16524-16525; Transcript 18 September 2008, pp. 16529-16530.  
<sup>2695</sup> TF1-189, Transcript 18 September 2008, pp. 16530, 16558.  
<sup>2696</sup> TF1-189, Transcript 18 September 2008, p. 16559 (PS).  
<sup>2697</sup> TF1-189, Transcript 18 September 2008, pp. 16531-16532.  
<sup>2698</sup> TF1-189, Transcript 18 September 2008, p. 16559 (PS).  
<sup>2699</sup> TF1-189, Transcript 18 September 2008, p. 16560 (PS).



Chamber finds beyond a reasonable doubt that AFRC/RUF members used and intended to use the captured women and girls as sexual slaves. Accordingly the Trial Chamber finds that the Prosecution has proved, beyond a reasonable doubt that sexual slavery occurred in the Kailahun District from November 1996 to 18 January 2002.

### Conclusion

1073. The Trial Chamber finds in each of the aforementioned crimes mentioned in this section concerning Kailahun District, that the perpetrators intentionally exercised powers of ownership over their victims by depriving them of their liberty, and in some cases forcing them to work, and in all cases the victims were forced to engage in acts of a sexual nature thus constituting the crime of sexual slavery.

1074. Based on the foregoing, the Trial Chamber is satisfied that the Prosecution has proved beyond reasonable doubt that:

- (i) An unknown number of women and girls captured in Kenema District were used by AFRC and RUF members as sexual slaves between February and March 1998 in Buedu and Kailahun Town;
- (ii) Between March 1998 and December 1999, an unknown number of captured women and girls were used as sexual slaves by AFRC/RUF members in Buedu;
- (iii) TF1-189 was used as a sexual slave by a member of the RUF at Kailahun Town from August to September 1998.

1075. The Trial Chamber recalls that the Prosecution has established beyond reasonable doubt that at all times relevant to the Indictment, the RUF and/or AFRC forces directed both a widespread and systematic attack against the civilian population of Sierra Leone.<sup>2701</sup> The Trial Chamber is satisfied that each of the incidences of sexual slavery proved by the Prosecution in respect of Kailahun District formed part of the said attack and that the perpetrators were aware of this fact. Therefore, the Trial Chamber is satisfied that the

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<sup>2700</sup> TF1-189, Transcript 18 September 2008, p. 16532.

<sup>2701</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.

aforementioned incidences of sexual slavery in Kailahun District constitute sexual slavery as a crime against humanity under Article 2 of the Statute.

(b) Kono District

Allegations and submissions

1076. The Indictment alleges that members of RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters, assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused “abducted an unknown number of women and girls from various locations within the District, or brought them from locations outside the District, and used them as sexual slaves”.<sup>2702</sup>

1077. In relation to Kono District, the Prosecution submits that “The AFRC/RUF abducted an unknown number of civilian women and girls from various locations within Kono District, or brought them to the District from other parts of Sierra Leone, and used them as sex slaves between about 1 February 1998 and 31 December 1998. The locations in Kono specifically mentioned in Count 5 are best understood in the context of the period following the Intervention and the forces’ settlement in the District. Following the Junta’s removal from power, the retreating troops captured many women and young girls in Freetown and also while *en route* to Kono District. Those captured aged from about 8 to 20 were under the full control of junior and senior SLA and RUF commanders, who forced the victims to become wives, perform domestic chores for them and have sexual intercourse”.<sup>2703</sup>

1078. The Prosecution further submits that “The retreating AFRC/RUF forces continued capturing women in Koidu Town and the surrounding villages in Kono District to be wives. Captured women were often institutionalised in sexual slavery, where an apparatus of terror made them the powerless subjects of their rebel commanders....Women were commoditised en masse, reduced to mere objects. Between March to June 1998, women and girls were forced to become wives to fighters at the rebel headquarters in Masingbi Road, Koidu Town, at Superman’s base on Dabundeh Street and in other areas in the District including Yengema, Bumpe, Tombodu, Jagbwema Fiama....The “wives” were forced to have sex with their husbands and gave birth to their children. In addition, the wives were obliged to cook,

<sup>2702</sup> Indictment, paras 14, 15.

<sup>2703</sup> Prosecution Final Trial Brief, paras 901-902.

pound rice and do laundry. The terror inflicted upon these women controlled much of their lives, not only disenfranchising them from their sexual autonomy, but further subjugating them to their daily chores and responsibilities”.<sup>2704</sup>

1079. The Prosecution further submits that “When the forces retreated to AFRC and/or RUF camps such as Superman Ground, Guinea Highway and PC Ground, women captives held were used as wives. The forced unions were not marked by any ceremony. The women were used sexually and for domestic chores by the RUF against their will. In effect, women were bartered as battlefield commodities.... At PC Ground, women were used as “wives” by the combatants and so slept with and worked for them “just like a woman would work for her husband in the home”....Small girls who were captured stayed with combatants and when old enough became their wives.”<sup>2705</sup>

(i) Evidence of sexual slavery in Kono District

1080. The Trial Chamber finds the evidence of Dennis Koker, TF1-375, Alimamy Bobson Sesay, Perry Kamara, Isaac Mongor, Alice Pyne and Alex Tamba Teh to be relevant to allegations of sexual slavery in Kono District, in addition to Exhibits P-051, P-073, P-77, P-78 and P-366.

Documentary evidence

1081. The Report of Expert Witness Beth Vann<sup>2706</sup> documenting accounts by refugees of sexual slavery committed by the AFRC/RUF in Kono and Kailahun Districts has been referred to above.

1082. An Amnesty International report entitled “Sierra Leone, 1998 – a year of atrocities against civilians” reports that as the AFRC and RUF rebels were pursued eastwards by ECOMOG forces to towns, including Koidu, from February through April 1998, the rebels were responsible for widespread rape, other forms of sexual assault and abduction.<sup>2707</sup>

(ii) Abducted Women from Bombali and Kono Districts used as sexual slaves in Koidu Town and Superman Ground

<sup>2704</sup> Prosecution Final Trial Brief, paras 903-905.

<sup>2705</sup> Prosecution Final Trial Brief, para. 909.

<sup>2706</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, pp. 8, 11, 16.

1083. Witness Perry Kamara testified that following the retreat from Freetown in February, 1998, the leadership of the RUF and AFRC including Johnny Paul Koroma, Issa Sesay, Isaac Mongor, SAJ Musa, Brigadier Mani, General Bropleh, Denis Mingo a.k.a. Superman, Morris Kallon, Five Five, Gullit, Bazzy and Colonel Tee, convened a meeting in Makeni, Bombali District.<sup>2708</sup> At the meeting it was decided to conduct “Operation Pay Yourself”. Kamara testified that this meant that the fighters were free to take anything they wanted from the civilians and to abduct them. Following the meeting, fighters were permitted to gather food, abduct people and to “take people’s wives away from them”. They burned houses and raped many women. Women who resisted were killed.<sup>2709</sup>

1084. Following the meeting, SAJ Musa led a break-away group to Kabala, Koinadugu District and the rest of the commanders and fighters broke into three groups and went to Koidu Town.<sup>2710</sup> Kamara’s group passed through Magburaka, Matotoka, Makali, Sewafe, and Bumpe before reaching Koidu Town. Kamara testified that throughout this route, the AFRC, RUF and STF fighters looted civilian’s food, abducted children and “women from their husbands”, and killed civilians.<sup>2711</sup> Although not categorically stated, the Trial Chamber is satisfied on the evidence that civilians abducted en route were in the group that reached Koidu Town. They remained in Koidu Town for approximately a week<sup>2712</sup> and then retreated to Superman Ground, one or two miles away along the highway towards Guinea.<sup>2713</sup> In the areas surrounding Superman Ground and the various nearby camps, including Banya Ground, Sewafe bypass, Yomandu, Tombodu, and Gandorhun Highway, fighters would go on food-finding missions and abduct civilians, including men, women and children for various purposes including doing domestic chores<sup>2714</sup> and mining diamonds.<sup>2715</sup> Kamara testified that “forceful marriage” occurred, because the fighters needed civilian women to “marry them as bush wives”.<sup>2716</sup>

<sup>2707</sup> Exhibit P-078, “Amnesty International, Sierra Leone: 1998 - a year of atrocities against civilians”, p. 11.

<sup>2708</sup> Perry Kamara, Transcript 5 February 2008, pp. 3094-3095.

<sup>2709</sup> Perry Kamara, Transcript 5 February 2008, p. 3098.

<sup>2710</sup> Perry Kamara, Transcript 5 February 2008, pp. 3099-3100.

<sup>2711</sup> Perry Kamara, Transcript 5 February 2008, pp. 3100-3102.

<sup>2712</sup> Perry Kamara, Transcript 5 February 2008, p. 3104.

<sup>2713</sup> Perry Kamara, Transcript 5 February 2008, p. 3112.

<sup>2714</sup> Perry Kamara, Transcript 5 February 2008, pp. 3113-3115.

<sup>2715</sup> Perry Kamara, Transcript 5 February 2008, p. 3116.

<sup>2716</sup> Perry Kamara, Transcript 5 February 2008, p. 3116.



1085. Kamara identified Exhibit P-051 as a record of various lists that were normally kept by Superman and the Joint Security.<sup>2717</sup> The witness recognised his own name amongst a list of soldiers and their ranks at Superman Ground.<sup>2718</sup> Other RUF/AFRC commanders listed include Denis Mingo, Isaac Mongor, Morris Kallon, RUF Rambo a.k.a. “Premo”, Peter B. Vandi, Hector B. Lahai (AFRC), Lansana Conteh, Major Bai Bureh, Matthew Barbue, Martin George and CO Rocky.<sup>2719</sup>

1086. The document includes another hand-written list entitled “Name of Civilians at Banya Ground” dated 13 July 1998<sup>2720</sup> and “Name of Civilians from Banya Ground and Their Care Taker” (undated).<sup>2721</sup> Kamara explained that the civilian women named in the list lived with commanders against whom their names were listed. He stated that some of the women were used as labourers and others were “wives” to the commanders with whom they stayed.<sup>2722</sup>

1087. Exhibit P-051 also includes hand-written lists entitled “Names of Civilians from Banya Ground”, dated 30 November 1998,<sup>2723</sup> “Names of new captives along Guinea/Sierra Leone highway”, dated 6 December 1998;<sup>2724</sup> and “Names of Civilian Women and Officers in charge”, dated 15 July 1998.<sup>2725</sup> Kamara confirmed that the latter list indicates civilians under the control of RUF and AFRC fighters who were used for domestic work, hard labour

<sup>2717</sup> Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”; Perry Kamara, Transcript 5 February 2008, pp. 3121-3122. The Independent Defence Office (IDU), Military Police (MP) and the Intelligence Officer Unit were involved in the maintenance of the document. See Perry Kamara, Transcript 5 February 2008, p. 3138.

<sup>2718</sup> Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”, ERN 00025574(A); Perry Kamara, Transcript 5 February 2008, pp. 3123-3124.

<sup>2719</sup> Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”, ERN 00025573-00025574(A); Perry Kamara, Transcript 5 February 2008, pp. 3124-3125.

<sup>2720</sup> Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”, ERN 00025579.

<sup>2721</sup> Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”, ERN 00025583.

<sup>2722</sup> Perry Kamara, Transcript 5 February 2008, pp. 3125-3126.

<sup>2723</sup> Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”, ERN 00025591.

<sup>2724</sup> Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”, ERN 00025591.

<sup>2725</sup> Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”, ERN 00025592-00025595.

and as sex slaves.<sup>2726</sup> Kamara testified that the Joint Security sent a copy of this document to all the various commanders within the RUF units comprising of G5, MP, IO and IDU.<sup>2727</sup>

1088. DCT-068, a G5 in Buedu at the relevant time, to whom this document was shown, denied that it indicated that women were assigned to commanders and ventured the opinion that “it’s possible that these women knew what these commanders did for them...so they decided to stay with this commander”<sup>2728</sup> He denied that they were “wives”.<sup>2729</sup>

### Findings

1089. The Trial Chamber finds that between 1 February 1998 and 31 December 1998 in Koidu Town and at such camps as Superman Ground members of the AFRC, RUF, AFRC/RUF Junta and Liberian fighters abducted an unknown number of women and girls and forcefully detained them and forced them to have sexual relations. The Trial Chamber finds that the Commanders of the RUF and AFRC knew, promoted and encouraged these acts by promulgating Operation Pay Yourself. Based on the evidence and the context in which the crimes occurred, the Trial Chamber finds that the acts of the perpetrators formed part of both a widespread and systematic attack against the civilian population and that the perpetrators had knowledge that their acts formed part of a widespread attack against a civilian population. However the Trial Chamber finds that the evidence is not sufficiently specific to return a finding of guilt but that it may be considered as corroboration for specific instances of sexual slavery described by witnesses testifying before the Trial Chamber.

#### (iii) Abducted Women from Koidu Town and Mortema used as sexual slaves

1090. Witness TF1-375, an RUF rebel under the command of Superman, testified that in March 1998 a second attack on Koidu Town was organised and led by Superman, hours after a previous failed attempt to take the town by the RUF forces under the command of

<sup>2726</sup> Perry Kamara, Transcript 5 February 2008, pp. 3131-3132.

<sup>2727</sup> Perry Kamara, Transcript 5 February 2008, pp. 3137-3138.

<sup>2728</sup> DCT-068, Transcript 11 March 2010, p. 37121.

<sup>2729</sup> DCT-068, Transcript 11 March 2010, pp. 37118-37121.

Rambo and Isaac Mongor.<sup>2730</sup> TF1-375 testified that during this second attack, “some of the commanders captured girls and made them into their wives”.<sup>2731</sup>

1091. Following this attack, there were other attacks in Kono District. TF1-375 testified that approximately three months after the attack on Koidu,<sup>2732</sup> a joint AFRC and RUF attack was launched against Mortema under the command of Short Bai Bureh.<sup>2733</sup> TF1-375 did not participate in this attack but some of his friends told him what happened.<sup>2734</sup> He observed that some of those who returned brought some girls with them as their wives.<sup>2735</sup> TF1-375 did not ask the ages of the girls, but stated that some were 14, 15 and 20 years old.<sup>2736</sup> Some of the girls remained in Koidu Town with the troops and some were taken to a combat camp.<sup>2737</sup> All of the women and girls were detained by the men who captured them “as wives” and these women and girls were forced to retreat with their captors. The witness explained that the captured women and girls were called “wives” because if captured “whether you like it or not” (they) were treated as wives.<sup>2738</sup>

### Findings

1092. The Trial Chamber finds that between 1 February 1998 and 31 December 1998 in Koidu members of the AFRC, RUF, AFRC/RUF Junta and Liberian fighters abducted an unknown number of women and girls and forcefully detained them and forced them to have sexual relations. Given the context in which the crimes occurred, the Trial Chamber finds that the acts of the perpetrators formed part of both a widespread and systematic attack against the civilian population and that the perpetrators had knowledge that their acts formed part of such an attack against a civilian population. However the Trial Chamber finds that the evidence is not sufficiently specific to return a finding of guilt but that it may be considered as corroboration for specific instances of sexual slavery described by witnesses testifying before the Trial Chamber.

<sup>2730</sup> TF1-375, Transcript 23 June 2008, pp. 12503-12505.

<sup>2731</sup> TF1-375, Transcript 23 June 2008, pp. 12504-12505.

<sup>2732</sup> TF1-375, Transcript 23 June 2008, pp. 12516-12517.

<sup>2733</sup> TF1-375, Transcript 23 June 2008, pp. 12509-12510.

<sup>2734</sup> TF1-375, Transcript 23 June 2008, pp. 12509-12510.

<sup>2735</sup> TF1-375, Transcript 23 June 2008, pp. 12509-12510.

<sup>2736</sup> TF1-375, Transcript 23 June 2008, p. 12515.

<sup>2737</sup> TF1-375, Transcript 23 June 2008, p. 12515.

<sup>2738</sup> TF1-375, Transcript 23 June 2008, pp. 12523-12524.

(iv) Evidence of Sexual Slavery at Wonedu

1093. Witness Alex Tamba Teh testified that after he was captured in approximately April 1998,<sup>2739</sup> an RUF commander named Rocky took Teh to his base in Wonedu.<sup>2740</sup> Upon his arrival, Teh saw other captured civilians there.<sup>2741</sup> The captured women were forcibly used as “sexual objects” or “sex slaves”.<sup>2742</sup> Teh heard women screaming at night and spoke to them during the day.<sup>2743</sup> One of the women told him that she and other women had been abducted at gun point and forced to have sex with their captors.<sup>2744</sup> It was at this time that Teh realised they were being raped.<sup>2745</sup>

Findings

1094. Based on Teh’s evidence, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that RUF members detained an unknown number of women thereby exercising powers of ownership over them and caused the women they had captured to engage in acts of a sexual nature. The Trial Chamber further finds beyond reasonable doubt that RUF members intended to use the captured women as sexual slaves. The Trial Chamber therefore finds that the Prosecution has established beyond reasonable doubt that RUF members in Wonedu committed acts of sexual slavery against an unknown number of women and girls in April 1998.

(v) Women used as sexual slaves in Koidu Town in February 1998Evidence

1095. Witness Dennis Koker retreated with the AFRC<sup>2746</sup> when they were driven out of Freetown in February 1998<sup>2747</sup> and fled with a group led by Johnny Paul Koroma, Eldred Collins and other commanders<sup>2748</sup> to Tombo,<sup>2749</sup> Fogbo,<sup>2750</sup> Masiaka,<sup>2751</sup> Port Loko

<sup>2739</sup> Alex Teh, Transcript 8 January 2008, pp. 683-688.

<sup>2740</sup> Alex Teh, Transcript 8 January 2008, pp. 687-692.

<sup>2741</sup> Alex Teh, Transcript 8 January 2008, p. 704.

<sup>2742</sup> Alex Teh, Transcript 8 January 2008, pp. 704-705.

<sup>2743</sup> Alex Teh, Transcript 8 January 2008, p. 705.

<sup>2744</sup> Alex Teh, Transcript 8 January 2008, p. 705.

<sup>2745</sup> Alex Teh, Transcript 8 January 2008, p. 705.

<sup>2746</sup> Dennis Koker, Transcript 15 January 2008, pp. 1313-1317.

<sup>2747</sup> Dennis Koker, Transcript 15 January 2008, pp. 1222-1223, 1313-1317.

<sup>2748</sup> Dennis Koker, Transcript 15 January 2008, pp. 1226-1228.

District;<sup>2752</sup> and then Makeni, Bombali District<sup>2753</sup> where Issa Sesay was also present.<sup>2754</sup> Koker testified that the soldiers and rebels captured civilians from the villages surrounding Masiaka<sup>2755</sup> and in Makeni.<sup>2756</sup> The civilians included men, women and children. He testified that the RUF and juntas would sometimes “marry” captured women which meant that they would make them their “wives”.<sup>2757</sup>

1096. Koker testified that the group then travelled to Koidu Town, Kono District.<sup>2758</sup> He estimated that they arrived in Koidu Town approximately one week after leaving Freetown.<sup>2759</sup> Koker remained in Koidu Town for a week<sup>2760</sup> and resided with Eldred Collins and Morris Kallon at Guinea Highway, about 200 yards from the centre of town. “Issac”, Issa Sesay, Denis Mingo (a.k.a. Superman),<sup>2761</sup> Gullit, Alex Tamba Brima, Johnny Paul Koroma and others commanders were all present in Koidu Town at that time.<sup>2762</sup>

1097. Koker testified that while he was in Koidu Town he observed that AFRC and RUF “operations people”<sup>2763</sup> captured civilians, including women and children, from Koidu Town and the surrounding villages<sup>2764</sup> and that, as in Makeni, women were captured to be wives. He stated that this happened from the start of the war, it was common and happened “wherever they went”. He saw it occur in Freetown, Masiaka, Makeni and it continued in Kono.<sup>2765</sup> On cross-examination, Koker admitted that he did not hear an order given by commanders to capture civilians in Kono in February 1998, but explained that it was a common practice by every fighter as well as junior and senior commanders.<sup>2766</sup> It was put to

<sup>2749</sup> Dennis Koker, Transcript 15 January 2008, pp. 1223-1224, 1318-1319.

<sup>2750</sup> Dennis Koker, Transcript 15 January 2008, pp. 1224-1226, 1319.

<sup>2751</sup> Dennis Koker, Transcript 15 January 2008, p. 1319.

<sup>2752</sup> Dennis Koker, Transcript 15 January 2008, p. 1229; Transcript 16 January 2008, p. 1387.

<sup>2753</sup> Dennis Koker, Transcript 15 January 2008, p. 1232.

<sup>2754</sup> Dennis Koker, Transcript 15 January 2008, pp. 1232-1233.

<sup>2755</sup> Dennis Koker, Transcript 15 January 2008, pp. 1231-1232.

<sup>2756</sup> Dennis Koker, Transcript 15 January 2008, pp. 1234-1235.

<sup>2757</sup> Dennis Koker, Transcript 15 January 2008, pp. 1234-1235.

<sup>2758</sup> Dennis Koker, Transcript 15 January 2008, pp. 1235-1236; Transcript 15 January 2008, pp. 1319-1321.

<sup>2759</sup> Dennis Koker, Transcript 15 January 2008, p. 1236.

<sup>2760</sup> Dennis Koker, Transcript 15 January 2008, p. 1238.

<sup>2761</sup> Dennis Koker, Transcript 15 January 2008, pp. 1237-1238.

<sup>2762</sup> Dennis Koker, Transcript 15 January 2008, p. 1238.

<sup>2763</sup> Dennis Koker, Transcript 15 January 2008, pp. 1337-1339.

<sup>2764</sup> Dennis Koker, Transcript 15 January 2008, pp. 1243-1244, 1337-1339.

<sup>2765</sup> Dennis Koker, Transcript 15 January 2008, p. 1245.

<sup>2766</sup> Dennis Koker, Transcript 16 January 2008, pp. 1342-1345.

Koker on cross-examination that he did not mention abduction of women and children from Kono District in his first three interviews with the Prosecution but he was not given an opportunity to explain this discrepancy.<sup>2767</sup> As Koker was interviewed 10 times by the Prosecution about numerous subjects, the Trial Chamber finds that not mentioning abduction in the earliest interviews does not significantly affect his credibility.

### Findings

1098. The Trial Chamber finds Koker's evidence that he travelled with the group of captured civilians and was in Koidu Town where he observed AFRC and RUF fighters take captured civilians as "wives" to be reliable. Based on Koker's evidence, the Trial Chamber finds that an unknown number of women were captured in Masiaka, Makeni and Koidu Town and detained by their captors and were forced to have sexual intercourse with them. The Trial Chamber finds that these women were used as sexual slaves by the retreating AFRC and RUF fighters in Kono District and further finds that AFRC/RUF members intended to use the captured women and girls as sexual slaves. Therefore, the Trial Chamber finds that the elements of the crime of sexual slavery have been established beyond reasonable doubt.

#### (vi) Women used as sexual slaves in Koidu Town from March to June 1998

### Evidence

1099. Witness Alimamy Bobson Sesay testified that young women and girls were among the civilians captured by the troops in Kono District during the RUF and SLA attacks of March to June 1998.<sup>2768</sup> These women lived with junior and senior SLA and RUF commanders, some of whom made the women their wives.<sup>2769</sup> The witness explained that the commanders did not actually marry the women; rather, the commanders captured the women and forced them to have sex with them.<sup>2770</sup> Some became pregnant and later gave

<sup>2767</sup> Dennis Koker, Transcript 15 January 2008, pp. 1331-1332.

<sup>2768</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7982-8006, 8008.

<sup>2769</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8006.

<sup>2770</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8006-8007.

birth to children for the commanders.<sup>2771</sup> The women were responsible for cooking for the commanders and some of the men.<sup>2772</sup> Some helped to pound rice and did laundry.<sup>2773</sup>

1100. Alimamy Bobson Sesay testified that he himself had his own sex slave whom he referred to as his “wife” whom he had captured in Kono District and who stayed with him.<sup>2774</sup> On cross-examination, he explained that he did not in fact “marry” the girl he had in Kono; rather he captured her and “we would go and sleep together because she was under captivity. It was against her will. I was using her against her will. So I was taking it that I was raping her, because I was carrying on and she had to agree to what I said. If I say, ‘Let us lie down’, she will lie down”.<sup>2775</sup> Alimamy Bobson Sesay referred to this woman as his “bush wife”.<sup>2776</sup>

1101. The witness testified that the ages of the captured women who were taken as wives ranged from about 8 to 20 years old. Alimamy Bobson Sesay’s own “wife” was about 15 or 16 years old.<sup>2777</sup> Members of the Small Boys Unit took the younger girls, aged 8 to 10.<sup>2778</sup> The SBUs lived with the captured girls and had sex with them.<sup>2779</sup> Alimamy Bobson Sesay testified that he saw this himself.<sup>2780</sup> The commanders including Superman, Bazy and Bomb Blast were aware of this but did not discipline “the boys” for these acts.<sup>2781</sup> The witness stated that the commanders “were aware but nobody did anything about it. They told them, ‘Boys, enjoy yourselves.’ They said, ‘This is your own time.’”<sup>2782</sup>

### Findings

1102. Alimamy Bobson Sesay, as an SLA commander who travelled throughout Kono District, saw and knew about the conduct of fighters. He also stated that he had his own sexual slave. The Trial Chamber finds his evidence to be reliable. The Trial Chamber finds

<sup>2771</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8006-8007.

<sup>2772</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8007.

<sup>2773</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8007.

<sup>2774</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8007; Transcript 29 April 2008, p. 8865.

<sup>2775</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, p. 8865.

<sup>2776</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8865-8866.

<sup>2777</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8006-8007.

<sup>2778</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8007.

<sup>2779</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8007-8008.

<sup>2780</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8007-8008.

<sup>2781</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8007-8008.

<sup>2782</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8008.

beyond reasonable doubt that members of the AFRC/RUF intentionally exercised powers of ownership over an unknown number of women and girls by depriving them of their liberty and forced them to engage in acts of a sexual nature. Therefore, the Trial Chamber is satisfied that the elements of the crime of sexual slavery have been established beyond reasonable doubt.

(vii) RUF and AFRC fighters brought sexual slaves from Koidu Town to PC Ground and Superman Ground in 1998

Evidence

1103. Witness TF1-375, an RUF rebel under the command of Superman, testified that after Koidu Town was lost by the RUF and the AFRC to ECOMOG, the AFRC/RUF troops retreated to PC Ground and then to Superman Ground which was about six or seven miles from Koidu Town.<sup>2783</sup> The girls and women who had been abducted and brought to Koidu Town were also brought by those who abducted them to PC Ground and later to Superman Ground as their “wives”.<sup>2784</sup> TF1-375 describes these women as “wives” because “they were with us as husband and wife, so we used to call them our wives. Whether you like it or not, if somebody captured you and liked you, you would become his wife”.<sup>2785</sup>

1104. Witness Isaac Mongor, at the time a frontline RUF commander under Superman,<sup>2786</sup> testified that in 1998, members of the RUF, SLA and STF, including Mongor himself, took captured civilian women in Kono District and detained them against their will.<sup>2787</sup> The women were under the sole control of the fighters and could not refuse.<sup>2788</sup> Mongor testified that this meant they would take the women, use them and have sex with them.<sup>2789</sup> They took the women to PC Ground which was at Guinea Highway, behind Superman Ground, and which was under the command of Major Konowa.<sup>2790</sup> Mongor testified that civilian women

<sup>2783</sup> TF1-375, Transcript 23 June 2008, p. 12522.

<sup>2784</sup> TF1-375, Transcript 23 June 2008, pp. 12522-12523.

<sup>2785</sup> TF1-375, Transcript 23 June 2008, p. 12523.

<sup>2786</sup> Isaac Mongor, Transcript 11 March 2008, p. 5742.

<sup>2787</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5762-5763.

<sup>2788</sup> Isaac Mongor, Transcript 11 March 2008, p. 5763.

<sup>2789</sup> Isaac Mongor, Transcript 11 March 2008, p. 5763.

<sup>2790</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5762-5764.



who were captured on attacks were also taken to Superman Ground and given and used there as “wives”.<sup>2791</sup>

1105. Mongor testified that when the RUF would attack a village or town, they would capture women.<sup>2792</sup> They would turn some of them into their wives and some would be sent to be trained to fight.<sup>2793</sup> The women did not have a choice.<sup>2794</sup>

1106. In cross-examination, Mongor confirmed a prior statement to the Prosecution in which he said that rape was very common amongst RUF soldiers and that this remained the case for a long time, starting during the early stages of the war.<sup>2795</sup> Mongor confirmed that the RUF had rules against raping and looting, but it happened nonetheless.<sup>2796</sup> If commanders tried to stop it, soldiers would have gone to other commanders who tolerated it.<sup>2797</sup> He testified that some RUF combatants were disciplined for sexual assaults and that he personally witnessed Issa Sesay execute three young combatants in Makeni who allegedly gang raped a girl.<sup>2798</sup> Mongor described this incident in a different interview as an “exception to the rule” and stated that rapes occurred all the time and that “bush wives” were forced to have sex.<sup>2799</sup> Mongor testified that there was a disciplinary system in place, but that its implementation was limited primarily to offences by one soldier against another. He testified that with regard to serious offences, “the laws were there, but its implementation was limited”.<sup>2800</sup>

1107. Witness Alice Pyne gave corroborating evidence of women brought from Kono District used as “wives” at PC Ground. She testified that she came to PC Ground in March 1998 after ECOMOG took over Koidu and worked as a radio operator for Superman and remained there for five months.<sup>2801</sup> At that time, she observed that RUF fighters captured civilians in areas around Kono District and brought them to the training base at PC Ground.

<sup>2791</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5764-5766.

<sup>2792</sup> Isaac Mongor, Transcript 11 March 2008, pp. 6206-6207.

<sup>2793</sup> Isaac Mongor, Transcript 11 March 2008, p. 6206.

<sup>2794</sup> Isaac Mongor, Transcript 31 March 2008, pp. 6206-6207.

<sup>2795</sup> Isaac Mongor, Transcript 3 April 2008, p. 6614.

<sup>2796</sup> Isaac Mongor, Transcript 3 April 2008, p. 6614.

<sup>2797</sup> Isaac Mongor, Transcript 3 April 2008, p. 6614.

<sup>2798</sup> Isaac Mongor, Transcript 3 April 2008, pp. 6611-6613.

<sup>2799</sup> Isaac Mongor, Transcript 3 April 2008, p. 6613.

<sup>2800</sup> Isaac Mongor, Transcript 3 April 2008, p. 6614.

<sup>2801</sup> Alice Pyne, Transcript 18 June 2008, pp. 12155-12160, 12166-12167.

She testified that the captured female civilians were made bush wives to the commanders and were forced to have sex and perform domestic chores.<sup>2802</sup>

### Findings

1108. Based on the consistent evidence of Isaac Mongor, TF1-375 and Alice Pyne, in addition to the evidence of Perry Kamara referred to above, the Trial Chamber finds beyond reasonable doubt that an unknown number of women were intentionally abducted, held in captivity and forced to have sexual intercourse with their AFRC, RUF and STF captors throughout Kono District and in particular at PC Ground and Superman Ground.. The Trial Chamber finds that these women were used as sexual slaves by their AFRC, RUF and STF captors who intended to use the detained women and girls as sexual slaves. Therefore, the Trial Chamber finds that the elements of the crime of sexual slavery have been established beyond reasonable doubt.

#### (viii) TF1-189 used as a sexual slave by RUF members at Koidu Town

1109. The Prosecution submits that TF1-189 was used for sexual purposes by three rebels at a compound in Koidu Town where she was “forced to have sex with her rebel ‘husbands’”.<sup>2803</sup> The Trial Chamber has considered the evidence of TF1-189 in relation to the submission.

### Evidence

1110. Witness TF1-189, whose evidence was discussed above in relation to Counts 2, 3 and 4, was captured and raped in a location in Kono District revealed in private session<sup>2804</sup> by rebels who identified themselves as RUF and Junta in March 1998.<sup>2805</sup> The witness testified as to the identity of one the rebels in private session.<sup>2806</sup> For the purpose of this Judgement, the Trial Chamber will refer to this person as “Rebel A”.

<sup>2802</sup> Alice Pyne, Transcript 18 June 2008, pp. 12194-12198.

<sup>2803</sup> Prosecution Final Trial Brief, para. 906.

<sup>2804</sup> TF1-189, Transcript 17 September 2008, p. 16485 (PS); Exhibit P-171 (confidential).

<sup>2805</sup> TF1-189, Transcript 17 September 2008, pp. 16496-16497, 16512.

<sup>2806</sup> TF1-189, Transcript 18 September 2008, pp. 16553-16554 (PS) (providing the name of the rebel commander who raped and captured the witness).

1111. Rebel A and other rebels took TF1-189 to Superman's compound in Koidu Town.<sup>2807</sup> TF1-189 testified that she saw Superman at this compound.<sup>2808</sup> She stated that she heard Rebel A address him as "C.O. Superman" and told Superman that they had brought a "wife" for him.<sup>2809</sup> Superman responded that he did not want a wife and told them to take the witness away.<sup>2810</sup>

1112. The rebels took her to a hall where other people were held.<sup>2811</sup> After one attempted escape she was taken to the compound where Rebel A stayed, she remained at Rebel A's "place" in Koidu Town until August 1998.<sup>2812</sup> TF1-189 also testified that 13 other girls and women were there.<sup>2813</sup> They told her that they were captives and had all been abducted from around Kono District.<sup>2814</sup>

1113. TF1-189 testified that she and the other captured women and girls were made to cook and pound rice.<sup>2815</sup> She was afraid that she would be killed if she refused to perform these duties.<sup>2816</sup> TF1-189 further testified that she and five of the captured women and girls were forced to be "wives" to the rebels.<sup>2817</sup> TF1-189 explained that being a "wife" meant that the rebels would have sexual intercourse with them and they could not refuse.<sup>2818</sup>

1114. TF1-189 did not leave Rebel A's "place" until August 1998 as he told her that she would be killed if she tried to do so.<sup>2819</sup> In private session, the witness testified that she was made to be "a wife" to three of the rebels, Rebel A and two RUF rebels whose names she

<sup>2807</sup> TF1-189, Transcript 17 September 2008, pp. 16512-16514; TF1-189, Transcript 18 September 2008, pp. 16553-16554 (PS).

<sup>2808</sup> TF1-189, Transcript 17 September 2008, pp. 16512-16514.

<sup>2809</sup> TF1-189, Transcript 17 September 2008, pp. 16512-16514; TF1-189, Transcript 18 September 2008, pp. 16553-16554 (PS).

<sup>2810</sup> TF1-189, Transcript 17 September 2008, p. 16513.

<sup>2811</sup> TF1-189, Transcript 17 September 2008, p. 16516.

<sup>2812</sup> TF1-189, Transcript 17 September 2008, pp. 16515-16516.

<sup>2813</sup> TF1-189, Transcript 17 September 2008, p. 16517.

<sup>2814</sup> TF1-189, Transcript 17 September 2008, p. 16517.

<sup>2815</sup> TF1-189, Transcript 17 September 2008, pp. 16517-16518.

<sup>2816</sup> TF1-189, Transcript 17 September 2008, pp. 16518-16519.

<sup>2817</sup> TF1-189, Transcript 17 September 2008, p. 16518.

<sup>2818</sup> TF1-189, Transcript 17 September 2008, pp. 16518-16519; TF1-189, Transcript 18 September 2008, p. 16558 (PS).

<sup>2819</sup> TF1-189, Transcript 17 September 2008, pp. 16518-16521.

did not know.<sup>2820</sup> The witness also testified that to her knowledge, neither the rebels who used her sexually nor anyone else was ever punished for this abuse.<sup>2821</sup>

1115. TF1-189 stated that Rebel A told her that the commanders in Koidu Town at this time included C.O. Superman, Gogomeh and Gibril Massaquoi, who belonged to the RUF and Five-Five who was an “SLA Junta”.<sup>2822</sup> She was taken to Gibril Massaquoi’s compound where the commander was CO Gogomeh. Commander A worked for Gibril Massaquoi<sup>2823</sup> but TF1-189 did not state that Gibril Massaquoi was present and named Gogomeh as the commander.

### Findings

1116. On the basis of this evidence, the Trial Chamber finds that between March and August 1998 in Koidu Town, Rebel A, a member of the RUF, exercised powers of ownership over TF1-189 by holding her in captivity either independently or with the assistance of other rebels and thereby deprived her of her liberty. Rebel A and/or the other rebels working with Rebel A, forced TF1-189 to labour for their benefit.

1117. The Trial Chamber also finds that during this period, Rebel A and two other RUF rebels engaged in acts of a sexual nature with TF1-189. From her evidence describing the environment of violence and coercion, the Trial Chamber finds that TF1-189 did not consent to these sexual acts and that Rebel A and the two other RUF rebels intended to use TF1-189 as a sexual slave.

1118. The Trial Chamber therefore finds that the elements of sexual slavery have been proved beyond reasonable doubt.

### (ix) Use of Finda Gbamanja as sexual slave by a RUF member in Koidu Town

<sup>2820</sup> TF1-189, Transcript 18 September 2008, pp. 16556-16557 (PS).

<sup>2821</sup> TF1-189, Transcript 18 September 2008, p. 16557 (PS).

<sup>2822</sup> TF1-189, Transcript 17 September 2008, pp. 16519-16520; TF1-189, Transcript 18 September 2008, p. 16557 (PS).

<sup>2823</sup> TF1-189, Transcript 18 September 2008, p. 16557 (PS).



1119. The Prosecution submits that Finda Gbamanja was taken as a wife in 1998 in Koidu Town.<sup>2824</sup> The Trial Chamber has considered the evidence of Finda Gbamanja in relation to the allegation.

### Evidence

1120. Witness Finda Gbamanja testified that after “Paul Koroma” was removed from power in Freetown,<sup>2825</sup> between the dry season and the rainy season,<sup>2826</sup> she and her family left Koidu Town because it was attacked by “rebels”.<sup>2827</sup> They fled first to Baiama, then to the “bush” when Baiama was taken over by rebels<sup>2828</sup> and then returned again to Baiama.<sup>2829</sup> The witness was young at the time and did not remember her age.<sup>2830</sup>

1121. The Trial Chamber notes that the ECOMOG invasion which ousted Johnny Paul Koroma from power was launched on 14 February 1998<sup>2831</sup> and that Koidu Town was captured by the AFRC/RUF on in late February or early March 1998.<sup>2832</sup> On the basis of the evidence set out in the proceeding paragraph, the Trial Chamber is satisfied that Gbamanja and her family left Koidu Town in or after March 1998 and returned to Baiama Town shortly thereafter.

1122. Gbamanja testified that three days after arriving in Baiama Town, she was captured while she and her family were sleeping by a rebel named “Peppe”,<sup>2833</sup> who wore black and green “combat”, a red shirt<sup>2834</sup> and a camouflage hat.<sup>2835</sup> She later learned that he was a member of Superman’s group.<sup>2836</sup> In cross-examination, Gbamanja confirmed a prior

<sup>2824</sup> Prosecution Final Trial Brief, para. 907.

<sup>2825</sup> Finda Gbamanja, Transcript 28 January 2009, p. 23837.

<sup>2826</sup> Finda Gbamanja, Transcript 28 January 2009, p. 23839; Transcript 29 January 2009, p. 23898.

<sup>2827</sup> Finda Gbamanja, Transcript 28 January 2009, p. 23836.

<sup>2828</sup> Finda Gbamanja, Transcript 28 January 2009, pp. 23840-23842.

<sup>2829</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23850.

<sup>2830</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23890-23893 (the witness confirmed on cross-examination that she had not yet begun menstruating and that she was still a student in school).

<sup>2831</sup> *Prosecutor v. Taylor*, SCSL-03-1-T, Decision on Prosecution Motion for Judicial Notice, 7 December 2007, Fact AD.

<sup>2832</sup> Military Operations: Operations in Kono (Early 1998).

<sup>2833</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23851, 23853.

<sup>2834</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23853.

<sup>2835</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23923.

<sup>2836</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23860.

statement taken by the Prosecution in which she stated that although Peppe was older than her, he was a “small boy” and not an adult.<sup>2837</sup>

1123. As detailed in the section on Rape<sup>2838</sup> Gbamanja testified that she was captured by Peppe who detained and raped her, causing her injury, and then took her and left her with his sister where she was forced to launder and cook.<sup>2839</sup> She was subsequently captured and detained by Sergeant Foday who threatened to kill her if she did not go with him. Foday had earlier fought Peppe for possession of her.

1124. Under duress Gbamanja followed Foday to his house in Koidu Town and he made her his “wife”. Gbamanja remained at Sergeant Foday’s house “for some time” and was forced to have sex with him every night<sup>2840</sup> and forced to launder, cook and fetch water for Sergeant Foday. She could not run away.<sup>2841</sup> Gbamanja testified that she remained in Koidu Town until it was attacked by ECOMOG, at which point Sergeant Foday and other rebels took her with them to Superman Ground, Kailahun District. Gbamanja stated that this occurred when “it was close to the dry season”.<sup>2842</sup> On cross-examination, Gbamanja testified that she could not recall how long she stayed with Sergeant Foday but that “it was a long time”. She denied prior statements taken by the Prosecution which stated that she only stayed with him a week.<sup>2843</sup>

1125. The RUF/AFRC lost control of Koidu Town to ECOMOG, and RUF troops loyal to Superman reassembled at Superman Ground around April 1998.<sup>2844</sup> Considering Gbamanja’s evidence as a whole, including her evidence of prior and subsequent events, the Trial Chamber is satisfied that Gbamanja left Koidu Town to go to Superman Ground in approximately April, 1998.

1126. On cross-examination, Gbamanja explained that Sergeant Foday kept her hidden in his house even though he was more senior than Peppe. She testified that this was because of

<sup>2837</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23927, 23930-23931.

<sup>2838</sup> See Factual and Legal Findings on Alleged Crimes: Count 4 (Rape).

<sup>2839</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23860-23861.

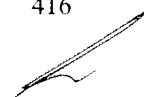
<sup>2840</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23861-23862.

<sup>2841</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23864.

<sup>2842</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23864-23865.

<sup>2843</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23935-23936.

<sup>2844</sup> Military Operations: Operation Fitti-Fatta.





the system whereby captured women were normally “kept” by the rebel who captured them irrespective of the rebel’s rank.<sup>2845</sup>

### Findings

1127. On the basis of this evidence, the Trial Chamber finds that between approximately March and April 1998, in Koidu Town, Peppe and Sergeant Foday, RUF rebels loyal to Superman, exercised powers of ownership over Gbamanja by holding her in captivity, depriving her of her liberty and by forcing her to labour for their benefit. The Trial Chamber also finds that Peppe and Sergeant Foday forced Gbamanja to engage repeatedly in acts of a sexual nature. The Trial Chamber infers from the environment of violence and coercion, Gbamanja’s young age at the time of the events, in addition to her evidence of capture following the killing of her father, that Gbamanja did not consent to these sexual acts. The Trial Chamber finds Peppe and Sergeant Foday intended these acts. The Trial Chamber further finds the witness’s evidence is indicative of a recognised system of ownership and distribution of captured girls as sexual slaves among the AFRC/RUF troops loyal to Superman. The Trial Chamber is accordingly satisfied that the elements of the crime of sexual slavery have been proved beyond reasonable doubt.

#### (x) Use of Finda Gbamanja as a sexual slave by rebels at Superman Ground

1128. The Prosecution submits that Finda Gbamanja was used as a sexual slave at Superman Ground after ECOMOG attacked Koidu Town.<sup>2846</sup>

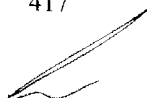
### Evidence

1129. Witness Finda Gbamanja, whom the Trial Chamber has found was subjected to sexual slavery in Koidu Town between approximately March and April 1998, by Sergeant Foday, a rebel loyal to Superman, also testified that after Koidu Town was attacked by ECOMOG, she was taken to Superman Ground, located at Meiyor, by rebels including Sergeant Foday, Well Man and a rebel named Sidique.<sup>2847</sup>

<sup>2845</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23933-23935.

<sup>2846</sup> Prosecution Final Trial Brief, para. 907.

<sup>2847</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23864-23865.





1130. Gbamanja testified that she stayed at Superman Ground for a “long time” with Sergeant Foday. During this time, she continued to cook and launder for Sergeant Foday and he continued to force her to have sex with him.<sup>2848</sup> Following the arrival of Foday’s wife, Fatty, Gbamanja was taken to the house of a rebel named “Mamie” who was Sidique’s wife<sup>2849</sup> where she stayed for “some time”. Gbamanja testified that while she was at Mamie’s house, Sergeant Foday continued to rape her and she was forced to pound rice, launder and harvest palm oil for Mamie.<sup>2850</sup> On cross-examination, Gbamanja testified that although it was a long time, she does not know how many weeks or months she stayed with Mamie.<sup>2851</sup> She denied a prior statement taken by the Prosecution in which it was recorded that she stayed with Mamie for three months.<sup>2852</sup> Gbamanja testified that in the dry season, Sergeant Foday forcibly sent her to work for his mother and the RUF “government” in Giema.<sup>2853</sup> She was there during Christmas.<sup>2854</sup> On the basis of this evidence, the Trial Chamber finds that Gbamanja was held in Superman Ground first directly by Sergeant Foday and later by Mamie from approximately April until at least October, 1998.

1131. Gbamanja testified on cross-examination that she did not know the difference between the RUF and the AFRC<sup>2855</sup> but that Peppe himself told her the rebels were RUF.<sup>2856</sup> The Trial Chamber is satisfied from Gbamanja’s description of the rebels and the events that both Peppe and Sergeant Foday were rebels loyal to Superman. The Trial Chamber finds that Gbamanja’s evidence is corroborated by the record in Exhibit P-051 which was identified by witness Perry Kamara as a record of civilians captured and under the control of commanders who were used for domestic work, hard labour and as sexual slaves.

### Findings

1132. On the basis of this evidence, the Trial Chamber finds that between approximately April and October 1998, at Superman Ground, Gbamanja was held in captivity by Sergeant Foday and Mamie, both of whom forced her to labour for their benefit. During this time

<sup>2848</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23865-23866.

<sup>2849</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23866-23867, 23937.

<sup>2850</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23867-23868.

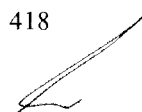
<sup>2851</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23939.

<sup>2852</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23940-23941.

<sup>2853</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23876-23877.

<sup>2854</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23879.

<sup>2855</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23920-23921.







Sergeant Foday, with the assistance of Mamie, continued to intentionally exercise powers of ownership over Gbamanja by depriving her of her liberty, forcing her to have sex, and by ultimately sending her to work in Giema. The Trial Chamber is accordingly satisfied that the elements of the crime of sexual slavery have been proved beyond reasonable doubt.

(xi) Use of Sia Kamara as a sexual slave by rebels near Yegbema and Sawoa

Evidence

1133. Witness Sia Kamara, whose testimony in the RUF trial was received pursuant to Rule 92*bis*, was cross-examined in the present trial on 15 October 2008. In her prior testimony Kamara testified that she, her husband and his younger brother fled Tongo when it was attacked by Kamajors. They fled to Segbwema, Bunumbu, and Gandorhun and arrived in Kainako, Kono “Chiefdom” in the dry season. Two days later they fled to the bush when they were informed by other civilians that Kamajors “who had transformed into soldiers/rebels” had entered Koidu. Kamara explained that she meant that “they ran away from Kamajors”, but later they were told that “it was now rebels and not Kamajors again”.<sup>2857</sup> On cross-examination, she explained that she had encountered civilians fleeing from Koidu Town who told her that Kamajors had entered Koidu Town.<sup>2858</sup> Kamara testified that the bush she fled to was close to Yegbema,<sup>2859</sup> about two and a half miles from Gandorhun and about one and a half miles from Kainako.<sup>2860</sup>

1134. Approximately three weeks later, Kamara saw about seven vehicles passing by. She “heard” that it was Johnny Paul Koroma heading towards the “Guinea end”. She saw the same vehicles “coming towards Koidu end” about a week later.<sup>2861</sup> On cross-examination, Kamara confirmed that she first saw Johnny Paul Koroma after the ECOMOG intervention, when the AFRC and RUF were driven out of Freetown and he passed through the area where she was living. He was disguised as a woman.<sup>2862</sup>

<sup>2856</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23921-23923.

<sup>2857</sup> Exhibit P-201, “RUF Trial Transcript 1 February 2005, Sia Kamara”, p. 7.

<sup>2858</sup> Sia Kamara, 15 October 2008, p. 18437.

<sup>2859</sup> See Exhibit P-201, “RUF Trial Transcript 1 February 2005, Sia Kamara”, p. 8 (the location was recorded as “Ngegbema [phoen]”). During cross-examination during this trial, the location was spelt on the record as “Yegbema”. See Sia Kamara, 15 October 2008, pp. 18436-18437.

<sup>2860</sup> Exhibit P-201, “RUF Trial Transcript 1 February 2005, Sia Kamara”, p. 8.

<sup>2861</sup> Exhibit P-201, “RUF Trial Transcript 1 February 2005, Sia Kamara”, p. 9.

<sup>2862</sup> Sia Kamara, Transcript 15 October 2008, pp. 18434 -18435.

1135. As the ECOMOG Intervention that ousted the AFRC and RUF from Freetown occurred in February 1998; Koidu Town was captured by the RUF in late February/early March 1998;<sup>2863</sup> the Trial Chamber is satisfied that Kamara was in the bush near Yegbema in approximately March/April, 1998.

1136. Kamara testified that while her husband was away finding food, she was discovered by two “rebels”. The first was wearing a soldier’s uniform and was armed with a gun. The second was wearing civilian clothing with combat khaki trousers and was armed with a stick with red cloth tied to it. The rebel with the gun pointed it at Kamara and ordered her to undress and lie down, which she did. He raped her. Kamara was unable to refuse due to the coercive circumstances. As this was happening, a third rebel, also armed with a stick, arrived. The other two rebels stood by as the rape occurred. After the first rebel raped her, Kamara was raped by “the other one”. She testified that she did not agree to have sex with him, but the rebel with the gun was standing by them so she could not fight. After she had been raped by the second rebel, she was raped by the third. Kamara testified that these rapes happened in the “middle of the forest in the open”.<sup>2864</sup>

1137. After the three rapes, the rebels took Kamara “into the hills” where she saw a number of other civilians who had been captured, some of whom she recognised. She and the other civilians were given loads to carry to Sawoa while the rebels walked in front and behind them. Kamara testified that she thought the rebels were going to kill her and could not think of escaping. Kamara estimates that it was over two and a half miles to Sawoa which was in the Kono “area”.<sup>2865</sup>

1138. In Sawoa, Kamara heard the rebels address a man as “Lieutenant T” and heard him say that ECOMOG had captured Kailahun Town and Kono, that they were going to “show them that we own the country” and that it was now Operation No Living Thing. Lieutenant T ordered the rebels to kill the civilians.<sup>2866</sup> The Trial Chamber has found that the AFRC forces lost control of Kono District in around April 1998.<sup>2867</sup>

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<sup>2863</sup> Military Operations: Operation in Kono (Early 1998).

<sup>2864</sup> Exhibit P-201, “RUF Trial Transcript 1 February 2005, Sia Kamara”, pp. 9-14.

<sup>2865</sup> Exhibit P-201, “RUF Trial Transcript 1 February 2005, Sia Kamara”, pp. 15-18.

<sup>2866</sup> Exhibit P-201, “RUF Trial Transcript 1 February 2005, Sia Kamara”, p. 19.

<sup>2867</sup> Military Operations: Operation Fitti-Fatta.

1139. Kamara testified that the rebels asked one of the captured civilians about Kamajors and Kabbah. When the civilian replied that she knew nothing, the rebels beat the civilians. Kamara testified that a boy of approximately 14 years brought a mortar and cut off the right hands of all the captured men, five in total, including Kamara's brother, who was seated next to her. After the five men had their hands amputated, Kamara was also struck on the upper arm. The rebels then separated out the young "virgins" from the women and took them away.<sup>2868</sup>

1140. Kamara testified that the rebels took her and the remaining captured women, six in total, in the direction of Benguema Fiama. Some of the rebels were armed with guns and some with sticks. At Fall Road, the rebels ordered the women to undress and lie down, which they did. Kamara thought that the rebels were going to kill them. A rebel with a gun undressed and had sex with her. She was unable to refuse. There were many other rebels standing by. Then another rebel, armed with a stick, also had sex with her. When he had finished, he took the stick and shoved it into her vagina. Kamara testified that she experienced great pain and bleeding and that she continued to feel pain at the time of her testimony some years later. Kamara testified that she then heard another rebel say that the women were to be killed.<sup>2869</sup> She then fled to a swamp, where she spent the night. She was bleeding and became unconscious. The following day, she was able to find her husband and three days later, she was brought to Connaught Hospital in Freetown by ECOMOG. She testified that she remained there "until the time the rebels entered Freetown".<sup>2870</sup>

1141. On cross-examination, Kamara admitted that she could not distinguish between the SLA and RUF, and that she considered anyone who was carried a gun and who "terrorised" civilians was a rebel.<sup>2871</sup> She insisted, however, that she was captured by "rebels" and not Kamajors and testified that the persons who captured her threatened to amputate her hand because they suspected her of being a Kamajor or a Kamajor supporter. She was unable to say who Lieutenant T's "boss" was but testified that the rebels said they had come from Freetown and were heading for Fiama. She stated that the men spoke Krio, Mende and

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<sup>2868</sup> Exhibit P-201, "RUF Trial Transcript 1 February 2005, Sia Kamara", pp. 21-24.

<sup>2869</sup> Exhibit P-201, "RUF Trial Transcript 1 February 2005, Sia Kamara", pp. 24-27.

<sup>2870</sup> Exhibit P-201, "RUF Trial Transcript 1 February 2005, Sia Kamara", pp. 27-28.

<sup>2871</sup> Exhibit P-201, "RUF Trial Transcript 1 February 2005, Sia Kamara", pp. 53-54; Sia Kamara, 15 October 2008, pp.18434 -18437.

“Liberian”.<sup>2872</sup> By “Liberian” Kamara clarified that she heard them use the phrase “My meh, let’s go” which she testified is the way Liberian people speak.<sup>2873</sup>

### Findings

1142. Kamara’s description of events corresponds with the movements of the AFRC and RUF. Given her testimony that one of the rebels who captured her was dressed in a soldier’s uniform; that “Lieutenant T” stated that they would show ECOMOG that “we own the country” and that it was now Operation No Living Thing; that the rebels asked the civilians about Kamajors and Kabbah and that they suspected Kamara of being a Kamajor; and her testimony that the rebels stated that they had come from Freetown, the Trial Chamber is satisfied beyond reasonable doubt that Kamara was abducted by members of the AFRC/RUF and not Kamajors.

1143. On the basis of Kamara’s testimony, the Trial Chamber finds that Kamara was abducted from a location in the bush near Yegbema in March/April 1998 by members of the AFRC/RUF, that she was forced to engage in sexual acts by three members of the AFRC/RUF in this same location, and that she was later forced to engage in sexual acts and sexually brutalised by two other members of the same group of AFRC/RUF at Fall Road between Sawoa and Benguema Fiamsa. The Trial Chamber finds that the members of the AFRC/RUF intentionally exercised powers of ownership over Kamara by depriving her of her liberty through her abduction and detention; by exacting forced labour from her by forcing her to carry a load; and that she was forced to engage repeatedly in acts of a sexual nature by multiple members of the group. The Trial Chamber finds from Kamara’s testimony of her inability to refuse to submit to these acts and from the environment of violence and coercion that Kamara did not consent to these acts. The Trial Chamber finds that the five members of the AFRC/RUF who detained, raped and forced Kamara to carry loads intended to exercise these acts. The Trial Chamber accordingly finds that the elements of the crime of sexual slavery have been proved beyond reasonable doubt.

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<sup>2872</sup> Sia Kamara, Transcript 15 October 2008, pp. 18437-18439.

<sup>2873</sup> Sia Kamara, Transcript 15 October 2008, pp. 18439-18441.

Conclusion

1144. The Trial Chamber finds in each of the aforementioned crimes mentioned in this section concerning Kono District, that the perpetrators intentionally exercised powers of ownership over their victims by depriving them of their liberty, and in some cases forcing them to work, and in all cases the victims were forced to engage in acts of a sexual nature thus constituting the crime of sexual slavery.

1145. The Trial Chamber has found the elements of sexual slavery have been satisfied beyond reasonable doubt for the following acts:

- (i) An unknown number of women were used as sexual slaves by RUF and AFRC fighters in Koidu Town in February 1998;
- (ii) An unknown number of women were used as sexual slaves by RUF and AFRC fighters in Koidu Town in March to June 1998;
- (iii) An unknown number of women were used as sexual slaves by RUF, AFRC and STF fighters at Superman Ground and PC Ground in around April 1998;
- (iv) TF1-189 was used as sexual slave by members of the RUF in Koidu Town between 12 March 1998 and August 1998;
- (v) An unknown number of women were used as sexual slaves by members of the RUF in Wonededu in April 1998;
- (vi) Finda Gbamanja was used as a sexual slave by a member of the RUF in Koidu Town from approximately March/April 1998;
- (vii) Finda Gbamanja was used as a sexual slave by rebels loyal to Superman at Superman Ground from approximately April to October 1998;
- (viii) Sia Kamara was used as a sexual slave by members of the AFRC/RUF loyal to Superman near Yegbema and Sawoa in approximately March/April 1998.

1146. The Trial Chamber recalls that the Prosecution has established beyond reasonable doubt that at all times relevant to the Indictment, the RUF and/or AFRC forces directed both

a widespread and systematic attack against the civilian population of Sierra Leone.<sup>2874</sup> The Trial Chamber is satisfied that each of the incidences of sexual slavery proved by the Prosecution in respect of Kono District formed part of the said attack and that the perpetrators were aware of this fact. Therefore, the Trial Chamber is satisfied that the aforementioned incidences of sexual slavery in Kono District constitute sexual slavery as a crime against humanity under Article 2 of the Statute.

(c) Freetown and the Western Area

1147. The Indictment alleges that members of RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters, assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused, “throughout Freetown and the Western Area, abducted an unknown number of women and girls and used them as sex slaves”.<sup>2875</sup>

1148. In arriving at its factual findings in Freetown and the Western Area, the Trial Chamber has taken into consideration the evidence of Prosecution Witnesses TF1-029, Akiatu Tholley (TF1-085), TF1-023, Alimamy Bobson Sesay (TF1-334), TF1-375, Perry Kamara (TF1-360), TF1-081 as well as Prosecution Exhibit P-204B, P-330, P-331 and the reports of Prosecution Expert Witness Beth Vann (P-073) and Prosecution Expert Witness TF1-150 (P-077).

(i) Evidence of sexual slavery in Freetown and the Western Area

1149. The Trial Chamber has considered the testimonies of TF1-081, TF1-150, Alimamy Bobson Sesay, TF1-375, TF1-029 and Perry Kamara and the evidence contained in Exhibit P-073, Exhibit P-204A/B, Exhibit P-077 and Exhibit P-078 as relevant to the allegation of sexual slavery in Freetown and the Western Area.

Documentary Evidence

1150. Prosecution expert witness Beth Vann, as already discussed in relation to Kailahun and Kono Districts, reported that Sierra Leonean refugees fled the RUF and AFRC forces approximately March-April, 1998 and arrived in camps along the border in neighbouring

<sup>2874</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.

<sup>2875</sup> Indictment, paras 14, 17.

Guinea.<sup>2876</sup> Vann reported that, according to the victims she interviewed, sexual slavery was a common practice, especially amongst the RUF and AFRC.<sup>2877</sup> Vann reported that “[a]ll of the newly arriving refugees I spoke with during this period clearly identified the perpetrators of these attacks as RUF and AFRC; [...] the most commonly used term was “rebels”.”<sup>2878</sup> As with the victims of sexual violence from Kono and Kailahun interviewed in Guinea by Vann, victims from the Freetown area who fled in January (1999) suffered from mental health problems and sexually transmitted diseases. Some were socially isolated.<sup>2879</sup>

1151. Vann also worked with the Sierra Leonean Chapter of the Forum for African Women Educationalists (FAWE) from February-March 2002.<sup>2880</sup> The FAWE sexual violence counselling and health care programme, initiated after the 1999 Freetown invasion, cared for 1,862 female abductees within its first six months of operation, most from Freetown and some from Makeni and Kono.<sup>2881</sup> As a result of the sexual violence to which they were subjected, many women and girls treated by FAWE were pregnant or had babies, were rejected by their families and had no prospects for the future.<sup>2882</sup>

1152. Prosecution Witness TF1-081, a gynaecologist working with FAWE following the 6 January 1999 attack on Freetown, whose evidence was received pursuant to Rule 92bis, testified that in addition to the counselling team, a medical team was set up to give medical treatment to abductees who had returned to Freetown.<sup>2883</sup> From March through December, 1999, the program treated 1164 patients, 99% of whom had been abducted, the majority from Freetown and a few from Makeni and Kono.<sup>2884</sup> Of the 1168<sup>2885</sup> treated patients, 684 were victims of sexual abuse or rape.<sup>2886</sup> Witness TF1-081 was not able to specify the exact

<sup>2876</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, p. 4.

<sup>2877</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, pp. 8, 11, 16.

<sup>2878</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, pp. 8-9.

<sup>2879</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, p. 17.

<sup>2880</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, p. 6.

<sup>2881</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, p. 9.

<sup>2882</sup> Exhibit P-073, “Expert Report, Conflict-Related Sexual Violence in Sierra Leone”, p. 17.

<sup>2883</sup> Exhibit P-204A (confidential), pp. 4-6.

<sup>2884</sup> Exhibit P-204B (confidential), pp. 20587, 20589.

<sup>2885</sup> During the witness’s testimony during the AFRC Trial, the witness stated that the number was 1,164. See Exhibit P-204A (confidential), p. 20535.

<sup>2886</sup> Exhibit P-204B (confidential), pp. 20587, 20589.

number of patients who had been abducted during the January 6 invasion and did not know how the patients returned to Freetown.<sup>2887</sup>

1153. In a report prepared by the witness based on data collected monthly between March and December 1999,<sup>2888</sup> TF1-081 reported that 77% of patients were women;<sup>2889</sup> 58.5% had been sexually abused or raped; 52% suffered from sexually transmitted diseases and 17.1% had become pregnant.<sup>2890</sup> He explained that the report was compiled as a scientific paper<sup>2891</sup> with the purpose of documenting patient reports and illnesses and was not conducted for the purposes of scientific or sociological research.<sup>2892</sup>

1154. Witness TF1-081 testified that as a gynaecologist, the majority of gynaecological and obstetric cases in the program were sent to him<sup>2893</sup> and that the “vast majority” of the patients he examined suffered from sexually transmitted diseases or other gynaecological problems or were pregnant.<sup>2894</sup> Witness TF1-081 testified that it was not the purpose of his interactions with his patients to discover the identity of the perpetrators of the reported acts or to assess the truth of what they said,<sup>2895</sup> but he recorded that his patients had been abducted by the RUF and AFRC and that some had been “married” in the bush.<sup>2896</sup>

1155. Witness TF1-150, who documented human rights abuses during the Freetown attack,<sup>2897</sup> reported that rape was a “standard practice” of the rebel combatants during the invasion and that some girls were subsequently abducted and taken away by the retreating rebels. TF1-150 documented reports of former abductees who indicated that women captives were raped “as a matter of course”.<sup>2898</sup> Escapees reported that women and children were

<sup>2887</sup> Exhibit P-204C (confidential), pp. 19-20.

<sup>2888</sup> Exhibit P-204A (confidential), p. 6.

<sup>2889</sup> Exhibit P-204B (confidential).

<sup>2890</sup> Exhibit P-204B (confidential), p. 20587.

<sup>2891</sup> Exhibit P-204A (confidential), p. 6.

<sup>2892</sup> Exhibit P-204C (confidential), p. 23.

<sup>2893</sup> Exhibit P-204C (confidential), p. 21.

<sup>2894</sup> Exhibit P-204A (confidential), p. 8.

<sup>2895</sup> Exhibit P-204C (confidential), p. 26.

<sup>2896</sup> Exhibit P-204A (confidential), pp. 10-11.

<sup>2897</sup> Exhibit P-077 (confidential), p. 13.

<sup>2898</sup> Exhibit P-077 (confidential), p. 16.



detained to cook and used for sexual purposes.<sup>2899</sup> Reports that boys and girls had been taken for sexual purposes or to cook food continued into February 1999.<sup>2900</sup>

1156. Reports by Human Rights Watch and Amnesty International, tendered into evidence by the Prosecution, also document instances of civilian women and girls having been abducted and subjected to sexual slavery by members of the AFRC and/or RUF or by “rebels” during the attack on Freetown in similar circumstances to the incidents detailed above

(ii) Captured girls and women used as sexual slaves in Benguema from approximately mid-February to March 1999

#### Evidence

1157. Witness Alimamy Bobson Sesay, a member of the AFRC,<sup>2901</sup> testified that following the retreat from Freetown, his troops attacked Tombo in mid-February and thereafter were based in Benguema until approximately March 1999.<sup>2902</sup> He testified that captured civilians brought by the troops to Benguema included young girls and women. The troops used the captured girls and women to pound rice, to cook, to carry loads and as “jungle wives”. The women and girls were captured while the troops were in Kono and while *en route* to Benguema. Alimamy Bobson Sesay testified that the women were “subdued” with weapons and would do whatever the troops wanted them to do, including having sexual intercourse with them. This happened throughout Benguema.<sup>2903</sup> The girls and women were not free to leave. Commanders who had “women under” them were required to monitor their movements and would be required to produce “whosoever was missing”.<sup>2904</sup>

1158. Alimamy Bobson Sesay also testified that the SBUs in Benguema used the younger girls to cook, launder and pound rice. They also “used them as wives” meaning that they had

<sup>2899</sup> Exhibit P-077 (confidential), p. 17.

<sup>2900</sup> Exhibit P-077 (confidential), p. 18.

<sup>2901</sup> Alimamy Bobson Sesay, Transcript 16 April 2008, p. 7853.

<sup>2902</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8392.

<sup>2903</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8392-8393.

<sup>2904</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8393-8394.

sexual intercourse with them. The witness testified that he saw “things like that” happen while he was with the group in Benguema.<sup>2905</sup>

1159. Alex Tamba Brima, Five-Five, Hassan Papa Bangura, Abdul Sesay, Bioh Sesay, SLA Rambo Red Goat, Foday Bah Marah aka Bulldoze, Saidu Kambolai aka Basky, Tarawalli a.k.a. Goldteeth, O-Five, Junior Sherif and the witness were the commanders in Benguema at that time.<sup>2906</sup>

1160. Witness TF1-375, a bodyguard attached to Superman, was with RUF Rambo under the command of Issa Sesay in Jui during the time of the Freetown invasion.<sup>2907</sup> He testified that his group received reports from the forces in Freetown during the invasion.<sup>2908</sup> The forces stayed in Freetown for two weeks. As the forces retreated, they started to burn down houses and abducted a large number of girls.<sup>2909</sup>

1161. Witness TF1-029, whose evidence is discussed in further detail below, was abducted from Wellington and used as a sexual slave in Calaba Town and Benguema by a member of the AFRC. She testified that she heard that over a thousand other women had been abducted were also raped by the SLAs and the RUF. This was explained to the witness by a friend who told her that if they abducted a girl, “they have the right to rape you and [take] you to be their wives”.<sup>2910</sup>

1162. Witness Perry Kamara, an RUF radio operator who testified that he was sent by Morris Kallon and Sam Bockarie to join SAJ Musa and Gullit in order to establish effective communications between the two groups prior to the invasion,<sup>2911</sup> testified that he was among the troops who attacked Freetown on 6 January 1999.<sup>2912</sup> He testified that when the troops retreated he gathered information from commercial radio and BBC media that the rebels in Freetown raped and abducted civilians.<sup>2913</sup> He stated that he heard a “radio communication” that Rambo’s group and the Red Lion battalion had retreated and joined

<sup>2905</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8394-8395.

<sup>2906</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8397.

<sup>2907</sup> TF1-375, Transcript 24 June 2008, pp. 12608-12609.

<sup>2908</sup> TF1-375, Transcript 24 June 2008, p. 12612.

<sup>2909</sup> TF1-375, Transcript 24 June 2008, pp. 12613-12614.

<sup>2910</sup> Exhibit P-206, “RUF Trial Transcript 28 November 2005, TF1-029”, pp. 12-13.

<sup>2911</sup> Perry Kamara, Transcript 6 February 2008, pp. 3175-3183.

<sup>2912</sup> Perry Kamara, Transcript 6 February 2008, pp. 3221-3224.

<sup>2913</sup> Perry Kamara, Transcript 6 February 2008, pp. 3243-3244, 3251.

those who were retreating along the main highway to Waterloo and Masiaka.<sup>2914</sup> The group was comprised of combatants as well as abducted civilians from Freetown, including women who were being used as “bush wives”.<sup>2915</sup>

### Findings

1163. As discussed in relation to his evidence of sexual slavery in Kono District, the Trial Chamber notes that Alimamy Bobson Sesay was a commander who was present in locations where crimes were occurring and finds his evidence to be reliable. Based on his evidence, the Trial Chamber is satisfied that members of the AFRC/RUF, the STF and Liberian fighters intentionally exercised powers of ownership over an unknown number of women and girls by depriving them of their liberty and controlling their movements in Benguema until approximately March 1999. The Trial Chamber further finds that the women and girls were forced to engage in acts of a sexual nature with their captors and that their captors intended to use these women and girls as sexual slaves. The Trial Chamber therefore finds that the elements of the crime of sexual slavery have been established beyond reasonable doubt.

#### (iii) TF1-029 used as a sexual slave in Wellington, Calaba Town and Benguema

1164. The Prosecution submits that TF1-029 was used as a sexual slave in Calaba Town and Benguema.<sup>2916</sup> The Trial Chamber has considered the evidence of TF1-029 in relation to the submission.

### Evidence

1165. As noted in the section on Rape Witness TF1-029’s evidence in the RUF trial was introduced through Rule 92*bis*. She was called for cross-examination in the instant trial on 22 October 2008 and testified to her abduction and rape by Major Arif as particularised above. The mixed group of RUF and SLA fighters brought the witness, together with 50 other civilians who were captured in the same house, to Calaba Town.<sup>2917</sup> The witness was

<sup>2914</sup> Perry Kamara, Transcript 6 February 2008, pp. 3251-3252.

<sup>2915</sup> Perry Kamara, Transcript 6 February 2008, p. 3252.

<sup>2916</sup> Prosecution Final Trial Brief, para. 921.

<sup>2917</sup> Exhibit P-206, “RUF Trial Transcript 28 November 2005, TF1-029”, pp. 8-10.

held there against her will for two weeks<sup>2918</sup> and while she was forced to live in Major Arif's house together with his cousins and other RUF and SLA soldiers<sup>2919</sup> she was raped there by Major Arif ten times.<sup>2920</sup> The witness was sixteen years old when this occurred.<sup>2921</sup> TF1-029 further testified that she saw that the other women who were abducted were also raped.<sup>2922</sup>

1166. The rebels then took the witness to Benguema.<sup>2923</sup> She testified that when they arrived in Benguema, she was raped by Major Arif and that, again, she was raped ten times.<sup>2924</sup>

1167. TF1-029 testified that the RUF and "SLAs" also raped other girls while in Benguema. The witness knows this because the girls who had been captured and raped told her what had happened to them.<sup>2925</sup>

1168. Major Arif permitted the witness to leave Benguema on 10 March 1999.<sup>2926</sup> On cross-examination, TF1-029 insisted that the rebels were mixed RUF and "SLA" but that most of the people she "dealt with" were SLAs, including Colonel O-Five, Brigadier Five-Five, Colonel Tito, and Colonel Rambo. O-Five, Tito and Five-Five were in control of the soldiers from Calaba Town up to Four Mile.<sup>2927</sup>

### Findings

1169. On the basis of this evidence, the Trial Chamber finds that between 22 January 1999 and 10 March 1999, which is during and after the indictment period, in Wellington, Calaba Town and Benguema, members of the AFRC/RUF including Major Arif, an AFRC soldier, exercised powers of ownership over an unknown number of women including TF1-029 by abducting them and holding them in captivity either independently or with the assistance of other rebels and thereby depriving them of their liberty. The Trial Chamber also finds that during this period, members of the AFRC/RUF, including Major Arif, engaged in acts of a

<sup>2918</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", p. 10.

<sup>2919</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", p. 10.

<sup>2920</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", p. 12.

<sup>2921</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", p. 12.

<sup>2922</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", p. 12.

<sup>2923</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", pp. 13-15.

<sup>2924</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", pp. 15-16.

<sup>2925</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", pp. 15-16.

<sup>2926</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", pp. 17-18.

<sup>2927</sup> Exhibit P-206, "RUF Trial Transcript 28 November 2005, TF1-029", pp. 30-31.

sexual nature with an unknown number of women and girls including TF1-029, namely repeated rape. The Trial Chamber is satisfied from the evidence of the environment of violence and coercion, together with the testimony of TF1-029 that she was “forced to have sex”, that she did not consent to these sexual acts. The Trial Chamber finds that Major Arif intended to use TF1-028 and an unknown number of women and girls as sexual slaves. The Trial Chamber accordingly finds that the elements of the crime of sexual slavery have been satisfied beyond reasonable doubt.

(iv) Akiatu Tholley used as a sexual slave in Allen Town and Waterloo

1170. The Prosecution submits that Akiatu Tholley was abducted from Wellington and used as a sexual slave in the Western Area.<sup>2928</sup> The Trial Chamber has considered the evidence of Akiatu Tholley in relation to the submission.

Evidence

1171. The evidence of Witness Akiatu Tholley of the invasion of her home and her subsequent abduction and rape has been recited in the sections on Unlawful Killings and Rape.<sup>2929</sup>

1172. Tholley was captured by a rebel named James. Tholley testified that James was accompanied by his “boys” whom he had captured and who carried his ammunition. James’ boys gave Tholley and other captured civilians ammunition to carry and took them to Allen Town. James also had his “wives” with him.<sup>2930</sup>

1173. In Allen Town, James’ boys stripped all the civilians naked and made them lie down on the ground, threatening to kill them. Tholley testified that in the same moment, an Alpha jet flew over head and Tholley, the rebels and the other captured civilians all fled.<sup>2931</sup> Tholley fled to a house where she encountered a woman named Fatmatta, one of James’ wives, who gave her a dress to wear because she was naked. James soon discovered Tholley at the house.<sup>2932</sup>

<sup>2928</sup> Prosecution Final Trial Brief, para. 923.

<sup>2929</sup> See Factual and Legal Findings on Alleged Crimes: Count 2 & 3 (Unlawful Killings) and Count 4 (Rape).

<sup>2930</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19176-19179.

<sup>2931</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19180-19181.

<sup>2932</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19181-19182.

1174. Tholley testified that James took her to the Mammy Dumbuya Church<sup>2933</sup> where she saw rebels raping, beating and killing many young girls, and that he raped her there.<sup>2934</sup>

1175. James took Tholley to Waterloo, Western Area together with his “wives” and “boys”, the other rebels and other captured civilians.<sup>2935</sup> The group was led by Five-Five.<sup>2936</sup> Tholley testified that she remained with James in Waterloo for a “long time” but was unable to say how long.<sup>2937</sup> After Waterloo, James took Tholley to Masiaka, Bombali District<sup>2938</sup> where he was the ground commander and where the other commanders were Five-Five, Gold Teeth, Daramy and Cartel.<sup>2939</sup> Tholley testified that Gold Teeth and Daramy were also among the rebels who came to her house in Wellington during the Freetown invasion.<sup>2940</sup> Tholley testified that she stayed in Masiaka for more than two months and that Issa Sesay was present.<sup>2941</sup>

1176. Tholley testified that the rebels she was with were a “mixed group” and the leader was Five-Five.<sup>2942</sup> James told Tholley that he belonged to the STF and ULIMO and that he had been part of the Liberian war until “the time they joined the rebels”. She did not know to which group Five-Five belonged.<sup>2943</sup>

1177. Five-Five, Gold Teeth, Daramy and Cartel are known members of the AFRC. The AFRC passed through the villages of Waterloo, Hastings, Wellington and Kissy and invaded Freetown on 6 January 1999; they retreated approximately three weeks later first to Benguema and then Waterloo.<sup>2944</sup> The Trial Chamber finds that Tholley’s evidence of her movements with the rebels is consistent with other evidence of the pattern of AFRC movements at this time. The Trial Chamber is satisfied that James was a STF member and

<sup>2933</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19181-19182.

<sup>2934</sup> See Factual and Legal Findings on Alleged Crimes: Count 4 (Rape); Rape of Akiatu Tholley in Allen Town and Waterloo.

<sup>2935</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19185-19187.

<sup>2936</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19187-19189.

<sup>2937</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19198, 19258.

<sup>2938</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19201-19202.

<sup>2939</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19204-19206.

<sup>2940</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19204-19207.

<sup>2941</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19201, 19258.

<sup>2942</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19187-19188; Transcript 27 October 2008 pp. 19197-19198.

<sup>2943</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19205, 19236-19237.

<sup>2944</sup> Military Operations: The Freetown Invasion, The Implementation of the Plan.





that he captured Tholley prior to the retreat from Freetown in late January 1999 and that she remained under his control in the Western Area until early April 1999.

1178. Tholley testified that James was her “husband” because he had captured her and because from the time he raped her in the Mammy Dumbuya Church, he continued to have sex with her against her will.<sup>2945</sup> Tholley did not want to be his wife.<sup>2946</sup> During the entirety of her capture, Tholley became pregnant three times.<sup>2947</sup> Tholley testified that some of James’s other “wives” had also been captured during the fighting. Two were Liberian, one was from Kono and five were captured in Freetown.<sup>2948</sup>

### Findings

1179. On the basis of this evidence, the Trial Chamber finds that between late January and early April, 1999 James, an STF fighter, exercised powers of ownership over Tholley by holding her in captivity and depriving her of her liberty. The Trial Chamber finds that during this period James caused Tholley to engage in acts of a sexual nature, namely rape, by having sex with Tholley against her will. The Trial Chamber finds that James intended to use Tholley as a sexual slave. The Trial Chamber accordingly finds that the elements of the crime of sexual slavery have been satisfied beyond reasonable doubt.

(v) Evidence that TF1-023 was used as a sexual slave in Calaba Town, Benguema and Four Mile by a member of the AFRC from late January until March, 1999

1180. The Prosecution submits that TF1-023 was used as a sexual slave in Calaba Town and Benguema.<sup>2949</sup> The Trial Chamber has considered the evidence of TF1-023 in relation to the submission.

### Evidence

1181. The evidence of Witness TF1-023, whose evidence in the AFRC trial was introduced through Rule 92*bis*, was cross-examined in the present case on 22 October 2008. In her prior

<sup>2945</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19202-19203.

<sup>2946</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19202.

<sup>2947</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19220.

<sup>2948</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19208-19209.

<sup>2949</sup> Prosecution Final Trial Brief, para. 922.

testimony she testified about her abduction and detention by Captain A and subsequent “handing over” to and rape by Colonel B as detailed in the foregoing paragraphs.

1182. TF1-023 remained in Calaba Town for three days. On the third day, she and the rebels walked to Allen Town, Waterloo and then Benguema where they remained for about four days. They then continued on to Lumpa and Four Mile where they stayed for about a month.<sup>2950</sup> On cross-examination, the witness clarified that she remained with “the armed men” in Freetown from 22 to 29 January. She left Freetown on 29 January, it took about two days to reach Benguema. After three days at Benguema they went to Four Mile where they stayed for approximately a month.<sup>2951</sup> Colonel B was not always with the witness; he joined her in Benguema and again in Four Mile. The witness does not know where he was the interim.<sup>2952</sup>

1183. The witness lived with Colonel B for about three weeks in Four Mile, after which time he left her and went to Makeni. During those three weeks, he asked her to cook, but she did not as she did not know how. During the three weeks she continued to “sleep” with him because he told her that she was his “wife”. He never asked her consent before sex. The witness was not able to leave.<sup>2953</sup> There were approximately 400 armed rebels at Four Mile. Some “people” at Four Mile tried to escape but they were beaten. This made the witness afraid and she decided not to try to run away.<sup>2954</sup> Colonel B also had an armed guard follow her so she could not escape.<sup>2955</sup>

1184. When Colonel B left for Makeni, he left the witness in the “care of” a captain, whom the witness identified in a Confidential Exhibit.<sup>2956</sup> The Trial Chamber will refer to this person as “Captain C”. The witness remained in the custody of Captain C from approximately March through August.<sup>2957</sup>

<sup>2950</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, pp. 47-49.

<sup>2951</sup> Exhibit P-205B (confidential), pp. 31-32.

<sup>2952</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, pp. 47-49.

<sup>2953</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, pp. 49-52.

<sup>2954</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, pp. 52-53.

<sup>2955</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, p. 53.

<sup>2956</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, p. 49; Exhibit P-269 (confidential).

<sup>2957</sup> Exhibit P-205A “AFRC Trial Transcript 7 November 2005, TF1-023”, p. 53 (CS).



1185. TF1-023 testified that she knew of other captured women in Lumpa who had been given to rebels as “wives”.<sup>2958</sup> In Lumpa, she knew ten others whose “husbands” were lieutenants or ordinary soldiers, but none of the other women’s rebel “husbands” were commanders. As a commander’s wife, the witness was given special treatment. She was not forced to do “anything” and those with lower ranks gave her respect. To show her respect, they would call her “de mammy”.<sup>2959</sup> The witness testified that her cousin was also captured in Calaba Town and that Captain A took her cousin as his “wife”.<sup>2960</sup>

1186. TF1-023 testified that the rebels she named in the exhibits told her that they were members of the AFRC. She first saw their senior commander, Brima or “Gullit” in Benguema. He was a Brigadier at the time. At Four Mile, Colonel B told her that the senior commander was “Bazzy”. He used to visit Colonel B and the witness would see him regularly.<sup>2961</sup> On cross-examination, TF1-023 testified that a boy called Alhassan identified Bazzy to her at Four Mile, but that “everyone told” her that Bazzy was the senior commander. She did not talk with Bazzy.<sup>2962</sup> On cross-examination, TF1-023 testified that throughout her “journey” the rebels were a mixed group of AFRC and RUF, but that the ones she had direct contact with were all AFRC.<sup>2963</sup>

### Findings

1187. The Trial Chamber finds that between 22 January and approximately March, 1999, which extends beyond the Indictment period for sexual slavery in Freetown and the Western Area, Colonel B, a member of the AFRC under the command of Alex Tamba Brima and Brima Bazzy Kamara, exercised powers of ownership over TF1-023 by holding her in captivity and depriving her of her liberty. The Trial Chamber finds that during this period, Colonel B caused TF1-023 to engage in acts of a sexual nature, namely rape, by having sexual intercourse with TF1-023 against her will. The Trial Chamber finds that Colonel B intended to use Tholley as a sexual slave. The Trial Chamber is accordingly satisfied that the elements of the crime of sexual slavery have been proved beyond reasonable doubt.

<sup>2958</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, pp. 53-54.

<sup>2959</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, pp. 56-58.

<sup>2960</sup> Exhibit P-205A, “AFRC Trial Transcript 9 March 2005, TF1-023”, pp. 32, 37-47.

<sup>2961</sup> Exhibit P-205B (confidential), pp. 13-16, 24-33.

<sup>2962</sup> Exhibit P-205B (confidential), pp. 26-28.

<sup>2963</sup> TF1-023, Transcript 22 October 2008, pp. 18958-18959.

## Conclusion

1188. The Trial Chamber finds in each of the aforementioned crimes mentioned in this section concerning Kono District, that the perpetrators intentionally exercised powers of ownership over their victims by depriving them of their liberty, and in some cases forcing them to work, and in all cases the victims were forced to engage in acts of a sexual nature thus constituting the crime of sexual slavery.

1189. The Trial Chamber finds that the Prosecution has proved the following instances of sexual slavery beyond a reasonable doubt:

- (i) An unknown number of women and girls were used as sexual slaves by AFRC fighters in Benguema until approximately March 1999;
- (ii) TF1-029 was used as a sexual slave by Major Arif, an ex-SLA/AFRC soldier, in Wellington, Calaba Town and Benguema from late January to March 1999;
- (iii) Akiatu Tholley was used as a sexual slave by an STF fighter named James in Allen Town and Waterloo from approximately late January through early April 1999;
- (iv) TF1-023 was used as a sexual slave by a member of the AFRC in Calaba Town, Benguema and Four Mile from late January through March 1999.

1190. The Trial Chamber finds in each of the aforementioned crimes mentioned in this section concerning Kailahun District, that the perpetrators intentionally exercised powers of ownership over their victims by depriving them of their liberty, and in some cases forcing them to work, and in all cases the victims were forced to engage in acts of a sexual nature thus constituting the crime of sexual slavery.

1191. The Trial Chamber recalls that the Prosecution has established beyond reasonable doubt that at all times relevant to the Indictment, the RUF and/or AFRC forces directed both a widespread and systematic attack against the civilian population of Sierra Leone.<sup>2964</sup> The Trial Chamber is satisfied that each of the incidences of sexual slavery proved by the Prosecution in respect of Freetown and the Western Area formed part of the said attack and

<sup>2964</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.

that the perpetrators were aware of this fact. Therefore, the Trial Chamber is satisfied that the aforementioned incidences of sexual slavery in Freetown and the Western Area constitute sexual slavery as a crime against humanity under Article 2 of the Statute.



### 3. Count 6 (Outrages Upon Personal Dignity)

#### Allegations and Submissions

1192. The Indictment alleges that “members of the RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters, assisted and encouraged by, acting in concert with, under the direction and/or control of, and or subordinate to the Accused, committed widespread acts of sexual violence against women and girls”, including rape and sexual slavery.<sup>2965</sup>

1193. Outrages upon personal dignity are alleged to have occurred between about 1 February 1998 and about 31 December 1998 in Kono District,<sup>2966</sup> between about 30 November 1996 and about 18 January 2002 in Kailahun District<sup>2967</sup> and between about 21 December 1998 and about 28 February 1999 in Freetown and the Western Area.<sup>2968</sup>

#### Evidence

1194. The Trial Chamber has found in the Preliminary Issues Section that it would not consider evidence of sexual violence other than rape and sexual slavery under Count 6, Outrages Upon Personal Dignity,<sup>2969</sup> as the Accused was not provided with notice that any other forms of sexual violence were charged under this count.<sup>2970</sup>

1195. The Trial Chamber has therefore considered, for each district, the acts of rape and sexual slavery that it has found have been proved beyond reasonable doubt as the crimes against humanity of rape, Count 4, and sexual slavery, Count 5, to determine whether they also constitute war crimes under Outrages upon Personal Dignity, Count 6, and found that they do in each case.

1196. Further, witnesses testified that the perpetrators of rape or sexual slavery forced women and girls to undress, sometimes in public, as a prelude to the rape; that many women and girls were raped or gang raped in public, frequently in front of neighbours or members of their community and/or in the presence of husbands and/or relatives who were forced to

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<sup>2965</sup> Indictment, paras 14-17.

<sup>2966</sup> Indictment, para. 15.

<sup>2967</sup> Indictment, para. 16.

<sup>2968</sup> Indictment, para. 17.

<sup>2969</sup> In full, the crime is entitled “Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault”.

<sup>2970</sup> See Preliminary Issues: Issues Relating to the Pleading in the Indictment.

watch. Several witnesses testified that an object, such as a piece of wood, was inserted into the vaginas of victims after the rape or gang rape. The Trial Chamber considers that these actions resulted in further humiliation and degradation of the victims, thus aggravating the crime of outrages upon personal dignity. Therefore the Trial Chamber has indicated where instances of rape and sexual slavery involved any such additional elements of humiliation and degradation, such as forced undressing, sexual mutilation and/or public humiliation.

### Documentary Evidence

1197. The Trial Chamber has also further examined relevant documentary evidence. Exhibit P-073, an expert report entitled “Conflict-Related Sexual Violence in Sierra Leone” authored by Beth Vann, recorded that:

Rape was reported by 84 of the 94 women reporting sexual violence in the PHR [Physicians for Human Rights] study. Approximately one third of these women reported experiencing gang rape, abduction, stripped of clothing, forced to undress. Respondents also reported sexual slavery, molestation, forced marriage, and insertion of foreign objects into the genital opening or anus.<sup>2971</sup>

1198. The expert report also states that, in relation to focus group sessions conducted by the author, “[a]ll participants described witnessing at least one public rape of a civilian female in or near their home town/village just before flight or during the time they were running to refuge in Guinea”.<sup>2972</sup>

### Findings

#### (a) Kono District

1199. The Trial Chamber finds that the acts of rape and sexual slavery that it has found to be proved beyond reasonable doubt in Kono District also constitute in each case a serious humiliation, degradation and violation of the personal dignity of the victims, and that the perpetrators intentionally committed these acts and knew that their acts would produce this effect.

1200. The Trial Chamber thus finds that it has been proved beyond reasonable doubt that:

<sup>2971</sup> Exhibit P-073, “Report to the Office of the Prosecutor, The Special Court for Sierra Leone, Conflict-Related Sexual Violence in Sierra Leone”, p. 9, ERN 31558.

<sup>2972</sup> Exhibit P-073, “Report to the Office of the Prosecutor, The Special Court for Sierra Leone, Conflict-Related Sexual Violence in Sierra Leone”, p. 4, ERN 31553.

- i. An RUF rebel named Peppe committed an outrage upon personal dignity by raping Finda Gbamanja in Koidu Town in February 1998;
- ii. SLA and RUF fighters committed outrages upon personal dignity by gang raping TF1-189 in Koidu Town between March and August 1998;
- iii. RUF Staff Alhaji committed an outrage upon personal dignity on Sia Lappia, who had her clothes removed, was hit in her private parts and then raped at gun point in the presence of other captured persons, including her child, in approximately April 1998;
- iv. AFRC commanders, including Alimamy Bobson Sesay, committed outrages upon personal dignity by raping an unknown number of women and girls in Tombodu between March and June 1998;
- v. RUF fighters committed outrages upon personal dignity by raping Rebecca and an unknown number of women in Wonedu in 1998;
- vi. RUF, AFRC and STF fighters committed outrages upon personal dignity by raping an unknown number of women at Superman Ground in April 1998;
- vii. RUF, AFRC and STF fighters committed outrages upon personal dignity by raping an unknown number of women at PC Ground in or about April 1998;
- viii. Sergeant Foday committed an outrage upon personal dignity by raping Finda Gbamanja in Koidu Town and at Superman Ground in 1998;
- ix. A member of the RUF committed an outrage upon personal dignity on TF1-189 who was used as sexual slave in Koidu Town between 12 March 1998 and August 1998;
- x. Sergeant Foday committed an outrage upon personal dignity on Finda Gbamanja who was used as a sexual slave in Koidu Town from approximately March/April 1998;

- xi. Rebels loyal to Superman committed an outrage upon personal on Finda Gbamanja who was used as a sexual slave at Superman Ground from approximately April to October 1998;
- xii. AFRC and RUF fighters committed an outrage upon personal dignity on Sia Kamara who was repeatedly raped and used as a sexual slave in approximately March/April 1998 in Kono District.

1201. The Trial Chamber recalls that the Prosecution has proved beyond reasonable doubt that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving among others, members of the RUF, AFRC and CDF.<sup>2973</sup> The Trial Chamber is satisfied that for all of the aforementioned acts of sexual violence in Kono District there was a nexus between the acts of sexual violence and the armed conflict, that each of the victims was not taking an active part in the hostilities at the time of the sexual violence, and that the perpetrators knew this fact. Therefore, the Trial Chamber is satisfied that the aforementioned acts of sexual violence in Kono District constitute outrages upon personal dignity as a war crime under Article 3 of the Statute.

(b) Kailahun District

1202. The Trial Chamber finds that the acts of rape and sexual slavery that it has found to be proved beyond reasonable doubt in Kailahun District also constitute in each case a serious humiliation, degradation and violation of the personal dignity of the victims, and that the perpetrators intentionally committed these acts and knew that their acts would produce this effect. However, as no locations were pleaded in the Indictment for Count 6 in relation to Kailahun District such evidence does not fall within the scope of the Indictment, and is relevant only insofar as it demonstrates that the activity was widespread or systematic, and therefore assists in establishing the chapeau requirements.

1203. The Trial Chamber thus finds that it has been proved beyond reasonable doubt that:

- i. AFRC and RUF fighters committed outrages upon personal dignity on an unknown number of women captured in Kenema who were used as sexual slaves after February 1998 in Buedu and Kailahun Town;

<sup>2973</sup> See Law and Findings on the General Requirements: Article 3: War Crimes, para. 573 *supra*.

- ii. AFRC and RUF fighters committed outrages upon personal dignity on an unknown number of women used as sexual slaves in Buedu, including an incident of a woman who was considered to be “disrespectful” being stripped down to her underwear and beaten, between February 1998 and December 1999 in Buedu;
- iii. An RUF member committed an outrage upon personal dignity on TF1-189 who was used as a sexual slave in Kailahun Town from August to September 1998.

1204. The Trial Chamber recalls that the Prosecution has proved beyond reasonable doubt that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving among others, members of the RUF, AFRC and CDF.<sup>2974</sup> The Trial Chamber is satisfied that for all of the aforementioned acts of sexual violence in Kailahun District there was a nexus between the acts of sexual violence and the armed conflict, that each of the victims was not taking an active part in the hostilities at the time of the sexual violence, and that the perpetrators knew this fact. Therefore, the Trial Chamber is satisfied that the aforementioned acts of sexual violence in Kailahun District constitute outrages upon personal dignity as a war crime under Article 3 of the Statute.

(i) Freetown and the Western Area

1205. The Trial Chamber finds that the acts of rape and sexual slavery that it has found to be proved beyond reasonable doubt in Freetown and the Western Area also constitute in each case a serious humiliation, degradation and violation of the personal dignity of the victims, and that the perpetrators intentionally committed these acts and knew that their acts would produce this effect.

1206. The Trial Chamber thus finds that it has been proved beyond reasonable doubt that:

- i. Men and boys, members of AFRC, RUF, STF and Liberian fighters, under the command of Gullit, committed outrages upon personal dignity on an unknown

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<sup>2974</sup> See Law and Findings on the General Requirements: Article 3: War Crimes, para. 573 *supra*.



- number of women and girls who were raped in public in the grounds of the State House where others viewed the acts over three nights in January 1999;
- ii. AFRC, RUF, STL and Liberian commanders and fighters committed outrages upon personal dignity on an unknown number of girls who were raped inside State House during the Freetown attack of January 1999;
  - iii. Alimamy Bobson Sesay, a commander in the AFRC, committed an outrage upon personal dignity by raping a young girl captured in Freetown during the January 1999 attack;
  - iv. RUF fighters committed outrages upon personal dignity on an unknown number of girls in a house, in the presence of other persons, on Blackhall Road during the Freetown attack in January 1999;
  - v. Rebels under the command of Captain Blood committed outrages upon personal dignity on an unknown number of girls, who were raped in public and in view of other persons, in Kissy on or about 22 January 1999;
  - vi. Major Arif, an SLA soldier, committed an outrage upon personal dignity on TF1-029 who was used as a sexual slave in Wellington, Calaba Town and Benguema from late January to March 1999;
  - vii. James, an STF fighter, committed an outrage upon personal dignity on Akiatu Tholley who was used as a sexual slave in Allen Town, where she and others were undressed and raped in the view of other people, and in Waterloo from approximately late January through early April 1999;
  - viii. A member of the AFRC committed an outrage upon personal dignity on TF1-023 who was used as a sexual slave in Calaba Town, Benguema and Four Mile from late January through March 1999.

1207. The Trial Chamber recalls that the Prosecution has proved beyond reasonable doubt that there was an armed conflict in Sierra Leone at all times relevant to the Indictment,

involving among others, members of the RUF, AFRC and CDF.<sup>2975</sup> The Trial Chamber is satisfied that for all of the aforementioned acts of sexual violence in Freetown and the Western Area there was a nexus between the acts of sexual violence and the armed conflict, that each of the victims was not taking an active part in the hostilities at the time of the sexual violence, and that the perpetrators knew this fact. Therefore, the Trial Chamber is satisfied that the aforementioned acts of sexual violence in Freetown and the Western Area constitute outrages upon personal dignity as a war crime under Article 3 of the Statute.

### C. Counts 7 and 8 (Physical Violence)

#### Allegations and Submissions

1208. Count 7 of the Indictment charges “violence to life, health and physical or mental well-being of persons, in particular cruel treatment” and Count 8 charges “other inhumane acts” and alleges that “[b]etween about 30 November 1996 and about 18 January 2002, members of RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters, assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused, committed widespread acts of physical violence against civilians:” in Kono District, Kailahun District, and Freetown and the Western Area.<sup>2976</sup>

1209. The Prosecution submits that physical violence was inflicted on civilians throughout the Sierra Leone conflict and was often accompanied by other atrocities, and that the evidence proves beyond reasonable doubt the Accused’s guilt with respect to physical violence (Counts 7 and 8).<sup>2977</sup> The Prosecution also submits that “[o]f special note is the intentional public nature of these acts of physical violence, which compounded the mental harm of civilians who were being victimized and of those who were forced to watch helplessly as family, friends and even strangers were subjected to physical violence by Indictment Perpetrators”.<sup>2978</sup>

<sup>2975</sup> See Law and Findings on the General Requirements: Article 3: War Crimes, para. 573 *supra*.

<sup>2976</sup> Indictment, paras 18-21.

<sup>2977</sup> Prosecution Final Trial Brief, paras 952-953.

<sup>2978</sup> Prosecution Final Trial Brief, para. 950.

Evidence and Deliberations

1. Kono District (1 February 1998 to 31 December 1998)

1210. The Indictment alleges that between about 1 February 1998 and about 31 December 1998 members of the RUF, AFRC/RUF Junta or alliance, and/or Liberian fighters, assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused, “mutilated and beat an unknown number of civilians in various locations including Tombodu or Tumbodu, Kaima or Kayima and Wonedu. The mutilations included cutting off limbs and other body parts and carving “AFRC” and “RUF” on the bodies of civilians”.<sup>2979</sup>

1211. In arriving at its factual findings in Kono District, the Trial Chamber has taken into consideration the evidence of witnesses Alimamy Bobson Sesay, Mustafa Mansaray, Ibrahim Fofana, Samuel Komba, TF1-375, Sorie Kondeh and Alex Tamba, in addition to relevant documentary evidence.

(a) Tombodu

1212. The Trial Chamber has considered the evidence of Alimamy Bobson Sesay, Mustafa Mansaray, Ibrahim Fofana and Samuel Komba in relation to these allegations.

Evidence

1213. Alimamy Bobson Sesay testified that around March to June 1998, he and other AFRC and RUF commanders used and commanded small boy units to amputate the hands of civilians<sup>2980</sup> in Yomandu and Tombodu. He saw amputations at Guinea Highway, Superman Area, and Dabunch Street. He and Bomb Blast targeted captured civilians and used SBUs to amputate their arms. The SBUs executed these commands. The witness stated that “it was a kind of message to the other civilians that they should fear us and they should tell ECOMOG about us”.<sup>2981</sup> Fighters were ordered to perform amputations as a warning to ECOMOG troops not to come to Kono.<sup>2982</sup> The witness testified that Mohamed Savage also

<sup>2979</sup> Indictment paras 18-19.

<sup>2980</sup> Alimamy Bobson Sesay, Transcript 18 April 2008 p. 7978.

<sup>2981</sup> Alimamy Bobson Sesay, Transcript 18 April 2008 p. 7978.

<sup>2982</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8063-8065.

amputated the arms of civilians and was helped by SBUs.<sup>2983</sup> It is not clear from Sesay's testimony if he personally saw Savage amputate civilians or relied on reports. However given his active participation in amputations, his knowledge of the decision to send a message to civilians that they should be in fear, and his knowledge of the implementation of that decision, the Trial Chamber finds that Savage amputated the arms of an unknown number of civilians.

1214. Alimamy Bobson Sesay also testified that he was in Tombodu in March or April 1998 and saw Savage, Guitar Boy and Staff Alhaji, members of the Junta, amputate the hands of 15 civilians, young people, who had been rejoicing because "they thought we were ECOMOG people". Alimamy Bobson Sesay stated that the victims were urged to seek relief from ECOMOG troops.<sup>2984</sup> The Trial Chamber finds that Savage amputated the arms of 15 civilians.

1215. The Trial Chamber has considered the evidence of Mustapha Mansaray and Ibrahim Fofana, whose testimonies were discussed at length in the section on Unlawful Killings taking place in Tombodu.<sup>2985</sup> Both witnesses and four others had their hands amputated in Tombodu in April 1998 by Staff Alhaji, a member of the AFRC.<sup>2986</sup> While their testimonies diverged in some descriptions, the Trial Chamber finds that both witnesses were in Tombodu, and both witnesses had their hands amputated. Further both testified that Staff Alhaji was present and that 53 captured civilians were burnt in a house on Staff Alhaji's order. The Trial Chamber is satisfied that the discrepancies in the witnesses' testimonies can be reasonably accounted for by the passage of time and the physical and emotional trauma suffered by both witnesses.

1216. Samuel Komba testified that after March 1998, he was captured by "fighters" while he was in the bush and forced to carry luggage to Tombodu.<sup>2987</sup> When Komba arrived in Tombodu, he and thirteen other captured persons were forced to lie on the ground.<sup>2988</sup> Fighters commanded by Savage, a member of the AFRC, put a mattress on top of the

<sup>2983</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8063-8065.

<sup>2984</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7994-7998.

<sup>2985</sup> See Factual and Legal Findings on Alleged Crimes: Count 2 and 3 (Unlawful Killings); Third Massacre of over 53 civilians in Tombodu in April 1998 *supra*.

<sup>2986</sup> Mustafa Mansaray, Transcript 30 October 2008, pp. 19602-19606; Ibrahim Fofana, Transcript 28 October 2008, pp. 19341-19342.

<sup>2987</sup> Exhibit P-189, "Samuel Komba, AFRC Transcript 1 July 2005", pp.18440-18444.

persons and lit the mattress on fire.<sup>2989</sup> Komba was able to free himself and kick the mattress away.<sup>2990</sup> As a consequence, Savage ordered that Komba's right hand be cut off with a cutlass.<sup>2991</sup> The attempted amputation failed, leaving the witness's fingers mangled.<sup>2992</sup> The Trial Chamber finds that Savage attempted to amputate the hand of Samuel Komba.

### Findings

1217. Based on Alimamy Bobson Sesay's evidence of the amputation of the arms of an unknown number of people at Yomandu Guinea Highway Superman area and Dabunde Street, the 15 amputations in Tombodu, the amputation of the arms of Mustapha Mansaray and Ibrahim Fofana and four other people, and the attempted amputation and injury to Samuel Komba, the Trial Chamber finds beyond reasonable doubt that in the time period of March to June 1998 the AFRC and RUF fighters caused serious physical suffering and injury to the victims. Given that the amputations were carried out by the AFRC and RUF fighters as a punishment, and that the perpetrators evinced an obvious intention to inflict suffering and injury, the Trial Chamber is satisfied that they intended the serious injury and suffering to occur. The Trial Chamber is further satisfied on the evidence that the victims were civilians and finds beyond reasonable doubt that they were not taking part in hostilities at the time of the amputations

### (b) Kayima

1218. The Prosecution submits that around May 1998, civilian men, women and children were marked with the letters "RUF" and/or "AFRC" by mixed forces under the command of Komba Gbundema in Kayima.<sup>2993</sup> The Trial Chamber has considered the evidence of TF1-375 and Sorie Kondeh.

### Evidence

1219. Witness TF1-375 testified that, immediately after the Fitti-Fatta Operation in mid-1998, he arrived in Wordu to meet RUF Commander Komba Gbundema, who had a number

<sup>2988</sup> Exhibit P-189, "Samuel Komba, AFRC Transcript 1 July 2005", p. 18447.

<sup>2989</sup> Exhibit P-189, "Samuel Komba, AFRC Transcript 1 July 2005", pp. 18449-18450.

<sup>2990</sup> Exhibit P-189, "Samuel Komba, AFRC Transcript 1 July 2005", pp. 18450-18451.

<sup>2991</sup> Exhibit P-189, "Samuel Komba, AFRC Transcript 1 July 2005", p. 18452.

<sup>2992</sup> Exhibit P-189, "Samuel Komba, AFRC Transcript 1 July 2005", pp. 18452-18453.

<sup>2993</sup> Prosecution Final Trial Brief, paras 972-973.

of captured civilians with him.<sup>2994</sup> The RUF fighters used razor blades or sharp knives to carve the letters “RUF” onto the chests of the captured civilians, some of whom were children aged five and older who had been abducted from Kayima and Wordu.<sup>2995</sup> Gbundema also had adult and child civilian captives, on whom the RUF fighters carved the letters “RUF” with knives and razors.<sup>2996</sup> TF1-375 testified that fighters carved the letters “RUF” on to the bodies of all of their victims and that males, females, adults, and children were targeted indiscriminately.<sup>2997</sup> The witness did not explain the purpose of these markings. TF1-375 testified that these markings “started taking place in Kayima on to Wordu”.<sup>2998</sup>

1220. Sorie Kondeh was captured in Bayawandu in May 1998.<sup>2999</sup> Kondeh was taken to Kayima, where the commander in charge was Komba Gbundema.<sup>3000</sup> Once there, he and seventeen others were lined up.<sup>3001</sup> An AFRC fighter named Bangali carved the letters “RUF” and “AFRC” into the chest of the witness with a surgical blade.<sup>3002</sup> The others were marked with “RUF” or “AFRC”.<sup>3003</sup> The witness had visible scars of the letters “RUF” and “AFRC” on his upper chest.<sup>3004</sup>

### Findings

1221. Based on TF1-375’s evidence the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that immediately after the Fitti-Fatta Operation in mid-1998 an unknown number of people “starting at Kayima” were mutilated by the carving of RUF on their chests by RUF Commander Komba Gbundema. The Trial Chamber finds

<sup>2994</sup> TF1-375, Transcript 23 June 2008, pp. 12543-12546.

<sup>2995</sup> TF1-375, Transcript 23 June 2008, pp. 12543-12546.

<sup>2996</sup> TF1-375, Transcript 23 June 2008, pp. 12544-12546.

<sup>2997</sup> TF1-375, Transcript 23 June 2008, pp. 12543-12546.

<sup>2998</sup> TF1-375, Transcript 23 June 2008, p. 12545.

<sup>2999</sup> Sorie Kondeh, Transcript 13 October 2008, pp. 18198, 18203-18208; Exhibit P-191, “Sorie Kondeh, AFRC Transcript 5 July 2005”, pp. 12-13. The witness’s written statement indicates that he was captured on 7 May 1998. See, Exhibit P-191, “Sorie Kondeh, AFRC Transcript 5 July 2005”, pp. 35-36.

<sup>3000</sup> Exhibit P-191, “Sorie Kondeh, AFRC Transcript 5 July 2005”, pp. 13-14; Exhibit P-190, “Sorie Kondeh, RUF Transcript 12 July 2004”, pp. 10-11.

<sup>3001</sup> Exhibit P-191, “Sorie Kondeh, AFRC Transcript 5 July 2005”, p. 14; Exhibit P-190, “Sorie Kondeh, RUF Transcript 12 July 2004”, pp. 12-13.

<sup>3002</sup> Exhibit P-191, “Sorie Kondeh, AFRC Transcript 5 July 2005”, pp. 16-17; Exhibit P-190, “Sorie Kondeh, RUF Transcript 12 July 2004”, p. 11-13.

<sup>3003</sup> Exhibit P-191, “Sorie Kondeh, AFRC Transcript 5 July 2005”, p. 17; Exhibit P-190, “Sorie Kondeh, RUF Transcript 12 July 2004”, p. 13.

<sup>3004</sup> Exhibit P-192, “Photograph of Witness TF1-074”.

beyond reasonable doubt that Commander Gbudema caused, and intended to cause, serious physical suffering and injury to the victims.

1222. Based on the evidence of Sorie Kondeh, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in May 1998 18 persons were carved with the letters “RUF” and/or “AFRC” by AFRC fighters in Kayima, and that in doing so the AFRC fighters caused, and intended to cause, serious physical suffering and injury to the victims.

1223. As the victims were captured civilians, the Trial Chamber is satisfied beyond reasonable doubt that the victims were not taking part in hostilities at the time of the amputations

(c) Wonedu

1224. The Prosecution submits that captured civilians were marked with the letters “RUF” and “AFRC” in Wonedu.<sup>3005</sup> The Trial Chamber has considered the evidence of Alex Tamba Teh in relation to the allegations.

Evidence

1225. Alex Tamba Teh, whose evidence was discussed above in relation to unlawful killings in Koidu Town,<sup>3006</sup> testified that at some time between April and November 1998,<sup>3007</sup> while he was being held captive by Rocky, an RUF commander, he saw rebels under Rocky’s command use sharp objects to carve “RUF” and “AFRC” onto the bodies of an unknown number of captured civilian persons.<sup>3008</sup> Teh stated that the rebels “said the people shouldn’t escape and go to ECOMOG. In fact they shouldn’t escape and go, so with that carving if you go to the side of the ECOMOG they will kill you, so you never had anywhere else to go”.<sup>3009</sup>

1226. The Trial Chamber is satisfied that Teh’s first-hand evidence is reliable as to these incidents. While Teh did not indicate the number of persons whom he saw being marked

<sup>3005</sup> Prosecution Final Trial Brief, para. 974.

<sup>3006</sup> See Factual and Legal Findings on Alleged Crimes: Count 2 and 3 (Unlawful Killings); Killing of civilians in and around Koidu Town between April and May 1998 *supra*.

<sup>3007</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 683-684, 686, 736.

<sup>3008</sup> Alex Tamba Teh, Transcript 8 January 2008, p. 706-707.

<sup>3009</sup> Alex Tamba Teh, Transcript 8 January 2008, p. 707.

with the letters “RUF” and “AFRC”, the Trial Chamber finds that an unknown number of civilians who were captured were mutilated in this manner.

1227. Teh also testified that some time between April and November 1998, AFRC commander Banya put a flat stick in Teh’s mouth and used the butt of his gun to knock out his teeth.<sup>3010</sup> Teh stated that Banya did this because Teh was alleged to have advised some captured civilians to hide in the bush so that they could rest.<sup>3011</sup> Banya told him, “[y]ou are a very lucky man that I have been told not to kill you, but I will give you something, I will do something to you that will remain with you everlasting”.<sup>3012</sup>

### Findings

1228. The Trial Chamber is satisfied beyond reasonable doubt that, by the act of carving the letters “RUF” and “AFRC” into the bodies of an unknown number of their captive civilians some time between April and November 1998, RUF and AFRC fighters caused, and intended to cause, serious physical injury and suffering upon their victims..

1229. The Trial Chamber is also satisfied beyond reasonable doubt that by knocking out teeth of Teh, a captive civilian, as punishment some time between April and November 1998, AFRC Commander Banya caused, and intended to cause, serious physical injury and suffering to Teh.

1230. Further, as the victims were captured civilians, the Trial Chamber is satisfied beyond reasonable doubt that the victims were not taking part in hostilities at the time of the mutilations.

### Conclusion

1231. In conclusion, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between about 1 February 1998 and about 31 December 1998, in various locations in Kono District, including Tombudo, Kayima, and Wonedu, members of the AFRC and RUF committed acts of cruel treatment and other inhumane acts against an

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<sup>3010</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 711-712.

<sup>3011</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 708-709.

<sup>3012</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 711, 736.



unknown number of civilians ,as charged in the Indictment,<sup>3013</sup> and as shown in the evidence above.

1232. The Trial Chamber recalls that the Prosecution has established beyond reasonable doubt that at all times relevant to the Indictment, the RUF and/or AFRC forces directed a widespread or systematic attack against the civilian population of Sierra Leone<sup>3014</sup> The Trial Chamber is satisfied that each of the acts of physical violence proved by the Prosecution in respect of Kono District formed part of the said attack and that the perpetrators were aware of this fact. The Trial Chamber also recalls that the Prosecution has proved beyond reasonable doubt that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving among others, members of the RUF, AFRC and CDF.<sup>3015</sup> The Trial Chamber is satisfied that for all of the aforementioned acts of physical violence in Kono District there was a nexus between the acts of physical violence and the armed conflict, that each of the victims was not taking an active part in the hostilities at the time of physical violence, and that the perpetrators knew this fact. Therefore, the Trial Chamber is satisfied that the aforementioned acts of physical violence in Kono District constitute other inhumane acts as a crime against humanity under Article 2 of the Statute, and cruel treatment as a war crime under Article 3 of the Statute.

## 2. Kailahun District (30 November 1996 to 18 January 2002)

1233. The Indictment alleges that between about 30 November 1996 and about 18 January 2002, members of the RUF, AFRC, AFRC/RUF junta or alliance, and/or Liberian fighters beat an unknown number of civilians in locations throughout Kailahun District.<sup>3016</sup>

1234. No locations were pleaded in the Indictment for Counts 7 and 8 in relation to Kailahun District. As previously indicated, the Trial Chamber finds that while evidence may support proof of existence of crimes relating to physical violence on a widespread or systematic basis, no finding of guilt for those crimes may be made in respect of locations not pleaded in the Indictment.<sup>3017</sup>

<sup>3013</sup> Indictment, para. 19.

<sup>3014</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.

<sup>3015</sup> See Law and Findings on the General Requirements: Article 3: War Crimes, para. 573 *supra*.

<sup>3016</sup> Indictment, para. 19.

<sup>3017</sup> See Preliminary Issues: Issues Related to the Pleading of the Indictment *supra*.

1235. The Trial Chamber will, therefore, only consider testimonies regarding Kailahun District in relation to the chapeau requirements. For that purpose, the Trial Chamber has considered the testimonies of TF1-362, TF1-189, Komba Sumana, TF1-026, Aruna Gbonda, Augustine Mallah, Dennis Koker and Mustapha M. Mansaray.

(a) Bunumbu

1236. The Prosecution submits that hundreds of captured civilians, who were trained at Camp Lion training base at Bunumbu, were subjected to physical violence during their training.<sup>3018</sup>

1237. The Trial Chamber has considered the evidence of TF1-362, TF1-189 and Komba Sumana, and Exhibits P-088 and D-013.

(i) Beating of Recruits at Bunumbu Training Base

Evidence

1238. TF1-362 testified that the Bunumbu training base, also called "Camp Lion", was established after the ECOMOG Intervention,<sup>3019</sup> and operated until the end of 1998/1999.<sup>3020</sup>

1239. Exhibit P-088, a document dated 24 September 1998, lists roles for instructors and staff.

1240. Confidential Exhibit D-013, a document dated 21 May 1998, states that on that date there were 603 total recruits at Camp Lion Training base in Bunumbu.<sup>3021</sup>

1241. TF1-362 testified that captured civilians, trained at Camp Lion training base in Bunumbu, were required to undergo halaba/halaka training. This training was intended to train recruits to dodge bullets. It took place in a round area surrounded by bricks; the instructors stood around the circle holding canes. The recruits would enter the circle and would then have to dodge being beaten by the canes. Halaka training would sometimes last

<sup>3018</sup> Prosecution Final Trial Brief, paras 979-981.

<sup>3019</sup> TF1-362, Transcript 27 February 2008, pp. 4866-4868, 4895-4899 (CS).

<sup>3020</sup> TF1-362, Transcript 27 February 2008, pp. 4916-4917 (CS).

<sup>3021</sup> Exhibit D-013 (confidential), ERN 0007795.

1-1/2 to 2 hours, and recruits went through these exercises 2-3 times a week. Many incurred injuries or died, especially the SBUs, SGUs, and the elderly.<sup>3022</sup>

1242. TF1-362 also testified that the practice of physically disciplining recruits at the Bunumbu training base was well known to the RUF High Command. Instructions to beat, kill or mark recruits were passed from the high command to Pearson to Cooper, and then carried out.<sup>3023</sup> In addition, the number of recruits who died on the base during training was regularly reported to the second in command, Issa Sesay.<sup>3024</sup>

1243. TF1-362 described how Monica Pearson flogged and cut the hair of a recruit who fell in love with Pearson's lover. Following this incident, Pearson was punished by Issa Sesay; she was flogged, dismissed and placed in a water dungeon. When Bockarie arrived, he was notified about the incident and promoted Pearson to the rank of full colonel.<sup>3025</sup>

1244. TF1-189 testified that she heard that recruits at the training base at which C.O. Monica was the commander in 1999 were flogged by C.O. Monica if they were not able to run long distances or refused to do so.<sup>3026</sup>

1245. Komba Sumana testified that he was trained at the training base in the bush outside of Buedu during the rainy season for two months where he was under an instructor named "Monica". The recruits at the training base in Kailahun were not treated well and were beaten with a cane. He showed the Court scars on his legs which he stated were a result of these beatings.<sup>3027</sup> The Trial Chamber is therefore satisfied that Sumana's military training ended in approximately July or August 1998.

(ii) Attacks against civilians in Bunumbu Surrounding Area

<sup>3022</sup> TF1-362, Transcript 27 February 2008, pp. 4842-4845, 4903, 4906 (CS).

<sup>3023</sup> TF1-362, Transcript 3 March 2008, pp. 5015-5019 (CS).

<sup>3024</sup> TF1-362, Transcript 27 February 2008, pp. 4905-4906 (CS); TF1-362, Transcript 28 February 2008, pp. 4922-4923 (CS).

<sup>3025</sup> TF1-362 Transcript 27 February 2008, pp. 4912-4915 (CS); TF1-362, Transcript 28 February 2008, pp. 4996-5005.

<sup>3026</sup> TF1-189, Transcript 18 September 2008, pp. 16537-16539; TF1-189, Transcript 18 September 2008, pp. 16548-49 (PS).

<sup>3027</sup> Komba Sumana, Transcript 6 October 2008, pp. 17928-17935.

1246. The Prosecution submits that the recruits at Bunumbu training base were taught to commit acts of physical violence against others.<sup>3028</sup>

1247. The Trial Chamber has considered the evidence of TF1-362 and Komba Sumana.

#### Evidence

1248. TF1-362 testified that recruits participating in “food finding missions” went to civilian houses to take food. The instructors and “base security” would carry arms while the recruits carried knives and sticks. If civilians resisted, the recruits and soldiers would beat the civilians or kill them and take the food by force.<sup>3029</sup>

1249. TF1-362 also described a method of training used at the base in which recruits were trained how to attack a city. During this training, villages near the base were alerted in advance that at a certain time they should not come outside. Then, at 5.00am in the morning, recruits and trainers would surround the village, lie in an ambush, and attack while the civilians slept, entering their houses, tying them up, beating them with sticks, and taking their properties.<sup>3030</sup>

1250. Komba Sumana testified that he and other recruits at the training base in Kailahun District, where Monica was a trainer, were taught how to attack a town and burn houses.<sup>3031</sup>

#### (iii) Marking “RUF” Letters on Recruits at Bunumbu Training Base

1251. The Prosecution submits that RUF recruits in Kailahun District were marked to prevent escape.<sup>3032</sup>

1252. The Trial Chamber has considered the evidence of TF1-362, TF1-026 and TF1-189.

#### Evidence

1253. TF1-362 testified that recruits who tried to escape from Bunumbu training camp were marked with the letters “RUF” on their foreheads and chests by the instructors. These

<sup>3028</sup> Prosecution Final Trial Brief, para. 982.

<sup>3029</sup> TF1-362, Transcript 27 February 2008, pp. 4903-4905 (CS).

<sup>3030</sup> TF1-362, Transcript 27 February 2008, pp. 4901-4903 (CS).

<sup>3031</sup> Komba Sumana, Transcript 6 October 2008, pp. 17928-17931.

<sup>3032</sup> Prosecution Final Trial Brief, para 983.

markings were done publicly during formation so that the recruits' colleagues would see and be afraid.<sup>3033</sup>

1254. TF1-026 described how two girl recruits who were caught attempting to escape from the training base in Buedu were publicly shot and killed by Bockarie in order to deter other recruits from escaping. Bockarie then passed an order to mark the remaining 17 girls recruits with the letters "RUF" so that if they ran away and were caught they would be killed. The letters "RUF" were carved on TF1-026's chest with a knife. The other 16 recruits were carved as well.<sup>3034</sup> The Trial Chamber has found that TF1-026 was trained at Bunumbu training camp in Kailahun District from approximately February or March 1999 through approximately November or December 1999.<sup>3035</sup>

1255. TF1-189 testified that after she heard about the attack on Freetown on 6 January 1999, the rebels sent 20 captives, aged 12 to 18, both male and female, away from Mamboma village in Kailahun. The witness learned later on that they were sent to the training base in Kailahun on the route to Buedu, where C.O. Monica was in charge.<sup>3036</sup> She heard from her cousin that those recruits were carved with a razor blade for protection from gunshots and to classify them as part of the RUF. Males were carved on their backs with the letters "RUF" while females were carved differently on their backs and arms.<sup>3037</sup>

(b) Violence towards Civilians who Resist Crimes Committed Against Them

1256. The Prosecution submits that civilians who were defiant or failed to comply with the forces' orders during the commission of crimes against them were beaten because of their resistance.<sup>3038</sup>

1257. The Trial Chamber has considered the evidence of Aruna Gbonda, Augustine Mallah, Dennis Koker and Mustapha M. Mansaray.

Evidence

<sup>3033</sup> TF1-362, Transcript 28 February 2008, pp. 4926-4928 (CS).

<sup>3034</sup> TF1-026, Transcript 14 February 2008, pp. 3867, 3870-3874.

<sup>3035</sup> See Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers) *infra*.

<sup>3036</sup> TF1-189, Transcript 18 September 2008, pp. 16534-16539.

<sup>3037</sup> TF1-189, Transcript 18 September 2008, pp. 16548-16551 (PS).

<sup>3038</sup> Prosecution Final Trial Brief, paras 984-985.

1258. Aruna Gbonda, a rice farmer and Deputy Chiefdom Commander, testified that he and other civilians at Talia were forced to farm rice for the RUF between 1996 and 2000. The civilians would give the RUF personnel the rice and were not paid. Those who were reluctant or delayed in doing so were beaten. Gbonda himself was beaten repeatedly by a person named Tom Sandi after bringing only 40-50 persons instead of 300 persons to clear a swamp in Gbaiama<sup>3039</sup>

1259. Aruna Gbonda also described the violent treatment given to female civilians who were forced to fish for the RUF. The witness saw a beating of a woman twice for delaying collecting women to fish at Keyah River in Luawa Chiefdom, Kailahun, in March "1997", 1998".<sup>3040</sup>

1260. Augustine Mallah testified that civilians were flogged by RUF/AFRC forces in Buedu shortly after the ECOMOG Intervention in February 1998. Mallah testified that after the Intervention, the AFRC and RUF forces captured civilians mostly from Kenema and brought them to Buedu where they joined other civilians. The civilians performed domestic duties for the commanders and cultivated fields during the farming season. Civilians who refused to do those assignments and were not sick or very old were flogged until they were willing. Mallah personally witnessed civilians being beaten for refusing to work. He testified that flogging those who were defiant was needed in order to set an example for the other civilians.<sup>3041</sup>

1261. Dennis Koker, an adjutant at the Military Police office in Buedu from approximately March 1998 until approximately December 1999, testified that Victor Kallon from the RUF brought a girl, who was already stripped to her underpants to the police station. She subsequently told Koker that she had been beaten with 50 lashes. Kallon ordered that she be detained because, he said, she had "overlooked" him. The witness then spoke to the girl who told him that Kallon had kidnapped her from Kono and that he started beating her after she refused to have sex with him.<sup>3042</sup>

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<sup>3039</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4251-4255.

<sup>3040</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4265-4268.

<sup>3041</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20171-20172, 20204-20206.

<sup>3042</sup> Dennis Koker, Transcript 15 January 2008, pp. 1260-1261, 1273-1276.

1262. Mustapha Mansaray, a member of the Internal Defence Unit (IDU) in Buedu from December 1996 until March/April 1997, testified that upon Sam Bockarie's and Issa Sesay's order, the RUF would order civilians to hand over to the RUF coffee, cocoa and Kola nuts. When civilians from villages in the surrounding areas of Buedu and Kailahun Town refused to do so, Bockarie's and Sesay's bodyguards would flog them and take the products forcefully. This conduct was reported to the District IDU, Francis Musa, but no action was taken thereafter.<sup>3043</sup>

### Findings

1263. The Trial Chamber finds the witnesses who testified to the foregoing incidents to be credible and their evidence supports proof of existence of crimes relating to physical violence on a widespread or systematic basis. The Trial Chamber will, therefore, only consider the foregoing evidence regarding Kailahun District in relation to the *chapeau* requirements.

### 3. Freetown and the Western Area (21 December 1998 to 28 February 1999)

1264. The Indictment alleges that, "between about 21 December 1998 and 28 February 1999, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters" mutilated and beat an unknown number of civilians. The Prosecution alleges that these acts were perpetrated in "various areas of Freetown, including the northern and eastern areas of the city, the Kissy area around the State House, Fourah Bay, Upgun and the Kissy Mental Hospital, and Hastings, Wellington, Tumbo, Waterloo, and Benguema in the Western Area". The alleged mutilations included cutting off limbs.<sup>3044</sup>

1265. The Trial Chamber has taken into consideration the evidence of witnesses TF1-358, Abu Bakarr Mansaray, TF1-104, Alimamy Bobson Sesay, TF1-026, Osman Jalloh, TF1-029, Paul Nabieu Conteh, Akiatu Tholley, TF1-143, James Kpungbu, Ibrahim Wai, Alusine Conteh, Mohammed Sampson Bah, TF1-083, Mohamed Sesay, Corinne Dufka, TF1-028, Alpha Jalloh, TF1-150 and Sarah Koroma, in addition to relevant documentary evidence.

<sup>3043</sup> Mustapha Mansaray, Transcript 4 March 2008, p. 5230; Mustapha Mansaray, Transcript 4 March 2008, pp. 5273-5274; Transcript 5 March 2008, pp. 5289-5294.

<sup>3044</sup> Indictment, paras 18, 21.

(a) Freetown, including the northern and eastern areas of the city

1266. The Trial Chamber has considered the evidence of TF1-358, Abu Bakarr Mansaray and TF1-104, as well as Exhibits P-227, P-249, P-250, P-251 and Confidential Exhibits P-077 and P-232.

Evidence

1267. Witness TF1-358 was a medical doctor who ran a medical facility in Freetown.<sup>3045</sup> He testified that on 8 January 1999, he arrived at his hospital to find it overwhelmed with patients who were brought in on ECOMOG vehicles, in push carts and carried on people's backs.<sup>3046</sup> The witness was informed by ECOMOG as they brought victims to the hospital's triage point that these patients were arriving from Freetown and "its immediate environs", and later patients arrived from Kissy, Wellington and "the outskirts of Freetown".<sup>3047</sup> The witness testified that "90 of the patients were suffering from some form of war injury"<sup>3048</sup> The witness testified that he saw a few "fresh amputations"<sup>3049</sup> and one case of a patient who suffered a failed amputation of his two hands.<sup>3050</sup> This flood of patients continued for two to three weeks, after which the main government hospital started to take cases.<sup>3051</sup>

1268. During this period, TF1-358 treated two brothers who had each had one hand amputated by rebels in "the east end of town" while their parents watched.<sup>3052</sup> TF1-358 testified that the father of the boys told the witness that he was not able to intervene while his sons were being amputated because he knew that others had been killed for intervening.<sup>3053</sup>

1269. TF1-358 also testified that the hospital had seen patients with tongue and eyeball amputations, but not many.<sup>3054</sup> TF1-358 testified that a young male patient told him that he

<sup>3045</sup> TF1-358, Transcript 19 November 2008, p. 20582.

<sup>3046</sup> TF1-358, Transcript 19 November 2008, pp. 20633, 20636. The Trial Chamber takes note of Exhibit P-251, a photograph depicting an elderly woman being conveyed in a pushcart. Exhibit P-251, "Photograph – 00034497, January 1999"; TF1-358, Transcript 20 November 2008, pp. 20727-20728.

<sup>3047</sup> TF1-358, Transcript 19 November 2008, pp. 20638-20639.

<sup>3048</sup> TF1-358, Transcript 19 November 2008, p. 20637.

<sup>3049</sup> TF1-358, Transcript 19 November 2008, p. 20637.

<sup>3050</sup> TF1-358, Transcript 19 November 2008, p. 20639.

<sup>3051</sup> TF1-358, Transcript 19 November 2008, p. 20640.

<sup>3052</sup> TF1-358, Transcript 19 November 2008, p. 20643.

<sup>3053</sup> TF1-358, Transcript 19 November 2008, p. 20643.

<sup>3054</sup> TF1-358, Transcript 19 November 2008, p. 20647. The Trial Chamber has also considered Exhibit P-227.



had been amputated by rebels entering Freetown in January 1999. The patient had both his right and left hands amputated. His assailants then cut off his tongue to prevent him from telling others who had committed these acts against him. The patient pleaded with his assailants to kill him because he would be useless in that physical condition. The rebels then slashed the patient's right temple with a blunt instrument. The patient lost consciousness and was taken for dead.<sup>3055</sup> The Trial Chamber has also considered Confidential Exhibit P-232, which depicts the bilateral amputee patient with TF1-358 at the entrance of the hospital.<sup>3056</sup>

1270. TF1-358 treated a young nursing mother whose eyes had been pulled out in January but were still protruding from the sockets in January 1999. The incident occurred about seven to ten days before she was brought in for treatment, so they were badly infected. The patient stated that she had been gang raped by at least seven armed rebels while she was searching for food around King Harmon Road in central Freetown. They took out her eyes because if she could not see, she would be unable to identify them later.<sup>3057</sup> TF1-358 had to surgically remove both eyes. The victim was badly traumatised and became mentally unstable. The Trial Chamber has also considered Exhibits P-249 and P-250, which depict the patient and the injury to her eyes.<sup>3058</sup>

1271. Abu Bakarr Mansaray,<sup>3059</sup> a mechanical engineer living in Freetown in January 1999,<sup>3060</sup> testified that he was abducted by three "rebel boys" dressed in ECOMOG uniforms on 8 January 1999<sup>3061</sup> when he was living on Waterloo Street in Freetown. By the term

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TF1-358 testified that he took this photograph in January 1999 in a cow shed outside the hospital. The third patient with bandages wrapped around his head had both eyes removed. Exhibit P-227, "Photograph 0004444, January 1999"; TF1-358, Transcript 19 November 2008, pp. 20673-20674.

<sup>3055</sup> TF1-358, Transcript 19 November 2008, pp. 20647-20648.

<sup>3056</sup> Exhibit P-232 (confidential); TF1-358, Transcript 20 November 2008, pp. 20687-20688.

<sup>3057</sup> TF1-358, Transcript 19 November 2008, p. 20648-20649; Transcript 20 November 2008, pp. 20724-20726.

<sup>3058</sup> Exhibit P-249, "Photograph – 00034494, January 1999; Exhibit P-250, "Photograph – 00034495, January 1999".

<sup>3059</sup> Abu Bakarr Mansaray gave evidence concerning physical violence at State House in the AFRC trial, which was admitted as prior testimony under Rule 92*bis*. He was also cross-examined by the Defence concerning the Rule 92*bis* evidence in this trial.

<sup>3060</sup> Abu Bakarr Mansaray, Transcript 29 October 2008, p. 19518; Exhibit P-222, "TF1-024, AFRC Transcript, 7 March 2005", p. 20427.

<sup>3061</sup> Exhibit P-222, "TF1-024, AFRC Transcript, 7 March 2005", pp. 43/20427, 62-63/20446-20447; Abu Bakarr Mansaray, Transcript 29 October 2008, p. 19543. During examination-in-chief, the witness testified that he was captured in 1998, but later corrected himself to state that it was 1999 on cross-examination. The Trial Chamber is satisfied that the context of events places them in 1999 and considers that the witness' trauma and anxiety may have caused him to misstate the year.

“rebel”, he testified that he meant a mixed group of rebels and soldiers.<sup>3062</sup> The three rebels were armed with AK-47 rifles and spoke Liberian English.<sup>3063</sup> The rebels asked the witness to join them because they had lost men.<sup>3064</sup> Mansaray refused, so he was forcibly taken to State House, where Gullit was in command.<sup>3065</sup> The witness was beaten and then locked in the kitchen for four days without food and water with 50 other captives.<sup>3066</sup> On cross-examination, Mansaray testified that he sustained bruises from the beating.<sup>3067</sup>

### Findings

1272. TF1-358 was a medical doctor who saw the actual injuries sustained by people coming to his hospital. He produced photographs he took of these patients and their injuries. These included amputations and the patient whose eyes had to be removed. The Trial Chamber finds his account to be detailed and credible. Given that these injuries were sustained at the time rebels were in Freetown, and TF1-358's unchallenged evidence that 90% of injuries were war related together with Exhibits P-249, P-250, and Confidential Exhibit P-232, the Trial Chamber finds that it has been proved beyond reasonable doubt that the rebels caused serious physical suffering and injury to the amputation and mutilation victims. The Trial Chamber is also satisfied beyond reasonable doubt, based on Mansaray's first-hand evidence, that by beating Abu Bakarr Mansaray, the rebels caused serious physical suffering and injury to him. Given the witness's description of the perpetrators the Trial Chamber finds that the “rebels” were members of the AFRC/RUF who were invading Freetown in January 1999.

1273. The Trial Chamber also finds that, given the nature of these acts and the degree of the harm suffered by the patients of TF1-358 and by Mansaray, and given that the perpetrators evinced an obvious intention to cause serious physical injury and suffering upon their victims, that the members of the AFRC/RUF intended to cause the serious physical injury and suffering. The Trial Chamber is satisfied, on TF1-385's description of the mutilated persons who he treated that the victims were civilians and, further, that Mansaray

<sup>3062</sup> Exhibit P-222, “TF1-024, AFRC Transcript, 7 March 2005”, p. 20476.

<sup>3063</sup> On cross-examination he admitted that he had previously testified that the rebels carried G3s. He further testified that he cannot recall what weapons they carried, but that his memory was “fresher” when he testified in the AFRC trial.<sup>3063</sup>

<sup>3064</sup> Exhibit P-222, “TF1-024, AFRC Transcript, 7 March 2005”, pp. 20427-20428.

<sup>3065</sup> Exhibit P-222, “TF1-024, AFRC Transcript, 7 March 2005”, pp. 20428-20430.

<sup>3066</sup> Exhibit P-222, “TF1-024, AFRC Transcript, 7 March 2005”, pp. 20428, 20432-20433.

was a captured civilian and that none of these persons were taking part in hostilities at the time of the amputations, mutilations and beatings.

(b) Kissy

(i) Beating of civilians outside Good Shepherd Hospital in Kissy

Evidence

1274. TF1-104<sup>3068</sup> was a nurse at the Good Shepherd Hospital in the Kissy District of Freetown in January 1999.<sup>3069</sup> He testified that when he went to work at 6.00am on the morning of 6 January 1999, there were five people waiting for treatment.<sup>3070</sup> The witness treated a Nigerian businessman named Ike, who had a very serious wound on his right wrist and an amputated ear. He reported that he had been shot by “these junta guys” when he attempted to escape.<sup>3071</sup> The witness also saw three other patients who had been shot by “RUF” or “juntas.”<sup>3072</sup>

1275. As found in the preceding findings in Unlawful Killings,<sup>3073</sup> Junta and RUF fighters came into the hospital accusing the staff of treating ECOMOG and Kamajors, forced 200 patients outside, beat them and took them and others to Pa Zubay’s house where 15 people were shot dead and others were wounded including the witness who was shot in the right arm, knee and right thigh.<sup>3074</sup> They also took the Nigerian, Ike, “out” and later shot him.<sup>3075</sup>

1276. The wounded people were taken to the hospital where four wounded civilians, including the witness, were treated. The witness was unable to count the number of people

<sup>3067</sup> Abu Bakarr Mansaray, Transcript 29 October 2008, pp. 19551-19553.

<sup>3068</sup> Samuel John gave evidence concerning physical violence in Wellington in the AFRC trial, which was admitted as prior testimony under Rule 92*bis*. Samuel John, Transcript 23 October 2008, p. 19148. He was cross-examined by the Defence concerning the Rule 92*bis* evidence in this trial.

<sup>3069</sup> Exhibit P-212B (confidential), p. 20717.

<sup>3070</sup> Exhibit P-212B (confidential), p. 20721.

<sup>3071</sup> Exhibit P-212B (confidential), p. 20721.

<sup>3072</sup> Exhibit P-212B (confidential), p. 20721-20723.

<sup>3073</sup> See Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Unlawful killing of civilians in Kissy area around January 1999, Findings *supra*.

<sup>3074</sup> Exhibit P-212B (confidential), pp. 20739-20740.

<sup>3075</sup> Exhibit P-212B (confidential), p. 20736.

injured during this incident, but he testified that there were more than the four being treated in his unit.<sup>3076</sup>

### Findings

1277. Although TF1-104 saw and treated the injuries of the patients brought to Good Shepherd Hospital on the morning of 6 January 1999, how the injuries were sustained emanated from the statements of the patients and is hearsay. The witness's evidence of the beating of approximately 200 people, including staff and patients not taking part in hostilities is direct evidence of beatings and the Trial Chamber finds it credible. However, as indicated previously, as the Indictment particularizes only mutilation and beating, the Trial Chamber has not considered evidence of gunshot wounds in relation to Counts 7 and 8.<sup>3077</sup> The Trial Chamber accepts TF1-104's evidence that a Nigerian man named Ike had his ear amputated by the "Junta" and that Ike was a businessman. Given that Ike was brought to a hospital in Kissy, the Trial Chamber considers it can safely infer this amputation occurred in a location in Kissy and finds accordingly. The Trial Chamber finds that Ike was amputated by Junta/RUF and that this caused serious physical injury and suffering. Given that the beatings were carried out as punishment for allegedly treating ECOMOG soldiers and Kamajors at the hospital, the Trial Chamber finds that the perpetrators intended to cause the serious physical injury and suffering. Further, as the victims were injured and/or civilians at the time of the beatings, the Trial Chamber is satisfied beyond reasonable doubt that they were not taking direct part in hostilities at the time of the attack. The witness described the group of men as a mix of "juntas" and the RUF, and in cross-examination he testified he knew some of perpetrators as RUF members and identified others by their dress. The Trial Chamber finds that it has been proved beyond reasonable doubt that the perpetrators were members of the RUF and the AFRC.

#### (ii) Amputations of two men's hands in Kissy Market

### Evidence

1278. TF1-143, an RUF child soldier, testified that after joining Adama Cut Hand during the Freetown invasion, while on patrol in Kissy Market, he and another of "Adama Cut

<sup>3076</sup> Exhibit P-212B (confidential), p. 20740.

<sup>3077</sup> See Preliminary Issues: Issues Relating to the Pleading in the Indictment *supra*.

Hand's boys<sup>3078</sup> approached a shop and knocked on the door. The two men inside did not open the door, so TF1-143 and his companion forced the door open and entered. After entering the shop, the other "boy" suggested that they should amputate the men's hands because they refused to open the door. The witness then used a machete to amputate one hand from each of the two civilian men inside the shop.<sup>3079</sup>

### Findings

1279. Based on the context, the Trial Chamber is satisfied that these amputations occurred in January 1999, and, as TF1-143 and his companion were members of the RUF and the AFRC respectively, that the amputations were perpetrated by members of the RUF /AFRC. The Trial Chamber find beyond reasonable doubt that these AFRC/RUF fighters caused, and intended to cause, serious physical injury and suffering to the amputation victims. Further, as the victims were shopkeepers taking refuge in their shop, the Trial Chamber is satisfied that they were civilians who were not taking a direct part in hostilities.

#### (iii) Amputations of James Kpumgbu and others near Kissy Mental Hospital

### Evidence

1280. James Kpumgbu testified that he lived in Kissy near the mental hospital when the rebels came to the area on 6 January 1999<sup>3080</sup> and that on that day, he was on Thompson Street on his way to the Kissy Mental Home with his child, sister and others in search of his parents. He passed by his house and saw that it had been burnt down and was told that the rebels had burned it.<sup>3081</sup> As he approached the door of the mental home four rebels, all dressed in black t-shirts, jeans, boots and some with headbands, called them.<sup>3082</sup> The rebels,

<sup>3078</sup> See Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers); Findings on victim witnesses in Freetown and the Western Area *infra*.

<sup>3079</sup> TF1-143, Transcript 5 May 2008, pp. 9035-9036.

<sup>3080</sup> James Kpumgbu, Transcript 13 October 2008, p. 18116. Although the witness testified that it was 1990, the Trial Chamber is satisfied that the context of the events places them in 1999 and considers that the witness' trauma and passage of time may have caused him to misstate the year. The Trial Chamber also finds that by "rebels" the witness is describing the AFRC/RUF forces, as in his testimony he stated that the "rebels" that entered Freetown came on 6 January 1999. James Kpumgbu, Transcript 13 October 2008, pp. 18136-18137.

<sup>3081</sup> James Kpumgbu, Transcript 13 October 2008, p. 18119.

<sup>3082</sup> James Kpumgbu, Transcript 13 October 2008, pp. 18120-18121.

three of whom had guns and one of whom had a machete, ordered the witness and two other men to sit beneath a mango tree outside the nearby St. Patrick's Church.<sup>3083</sup>

1281. The four rebels then surrounded Kpumgbu, and three of the rebels pointed guns at him while the rebel carrying the machete ordered him to put his arm on the root of the mango tree. The witness pleaded, but placed his arm as ordered and the rebel cut off his right hand.<sup>3084</sup> Kpumgbu testified that the rebel then chopped his left arm, leaving his hand still connected, but mutilated, and told him to "go and tell Tejan Kabbah that they are fighting for power".<sup>3085</sup>

1282. After the amputation, Kpumgbu walked with difficulty down to Summertime, where he spent one night before continuing on to Connaught Hospital.<sup>3086</sup> While at Connaught Hospital, the witness met the two other men who had been detained with him outside the Mental Hospital by the rebels during that same incident. Kpumgbu testified that one of them, Mr Lansana, told him that the rebels had cut off his hands. The witness observed that Lansana was missing both of his hands and that the other man, Mr Babah, had both hands cut but not completely amputated.<sup>3087</sup>

1283. Kpumgbu testified that he is unable to fully use his left hand, he experiences pain, and his thumb and index finger do not function. He is unable to do anything to earn a living and people must assist him.<sup>3088</sup> The Trial Chamber has also considered Exhibits P-187 and P-188, which depict the witness' amputated right arm and mutilated left arm.<sup>3089</sup>

### Findings

1284. Based on the above evidence, the Trial Chamber is satisfied beyond reasonable doubt that James Kpumgbu's hands were mutilated and amputated by AFRC/RUF "rebels" near Kissy Mental Hospital on 6 January 1999. Kpumgbu observed Lansana and Babah's

<sup>3083</sup> James Kpumgbu, Transcript 13 October 2008, pp. 18120-18122.

<sup>3084</sup> James Kpumgbu, Transcript 13 October 2008, p. 18122.

<sup>3085</sup> James Kpumgbu, Transcript 13 October 2008, p. 18123. The witness demonstrated for the court where his arms had been cut and the record reflects that his right arm was amputated just below the elbow, while there is an indentation where the left arm was cut between the elbow and wrist, but not completely severed. James Kpumgbu, Transcript 13 October 2008, pp. 18126-18127.

<sup>3086</sup> James Kpumgbu, Transcript 13 October 2008, p. 18124.

<sup>3087</sup> James Kpumgbu, Transcript 13 October 2008, pp. 18125-18126.

<sup>3088</sup> James Kpumgbu, Transcript 13 October 2008, p. 18130.

<sup>3089</sup> Exhibit P-187, "Photograph - 00039129"; Exhibit P-188, "Photograph - 00039131".

amputations and mutilations and the Trial Chamber accepts and finds that their hands were also amputated and mutilated. Given that Kpumgbu, Lansana and Babah had been captured and detained at the same time by the same rebels, the Trial Chamber accepts that these same rebels also amputated and/or mutilated Lansana and Babah. The Trial Chamber finds beyond reasonable doubt that by these acts the AFRC/RUF fighters' caused, and intended to cause, the victims serious physical injury and suffering

1285. Based on the witness's description of the perpetrators the Trial Chamber is satisfied beyond reasonable doubt that they were members of the AFRC/RUF invading forces identified by the Trial Chamber at Para 202/3 unlawful killings.<sup>3090</sup> The Trial Chamber is further satisfied on the evidence that the victims were civilians and finds beyond reasonable doubt that they were not taking part in hostilities at the time of the amputations.

(iv) Beating and amputation of Ibrahim Wai at Falcon Road in Kissy

Evidence

1286. Ibrahim Wai testified that in the early morning hours of 6 January 1999, he went out of his house on Falcon Street in Kissy and observed "blazing fires" and "civilians coming with bundles on their heads".<sup>3091</sup> He fled with his brother to go to PWD, and they encountered many other people also fleeing until they were turned away by ECOMOG. However they managed to cross the barrier and proceed to Berry Street.<sup>3092</sup>

1287. Wai returned to Kissy alone after five days but en route a "30 years old RUF rebel" asked him for money.<sup>3093</sup> Wai showed the rebel his wallet telling him that he did not have any money, the rebel told him to stretch out his hand. Wai testified that the rebel then gave him a dozen lashes on his hand, using a cable that the witness described to be about 0.7 centimetres in diameter.<sup>3094</sup> After lashing him, the rebel told Wai to go.<sup>3095</sup> Then a 14 year old boy with a gun threatened to kill him. He then returned to Kissy. The Trial Chamber has

<sup>3090</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Freetown and the Western Area (between about 21 December 1998 and about 28 February 1999) *supra*.

<sup>3091</sup> Ibrahim Wai, Transcript 16 October 2008, pp. 18569-18570.

<sup>3092</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18571.

<sup>3093</sup> Ibrahim Wai, Transcript 16 October 2008, p.18572.

<sup>3094</sup> Ibrahim Wai, Transcript 16 October 2008, p.18573; Transcript 17 October 2008, pp. 18579-18580.

<sup>3095</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18573.

found that while Wai was staying at his in-law's, rebels under the command of Captain Blood attacked the witness and the family and Captain Blood amputated Wai's hand and the hands of Wai's brother-in-law's younger brother. In cross-examination he confirmed he saw the amputation of "the boy's hand".<sup>3096</sup> He did not see his brother-in-law's younger brother come out of the house after that, and he observed that the house was later set on fire. Wai testified that his brother-in-law's younger brother was still in the house when it was set on fire, and that he died in the burning house.<sup>3097</sup>

1288. The witness testified that on his way to Brookfields Hospital for treatment, he met two other civilians whose hands had also been amputated.<sup>3098</sup> According to Wai by the time they reached Brookfields Hospital he saw that there were "many whose hands were cut off" and he named four other amputees in addition to himself.<sup>3099</sup>

### Findings

1289. Wai was challenged in cross-examination regarding the lashing he received, and the Trial Chamber considers that he was consistent in this throughout his evidence and in the view of the Trial Chamber he did not exaggerate or prevaricate. Therefore the Trial Chamber accepts his account of being lashed by a cable and finds beyond reasonable doubt that he was beaten by being lashed on the hand.

1290. Based on Wai's testimony regarding his treatment by Captain Blood in Kissy, the Trial Chamber finds that Captain Blood struck Wai with the butt of a gun, and hit him on the back with the flat side of a machete. The Trial Chamber also finds beyond reasonable doubt that Captain Blood then amputated the witness' hand and Captain Blood or persons under his command amputated both hands of his brother-in-law's brother.

1291. The Trial Chamber therefore finds beyond reasonable doubt that the perpetrators caused, and intended to cause, serious physical injury and suffering, to their victims. As the witness and his relative were civilians in captivity at the time of these incidents, the Trial Chamber is satisfied that they were not taking an active part in hostilities.

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<sup>3096</sup> Ibrahim Wai, Transcript 17 October 2008, p. 18613.

<sup>3097</sup> Ibrahim Wai, Transcript 17 October 2008, pp. 18596-18597.

<sup>3098</sup> Ibrahim Wai, Transcript 17 October 2008, pp. 18603-18604.

<sup>3099</sup> Ibrahim Wai, Transcript 17 October 2008, pp. 18604-18605.



1292. Wai observed that two men he met on his way to Brookfields Hospital had both of their hands cut off. The Trial Chamber accepts his first hand observation of these two men's amputation and that he saw "that we were many whose hands were cut off" and accordingly finds that an unknown number of persons had their hands amputated. The Trial Chamber therefore finds beyond reasonable doubt that the perpetrators caused, and intended to cause, serious physical injury and suffering to these amputation victims.

1293. Based on the witness's description of the perpetrators the Trial Chamber finds beyond reasonable doubt that they were members of the AFRC/RUF invading forces identified by the Trial Chamber<sup>3100</sup>

(v) Amputations by Changa Bulanga in Low Cost Area and Shell Old Road Area

Evidence

1294. Alimamy Bobson Sesay testified that in approximately the third week of January 1999,<sup>3101</sup> when he and his fighting force had retreated to the hills around Kissy Mental Home, they observed the civilians below dancing and singing that their brothers had come to steal and welcoming ECOMOG. Gullit told the witness and the other fighters that the civilians were betraying them by behaving this way. Thereafter, Gullit passed an order and reorganised the troops to form fighting teams.<sup>3102</sup> He appointed one squad to move to Low Cost Housing area, instructing them to be sure to "amputate people and burn houses in that area".<sup>3103</sup> The witness testified that Gullit commanded the witness' group to "go as far as Ferry Junction and do these things".<sup>3104</sup>

1295. Osman, known as Changa Bulanga was part of the fighting force Gullit sent to Low Cost area. The witness testified that when Changa Bulanga returned to Kissy Market, he told

<sup>3100</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Freetown and the Western Area (between about 21 December 1998 and about 28 February 1999) *supra*.

<sup>3101</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8361.

<sup>3102</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8351-8354.

<sup>3103</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8352.

<sup>3104</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8352-8354. The witness further testified that his group included Bajehjeh, Rambo, and Rambo SLA.

the witness that he had amputated arms and burned houses and he said he had completed his mission.<sup>3105</sup>

1296. Alimamy Bobson Sesay further testified that Changa Bulanga also performed amputations at Shell Old Road area.<sup>3106</sup> The witness testified that he saw Changa Bulanga amputate the arms of three civilians, two at the elbow and one at the wrist, before they moved to Crazy Yard to meet with Gullit and the brigade there. After amputating the civilians' arms, Changa Bulanga told the civilian victims to go see Pa Kabbah and ask him for hands.<sup>3107</sup>

### Findings

1297. Based on Alimamy Bobson Sesay's eyewitness testimony that Changa Bulanga, a member of the AFRC, performed three amputations in Kissy and the amputation of an unknown number of persons in the Low Cost Area. The Trial Chamber finds beyond reasonable doubt that the perpetrators caused, and intended to cause serious injury, and suffering to their victims. The Trial Chamber further finds beyond reasonable doubt, based on Changa Bulanga's statement that he had completed his mission which was to "amputate people...", that the victims were civilians who were not taking a direct part in hostilities at the time.

### (vi) Amputations of Barrie and Alusine Conteh's hands at Parsonage and Leaden Streets in Kissy

### Evidence

1298. Alusine Conteh, a double amputee, testified that on the morning of 20 January 1999, he was at the intersection of Parsonage and Leaden Hall Streets in Kissy with a group of other civilians, including his wife, sister, his children, a friend, Julius, and his tenant Boi Barrie.<sup>3108</sup> The witness and his group encountered five men who told the witness and the

<sup>3105</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8360-8361. The witness testified that Changa Bulanga was also known as Osman Sesay. Transcript 23 April 2008, p. 8345.

<sup>3106</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8344-8345.

<sup>3107</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8344-8346.

<sup>3108</sup> Alusine Conteh, Transcript 30 January 2009, pp. 24022-24024, 24026.

others to halt or they would shoot them.<sup>3109</sup> Four of the five men wore combat uniforms and one wore civilian clothing and “disguised himself” with a “black cap like a net”.<sup>3110</sup>

1299. Alusine Conteh testified that the men ordered Barrie to put down the things he was carrying. One of them, dressed in combat uniform, who referred to himself as “Captain Two Hand No Mercy” ordered the “civilian” with them to “take care of” Barrie.<sup>3111</sup> The “civilian” took an axe and he chopped Barrie’s left hand once. As he chopped again, one of Barrie’s children walked behind him. One of the “soldiers” kicked her and she fell. Barrie’s right arm was struck twice with the axe leaving his hands dangling by the flesh<sup>3112</sup> and he told him “go and tell Tejan Kabbah, no more politics, no more votes”.<sup>3113</sup>

1300. The soldiers then called Alusine Conteh to come, and he placed his left hand on the slab. The “civilian” among the soldiers then hacked once at the witness’ arm, severing his hand.<sup>3114</sup> Following Conteh’s amputation, they tried to take the witness’ son, who was strapped to his mother’s back. Conteh pleaded with the soldiers to amputate his other hand instead of amputating his son’s hands.<sup>3115</sup> The soldiers then told the witness to place his right hand, and as he did, they severed his hand from his arm.<sup>3116</sup> Before departing, the soldiers told the witness that he should go to Tejan Kabbah and tell Kabbah that he was “a messenger”.<sup>3117</sup>

### Findings

1301. Alusine Conteh repeatedly referred to the individual dressed in civilian clothing with the four soldiers as a “civilian”. However, from Conteh’s detailed testimony about the actions of this individual, the Trial Chamber finds beyond reasonable doubt that the person who amputated Boi Barrie’s and Conteh’s hands was not a civilian but that the perpetrators

<sup>3109</sup> Alusine Conteh, Transcript 30 January 2009, pp. 24023-24024.

<sup>3110</sup> Alusine Conteh, Transcript 30 January 2009, pp. 24024-24025.

<sup>3111</sup> Alusine Conteh, Transcript 30 January 2009, pp. 24026-24028.

<sup>3112</sup> Alusine Conteh, Transcript 30 January 2009, p. 24028.

<sup>3113</sup> Alusine Conteh, Transcript 30 January 2009, p. 24028.

<sup>3114</sup> Alusine Conteh, Transcript 30 January 2009, p. 24029.

<sup>3115</sup> Alusine Conteh, Transcript 30 January 2009, pp. 24026, 24029.

<sup>3116</sup> Alusine Conteh, Transcript 30 January 2009, p. 24030. The witness further testified that at the time that he walked away from the place where the amputations took place his hands had been completely chopped off but there was still flesh hanging. Alusine Conteh, Transcript 30 January 2009, p. 24031.

<sup>3117</sup> Alusine Conteh, Transcript 30 January 2009, pp. 24030-24031.

were members of the AFRC/RUF invading forces identified by the Trial Chamber in the section on unlawful killings.<sup>3118</sup>

1302. Based on the above evidence, the Trial Chamber is satisfied that both of Barrie's hands were mutilated and both of Alusine Conteh's hands were amputated by members of the AFRC/RUF invading forces in Kissy on 20 January 1999. The Trial Chamber finds beyond reasonable doubt that the perpetrators' acts caused serious physical injury and suffering. As the perpetrators told the witness to go and tell Tejan Kabbah "no more politic" they evinced an obvious intention to cause serious suffering and injury upon their victims. As all of the victims were civilians at the time of their amputation, the Trial Chamber is satisfied beyond reasonable doubt that they were not taking an active part in hostilities.

(vii) Amputation of Mohamed Sampson Bah's hand on Rowe Street in Kissy

1303. Mohamed Sampson Bah's testimony in the AFRC trial was tendered into evidence pursuant to rule 92bis and he was cross examined in the instant trial. He testified that he saw rebels beating people with belts and sticks and houses, including his house, being burnt.<sup>3119</sup> He and seven other people were captured by the rebels on Rowe Street in January 1999 and taken to the commando Tafaiko. They were "placed in a queue", searched and their belongings were confiscated. The commando ordered the other seven to be killed "at a stretch". They were shot and Bah witnessed all seven die.<sup>3120</sup> The commando took Bah's gold-plated wrist watch, told him that he had "been sentenced" and that Bah's hand should be amputated.<sup>3121</sup> The commando forced Bah onto the ground, placed a foot on his chest and his arms were stretched out and Bah's hand was amputated.

Findings

1304. The Trial Chamber finds beyond reasonable doubt that Commando Tafaiko a member of the AFRC/RUF invading forces identified by the Trial Chamber<sup>3122</sup> amputated

<sup>3118</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Freetown and the Western Area (between about 21 December 1998 and about 28 February 1999) *supra*.

<sup>3119</sup> Mohamed Sampson Bah gave evidence on 22 and 23 October 2008 and his prior testimony in the AFRC trial was tendered as Exhibit P-207, "TF1-084, AFRC Transcript, 6 April 2005", p. 20595.

<sup>3120</sup> Exhibit P-207, "TF1-084, AFRC Transcript, 6 April 2005", pp. 20597-20598.

<sup>3121</sup> Exhibit P-207, "TF1-084, AFRC Transcript, 6 April 2005", pp. 20598-20599.

<sup>3122</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Freetown and the Western Area (between about 21 December 1998 and about 28 February 1999)

Bah's hand on Rowe Street in Kissy in January 1999. The Trial Chamber finds beyond reasonable doubt that the perpetrators caused, and intended to cause, serious physical injury and suffering. The Trial Chamber further finds beyond reasonable doubt that Bah was a civilian who was not taking part in hostilities at the time of the amputation.

(viii) Amputation of TF1-083, Pa Sorie and Musa in Samuels Area in Kissy

Evidence

1305. The testimony of TF1-083, who is now deceased, in the AFRC trial was tendered into evidence pursuant to Rule 92 *quater*.<sup>3123</sup> He testified that on 22 January 1999 he was at Old Road at Locust in the "Samuels area" when he, five men and some women including his sister, were captured by "rebels" wearing caps that covered everything but their eyes, nose and mouth.<sup>3124</sup> The rebels ordered TF1-083 and the other civilians to remove their clothes, a rebel took the witness's shirt and wore it and as the witness removed his pants a rebel struck him at the waist with a knife and took the money from his pockets.<sup>3125</sup> The rebels then began leading them along a route stating that they said they would kill them.<sup>3126</sup> As they were walking TF1-083 saw corpses on the ground and the rebels said "See those ones that are lying down, they are sleeping. So you are going to sleep like this".<sup>3127</sup>

1306. When the group reached the rebels' commander, who had a fair complexion and who was wearing a round hat and combat gear, the rebels told him "these are the people we brought".<sup>3128</sup> The commander said "some we are coming to eat them and the others, we are going to kill them".<sup>3129</sup> The commander ordered the five men, including the witness, Pa Sorie, Musa, and two others to lie on their backs and said that some of them they would kill and some of them they would "send", meaning amputate their hands.<sup>3130</sup>

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*supra*.

<sup>3123</sup> Exhibit P-290A, "TF1-083, AFRC Transcript 8 April 2005".

<sup>3124</sup> Exhibit P-290A, "TF1-083, AFRC Transcript 8 April 2005", pp. 18775-18780.

<sup>3125</sup> Exhibit P-290A, "TF1-083, AFRC Transcript 8 April 2005", pp. 18780-18781.

<sup>3126</sup> Exhibit P-290A, "TF1-083, AFRC Transcript 8 April 2005", pp. 18781-18782.

<sup>3127</sup> Exhibit P-290A, "TF1-083, AFRC Transcript 8 April 2005", p. 18782.

<sup>3128</sup> Exhibit P-290A, "TF1-083, AFRC Transcript 8 April 2005", p. 18782.

<sup>3129</sup> Exhibit P-290A, "TF1-083, AFRC Transcript 8 April 2005", p. 18782.

<sup>3130</sup> Exhibit P-290A, "TF1-083, AFRC Transcript 8 April 2005", p. 18783.

1307. The commanders ordered that the hands of TF1-083, Pa Sorie, and Musa be cut off and that the victims should “go to Kabbah and ask for Kabbah to give him a hand”.<sup>3131</sup> A rebel stabbed TF1-083 on his left arm near his bicep before amputating his right hand using an axe.<sup>3132</sup> TF1-083 was unable to see and fell into a gutter.<sup>3133</sup> However, he testified that he heard the rebels take Pa Sorie and cut off his hand.<sup>3134</sup> Pa Sorie met him later at the Connaught Hospital and told him that the rebels had cut off his hand.<sup>3135</sup>

1308. TF1-083 testified that the rebels took Musa, the last of the five civilians in the group, and they cut off four of his fingers.<sup>3136</sup> Musa then heard the commander say “You should not cut off Musa’s fingers. You should cut off his hand, so that he can go to Kabbah and tell him to give him a new hand”.<sup>3137</sup> Musa then begged for the rebels not to chop off his hand, they shot him and he fell down. TF1-083 testified that Musa was killed.<sup>3138</sup>

### Findings

1309. Based on TF1-083’s evidence of his amputation, the Trial Chamber finds beyond reasonable doubt that the hands of TF1-083 and Pa Sorie were amputated and the fingers of Musa were amputated before he was shot at the Samuels area of Kissy on 22 January 1999. The Trial Chamber further finds beyond reasonable doubt that the perpetrators caused serious physical injury and suffering to the victims, and as the perpetrators told the witness to go to Kabbah, that they evinced an obvious intention to cause serious physical suffering and injury upon their victims. As the victims were captured civilians and lying on their backs at the time that these amputations occurred, the Trial Chamber finds beyond reasonable doubt that they were not taking an active part in hostilities. Based on the witness’s description of the perpetrators, the Trial Chamber finds beyond reasonable doubt that they were members of the AFRC/RUF invading forces identified by the Trial Chamber.<sup>3139</sup>

<sup>3131</sup> Exhibit P-290A, “TF1-083, AFRC Transcript 8 April 2005”, p. 18784.

<sup>3132</sup> Exhibit P-290A, “TF1-083, AFRC Transcript 8 April 2005”, p. 18784.

<sup>3133</sup> Exhibit P-290A, “TF1-083, AFRC Transcript 8 April 2005”, pp. 18785-18786.

<sup>3134</sup> Exhibit P-290A, “TF1-083, AFRC Transcript 8 April 2005”, p. 18785.

<sup>3135</sup> Exhibit P-290A, “TF1-083, AFRC Transcript 8 April 2005”, p. 18786.

<sup>3136</sup> Exhibit P-290A, “TF1-083, AFRC Transcript 8 April 2005”, p. 18785.

<sup>3137</sup> Exhibit P-290A, “TF1-083, AFRC Transcript 8 April 2005”, pp. 18785-18786.

<sup>3138</sup> Exhibit P-290A, “TF1-083, AFRC Transcript 8 April 2005”, p. 18786.

<sup>3139</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful

(ix) Amputation of Mohamed Sesay's arms in KissyEvidence

1310. Mohamed Sesay testified that he saw RUF and SLA who he referred to as the People's Army<sup>3140</sup> on the morning of 6 January and five or six days later saw Captain Blood at a checkpoint. The witness observed the "rebels and SLAs arguing"<sup>3141</sup> On 19 January 1999<sup>3142</sup> he was in Kissy hiding in the house of Mr Abass,<sup>3143</sup> after his home had been burnt<sup>3144</sup> with about 50 other civilians, including old men and women.<sup>3145</sup> He saw seven "rebels", including one "commando" arrive.<sup>3146</sup> The commando carried a pistol, one rebel carried a machete, another rebel carried an axe and four others carried guns.<sup>3147</sup> The commando ordered the fighters to bring the 24 young men out of the house and to the junction where they asked them to queue up in preparation for having their arms amputated on a log which had been placed in front of them.<sup>3148</sup> As already found eight men were shot and killed, and five others were killed by splitting their heads with a machete.<sup>3149</sup> The witness and those with him were frightened.

1311. Sesay was then left as the first person in the queue and one of the rebels declared that they would amputate his arm.<sup>3150</sup> Sesay pleaded with the Commander to kill him instead, and the other men also stood up and pleaded.<sup>3151</sup> The Commander blew a whistle and many "rebels" came and surrounded the captive men, forcing them to the ground, tying them up, and beating some of them.<sup>3152</sup> The Commando ordered the youngest of the fighters, a boy

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killings in Freetown and the Western Area (between about 21 December 1998 and about 28 February 1999) *supra*.

<sup>3140</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3912.

<sup>3141</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3902-3905, 3912.

<sup>3142</sup> Mohamed Sesay, Transcript 15 February 2008, p. 3936; Transcript 14 February 2008, p. 3931.

<sup>3143</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3914-3916.

<sup>3144</sup> Mohamed Sesay, Transcript 15 February 2008, p. 3915

<sup>3145</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3917-3918.

<sup>3146</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3917.

<sup>3147</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3919.

<sup>3148</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3918-3919.

<sup>3149</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Unlawful killing of civilians in Kissy area around January 1999, Findings *supra*.

<sup>3150</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3923.

<sup>3151</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3923-3924.

<sup>3152</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3924.

about 13 years old, to untie Sesay and amputate his arm.<sup>3153</sup> The fighter attempted to cut off Sesay's left arm with an axe, but when he failed the Commander came and hit Sesay's arm with an axe twice, leaving it hanging by a small lump of flesh.<sup>3154</sup> The fighters then put Sesay's right arm on the log and the commander hit it once, also leaving this arm to hang by the flesh.<sup>3155</sup>

1312. As the fighters were preparing to amputate the hand of another man, Rambo of the RUF<sup>3156</sup> arrived by vehicle with more than 40 "people" and ordered them to release the remaining people, saying he would punish the fighters for what they had done. The rebels saluted Rambo and conformed with his command.<sup>3157</sup> Sesay testified that Rambo then told all of them to follow him to his base, which was near the Kissy Mental Home, and before sending the witness away put 100,000 of an unidentified currency in his pocket saying that he should "endure, that was what God ordained". The witness became dizzy and fell and lay until the following morning, Friday, when he went to ECOMOG at Helena and was taken to Connaught Hospital.<sup>3158</sup>

1313. When<sup>3159</sup> Mohamed Sesay arrived at Connaught Hospital, he saw "so many others" who had been amputated.<sup>3160</sup> Some of those amputees told the witness that they had been amputated in Freetown.<sup>3161</sup>

### Findings

1314. Based on Mohamed Sesay's account of the amputation of both of his arms in Kissy, the Trial Chamber is satisfied beyond reasonable doubt that on 19 January 1999 at Kissy members of the Peoples Army under the command of Rambo amputated the hands of Mohamed Sesay. The Trial Chamber finds beyond reasonable doubt that the perpetrators

<sup>3153</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3924-3925, 3927.

<sup>3154</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3925.

<sup>3155</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3926.

<sup>3156</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3932; Mohamed Sesay, Transcript 15 February 2008, p. 3934.

<sup>3157</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3928.

<sup>3158</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3928-9.

<sup>3159</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3931. The record shows the witness said this was on Thursday 28 January but given the witness's evidence that the amputation was on 19<sup>th</sup> January and he went to Connaught Hospital next morning, 20 January, it would appear that "28" is a typographical error as 28 January 1999 was not a Friday.

<sup>3160</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3929-3930.

<sup>3161</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3930.



caused serious physical injury and suffering and that the perpetrators evinced an obvious intention to cause this serious physical injury and suffering upon their victim. As Sesay was a captured civilian when these amputations occurred, the Trial Chamber further finds beyond reasonable doubt that he was not taking a direct part in hostilities.

1315. The Trial Chamber accepts Mohamed Sesay's evidence that at Connaught Hospital he saw other people who had arms and hands amputated and that these amputations occurred in Freetown and finds beyond reasonable doubt that an unknown number of persons had their hands and/or arms amputated in January 1999 in Freetown.

(x) Other Amputations in Kissy

1316. The Trial Chamber has also considered the evidence of Corinne Dufka, TF1-028, and Exhibits P-142B, P-197, P-188, P-263, P-286A, P-356A-B and confidential Exhibit P-077.

1317. Exhibit P-263, a BBC Focus on Africa radio broadcast,<sup>3162</sup> described the atrocities being committed by the retreating rebel forces in Kissy who were cutting "the limbs of civilians". A Mr Bangura, who lived on Bypass Road, told reporter Lansana Fofana that he had been lined up in a queue of 15 people to be amputated by the rebels. After the first two in the queue had been amputated, the rest of them fled for their lives. Four young men whose wrists had been mutilated told Fofana that the fighter who carried out these mutilations was a Liberian fighter known as CO Cut Hand.<sup>3163</sup> Exhibit P-356B, another Focus on Africa programme, broadcast on 22 January 1999, included a report by Winston Ojukutu-Macaulay, who travelled with ECOMOG to Kissy. On their way back to Freetown from Kissy, they transported five civilians who were amputated.<sup>3164</sup>

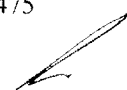
1318. Confidential Exhibit P-077 reports that a five-year-old girl was thrown into a fire at Blackhall Road on 28 January 1999.<sup>3165</sup>

<sup>3162</sup> Exhibit P-263, "Audio File – Tab 17 Clip – D0000507 – Track One". Witness TF1-150 testified that "all life seemed to stop in late afternoon in Sierra Leone in those days so that people could listen to the program Focus on Africa which was considered to be one of the reliable news sources for the situation in Africa". TF1-150, Transcript 18 February 2008, p. 4029.

<sup>3163</sup> Exhibit P-263, "Audio File – Tab 17 Clip – D0000507 – Track One".

<sup>3164</sup> Exhibit P-356B, "BBC Focus on Africa Clip from Track 2 – D0000507, 22 January 1999"; Exhibit P-356B, "Transcript – BBC Focus on Africa Clip from Track 2 – D0000507, 22 January 1999".

<sup>3165</sup> Exhibit P-077 (confidential), p. 925, para. 43.





1319. Witness TF1-028 lived in Karina, Bombali District when the junta attacked in 1998.<sup>3166</sup> The witness was taken as a member of a group that entered Freetown on 16 January.<sup>3167</sup> The group stopped at Ferry Junction before “RUF boys” speaking Liberian language took the witness to Blackhall Road and then to Kissy Road. At Kissy Road, the witness saw a “big bunch” of human hands that had been amputated, tied together, and buried in the dirt.<sup>3168</sup> She could not count them.<sup>3169</sup> She testified that as she knew the Junta had entered Freetown, and she inferred that they must have been responsible for putting the hands there.<sup>3170</sup>

1320. Witness Corinne Dufka testified that she photographed a 13-year-old girl, who was one of three girls “who were rounded up from Kissy by a group of rebels...around the 20<sup>th</sup> to 22<sup>nd</sup> of January...and taken up to a hill and had their hands amputated”.<sup>3171</sup>

### Findings

1321. The Trial Chamber finds that the information contained in Confidential Exhibit P-077 of physical violence committed in Kissy during the attack of Freetown is hearsay and is insufficiently precise to make a finding on the identity of the perpetrators of this crime. The Trial Chamber is unable to make a finding in relation to the crime of physical violence against civilians based solely on this evidence. However, this evidence may be used to corroborate other findings on specific incidents.

1322. TF1-028’s evidence that she saw a “big bunch” of human hands at Kissy Road clearly shows that amputations took place but it is insufficient in and of itself to establish the elements of Counts 7 or 8, as she did not witness the amputations, nor was she able to identify the perpetrators except by inference. However, this provides corroboration of more specific instances of amputation.

<sup>3166</sup> TF1-028, Transcript 7 May 2008, p. 9135.

<sup>3167</sup> Although the witness was unable to specify the year, she testified that it was shortly after SAJ Musa died. TF1-028, Transcript 7 May 2008, pp. 9225-9226. The Trial Chamber is satisfied that the context of the events places them in early 1999 and considers that the witness’ trauma and passage of time may have rendered her unable to recollect the year.

<sup>3168</sup> TF1-028, Transcript 7 May 2008, pp. 9228-9231.

<sup>3169</sup> TF1-028, Transcript 7 May 2008, p. 9230.

<sup>3170</sup> TF1-028, Transcript 7 May 2008, pp. 9230-9231.

<sup>3171</sup> Corinne Dufka, Transcript 22 January 2008, p. 1851, describing Exhibit P-142B, a photo depicting a young girl with both left and right hand amputations.



1323. The Trial Chamber finds that although the information contained in Exhibits P-263 and P-365A is hearsay, it is a contemporaneous account taken from the victims and eye witnesses and is credible and reliable. The report clearly shows that the victims were civilians and that the perpetrators were “rebels” or a Liberian fighter known as CO Cut Hand. It is corroborated by other documentary evidence and the corroborative evidence of the widespread nature of these amputations. Accordingly the Trial Chamber finds that two civilian men, four young civilian men and five civilians had their limbs amputated in Kissy in late January 1999 by AFRC/RUF invading forces.

1324. Although Corinne Dufka’s account and the evidence of the amputation is based on hearsay, the Trial Chamber finds her account to be credible, and it was corroborated by her photographic evidence of the amputated 13 year old girl and the corroborative evidence of the widespread nature of these amputations. Accordingly the Trial Chamber finds beyond reasonable doubt that a 13 year old civilian girl not taking a direct part in hostilities had her hand amputated on or about 20 to 22 January 1999 in Kissy.

1325. The Trial Chamber finds beyond reasonable doubt that in each of the foregoing incidents the perpetrators’ acts caused, and intended to cause, serious physical injury and suffering to the victims . As the victims were civilians targeted by rebels the Trial Chamber finds beyond reasonable doubt that they were not taking a direct part in hostilities. Based on the girl’s description of the perpetrators as rebels, the Trial Chamber finds that they were members of the AFRC/RUF invading forces identified by the Trial Chamber.<sup>3172</sup>

(c) Fourah Bay

1326. The Trial Chamber has considered the evidence of Alpha Jalloh and TF1-150, and Exhibits P-107, P-210 and Confidential Exhibit P-077.

Evidence

1327. Confidential Exhibit P-077 states that on 21 January 1999, three children were executed at Fourah Bay and their three sisters had limbs amputated or mutilated.<sup>3173</sup>

<sup>3172</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Unlawful killing of civilians in Kissy area around January 1999, Findings *supra*.

<sup>3173</sup> Exhibit P-077 (confidential), para. 42.

1328. Alpha Jalloh<sup>3174</sup> testified that on 6 January 1999, “rebels” and soldiers<sup>3175</sup> first came to his area in Younge Street.<sup>3176</sup> On 18 January 1999 rebels, some of whom were in uniform,<sup>3177</sup> came to the house on Manfred Lane where he was hiding with his younger brother, cousins and other civilians and led them by gunpoint to a primary school on Fataraman Street.<sup>3178</sup> There the rebels put them into a queue and told them that they would send them “to Pa Kabbah for Pa Kabbah to know that they were in control”.<sup>3179</sup> The witness, his brother and cousin sat in the line with four others, including Edward Conteh and Sheku Bah<sup>3180</sup> and were called one at a time. A Krio speaking rebel named Tommy from the Freetown area who wore a combat uniform, cut off all of the hands of Conteh, Bah and the witness’s cousin with an axe,<sup>3181</sup> then he cut the witness’s left hand off. The rebels told the amputees that they could go to Pa Kabbah to get more hands.<sup>3182</sup> Jalloh testified that he heard that his “cousin couldn’t survive, so he died. Where he laid, that was the place he died”.<sup>3183</sup>

### Findings

1329. Although the evidence in Confidential Exhibit P-077 is hearsay it is a contemporaneous account and the Trial Chamber accepts the credibility and reliability of the report and accordingly finds beyond reasonable doubt that on 21 January 1999 at Fourah Bay three unnamed sisters had limbs amputated or mutilated.

1330. Based on Jalloh’s evidence, the Trial Chamber is satisfied beyond reasonable doubt that seven persons, including the witness had their hands amputated by members of the RUF/AFRC in Fourah Bay on 18 January 1999.

<sup>3174</sup> Alpha Jallow gave evidence concerning the murder in Kissy in the AFRC trial, which was admitted as prior testimony under Rule 92*bis*. Alpha Jalloh, Transcript 23 October 2008, p. 19147. He was cross-examined by the Defence concerning this testimony in this trial.

<sup>3175</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, p. 20683.

<sup>3176</sup> Alpha Jalloh, Transcript 23 October 2008, p. 19131.

<sup>3177</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, p. 20688.

<sup>3178</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, pp. 20688-20689.

<sup>3179</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, p. 20688.

<sup>3180</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, p. 20689.

<sup>3181</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, pp. 20689-20690.

<sup>3182</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, p. 20689.

<sup>3183</sup> Exhibit P-210, “TF1-098, AFRC Transcript 5 April 2005”, p. 20692.

1331. The Trial Chamber therefore finds beyond reasonable doubt that the perpetrators caused, and intended to cause, serious physical injury and suffering to the victims. As the victims were captured civilians, the Trial Chamber finds beyond reasonable doubt that they were not taking direct part in hostilities at the time of the attack.

(d) Uppun

1332. The Trial Chamber has considered the evidence of Alimamy Bobson Sesay.

Evidence

1333. Alimamy Bobson Sesay testified that around the third week of January 1999,<sup>3184</sup> following the operation in Fourah Bay, he and those in his fighting force, including Gullit, Bazy and Five-Five, withdrew to Uppun where they mounted a defensive.<sup>3185</sup> Once in Uppun, Five-Five gave an instruction that they should start amputating limbs and he was “going to demonstrate it”. Alimamy Bobson Sesay witnessed Five-Five capture three civilians and perform a demonstration by placing the captured civilians’ arms on a mortar and giving one a “short sleeve” amputation, meaning an amputation at the wrist, and the other two “long sleeve” amputations, meaning an amputation above the elbow. Thereafter, according to Alimamy Bobson Sesay, Major Mines and Kabila captured and amputated an unknown number of civilians.<sup>3186</sup>

Findings

1334. Based on Bobson Sesay’s eyewitness evidence, the Trial Chamber is satisfied beyond reasonable doubt that Five-Five, a member of the AFRC, amputated the arms of three individuals. The Trial Chamber further finds beyond reasonable doubt that an unknown number of civilians had hands amputated by Major Mines and Kabila. The Trial Chamber therefore finds beyond reasonable doubt that the perpetrators caused serious physical injury and suffering to the victims, and that the perpetrators evinced an obvious intention to cause serious physical suffering and injury upon the victims. As the victims were captured civilians at the time of these amputations, the Trial Chamber finds beyond reasonable doubt that they were not taking a direct part in hostilities.

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<sup>3184</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8328.

<sup>3185</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8334.

<sup>3186</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8337-8339.

(e) Wellington

1335. The Trial Chamber has considered the evidence of Sarah Koroma, TF1-026 and Akiatu Tholley.

Evidence

1336. Sarah Koroma testified that she first saw many “rebels” in Wellington, Loko Town, on 6 January 1999.<sup>3187</sup> Upon seeing the rebels and hearing from other civilians that the rebels were amputating people, Koroma fled to the bush with her children and husband.<sup>3188</sup> The witness remained in the bush for one week until the rebels threatened to kill anyone who did not come out of the bush.<sup>3189</sup> The rebels then captured Koroma, her husband and other members of their group on their way back to their homes in Wellington.<sup>3190</sup> Koroma testified that the rebels killed her husband and another child by hacking them with machetes.<sup>3191</sup> The rebels ordered the remaining civilians, including the witness, to sit in a line on the ground. The rebels then used a machete to chop off her left hand, and told her that she should go tell Tejan Kabbah that the rebels said they want peace.<sup>3192</sup> The rebels attempted to chop her right hand, but were unsuccessful.<sup>3193</sup> Further, the witness testified that she did not see what happened to the other civilians in the queue with her as she was “tormented”.<sup>3194</sup>

1337. Sarah Koroma testified that she left the place where she was amputated and, as she was walking near Brewery, she was beckoned by two rebels who were not in the group who amputated her hand.<sup>3195</sup> One of them, who carried a knife and gun,<sup>3196</sup> told the witness that he wanted to kill her because she was Tejan Kabbah’s mother, but he hurled beer bottles at

<sup>3187</sup> Sarah Koroma, Transcript 22 October 2008, p. 18987.

<sup>3188</sup> Sarah Koroma, Transcript 22 October 2008, pp. 18988-18989.

<sup>3189</sup> Sarah Koroma, Transcript 22 October 2008, p. 18990.

<sup>3190</sup> Sarah Koroma, Transcript 22 October 2008, pp. 18990-18991.

<sup>3191</sup> Sarah Koroma, Transcript 22 October 2008, pp. 18991-18992. However, it is not clear from the witness’ testimony if she actually witnessed her husband’s or the child’s death.

<sup>3192</sup> Sarah Koroma, Transcript 22 October 2008, pp. 18994-18995.

<sup>3193</sup> Sarah Koroma, Transcript 22 October 2008, pp. 18995-18997. The witness showed the Trial Chamber where her left arm had been amputated at the wrist, and a scar where the witness testified that the rebels attempted to sever her right hand.

<sup>3194</sup> Sarah Koroma, Transcript 22 October 2008, p. 18997.

<sup>3195</sup> Sarah Koroma, Transcript 22 October 2008, pp. 18998-18999. TF1-169 testified that Brewery is located in Wellington. TF1-169, Transcript 11 December 2008, p. 23991.

<sup>3196</sup> Sarah Koroma, Transcript 22 October 2008, p. 19000.



her instead because he did not have bullets in his gun.<sup>3197</sup> The other rebel, armed with a gun,<sup>3198</sup> pleaded with him to leave the witness alone as she was suffering from a recent amputation.<sup>3199</sup> Koroma testified that the rebel who threw the beer bottles at her also kicked her into a gutter and hit her on her thigh; the beer bottles hit her and she still has scars on her feet from the bottles.<sup>3200</sup> On the third day after this incident, Sarah Koroma sought treatment at Connaught Hospital, where she saw many patients with amputated legs. However, the witness did not testify as to where or by whom the other patients had been amputated.<sup>3201</sup>

1338. Witness TF1-026 testified that she was in her home in Wellington on 6 January 1999 when nine RUF rebels entered with guns. They began firing their weapons and shot her sister, killing her.<sup>3202</sup> The rebels who were under the command of CO Rocky<sup>3203</sup> then forcefully took her from her home up a mountain. On their way out of the village, the rebels burned houses and amputated people's limbs.<sup>3204</sup>

1339. Specifically, TF1-026 testified that the rebels amputated the hands of seven civilians, amputating the male civilians at the wrist and the women just above the elbow.<sup>3205</sup> One male civilian, wearing a white vest, died as a result of the amputation. Another male amputee was ordered to go and tell people that the rebels were coming.<sup>3206</sup>

1340. TF1-026 was with the RUF rebels during the time that they were burning houses and amputating civilians. The rebels told her she should be there to witness these acts because if she attempted to escape, they would do the same to her.<sup>3207</sup>

1341. Akiatu Tholley testified that she was on her way to the market in Wellington on 5 January 1999,<sup>3208</sup> when she heard that the rebels were coming. Tholley then ran home to

<sup>3197</sup> Sarah Koroma, Transcript 22 October 2008, pp. 18998-18999.

<sup>3198</sup> Sarah Koroma, Transcript 22 October 2008, p. 19000.

<sup>3199</sup> Sarah Koroma, Transcript 22 October 2008, pp. 18998-18999.

<sup>3200</sup> Sarah Koroma, Transcript 22 October 2008, pp. 19000-19001.

<sup>3201</sup> Sarah Koroma, Transcript 22 October 2008, p. 19003.

<sup>3202</sup> TF1-026, Transcript 14 February 2008, pp. 3843-3844.

<sup>3203</sup> TF1-026, Transcript 14 February 2008, p. 3847.

<sup>3204</sup> TF1-026, Transcript 14 February 2008, pp. 3844-3845.

<sup>3205</sup> TF1-026, Transcript 14 February 2008, pp. 3844-3845. TF1-026 further testified that the ages of the male victims were "24, 26, 25" and the female victims were "20, 22, 24".

<sup>3206</sup> TF1-026, Transcript 14 February 2008, p. 3845.

<sup>3207</sup> TF1-026, Transcript 14 February 2008, p. 3846

<sup>3208</sup> The Trial Chamber is satisfied that the context of the events places them later in January 1999 and considers that the witness' young age at the time of these events, trauma and anxiety may have caused her to be confused

warn her family who locked themselves inside their house.<sup>3209</sup> Tholley testified that an unknown number of Krio-speaking men, wearing black t-shirts and black jeans entered the house.<sup>3210</sup>

1342. Tholley stated that when the men entered the house they amputated the first child they saw, who was about 3 or 4 years old. Tholley testified that after seeing the amputation she ran to hide in the wardrobe, where a rebel later found her and forced her outside. Once outside, the rebels began beating and kicking her and asked her to go with them.<sup>3211</sup> Tholley testified that upon seeing the rebels about to amputate her mother's hands, she told the rebels she would not leave with them and that they would have to amputate her too.<sup>3212</sup> Tholley testified that at that time, three rebels began beating her with the butt of a gun and a belt.<sup>3213</sup> According to Tholley, a rebel then dragged her under a mango tree, where she lay unconscious and oozing with blood until another group of rebels came by and took her along.<sup>3214</sup>

### Findings

1343. The Trial Chamber accepts Sarah Koroma's evidence and finds beyond reasonable doubt that her left hand was amputated and her right hand was mutilated by rebels in Wellington on 6 January 1999. The Trial Chamber also finds beyond reasonable doubt, based on her evidence, that on the same day a second group of two rebels beat Koroma by throwing beer bottles at her, by kicking her into a gutter and kicking her in the thigh. Trial Chamber finds that it has been proved beyond reasonable doubt that the perpetrators caused serious physical injury and suffering to Koroma and that they evinced an obvious intention to cause such serious physical injury and suffering..

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and misstate the date.

<sup>3209</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19173.

<sup>3210</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19174.

<sup>3211</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19175.

<sup>3212</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19175-19176.

<sup>3213</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19176.

<sup>3214</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19176-19177.



1344. As Koroma testified only that these acts were perpetrated by “rebels”, the Trial Chamber finds beyond reasonable doubt that they were members of the AFRC/RUF invading forces identified by the Trial Chamber.<sup>3215</sup>

1345. The Trial Chamber finds, however, that Koroma’s evidence about other amputees she met at Connaught Hospital is insufficiently specific for it to make any findings in relation to Counts 7 and 8.

1346. The Trial Chamber accepts TF1-026’s eyewitness evidence that rebels amputated the hands of seven people in Wellington on 6 January 1999. The Trial Chamber therefore finds beyond reasonable doubt that the perpetrators caused serious physical injury and suffering to the victims, and that the perpetrators evinced an obvious intention to cause such serious physical injury and suffering. . The Trial Chamber further finds beyond reasonable doubt, based on the witness’s evidence, that the amputations were perpetrated by the RUF, under the command of CO Rocky a member of the RUF/AFRC forces which invaded Freetown on 6 January 1999.

1347. The Trial Chamber accepts Akiatu Tholley’s evidence of witnessing the amputation of a child and finds beyond reasonable doubt that the rebels amputated the arm of a child aged three to four years in Wellington. The Trial Chamber further accepts her evidence that she was badly beaten and left under a tree in Wellington. The Trial Chamber is therefore satisfied beyond reasonable doubt that the perpetrators caused, and intended to cause, serious physical injury and suffering. As indicated in the section on Sexual Slavery, the Trial Chamber is satisfied that this incident occurred in late January 1999.<sup>3216</sup>

1348. As the victims in each of the foregoing findings were captured civilians at the time that they were beaten or amputated, the Trial Chamber finds beyond reasonable doubt that they were not taking direct part in hostilities at the time of the attacks.

(f) Waterloo

1349. The Trial Chamber has considered the evidence of Akiatu Tholley.

<sup>3215</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Unlawful killing of civilians in Kissy area around January 1999, Findings *supra*.

<sup>3216</sup> Factual and Legal Findings on Alleged Crimes: Count 5 (Sexual Slavery); Akiatu Tholley used as a sexual slave in Allen Town and Waterloo, Findings *supra*.

### Evidence

1350. Akiatu Tholley testified that after being taken from her home in Wellington, she accompanied a group of rebels to Waterloo.<sup>3217</sup> When she arrived at Waterloo, Tholley witnessed rebels killing men women and children, and amputating the hands of men and women. Tholley testified that when they reached Waterloo the group was “mixed”, but that she had often heard the rebels calling Five-Five’s name and that he was the “overall boss” “the leader of the group”.<sup>3218</sup>

### Findings

1351. The Trial Chamber finds that Tholley’s evidence based on her own observations to be credible and finds beyond reasonable doubt rebels amputated the hands of an unknown number of men and women in January 1999. The Trial Chamber therefore finds beyond reasonable doubt that the perpetrators caused serious physical injury and suffering to the victims, and that the perpetrators evinced an obvious intention to cause such serious physical suffering and injury upon their victims.

1352. As the victims were civilians at the time that they were amputated, the Trial Chamber finds beyond reasonable doubt that they were not taking direct part in hostilities at the time of the attacks.

### Conclusion

1353. In conclusion, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between about 21 December 1998 and about 28 February 1999, in various areas of Freetown, including the northern and eastern areas of the city, the Kissy area around the State House, Fourah Bay, Upgun, and the Kissy mental hospital, and Hastings, Wellington, Tumbo, Waterloo, and Benguema in the Western Area, members of the AFRC and RUF committed acts of cruel treatment and other inhumane acts against an unknown number of civilians, as charged in the Indictment,<sup>3219</sup> and as shown in the evidence above.

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<sup>3217</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19196.

<sup>3218</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19196-19198.

<sup>3219</sup> Indictment, para. 21.

1354. The Trial Chamber recalls that the Prosecution has established beyond reasonable doubt that at all times relevant to the Indictment, the RUF and/or AFRC forces directed a widespread or systematic attack against the civilian population of Sierra Leone.<sup>3220</sup> The Trial Chamber is satisfied that each of the acts physical violence proved by the Prosecution in respect of Freetown and the Western Area formed part of the said attack and that the perpetrators were aware of this fact. The Trial Chamber also recalls that the Prosecution has proved beyond reasonable doubt that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving among others, members of the RUF, AFRC and CDF.<sup>3221</sup> The Trial Chamber is satisfied that for all of the aforementioned acts of physical violence in Freetown and the Western Area there was a nexus between the acts of physical violence and the armed conflict, that each of the victims was not taking an active part in the hostilities at the time of physical violence, and that the perpetrators knew this fact. Therefore, the Trial Chamber is satisfied that the aforementioned acts of physical violence in Freetown and the Western Area constitute other inhumane acts as a crime against humanity under Article 2 of the Statute, and cruel treatment as a war crime under Article 3 of the Statute.

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<sup>3220</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.

<sup>3221</sup> See Law and Findings on the General Requirements: Article 3: War Crimes, para. 573 *supra*.

**D. Count 9 (Child Soldiers)**

Introduction

1355. The Prosecution alleges that “members of RUF, AFRC, AFRC/RUF junta or alliance, and/or Liberian fighters, assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused, routinely conscripted, enlisted and/or used boys and girls under the age of 15 to participate in active hostilities. Many of these children were first abducted, then trained in AFRC and/or RUF camps in various locations throughout the country, and thereafter used as fighters”.<sup>3222</sup> These acts are alleged to have been carried out throughout the Republic of Sierra Leone between 30 November 1996 and about 18 January 2002.<sup>3223</sup>

1356. The Prosecution submits that child soldiers were ubiquitous in the Sierra Leone conflict; that thousands of children under the age of 15 participated in hostilities<sup>3224</sup> and that the rebels used children because they were fearless and more obedient than adults – characteristics that were then artificially enhanced with the forced administration of drugs such as cocaine.<sup>3225</sup> The Prosecution further submits that the RUF had a particularly high proportion of child soldiers and that not only were children a formal and integrated part of the rebel fighting forces<sup>3226</sup> sanctioned and intended by commanders at the highest levels,<sup>3227</sup> but that children were incorporated into the ranks from the RUF’s inception.<sup>3228</sup> The Prosecution argues that the evidence procured from former child soldiers, former members of the rebel forces, experts, victims and bystanders in addition to ample documentary evidence prove beyond reasonable doubt the Accused’s guilt in respect of Count 9.<sup>3229</sup>

1357. The Prosecution has not pleaded specific locations with regard to conscripting, enlisting and/or use of boys and girls under the age of 15 to participate in armed hostilities. In accordance with established jurisprudence, the Trial Chamber has found that due to the continuous nature of the crime of conscripting, enlisting and/or use of boys and girls under

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<sup>3222</sup> Indictment, para. 22.

<sup>3223</sup> Indictment, para. 22.

<sup>3224</sup> Prosecution Final Trial Brief, para. 1029.

<sup>3225</sup> Prosecution Final Trial Brief, para. 1030.

<sup>3226</sup> Prosecution Final Trial Brief, para. 1029.

<sup>3227</sup> Prosecution Final Trial Brief, para. 1036.

<sup>3228</sup> Prosecution Final Trial Brief, para. 1034.

<sup>3229</sup> Prosecution Final Trial Brief, para. 1027.

the age of 15, the pleading of particular locations is impracticable.<sup>3230</sup> Therefore, the Trial Chamber has considered evidence of conscripting, enlisting and/or use of boys and girls under the age of 15, in all locations in Sierra Leone.

1358. The Trial Chamber has first examined the evidence of conscription and enlistment of children under the age of 15 years and subsequently examined the evidence of use of children under the age of 15 years to actively participate in hostilities by districts. The Trial Chamber, having examined the evidence in its entirety, has indicated the evidence on which it has relied in arriving at its findings on each incidence of conscription or enlistment or use of children under the age of 15 years in hostilities.

1359. The Trial Chamber has considered several reports and expert evidence. Expert evidence was tender in a report prepared by the expert Jessica Alexander for the Prosecution.<sup>3231</sup> This report was based on research into a database of 2,235 children who were abducted when under the age of 15 years. It was created from information compiled by the Child Welfare Section of the Sierra Leone Ministry of Social Welfare, Gender and Children's Affairs together with interviews of social workers and stakeholders involved in the Family Tracing and Reunification and the Disarmament, Demobilization and Reintegration programmes. The research covered the period 1996 – 2002 and examined, *inter alia*, the age, place of origin, gender, abduction and length of stay with the armed forces and made findings on the abduction, military training, active combat, forced labour and sexual violence to the children whose histories was reviewed.<sup>3232</sup>

1360. The Trial Chamber has also considered the (Confidential), "Human Rights in Sierra Leone 1998 - 2000, Certain Aspects Relevant to the RUF/AFRC Indictments at the SCSL", extracts from the report "Coalition to Stop the Use of Child Soldiers: Global Report on Child Soldiers, 2001",<sup>3233</sup> (which reviewed recruitment and deployment in each of the armed

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<sup>3230</sup> See Preliminary Issues: Issues Relating to the Pleading in the Indictment *supra*.

<sup>3231</sup> Exhibit P-043, Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007.

<sup>3232</sup> Exhibit P-043, Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007, pp. 5-8.

<sup>3233</sup> Exhibit P-077 (confidential); Exhibit P-335, "Coalition to Stop the Use of Child Soldiers: Global Report on Child Soldiers, 2001".



forces, CDF, RUF, AFRC and West Side Boys from 1991-2001) and the Sierra Leone Truth and Reconciliation Report paras 148-149.<sup>3234</sup>

1361. The Trial Chamber heard evidence from many witnesses who observed children who appeared to be under the age of 15 at training bases, or engaged in various war-related activities. The Trial Chamber is aware that an official document if authenticated or uncontested is more reliable evidence of age than a witness's perception but also acknowledges that such documentary evidence is not available in many parts of Sierra Leone. The Trial Chamber is also cognisant that these witnesses made estimations of age on the basis of the child's appearance, height or physical development and/or the witness' personal experiences, rather than on objective proof of age.<sup>3235</sup> Given the inherent uncertainties in such estimations, the Trial Chamber has exercised caution in determining the ages of children associated with the rebel factions in its findings and has excluded all evidence related to child soldiers where it is not satisfied that such evidence referred to persons under age of 15 years.<sup>3236</sup>

#### 1. Finding on the AFRC and RUF as Armed Groups

1362. The Trial Chamber has found that the AFRC, RUF, the AFRC/RUF or junta forces were armed groups.<sup>3237</sup>

#### 2. Conscription and Enlistment of Child Soldiers

1363. The Prosecution evidence relates, almost entirely, to forcible conscription of children under the age of 15 into an armed force or group in circumstances of coercion. The evidence shows that in the majority of cases children were abducted and then trained.<sup>3238</sup>

1364. Children were trained in Masingbi Road,<sup>3239</sup> Superman Ground<sup>3240</sup> and Yengema in Kono District,<sup>3241</sup> Rosos in Bombali District,<sup>3242</sup> Port Loko,<sup>3243</sup> and Bunumbu in Kailahun

<sup>3234</sup> Exhibit D-012, "Confidential Witness to Truth: Report of the Sierra Leone TRC. Vol 2", paras 148-149.

<sup>3235</sup> Exhibit P-043, "Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007", p. 13.

<sup>3236</sup> *Prosecutor v. Brima, Kamara and Kanu*, SCSL-04-16-T-628, Judgement (TC), 20 June 2007, para 1246.

<sup>3237</sup> Law and Findings on the Genral Requirements, Article 3: War Crimes.

<sup>3238</sup> *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T-1234, Judgement (TC), 2 March 2009, para. 1695 "[w]e observe that either the abduction of persons for specific use within an organisation or the forced military training of persons is independently sufficient to constitute conscription, as both practices amount to compelling a person to join an armed group".





District.<sup>3244</sup> Although evidence was adduced on two locations called “Bunumbu”, in the west and in the east of Kailahun,<sup>3245</sup> the Trial Chamber is satisfied, based on evidence on its proximity to Buedu,<sup>3246</sup> that the Bunumbu training base was located in the east of Kailahun District.

1365. At the end of the training, children were given personal weapons<sup>3247</sup> and assigned to frontline commanders.<sup>3248</sup>

(a) Tonkolili District

Evidence

1366. Perry Kamara testified that he was a radio operator for the RUF,<sup>3249</sup> and was stationed in Kangari Hills under the command of Isaac Mongor from early 1996 to May 1997.<sup>3250</sup> At the time the RUF in Kangari Hills abducted many civilians, some of whom were aged 12, 15 and 16.<sup>3251</sup> Some boys were sent to the training base which had between 500 and 1000 abducted trainees. They were forcibly marked “RUF” on the forehead or back to prevent escape. Other abductees were forced to marry, or used for hard labour.<sup>3252</sup>

Findings

<sup>3239</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7976-7978; Komba Sumana, Transcript 6 October 2008, pp. 17923, 17926-17927; Transcript 7 October 2008, pp. 18022-18023.

<sup>3240</sup> Alice Pyne, Transcript 18 June 2008, pp. 12155-12160, 12166-12167, 12194-12198.

<sup>3241</sup> TF1-362, Transcript 27 February 2008, pp. 4916-4917, 4919; Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8060-8061.

<sup>3242</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8092, 8102-8103; Exhibit P-043, “Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007”, p. 20; TF1-158, Transcript 21 October 2008, pp. 18813-18825..

<sup>3243</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19216-19217.

<sup>3244</sup> TF1-362, Transcript 27 February 2008, pp. 4866-4868; Abu Keita, Transcript 23 January 2008, p. 2058.

<sup>3245</sup> Dennis Koker, Transcript 15 January 2008, pp. 1251-1252, 1261, 1266-1267.

<sup>3246</sup> Exhibit P-276, “Enlarged Section of a Map of Kailahun District (Marked by TF1-168)”. See location #7 marked by TF1-168; TF1-189, Transcript 18 September 2008, p. 16539; Komba Sumana, Transcript 6 October 2008, p. 17928; Transcript 7 October 2008, pp. 18028-18030; TF1-026, Transcript 14 February 2008, pp. 3867-3868.

<sup>3247</sup> TF1-158, Transcript 21 October 2008, pp. 18813-18825; Exhibit P-043, “Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007”, p. 20.

<sup>3248</sup> TF1-362, Transcript 27 February 2008, p. 4911; Transcript 28 February 2008, p. 4295.

<sup>3249</sup> Perry Kamara, Transcript 5 February 2008, p. 3089.

<sup>3250</sup> Perry Kamara, Transcript 5 February 2008, p. 3085.

<sup>3251</sup> Perry Kamara, Transcript 5 February 2008, p. 3087.

<sup>3252</sup> Perry Kamara, Transcript 5 February 2008, p. 3088.

1367. The time period referred to Kamara, i.e. from early 1996 to May 1997, partly falls outside the jurisdiction of the Court. However it is clear from his evidence that the abductions and training occurred continuously throughout the period. The Trial Chamber therefore finds that it has been proved beyond reasonable doubt that an unknown number of children aged below 15 years were abducted and conscripted, i.e. forcibly recruited with the purpose of using them actively in hostilities, into an armed group, the AFRC/RUF at Kangari Hills within the Indictment period. Given the prevalence of children in the RUF the Trial Chamber is satisfied that the perpetrators, including Kamara knew or should have known that these children were under the age of 15 years. The Trial Chamber is accordingly satisfied that the elements of the crime of the conscription of children into an armed force have been proved beyond reasonable doubt in relation to an unknown number of children who were abducted and trained at Kangari Hills.

(b) Kailahun District

(i) Children abducted and trained by the RUF and AFRC at Bunumbu after ECOMOG Intervention

Evidence

1368. TF1-362 testified that the Bunumbu training base, also called “Camp Lion”, was established after the ECOMOG Intervention,<sup>3253</sup> and operated until the end of 1998/1999.<sup>3254</sup>

1369. The witness testified that the procedure at Bunumbu was the same as it had been at Matru Jong,<sup>3255</sup> which was a training base used by the RUF prior to 30 November 1996. Children were first screened based on age and health, and then assigned to SBUs and SGUs. SBUs were as young as seven. SGUs were nine to 15 years of age.<sup>3256</sup> The training lasted from two weeks to six months.<sup>3257</sup> “Recruits” who tried to escape were either killed or branded on their faces or chests with the letters “RUF”.<sup>3258</sup>

<sup>3253</sup> TF1-362, Transcript 27 February 2008, pp. 4866-4868, 4895-4899.

<sup>3254</sup> TF1-362, Transcript 27 February 2008, pp. 4916-4917.

<sup>3255</sup> TF1-362, Transcript 27 February 2008, pp. 4852-4853, 4901.

<sup>3256</sup> TF1-362, Transcript 27 February 2008, pp. 4836-4840, 4899-4901.

<sup>3257</sup> TF1-362, Transcript 27 February 2008, p. 4911.

<sup>3258</sup> TF1-362, Transcript 28 February 2008, pp. 4927-4928.



1370. The military training at Bunumbu including preparing ambushes,<sup>3259</sup> dodging bullets (Halaka training) and dismantling weapons.<sup>3260</sup> Some civilian “recruits” died during military training exercises and the High Command was informed.<sup>3261</sup> After the training, SBUs were sent to the front lines to fight or were assigned as bodyguards.<sup>3262</sup>

1371. During the training, SBUs were forced to participate in food-finding by the AFRC and RUF missions.<sup>3263</sup>

1372. Dennis Koker testified that approximately one month after the AFRC and RUF were driven out of Freetown,<sup>3264</sup> they arrived in Buedu along with civilians they had captured on the way from Kono, Quiva Road junction, Masiaka, Makeni and Koidu. The stronger ones were taken for military training at Bunumbu, and after the training they were sent as reinforcements to fight in the war. Some of those sent for training told Koker they were aged 12 or 14 and he saw that they were “very small” and “not fit for military work”.<sup>3265</sup> During the 21 months Koker spent in Buedu up to 500 children were recruited as SBUs and given guns. They did domestic chores and fought at the war front.<sup>3266</sup> Koker testified that SBUs were small children aged 7 to 14.<sup>3267</sup>

1373. Albert Saidu heard that Monica Pearson was a training commander at Bunumbu Camp Lion training base from 1998 to 1999.<sup>3268</sup> He agreed with a previous statement given to the Prosecution that after the ECOMOG Intervention, boys were abducted during the retreat from Freetown and the strongest ones were sent to Bunumbu for training. He testified that some of the children were as young as 8 years old.<sup>3269</sup>

1374. TF1-189 testified that after she heard about the attack on Freetown on 6 January 1999, the rebels sent 20 captives, aged 12 to 18, both male and female, away from Mamboma village in Kailahun. TF1-189 learned that the rebels took them to “the training

<sup>3259</sup> TF1-362, Transcript 27 February 2008, pp. 4840-4841.

<sup>3260</sup> TF1-362, Transcript 27 February 2008, pp. 4840-4845, 4906.

<sup>3261</sup> TF1-362, Transcript 27 February 2008, p. 4905.

<sup>3262</sup> TF1-362, Transcript 27 February 2008, pp. 4911-4912.

<sup>3263</sup> TF1-362, Transcript 27 February 2008, pp. 4904-4905.

<sup>3264</sup> Dennis Koker, Transcript 15 January 2008, p. 1258.

<sup>3265</sup> Dennis Koker, Transcript 15 January 2008, pp. 1261, 1271-1273.

<sup>3266</sup> Dennis Koker, Transcript 15 January 2008, pp. 1265-1266, 1277, 1297.

<sup>3267</sup> Dennis Koker, Transcript 15 January 2008, p. 1297.

<sup>3268</sup> Albert Saidu, Transcript 4 June 2008, p. 10950.

<sup>3269</sup> Albert Saidu, Transcript 9 June 2008, pp. 11349-11350.

base” at which C.O. Monica was the commander, where they were taught how to use guns. After the training, the trainees were taken to the front lines.<sup>3270</sup> The witness was informed about this recruitment from her cousin, who was one of those trained, and who was 16 at the time of her abduction. Her cousin also said that she was given a gun and was assigned to guard a commander.<sup>3271</sup>

1375. Aruna Gbonda testified that from 1996 to 2000, some of the RUF rebels in Kailahun were “little children” aged 8 to 10 years old who were abducted and then trained. Some carried guns.<sup>3272</sup>

1376. Exhibit D-013, a report by a Training Commander at Camp Lion, Bunumbu from 21 May 1998, records the presence of 53 SBUs at the base, but does not specify their age.<sup>3273</sup>

### Findings

1377. The Trial Chamber accepts the testimony of witnesses Koker, Gbonda, Saidu, TF1-189’s and TF1-362’s first-hand evidence about the training of children at Bunumbu from approximately February 1998 until the end of 1998. TF1-362’s evidence was unequivocal and was corroborated by Exhibit D-013. The Trial Chamber notes that TF1-189 testified that the training occurred in January 1999, while TF1-362 testified that the training at Bunumbu ended in December 1998 when the RUF was flushed out of the area, and that she then went to Yengema. Given the detailed first-hand testimony of TF1-362, the Trial Chamber finds that TF1-189 must have been mistaken about timing of these events but accepts her evidence that these abductions and trainings occurred.

1378. The Trial Chamber is therefore satisfied that an unknown number of children were conscripted, i.e. abducted and forcedly recruited with the purpose of using them actively in hostilities, into an armed group, the AFRC/RUF. Moreover, based on TF1-362’s evidence that the children were screened into groups of SBUs and SGUs based on their age, the Trial Chamber finds that it has been proved beyond reasonable doubt that some of these children were under the age of 15 years. Further, based on evidence of this screening process, the Trial Chamber is satisfied that the perpetrators, including TF1-362, knew or should have

<sup>3270</sup> TF1-189, Transcript 18 September 2008, pp. 16534-16239.

<sup>3271</sup> TF1-189, Transcript 18 September 2008, pp. 16548-16549.

<sup>3272</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4280-4281.

<sup>3273</sup> Exhibit D-013, “Confidential Sierra Leone People’s Army, Try Base Manpower Statistic, 21 May 1998”.

known that these children were under the age of 15 years. The Trial Chamber is accordingly satisfied that the elements of the crime of the conscription of children into an armed force have been proved beyond reasonable doubt in relation to an unknown number of children who were trained at Bunumbu.

(ii) Abduction and training of Komba Sumana in approximately July/August 1998

Evidence

1379. Komba Sumana testified that he lived in Tankoro village near Koidu Town at the time when the “soldiers have overthrown”.<sup>3274</sup> On cross-examination, Sumana confirmed a prior statement in which he said he was in Koidu when he heard that ECOMOG had dislodged the AFRC from Freetown, in approximately February 1998.<sup>3275</sup> The Trial Chamber is satisfied from this description that the event referred to by Sumana is the ECOMOG Intervention of 14 February 1998.<sup>3276</sup>

1380. Approximately two months later, after the rainy season had begun, his parents and siblings were captured by “rebels” outside of Pakidu village and taken in the direction of Koidu Town.<sup>3277</sup> Sumana then came under the care of an aunt. They travelled together to Koidu Town, having heard that ECOWAS was there. On the way, they were attacked by “rebels” and became separated.<sup>3278</sup> Approximately a week later, still during the rainy season, three “rebels” attacked Sumana and another civilian in the bush outside Koidu Town and captured them. The rebels were male “youths” wearing military uniform trousers with a black and green combat pattern and civilian clothes and were carrying guns. They spoke Liberian English.<sup>3279</sup>

1381. On cross-examination, Sumana testified that he could not recall the month or the year in which he was abducted, but that it was during the “mango season” and “at the time we were finally driven out of Koidu Town”,<sup>3280</sup> some months after ECOMOG drove the

<sup>3274</sup> Komba Sumana, Transcript 6 October 2008, pp. 17883-17884.

<sup>3275</sup> Komba Sumana, Transcript 7 October 2008, pp. 18018-18029.

<sup>3276</sup> *Prosecutor v. Taylor*, SCSL-03-1-T, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, Annex A, Fact AD.

<sup>3277</sup> Komba Sumana, Transcript 6 October 2008, pp. 17893-17900.

<sup>3278</sup> Komba Sumana, Transcript 6 October 2008, pp. 17899-17902.

<sup>3279</sup> Komba Sumana, Transcript 6 October 2008, pp. 17903-17909, 17912.

<sup>3280</sup> Komba Sumana, Transcript 7 October 2008, pp. 18007, 18009.

rebels out of Freetown.<sup>3281</sup> Sumana also denied having told the Prosecution that he was abducted in approximately February 1998, as was recorded by an investigator in a prior statement.<sup>3282</sup>

1382. The Trial Chamber recalls the evidence presented before it that the “mango season” generally begins in April or May.<sup>3283</sup> The Trial Chamber also recalls its finding that Koidu Town was captured by junta forces in late February/early March 1998 and that they were forced by ECOMOG to retreat in early April.<sup>3284</sup> The Trial Chamber finds Sumana’s evidence consistent with evidence of these known events and concludes that he was captured in around April 1998.

1383. Sumana testified that he was “very small” and did not yet have any facial hair at the time of his capture.<sup>3285</sup> He stated that before they were driven out of Koidu Town, his father “used to tell” him that he was 14 years old.<sup>3286</sup>

1384. Sumana also testified that he was born in 1984 but he was unable to say in which month.<sup>3287</sup> He presented the court with a birth certificate which he testified was obtained by his father at the end of the war. This certificate, issued on 22 June 2003, shows from hospital records that he was born on 10 August 1984.<sup>3288</sup> The Trial Chamber notes that Sumana stopped his education in Class 4 and cannot read.<sup>3289</sup>

1385. Sumana also presented the Court with a voter identification card which he testified he obtained in Freetown in 2002, during the elections.<sup>3290</sup> This card shows that he was “age 18”<sup>3291</sup> and the date of the elections as 14 May 2002.

1386. Sumana testified that after he was captured, the “rebels” brought him to their base in Kissi Town. There, Sumana saw many other captured civilians and “rebels”. Their “boss”

<sup>3281</sup> Komba Sumana, Transcript 7 October 2008, pp. 18020-18021.

<sup>3282</sup> Komba Sumana, Transcript 7 October 2008, pp. 18011-18014.

<sup>3283</sup> Exhibit P-199A, “RUF Trial Transcript, 13 January 2005, TF1-034”, p. 18967.

<sup>3284</sup> See Military Operations: Operations in Kono (Early 1998); Operation Fitti-Fatta *infra*.

<sup>3285</sup> Komba Sumana, Transcript 6 October 2008, p. 17904.

<sup>3286</sup> Komba Sumana, Transcript 7 October 2008, p. 18009.

<sup>3287</sup> Komba Sumana, Transcript 6 October 2008, pp. 17879-17880.

<sup>3288</sup> See Exhibit P-185, “Copy of Birth Certificate, Republic of Sierra Leone”.

<sup>3289</sup> Komba Sumana, Transcript 6 October 2008, p. 17881.

<sup>3290</sup> Komba Sumana, Transcript 6 October 2008, pp. 17905-17906.

<sup>3291</sup> See Exhibit P-186, “Republic of Sierra Leone, National Electoral Commission, Voter ID Card, Komba

was “Major Wallace”, a former Liberian ULIMO fighter who joined the STF and spoke Krio, Liberian English and a Liberian tribal language Sumana did not recognise. Major Wallace’s “boss” in Kissi Town was “Superman”. When they were in Liberia, Major Wallace was under Colonel Alhaji Kromah.<sup>3292</sup> Sumana learned his captors were named Wuya, Opong and Alie.<sup>3293</sup> On cross-examination, Sumana confirmed that all three were former ULIMO fighters who had joined the STF.<sup>3294</sup> The Trial Chamber is satisfied from Sumana’s description of his abductors and their associates that he was abducted by members of the STF.

1387. Sumana testified that he became a member of the “SBU” and performed domestic chores; he was not able to explain what SBU stands for.<sup>3295</sup> Approximately three weeks after Sumana was brought to Kissi Town, Issa Sesay assembled the captured civilians at PC Ground and stated that Mosquito had requested that the civilians be sent to Kailahun for training. Morris Kallon selected more than 200 men, women and children, including Sumana, to participate in this training. At the time of selection, the civilians were held at gunpoint and Sumana testified that “[t]hey said if anybody refused to go they would kill him”.<sup>3296</sup> On cross-examination, Sumana testified that this happened at the time the mangos were ripening which may have been April.<sup>3297</sup>

1388. Sumana testified that the training took place during the rainy season in the bush outside of Buedu. The trainees undertook two months of training under an instructor named “Monica” who spoke Liberian English. Sumana was taught to crawl on the ground during an ambush, how to shoot, dismantle, clean and reassemble an AK-47 gun, how to attack a town and how to burn houses. The civilians were sometimes beaten and given little food. One man fell ill and died. Sumana showed the Court scars on his right knee and ankle and on his left shin which he testified were the result of crawling on the ground during the training.<sup>3298</sup> On the basis of his evidence, and on Sumana’s testimony of later events set out below, the

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Sumana”.

<sup>3292</sup> Komba Sumana, Transcript 6 October 2008, pp. 17909-17913; Transcript 7 October 2008, p. 18022.

<sup>3293</sup> Komba Sumana, Transcript 6 October 2008, pp. 17913-17914.

<sup>3294</sup> Komba Sumana, Transcript 7 October 2008, p. 18021.

<sup>3295</sup> Komba Sumana, Transcript 6 October 2008, pp. 17912-17913.

<sup>3296</sup> Komba Sumana, Transcript 6 October 2008, pp. 17923, 17926-17927; Transcript 7 October 2008, pp. 18022-18023.

<sup>3297</sup> Komba Sumana, Transcript 7 October 2008, pp. 18024-18025.

<sup>3298</sup> Komba Sumana, Transcript 6 October 2008, pp. 17927-17936.

Trial Chamber is satisfied that Sumana's military training ended in approximately July or August 1998.

1389. On cross-examination, Sumana agreed that the "Monica" who conducted the training was also known as "Colonel Monica" and that the training camp was located "in Buedu". The Defence referred the witness to other evidence suggesting that Colonel Monica Pearson, a known RUF trainer, was not in Buedu in 1998, but rather in Camp Lion in Bunumbu, some 14 miles away. Sumana explained that "they" used to say that she was in Buedu, but that "we" were in the bush and did not go to Buedu. He then reiterated that he was at a camp "in Buedu" where he was trained by a female Liberian named Monica.<sup>3299</sup> The Trial Chamber notes that according to Exhibit P-276, a map of Kailahun District marked by TF1-168, Bunumbu is approximately 15 kilometres outside of Buedu.<sup>3300</sup> The Trial Chamber notes that, in his own description of the location, the witness seemed to refer interchangeably to "in Buedu" and the bush outside of Buedu. The Trial Chamber relies on his repeated spontaneous descriptions of a location "outside of Buedu" and "in the bush" and is satisfied that this is not inconsistent with the location of the training camp at Bunumbu.

### Findings

1390. On the basis of evidence given by Sumana that he was forcibly abducted from outside of Koidu Town in approximately April or May 1998 by members of the STF under the command of Superman, that he became an SBU, that he was held by the RUF for three weeks in Kissi Town, and that he was subsequently forced to participate in two months of military training at Bunumbu, Kailahun District by members of the RUF under the command of Issa Sesay and Sam Bockarie ending in approximately July or August 1998, the Trial Chamber finds that Sumana was conscripted, i.e. abducted and forcibly recruited with the purpose of using him actively in hostilities, into an armed group, the RUF.

1391. Sumana presented the Court with two official documents which appear to be incompatible with each other with regard to his exact age. The voter ID card does not state his date of birth nor indicates the time and place it was issued, nor does it show the

<sup>3299</sup> Komba Sumana, Transcript 7 October 2008, pp. 18028-18030.

<sup>3300</sup> Exhibit P-276, "Enlarged Section of a Map of Kailahun District (Marked by TF1-168)". See location #7 marked by TF1-168.

information used to support its issue, whereas Sumana's birth certificate, which he received after his voter ID card was issued, is based on actual hospital records.

1392. The Trial Chamber accepts that Sumana may not himself have known his exact age at the time of his abduction, he was "very small" at the time and did not yet have facial hair. His father "used to tell him" that he was 14, whereas according to his recently acquired birth certificate he was actually only 13.

1393. Notwithstanding the apparent inconsistency between these two official documents both show that Sumana was 13 at the time of his abduction, the Trial Chamber is accordingly satisfied that he was about 13 at the time of his abduction in April/May 1998. The Trial Chamber therefore finds that it has been proved beyond reasonable doubt that Sumana was under the age of 15 at the time of his capture. Given the prevalence of children under the age of 15 in the RUF,<sup>3301</sup> the Trial Chamber is satisfied that the members of the RUF knew or should have known that Sumama was under the age of 15 years. The Trial Chamber is accordingly satisfied that the elements of the crime of conscription of a child under 15 years into an armed force, the RUF/AFRC under the command of Sam Bockarie, have been proved beyond reasonable doubt in relation to Komba Sumana.

(iii) Abduction and training of Edna Bangura

Evidence


1394. The evidence of witness Edna Bangura of her capture in Masingbi, Tonkolili District in 1994 and subsequent detention in Buedu has been recited in the section dealing with Count 4 (rape).<sup>3302</sup>

1395. In Buedu, Bangura was assigned to CO Scorpion. The day after she arrived, CO Issa ordered that she and other captured civilians be sent for training. Bangura testified that she was not yet 11 when she was sent for training and estimated that the other people sent for training were between 10 to 25 years old.<sup>3303</sup> She was subsequently assigned to a Small Girls Unit "for small girls between the age brackets of 8, 11, 12, 13" She saw small boys of

<sup>3301</sup> Exhibit P-043, "Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007", p. 22.

<sup>3302</sup> Factual and Legal Findings on Alleged Crimes: Count 4 (Rape); Rape of women by the RUF throughout Kailahun District *supra*.

<sup>3303</sup> Edna Bangura, Transcript 20 October 2008, pp. 18671-18674.





similar ages who were formed into Small Boys Units and who acted as securities.<sup>3304</sup> She was sent with others in groups of up to 20, some but not all of whom, were armed to villages where they took “whatever we were able to see” and where they captured civilians, men, women and children and forced them to carry the looted goods.<sup>3305</sup>

1396. Bangura testified that she was trained “in Buedu” for two weeks by Monica Pearson whom she believed was Liberian.<sup>3306</sup> At the training, they were taught how to set an ambush, how to retreat and how to use a gun. Bangura was trained with a two pistol grip gun. She testified that she was very small and that she had to place the gun somewhere higher than herself so that she could duck under the strap. Other people were trained with G3s and LARs; Bangura was unable to explain what an LAR is. She estimated that there were 50 or more people trained with her.<sup>3307</sup>

1397. On cross-examination, Bangura explained that the training camp was not in fact in Buedu Town but rather in a place that she estimated was about one or two hours walk away.<sup>3308</sup> Defence counsel suggested to her that Monica Pearson worked in a camp which was 14 miles away in Bunumbu and doubted that it was possible to walk this far in an hour or two. Bangura suggested that they used to run. The Trial Chamber has noted that according to Exhibit P-276, a map of Kailahun District marked by TF1-168, Bunumbu is approximately 15 kilometres outside of Buedu.<sup>3309</sup> Bangura went on to testify on cross-examination that she knows of a place called Bunumbu but she does not know how far it is from Buedu nor does she know if there was an RUF training camp located there. However, inconsistently, Bangura also stated that she had been to Bunumbu, then stated that she did not know it was Bunumbu or the names of other villages but was emphatic that she “was trained somewhere around Buedu”.<sup>3310</sup>

## Findings

<sup>3304</sup> Edna Bangura, Transcript 20 October 2008, p. 18679.

<sup>3305</sup> Edna Bangura, Transcript 20 October 2008, p. 18628

<sup>3306</sup> Edna Bangura, Transcript 20 October 2008, p. 18674.

<sup>3307</sup> Edna Bangura, Transcript 20 October 2008, pp. 18674-18677.

<sup>3308</sup> Edna Bangura, Transcript 20 October 2008, pp. 18700-18702.

<sup>3309</sup> Exhibit P-276, “Enlarged Section of a Map of Kailahun District (Marked by TF1-168)”. See location #7 marked by TF1-168.

<sup>3310</sup> Edna Bangura, Transcript 20 October 2008, pp. 18720-18723.



1398. The Trial Chamber takes into consideration Bangura's young age at the time of the events and the fact that she stopped her education in Form 5.<sup>3311</sup> Bangura appeared nervous and shy during her testimony. The Trial Chamber is satisfied that her description of a training base outside of Buedu where Monica Pearson was the training commander is not inconsistent with the location of the training base at Bunumbu.

1399. However, other reliable evidence shows that Sam Bockarie sent Monica Pearson to establish a training camp at Bunumbu only after the ECOMOG Intervention in February, 1998<sup>3312</sup> and that there is no evidence to suggest that Monica Pearson was at Bunumbu prior to this time. Indeed, the evidence suggests that Pearson was in Pujehun,<sup>3313</sup> Bonthe (Matru Jong),<sup>3314</sup> and Kenema Districts (Camp Lion in Zogoda) prior to leaving Sierra Leone for Liberia in 1996<sup>3315</sup> and did not return to Sierra Leone until just prior to the ECOMOG Intervention.<sup>3316</sup>

1400. The Trial Chamber finds this is inconsistent with Bangura's evidence that she was trained by Pearson outside of Buedu within weeks of being captured in 1994 when she was still 10 years old. Further, if Bangura is believed about the year of her capture, her alleged conscription occurred before the indictment period.

1401. The Trial Chamber has considered that Bangura's detailed description of her training at Bunumbu under Monica Pearson may be more reliable than her assertion of the year in which she was captured as she is a child witness with little education recalling events which occurred more than a decade ago. She is more likely to reliably recall events rather than numeric representations of time. Trial Chamber concludes that Bangura was in fact trained after February, 1998 and not in 1994 as she stated. The Trial Chamber finds this would be inconsistent with Bangura's testimony that she was born in 1984 and was not yet 11 when she was trained.

<sup>3311</sup> Edna Bangura, Transcript 20 October 2008, pp. 18663-18665.

<sup>3312</sup> TF1-362, Transcript 27 February 2008, p. 4868.

<sup>3313</sup> TF1-362, Transcript 27 February 2008, p. 4827.

<sup>3314</sup> TF1-362, Transcript 27 February 2008, pp. 4826-4827.

<sup>3315</sup> TF1-362, Transcript 27 February 2008, p. 4851; Albert Saidu, Transcript 4 June 2008, p. 10949.

<sup>3316</sup> TF1-362, Transcript 27 February 2008, p. 4858.

1402. Based on the inconsistencies in Bangura's testimony relating to the date and age at which she was abducted, the Trial Chamber cannot be satisfied beyond a reasonable doubt that the events described by the witness occurred within the Indictment period.

(iv) Abduction and training of TF1-026 from January to November/December 1999

Evidence

1403. TF1-026, born on 9 November 1984,<sup>3317</sup> was 14 years old on 6 January 1999 when nine RUF rebels, under the command of CO Rocky, came to her house in Wellington, Freetown, where she lived with her family.<sup>3318</sup> The rebels abducted the witness, who went with them unwillingly.<sup>3319</sup>

1404. After her abduction, the witness was taken by the RUF rebels, commanded by CO Rocky, to Calaba Town,<sup>3320</sup> and two days later to Waterloo where they met CO Rambo, an RUF commander.<sup>3321</sup> From there they moved to Makeni, where they met "Brigadier Issa", the "big man in Makeni", and Superman, another "big man" of the RUF. During her three week stay in Makeni, she did house chores in CO Issa's house.<sup>3322</sup>

1405. After this three weeks period in Makeni, Brigadier Issa ordered CO Rocky to take the women to be trained in Kailahun. The witness and 19 other girls and women were taken by a vehicle to Kono, and from Kono they walked to Buedu, Kailahun District. In Buedu they were handed over to Mosquito, "the big man of all of them", who told CO Rocky to take them to "Buedu field" to be trained.<sup>3323</sup>

1406. At the training field, CO Rocky handed over the girls and women to an RUF woman Vanguard named Krio Mammy for training. Mosquito arrived at the field, said "they" should start training them, and informed the girls and women that anyone caught trying to escape would be killed. The trainees were then provided military training for six months. All the trainees received a gun during the training and were trained how to use it, how to crawl

<sup>3317</sup> TF1-026, Transcript 14 February 2008, pp. 3842, 3847.

<sup>3318</sup> TF1-026, Transcript 14 February 2008, pp. 3843, 3851.

<sup>3319</sup> TF1-026, Transcript 14 February 2008, pp. 3844-3847.

<sup>3320</sup> TF1-026, Transcript 14 February 2008, p. 3862.

<sup>3321</sup> TF1-026, Transcript 14 February 2008, pp. 3863, 3865.

<sup>3322</sup> TF1-026, Transcript 14 February 2008, pp. 3865- 3867.

<sup>3323</sup> TF1-026, Transcript 14 February 2008, pp. 3867- 3868.

while using arms, and how to shoot a gun, an “AK”. They also had a G3. They were told the training was needed in the RUF, and if the ECOMOG attacked they would need to know how to shoot, crawl, roll and escape. The witness was 14 years old during her training, while the others ranged in age from 18 to 26.<sup>3324</sup>

1407. During the training the witness tried to escape with three other female trainees. They were told a boat would come and take them to Liberia. After finding out that Mosquito had heard of their attempt, the witness and her friend returned to the training camp, while the two other females were captured by Mosquito. Mosquito then shot and killed the two recaptured girls in front of the other trainees, telling them that this was an example of what would happen to them if they tried to escape. Another female trainee had already died because the training made her ill. After the execution of the two trainees, all the remaining 17 trainees had the letters “RUF” carved onto their chests with a knife, so that if they “ran away wherever (they) went if caught (they) would be killed”<sup>3325</sup>

1408. After the six months of training, Mosquito ordered that the women be brought back to Makeni, Bombali District, and handed over to Brigadier Issa. The witness spent two months in Makeni, during which she did domestic chores for Brigadier Issa and his wife.<sup>3326</sup> She was forcibly married to a “RUF boy”.<sup>3327</sup> The witness escaped to her home village after she became pregnant. She spent a total of nine months in rebel captivity.<sup>3328</sup>

### Findings

1409. On the basis of TF1-026’s unchallenged testimony that she was forcibly abducted from her home in Wellington and removed from her family, that she was detained by Brigadier Issa in Makeni for three weeks while doing domestic chores, that she was taken to Buedu field in Kailahun District and was militarily trained with a gun for six months; that she tried to escape and was threatened with execution, that the letters “RUF” were carved on her chest with a knife, that she was sent back to Makeni to do house chores for Brigadier Issa and his wife, the Trial Chamber finds that TF1-026 was conscripted, i.e. abducted and forcibly recruited with the purpose of using her actively in hostilities, into an armed group,

<sup>3324</sup> TF1-026, Transcript 14 February 2008, pp. 3868-3870.

<sup>3325</sup> TF1-026, Transcript 14 February 2008, pp. 3870-3873.

<sup>3326</sup> TF1-026, Transcript 14 February 2008, pp. 3873-3874.

<sup>3327</sup> TF1-026, Transcript 14 February 2008, pp. 3875.

the RUF/AFRC. The Trial Chamber finds this conscription was perpetrated by members of the RUF under the command of Sam Bockarie and occurred in Kailahun District from approximately February or March 1999 through approximately November or December 1999.

1410. On the basis of the witness's testimony that she was born in 1984, the Trial Chamber is satisfied that she was 14, and thus under the age of 15 years, during her conscription and training in 1999. Given the prevalence of children under the age of 15 in the RUF,<sup>3329</sup> the Trial Chamber is satisfied that the members of the RUF knew or should have known that witness TF1-026 was under the age of 15 years. Accordingly the Trial Chamber finds that the elements of the crime of the conscription of a child under the age of 15 years into an armed force have been proved beyond reasonable doubt in relation to TF1-026 and that the perpetrators knew or should have known that children under the age of 15 were conscripted into the armed force.

1411. The Trial Chamber, however, is not satisfied that the performance of domestic chores constitutes active participation in hostilities, as these activities are not related to the hostilities and do not directly support the military operations of the armed groups, and therefore does not made a finding that the domestic chores she performed at Issa Sesay's house in Makeni shortly after her capture in 1999 constitute use of a child to participate actively in hostilities.

(c) Kono District

(i) Children abducted and trained by the AFRC and RUF between March and December 1998

Evidence

1412. Dennis Koker testified that approximately a week after the AFRC was expelled from Freetown,<sup>3330</sup> they captured many children aged 12 or 14 years from Koidu Town and the

<sup>3328</sup> TF1-026, Transcript 14 February 2008, pp. 3877-3879, 3889.

<sup>3329</sup> Exhibit P-043, "Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007", p. 22.

<sup>3330</sup> Dennis Koker, Transcript 15 January 2008, pp. 1231, 1234-1236.

surrounding area in Kono and forcefully used these children as reinforcements to fight for them. The children had guns and fought for the RUF.<sup>3331</sup>

1413. Alice Pyne testified that in March 1998, while she was at PC Ground, the RUF captured children from villages near PC Ground and took them to the training base at Superman Ground.<sup>3332</sup> The captured children who were sent for training at Superman Ground were aged 8-13. After they “graduated” they would be distributed to commanders. The training at Superman Ground was the same type of training the witness underwent at Dia.<sup>3333</sup> At Dia, the training included how to attack, how to mount an ambush, how to crawl and manoeuvre.<sup>3334</sup>

1414. Alimamy Bobson Sesay testified that SBUs, some aged 8 to 12, were given basic weapon training at Masingbi Road from mid-March to April 1998, and was himself involved in providing such training.<sup>3335</sup> The witness also saw SBUs given basic training in Kono by Junior Sherrif, Savage, Tito in Yengema, Amara Kallay, Komba Gbundema, Emmanuel Williams aka Rocky and Colonel Isaac Mongor.<sup>3336</sup>

1415. Emmanuel Bull testified that after April 1998, while he was with the RUF/AFRC between Woama and Baima,<sup>3337</sup> he heard that Bai Bureh had ordered the RUF/AFRC to train young men. The witness and others were then trained for two weeks by Kallay Amara, Anthony and Jah Spirit on how to use weapons. Some of the trainees were Small Boys Units, aged 13 and upwards. Usually at mid-day the trainees were sent on food finding missions, accompanied by gunmen.<sup>3338</sup>

### Findings

1416. The Trial Chamber notes that Koker did not provide any basis for his estimate that the children who were captured in Koidu and who fought for the RUF were between 12 and 14 years old but that this aspect of his evidence was not challenged and that he had

<sup>3331</sup> Dennis Koker, Transcript 15 January 2008, pp. 1243-1244, 1257.

<sup>3332</sup> Alice Pyne, Transcript 18 June 2008, pp. 12155-12160, 12166-12167, 12194-12198.

<sup>3333</sup> Alice Pyne, Transcript 19 June 2008, pp. 12218-12219.

<sup>3334</sup> Alice Pyne, Transcript 17 June 2008, p. 12055.

<sup>3335</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7976-7978.

<sup>3336</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7978-7979; Transcript 21 April 2008, pp. 8060-8061.

<sup>3337</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17315.

<sup>3338</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17316-17319, 17327.

experience of working with children in the RUF, and therefore accepts that these children were under the age of 15. Given the prevalence of children in the RUF/AFRC, the Trial Chamber is satisfied that the perpetrators, including Koker knew or should have known that these children were under the age of 15 years. The Trial Chamber therefore finds that an unknown number of children were conscripted into the RUF/AFRC in Koidu Town and the surrounding area after 14 February 1998 and that the Prosecution have proved beyond reasonable doubt the crime of the conscription of children under the age of 15 into the RUF in Koidu Town and the surrounding area after 14 February 1998

1417. The Trial Chamber notes that Alice Pyne's evidence of the age of the abducted children was not challenged and that she had children herself at that time. On the basis of this evidence, the Trial Chamber is therefore satisfied beyond reasonable doubt that the abducted children by members of the RUF/AFRC from villages near PC Ground were under the age of 15 years. The Trial Chamber is further satisfied that the children were trained at Superman Ground and subsequently distributed to commanders.

1418. Based on the prevalence of children under the age of 15 conscripted by the RUF<sup>3339</sup> the Trial Chamber is satisfied that the members of the RUF knew or should have known that these children was under the age of 15 years. The Trial Chamber therefore finds that an unknown number of children were conscripted, i.e. forcedly recruited with the purpose of using them actively in hostilities, into the RUF/AFRC from villages near PC Ground in March 1998 and in Koidu Town and surrounding area after 14 February 1998 and that the Prosecution has proved beyond reasonable doubt the crime of the conscription of an unknown number of children under the age of 15 into the RUF at PC Ground and the surrounding area in March 1998 and in Koidu Town and surrounding area after 14 February 1998.

1419. Alimamy Bobson Sesay testified about the training of children at Masingbi Road. Given his detailed account, and his lack of any motivation to lie in relation to this evidence, the Trial Chamber considers his testimony to be reliable in relation to this incident. Bobson Sesay testified that he knew the children trained at Masingbi Road were between 8 and 12 because the children were "mustered" and information about each recruit, including their

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<sup>3339</sup> Exhibit P-043, "Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007", p. 22.

names and ages, was recorded by one of the training commanders. The Trial Chamber is therefore satisfied beyond reasonable doubt that these children were under the age of 15 years. On the basis of Bobson Sesay's evidence the Trial Chamber finds that an unknown number of children under the age of 15 were conscripted, i.e. forcibly recruited with the purpose of using them actively in hostilities, into an armed group, the RUF/AFRC between mid-March and April 1998 at Masingbi Road. The Trial Chamber is further satisfied that, given this registration process, the members of the AFRC who were involved in training the children, including Bobson Sesay, knew or should have known that these children were under the age of 15 years. The Trial Chamber accordingly finds that the elements of the crime of conscription of persons under the age of 15 years into an armed force have been proved beyond reasonable doubt in relation to an unknown number of children who were conscripted into the RUF/AFRC at Masingbi Road from mid-March to April 1998.

1420. However, the Trial Chamber finds that Bobson Sesay's evidence regarding the training given by other SLA and RUF commanders in parts of Kono other than Masingbi Road is insufficiently specific as to the dates of the training and the ages of the "SBUs" that were trained.

1421. The Trial Chamber notes that Emmanuel Bull was 17 years of age at the time of his capture and enforced training. His siblings were aged 16, and 11 or 12, his brother, Titus, being the youngest of those captured.<sup>3340</sup> His testimony that the children were "[s]mall boys in the age of 13. You know, 13, 15" was not challenged. On the basis of this evidence, the Trial Chamber is therefore satisfied beyond reasonable doubt that these children were under the age of 15 years.

1422. Based on his evidence that these children were trained on how to use weapons, the Trial Chamber finds beyond reasonable doubt that members of the RUF/AFRC conscripted, i.e. abducted and forcibly recruited with the purpose of using them actively in hostilities, these children into their armed force. Moreover, based on the prevalence of children under the age of 15 conscripted by the AFRC/RUF,<sup>3341</sup> the Trial Chamber is satisfied that the members of the AFRC and RUF knew or should have known that these children was under the age of 15 years. The Trial Chamber therefore finds that an unknown number of children

<sup>3340</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17287.

<sup>3341</sup> Exhibit P-043, "Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the

were conscripted into the RUF in or about April 1998 in Kono District and that the elements of the crime of the conscription of children under the age of 15 into the AFRC and RUF have been proved beyond reasonable doubt.

(ii) Children trained by the AFRC and RUF after December 1998 in Yengema

Evidence

1423. TF1-362 testified that at the end of 1998, when Kono was “cleared”,<sup>3342</sup> Yengema training base was established.<sup>3343</sup> The same procedures that had been used at Bunumbu training base were employed at Yengema viz. dividing the recruits into five platoons, including an SBU platoon.<sup>3344</sup> The recruits were trained with live ammunition and were sent on food finding missions. The youngest and oldest “recruits” died most often.<sup>3345</sup> After the training, the “recruits” were assigned to the frontline commanders including Morris Kallon, Denis Mingo and Rambo.<sup>3346</sup> SBUs were also assigned to commanders as bodyguards.<sup>3347</sup>

Findings

1424. The Trial Chamber has previously found that TF1-362’s detailed account of the training of children at various bases in Sierra Leone is credible.<sup>3348</sup> In this instance, the Trial Chamber finds that, based on TF1-362’s direct evidence of the training of children at Yengema from approximately December 1998, that children were conscripted, i.e. forcibly recruited with the purpose of using them actively in hostilities, into an armed group, the RUF/AFRC. Moreover, based on TF1-362’s evidence that the children were screened into groups of SBUs and SGUs based on their age, the Trial Chamber finds that it has been proved beyond reasonable doubt that some of these children were under the age of 15 years, and that the perpetrators, including TF1-362, knew or should have known that these children were under the age of 15 years. The Trial Chamber is accordingly satisfied that the

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Conflict in Sierra Leone, 4 May 2007”, p. 22.

<sup>3342</sup> TF1-362, Transcript 27 February 2008, pp. 4916-4917.

<sup>3343</sup> TF1-362, Transcript 27 February 2008, pp. 4916-4917.

<sup>3344</sup> TF1-362, Transcript 27 February 2008, p. 4919.

<sup>3345</sup> TF1-362, Transcript 28 February 2008, pp. 4922-4924.

<sup>3346</sup> TF1-362, Transcript 28 February 2008, p. 4295.

<sup>3347</sup> TF1-362, Transcript 28 February 2008, p. 4926.

<sup>3348</sup> Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers); Children abducted and trained by the RUF and AFRC at Bunumbu after ECOMOG Intervention, Findings *supra*.



Prosecution has proved beyond a reasonable doubt that an unknown number of children under 15 years were conscripted into the RUF/AFRC, an armed force in December 1998 at Yengema.

(iii) Abduction, training and use of TF1-143 in September 1998

1425. TF1-143 stated that he was born on 1 March 1986,<sup>3349</sup> and testified that he was 12 years old in September 1998.<sup>3350</sup> At this time, the witness was living in Kabala Town, Koinadugu District,<sup>3351</sup> when he heard heavy shooting.<sup>3352</sup> His family ran away to his mother's village, Konkoba, located 12 miles from Kabala Town.<sup>3353</sup> Two nights later, TF1-143's family was captured at gunpoint and locked in a house with 150 civilians.<sup>3354</sup> TF1-143 testified that there were over 200 rebels in the town.<sup>3355</sup> Some rebels were wearing combat trousers, black shirts and red bandanas on their heads. Most of them had heavy weapons.<sup>3356</sup>

1426. The next morning, four armed rebels came to the house.<sup>3357</sup> Two rebels, named Kabila and Mohamed, marked all 50 children with "AFRC" and/or "RUF". Kabila marked "RUF" on TF1-143's chest with a razor blade.<sup>3358</sup> TF1-143 testified that after being marked, he and the other children were taken out of Konkoba village and assigned to commanders, including Five-Five, O-Five, Komba and others.<sup>3359</sup> TF1-143 and another boy named "Short Pepper" were assigned to Kabila.<sup>3360</sup>

1427. After being assigned to Kabila and taken away from Konkoba the group went food finding and then stopped at a village, the name of which TF1-143 did not know, to rest. At this village TF1-143 underwent a "forced" training – his first.<sup>3361</sup> Kabila forced TF1-143 to

<sup>3349</sup> Exhibit P-112 (confidential).

<sup>3350</sup> TF1-143, Transcript 5 May 2008, p. 8970.

<sup>3351</sup> TF1-143, Transcript 5 May 2008, p. 8970.

<sup>3352</sup> TF1-143, Transcript 5 May 2008, p. 8970.

<sup>3353</sup> TF1-143, Transcript 5 May 2008, pp. 8970-8971.

<sup>3354</sup> TF1-143, Transcript 5 May 2008, pp. 8974-8976.

<sup>3355</sup> TF1-143, Transcript 5 May 2008, p. 8978.

<sup>3356</sup> TF1-143, Transcript 5 May 2008, p. 8977.

<sup>3357</sup> TF1-143, Transcript 5 May 2008, p. 8975.

<sup>3358</sup> TF1-143, Transcript 5 May 2008, pp. 8976-8977; Exhibit P-113, "Photograph – M0001184", 5 May 2008.

<sup>3359</sup> TF1-143, Transcript 5 May 2008, p. 8978.

<sup>3360</sup> TF1-143, Transcript 5 May 2008, p. 8979.

<sup>3361</sup> TF1-143, Transcript 5 May 2008, pp. 8980-8981.





learn how to dismantle a weapon, clean it and put it back together. The weapon was a large gun with a round box and large chains.<sup>3362</sup>

1428. TF1-143 testified that the group from Konkoba eventually made its way to Koinadugu Town, where TF1-143 and the other captured children were introduced to SAJ Musa by their commanders. The commanders gave SAJ Musa two boys whom they had reserved for him.<sup>3363</sup> TF1-143 testified that the rebels who had captured him were under SAJ Musa's group, which was a mix of AFRC and RUF fighters.<sup>3364</sup>

1429. After meeting with SAJ Musa in Koinadugu Town, Kabila told TF1-143 that their group was to be in the advance team to Freetown. Kabila, TF1-143, the other boy and Kabila's "wife", a young woman he had captured, went to the forest, or "jorbush". In the jorbush TF1-143 and the other boy underwent a second training. They learned how to dismantle a weapon, clean it, couple it up, cock it, put it on safety, how to manoeuvre and how to crawl.<sup>3365</sup> In the evening, they returned to Koinadugu Town from the jorbush.<sup>3366</sup>

#### Findings

1430. On the basis of TF1-143's testimony that he was forcibly abducted from a house in Konkoba in Koinadugu District; that he was marked on the chest with the letters "RUF" by a rebel commander named Kabila, that he was assigned to Kabila and taken to Koinadugu, that he was trained by Kabila to dismantle and put together a weapon; that he later underwent a second training in the jorbush near Koinadugu in which he learned how to operate a weapon, the Trial Chamber finds that TF1-143 was conscripted, i.e. abducted and forcibly recruited with the purpose of using him actively in hostilities, into an armed group the AFRC/RUF. The Trial Chamber is satisfied from TF1-143's description that this occurred in approximately September 1998.

1431. Other than TF1-143 writing down his date of birth, no official document was introduced to corroborate this date. However, the witness was confident about his age, and about the fact that he was in Form Four at the time of his abduction, and was not challenged

<sup>3362</sup> TF1-143, Transcript 5 May 2008, p. 8981.

<sup>3363</sup> TF1-143, Transcript 5 May 2008, pp. 8982-8983.

<sup>3364</sup> TF1-143, Transcript 5 May 2008, p. 8985.

<sup>3365</sup> TF1-143, Transcript 5 May 2008, p. 8987.

<sup>3366</sup> TF1-143, Transcript 5 May 2008, p. 8987.

regarding his age during cross-examination. Moreover, he looked young at the time he gave evidence in 2008 ten years after the incidents he testified about. The Trial Chamber is therefore satisfied that it has been proved beyond reasonable doubt that the witness was 12 years old at the time of his abduction, and thus under the age of 15 years during his abduction and training. Finally, on the basis of the prevalence of the military training of children under the age of 15 years by the AFRC/RUF, the Trial Chamber is satisfied that the members of the AFRC/RUF knew or should have known that the witness was under the age of 15 years. The Trial Chamber is accordingly satisfied that the Prosecution have proved beyond a reasonable doubt that TF1-143, a child under 15 years was conscripted into the RUF/AFRC, an armed force in September 1998 at Konkoba

1432. The crime of conscription continues as long as the child remains within the armed forces or reaches the age of 15 years.<sup>3367</sup> TF1-143 testified that he remained with the AFRC/RUF until he was arrested by Nigerian armed forces after the Freetown attack in January 1999. The Trial Chamber finds, therefore, that TF1-143's conscription in the AFRC/RUF continued until January 1999.

(d) Bombali District

(i) Children trained at Camp Rosos and used by the AFRC in July 1998

Evidence

1433. Alimamy Bobson Sesay testified that small boys were captured during the "SLA" attack on Karina in July 1998 and were assigned to the wives of SLA and RUF commanders to do "small works". Later on, the small boys were given "personal training" as SBUs in Camp Rosos on weapons and guard duties.<sup>3368</sup> At Camp Rosos, 77 people were trained, the majority of whom were SBUs aged 8 to 12. They were trained for three weeks by Junior Sherrif, Major Eddie, Five-Five and the witness himself. In order to prepare them for the attack on Freetown, SBUs were trained how to use weaponry, lay ambushes, and were given drills in Fighting In a Built Up Area (FIBUA).<sup>3369</sup>

<sup>3367</sup> See Applicable Law: Specific Elements of the Crimes; Count 9: Crimes Relating to Child Soldiers (Article 4(c) of the Statute) *supra*.

<sup>3368</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8092, 8102-8103.

<sup>3369</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8159-8161.

Findings

1434. On the basis that children were abducted by SLAs during an attack on Karina in July 1998 and that they were trained militarily for three weeks at Camp Rosos by AFRC/RUF members, including the witness, the Trial Chamber finds that an unknown number of children were conscripted, i.e. abducted and forcibly recruited with the purpose of using them actively in hostilities, into an armed group, the AFRC/RUF under the command of SAJ Musa in Karina in July 1998. While Bobson Sesay provided no basis for his estimation that the SBUs who were trained at Rosos were between 8 and 12 years old. However the Trial Chamber notes that he was not challenged on this evidence and that he was involved in the training of children of similar ages recorded at Masingbi Road, and was therefore familiar with the physical appearance of children in this age range. Moreover, given that Bobson Sesay testified that the children were aged between 8 and 12, it is reasonable to infer that the children must have been very young. The Trial Chamber is therefore satisfied that the Prosecution has proved beyond reasonable doubt that these children were under the age of 15 years, and that the perpetrators, including the witness, knew or should have known that these children were under the age of 15 years and, accordingly, have proved beyond reasonable doubt that an unknown number of children under the age of 15 years were abducted and conscripted into the AFRC/RUF in July 1998 at Camp Ross, Bombali District..

(ii) Children taken from care centre in Makeni in May 2000 and continued recruitment until 2001

Evidence

1435. TF1-174 testified that in mid-April 2000, he met with a British “MILOB member”, Colonel Joe, the “CO” of KENBATT-5, Augustine Gbao and Morris Kallon to decide whether the care centre for children in Makeni should continue to function. Gbao and Kallon said that they must hear from Issa Sesay and Foday Sankoh before making a decision. When the witness visited Gbao at Teko Barracks, “we” heard “them” talking in a room used to communicate with Issa Sesay or Foday Sankoh. Eventually, the witness was told he could move the children, but that he must give the RUF a list of the names.<sup>3370</sup> However, RUF

<sup>3370</sup> TF1-174, Transcript 28 January 2009, pp. 23732-23737.

personnel demanded the return of children who “were good fighters”.<sup>3371</sup> Between 1 and 5 May 2000 he saw RUF members taking more than 100 children from the centre.<sup>3372</sup> By 14 or 15 May 2000 another 100 children were gone from the centre. One of the remaining children told the witness that 45 children had been taken to fight in Lunsar but that they were killed in an accident on the way.<sup>3373</sup>

1436. TF1-174’s account is corroborated by Exhibit P-334, an Amnesty International Report, which reports that it is believed that 30 boys aged 14 to 17 were threatened and intimidated to join the RUF in May 2000 at Makeni care centre.<sup>3374</sup>

1437. The Coalition to Stop the Use of Child Soldiers reports that a group of 72 former child combatants at Makeni rehabilitation centre were forced to re-join the RUF in 2001.<sup>3375</sup>

### Findings

1438. On the basis of the witness’ evidence that he witnessed the RUF fighters taking more than 100 children from the centre, which is corroborated in part by Exhibit P-334, the Trial Chamber is satisfied beyond a reasonable doubt that the RUF abducted these children. Given the RUF commanders had previously demanded that their child “fighters” be returned the Trial Chamber is satisfied that the RUF intended to use these children in combat. The Trial Chamber cannot determine, on the basis of this evidence, whether the group of over 100 children were forcibly taken or whether they rejoined the RUF voluntarily. However as it is a crime under Article 4(c) to conscript or enlist children under the age of 15 years into an armed force it is irrelevant whether the children left voluntarily or under duress. While TF1-174 did not testify about the age of the specific children who were abducted, the Trial Chamber is satisfied, based on TF1-174’s testimony that 60-70% of the majority of the children at the interim care centre were below the age of 14 years, and on the basis that the centre kept records documenting the ages of these children, that some of these children were under the age of 15 years. Further, based on the prevalence of children under the age 15 who fought with the RUF, and the familiarity of the RUF commanders with these particular

<sup>3371</sup> TF1-174, Transcript 28 January 2009, pp. 23730- 23731

<sup>3372</sup> TF1-174, Transcript 28 January 2009, pp. 23742-23744.

<sup>3373</sup> TF1-174, Transcript 28 January 2009, pp. 23743-23752.

<sup>3374</sup> Exhibit P-334, “Amnesty International Report, Sierra Leone: Childhood - A Casualty of Conflict, 31 August 2000”, p. 15.

<sup>3375</sup> Exhibit P-335, “Coalition to Stop the Use of Child Soldiers: Global Report on Child Soldiers, 2001”, p. 379.

children, the Trial Chamber is satisfied that the RUF fighters knew or should have known that these children were under the age of 15 years. The Trial Chamber is accordingly satisfied that the Prosecution has proved beyond a reasonable doubt that an unknown number of children under 15 years were conscripted into the RUF, an armed force in May 2000 at Makeni.

1439. The witness did not personally observe the next 100 children being taken by RUF fighters, as he was in Freetown at the time, he only noted that there were approximately 100 fewer children at the centre upon his return. He was also told that 45 had been taken to fight in Lunsar. This evidence is hearsay but it is corroborated by TF1-174's observation that children were missing and the evidence of the RUF requiring the return of child fighters from the Centre. As it is crime under Article 4(c) to conscript or enlist children under the age of 15 years into an armed force it is irrelevant whether the 45 children were taken voluntarily or under duress. The Trial Chamber is accordingly satisfied that the Prosecution have proved beyond a reasonable doubt that a further unknown number of children under 15 years were conscripted into the RUF, an armed force in May 2000 at Makeni.

(iii) Abduction and training of TF1-158 in 1998

Evidence

1440. TF1-158 testified that he was 10 years old when rebels attacked his town, Bonoya,<sup>3376</sup> Bombali District a few months before the AFRC attack on Freetown on 6 January 1999. After the attack on the village the rebels forced the witness to join them by holding him at gun point. He testified that "if anybody refused to go that person would be killed".<sup>3377</sup> The rebels took him to Rosos and forced him to carry items looted from civilians en route.

1441. On cross-examination, TF1-158 testified that Gullit, Five-Five, O-Five, Staff Alhaji and Adama Cut Hand were in the group that captured him,<sup>3378</sup> while the group's leader was

<sup>3376</sup> TF1-158, Transcript 21 October 2008, pp. 18815-18820.

<sup>3377</sup> TF1-158, Transcript 21 October 2008, p. 18821.

<sup>3378</sup> TF1-158, Transcript 21 October 2008, p. 18860.

SAJ Musa.<sup>3379</sup> The Trial Chamber is satisfied from his description of his abductors and their associates that he was abducted by members of the AFRC.

1442. The Trial Chamber notes that TF1-158 stated that some of the attackers of Bonoya spoke a Liberian language. However, the witness' explanation of how he knew it was a Liberian language<sup>3380</sup> is inconsistent with his prior statements and is implausible. The Trial Chamber will thus disregard it in its evaluation of the evidence.

1443. On cross-examination TF1-158 testified he was first captured when Kabbah was President,<sup>3381</sup> but later confirmed a prior statement in which he stated that the attack on Bonoya occurred after the overthrow of President Tejan Kabbah.<sup>3382</sup> He also agreed with Defence Counsel that he did not give the OTP a date for the events,<sup>3383</sup> and that the date "May 1998" referred to in his prior testimony in the AFRC trial was provided by Counsel.<sup>3384</sup>

1444. The witness was in Rosos for five days before he escaped leaving his gun.<sup>3385</sup>

#### Findings

1445. On the basis of TF1-158's testimony that he was forcibly abducted from Bonoya, Bombali District a few months before the attack on Freetown on 6 January 1999, that he was taken to Rosos while being forced to carry items looted from civilians; the Trial Chamber finds that TF1-158 was conscripted, i.e. abducted and forcibly recruited with the purpose of using him actively in hostilities, into an armed group, the AFRC/RUF under the command of SAJ Musa. The Trial Chamber finds this conscription occurred in the Bombali District for an unspecified number of months before December 1998.

1446. Based on the witness' testimony that he was ten years old at the time of his capture, the Trial Chamber finds that he was under the age of 15 years. Based on the prevalence of children under the age 15 who were militarily trained by members of the AFRC/RUF at

<sup>3379</sup> TF1-158, Transcript 21 October 2008, p. 18889.

<sup>3380</sup> TF1-158, Transcript 21 October 2008, pp. 18850-18859, 18884-18887.

<sup>3381</sup> TF1-158, Transcript 21 October 2008, p. 18887.

<sup>3382</sup> TF1-158, Transcript 21 October 2008, p. 18890.

<sup>3383</sup> TF1-158, Transcript 21 October 2008, pp. 18904-18905.

<sup>3384</sup> TF1-158, Transcript 21 October 2008, pp. 18867, 18904-18905.

<sup>3385</sup> TF1-158, Transcript 21 October 2008, pp. 18825-28826.

Camp Rosos,<sup>3386</sup> the Trial Chamber is satisfied that the members of the AFRC/RUF knew or should have known that TF1-158 was under the age of 15 years. The Trial Chamber is accordingly satisfied that the Prosecution have proved beyond a reasonable doubt that TF1-158 a child under 15 years was conscripted into the AFRC/RUF, an armed force in Bonoya in late 1998.

(iv) Abduction and Training of TF1-158 in approximately July 1999

Evidence

1447. After escaping from Rosos, the witness was captured again in Kamayusufu, Bombali District,<sup>3387</sup> shortly after he heard about the Lomé Peace Accord on the radio.<sup>3388</sup> The Trial Chamber is satisfied from the context that this event occurred in approximately July 1999. Some of the rebels who captured the witness wore full military uniform, and others wore red headbands, military uniform shorts or sleeveless shirts. Officer Demo, who was an SLA soldier with Savage's group told him they would take him back as they had done before, after which the rebels took him to Kamabai.<sup>3389</sup> The Trial Chamber is satisfied from the witness's description of his abductors and their associates that he was abducted by members of the AFRC.

1448. In Kamabai, the witness was trained "how to go and attack Kabala" and how to dismantle, clean and couple a gun. He testified that "[w]e were [aged] ten", and that other trainees were aged 15<sup>3390</sup> On cross-examination the witness denied his testimony in the AFRC trial where he approved a former statement to the OTP indicating that they had spent 5 days in Kabala during which the witness was taught "weapon handling" by Savage.<sup>3391</sup>

Findings

1449. On the basis of the testimony provided by TF1-158, that he was forcibly abducted from Kamayusufu, Bombali District after the Lomé Peace Accord and that he was militarily trained in Kamabai, Bombali District by members of the AFRC, the Trial Chamber finds

<sup>3386</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8159-8161.

<sup>3387</sup> TF1-158, Transcript 21 October 2008, p. 18829.

<sup>3388</sup> TF1-158, Transcript 21 October 2008, p. 18830.

<sup>3389</sup> TF1-158, Transcript 21 October 2008, pp. 18829-18832.

<sup>3390</sup> TF1-158, Transcript 21 October 2008, pp. 18831-18833.

<sup>3391</sup> TF1-158, Transcript 21 October 2008, pp. 18912-18913.



that TF1-158 was conscripted, i.e. abducted and forcibly recruited with the purpose of using him actively in hostilities into an armed group, the AFRC/RUF. The Trial Chamber finds this conscription was perpetrated by members of the AFRC/RUF under the command of Savage and occurred in Bombali District from approximately July, 1999 through August, 1999.

1450. Based on the witness' testimony that he was 10 years old when he was captured in approximately September 1998 and that he was 10 years old during his training, the Trial Chamber is satisfied that he was under the age of 15 years during his second abduction and training in July-August 1999. On the basis of the prevalence of children under the age of 15 given military training by the AFRC,<sup>3392</sup> the Trial Chamber is satisfied that the members of the AFRC knew or should have known that TF1-158 was under the age of 15 years. The Trial Chamber is accordingly satisfied that Prosecution has proved beyond a reasonable doubt that TF1-158 a child under the age of 15 years was conscripted into an armed force.

(e) Port Loko District

(i) Abduction of Akiatu Tholley from January to April 1999

Evidence

1451. Akiatu Tholley gave evidence of conscription of children into the armed factions and their use in hostilities including evidence that she was trained militarily in Port Loko District. The Trial Chamber has made findings in relation to aspects of Tholley's evidence under Count 6, Sexual Slavery. The Trial Chamber has found, inter alia, that Tholley was abducted from Wellington, Western Area during the retreat from Freetown in late January, 1999 by a member of the AFRC named "James" who was under the command of Santigie Borbor Kanu; that James repeatedly raped Tholley; that she was given weapons to carry to Allen Town; that she was detained by James in Masiaka from approximately April through May, 1999; that James taught her to use an AK-47 and a pistol; and that during this time she was given military training in Port Loko District, that she unsuccessfully tried to flee after which James gave her drugs which caused her to have "a change of mind" and was held in

<sup>3392</sup> Exhibit P-043, "Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007", p. 19.

captivity by James in Allen Town and Waterloo, Western Area until approximately April 1999 and thereafter in Masiaka, Bombali District for approximately two months.<sup>3393</sup>

1452. Tholley testified that she could not recall when she was born.<sup>3394</sup> On cross-examination she also testified that she did not recall her prior testimony given in April 2005 in the AFRC trial, in which she stated that she was born in February and knew from having seen her birth certificate that she was 19 years old at the time she gave that evidence.<sup>3395</sup> Defence Counsel put to Tholley a statement given during an interview with the Prosecution in February/March 2005 in which it was recorded that she was born on 28 February, was 19 years of age and that her birth certificate had been eaten by rats. Tholley confirmed this and repeated that she does not know when she was born.<sup>3396</sup> On re-examination, Tholley confirmed that in the same interview she had also stated, "I can't remember the year. I know I am aged 19 now. I thought I was older but found my birth certificate after my first interview with the OTP. I no longer have it as it was eaten by rats".<sup>3397</sup> The Trial Chamber also notes that Tholley testified that she had not yet begun her menses at the time she was raped by James in Allen Town,<sup>3398</sup> an event the Trial Chamber has found occurred in late January, 1999.

### Findings

1453. On the basis of the evidence given by Tholley that she was forcibly abducted from her home in Wellington in late January, 1999; given weapons to carry to Allen Town; detained by James in Masiaka from approximately April through May, 1999; that she unsuccessfully tried to flee and was given narcotics by James and that James taught her to use an AK-47 and a pistol; and that during this time she was given military training in Port Loko District, the Trial Chamber finds that Tholley was conscripted, i.e. abducted and forcibly recruited with the purpose of using him actively in hostilities, into an armed group. The Trial Chamber finds this conscription was perpetrated by members of the AFRC under the command of Santigie Borbor Kanu.

<sup>3393</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Count 4 (Rape); Count 5 (Sexual Slavery); Counts 7 and 8 (Physical Violence) *supra*.

<sup>3394</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19171-19172.

<sup>3395</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19221-19222.

<sup>3396</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19221-19224.

<sup>3397</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19274.

<sup>3398</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19183.

1454. Although Tholley testified that she does not know her date of birth, the Trial Chamber is satisfied from her confirmation on re-examination that she was 19 years old at the time of the interview in February/March 2005 (making her not older than 13 in February/March 1999, shortly after her abduction) and from her own description that she had not yet had her menses when she was raped, that it has been proved beyond reasonable doubt that Tholley was less than 14 years old at the time of her conscription in January 1999.

1455. Based on the prevalence of children under the age of 15 conscripted by the AFRC/RUF,<sup>3399</sup> the Trial Chamber is satisfied that the members of the AFRC knew or should have known that Tholley was under the age of 15 years. The Trial Chamber is accordingly satisfied that the elements of the crime of conscription of children under 15 have been proved beyond a reasonable doubt.

1456. The crime of conscription under Art 4(c) continues as long as the child remains within the armed forces or reaches the age of 15 years.<sup>3400</sup> Tholley testified that she was later taken to Kurubonla in Koinadugu District to fight, although she was unable to recall when this was,<sup>3401</sup> and that she surrendered to ECOMOG at Lunsar shortly thereafter.<sup>3402</sup> The Trial Chamber is unable to determine with precision when this occurred. It accordingly finds that Tholley's conscription occurred from the time of her abduction in January, 1999 until at least April/May 1999.

### 3. Using Children to Actively Participate in Hostilities

1457. Evidence was adduced that RUF and AFRC used children to fight on the front lines, to carry arms and to work to support their hostilities.<sup>3403</sup>

<sup>3399</sup> Exhibit P-043, "Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007", p. 22.

<sup>3400</sup> See Applicable Law: Specific Elements of the Crimes; Count 9: Crimes Relating to Child Soldiers (Article 4(c) of the Statute) *supra*.

<sup>3401</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19217.

<sup>3402</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19218-19220.

<sup>3403</sup> TF1-174, Transcript 27 January 2009, pp. 23707-23709; Transcript 28 January 2009, pp. 23759; Augustine Mallah, Transcript 12 November 2008, pp. 20144-20146; TF1-371, Transcript 28 January 2008, pp. 2344-2345; Abu Keita, Transcript 23 January 2008, pp. 2055-2058; Dennis Koker, 15 January 2008, p. 1257; Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8161-8162; Jose Maria Caballero, Transcript 18 January 2008, pp. 1662, 1678; Osman Jalloh, Transcript 1 October 2008, pp. 17705-17709; Albert Saidu, Transcript 9 June 2008, p. 11340; Akiatu Tholley, Transcript 27 October 2008, pp. 19217-19218, 19268-19270; TF1-158, Transcript 21

1458. Children aged 10-14 years guarded civilians who were forced to mine<sup>3404</sup> for diamonds by the RUF, and carried weapons<sup>3405</sup> to ensure that these civilians did not escape.<sup>3406</sup> Several witnesses testified that if civilians tried to take diamonds from the mining area, children were ordered to kill them.<sup>3407</sup> The Prosecution alleges the diamonds mined were used to purchase materiel used in hostilities.<sup>3408</sup>

1459. The guarding of military objectives amounts to active participation in hostilities.<sup>3409</sup> This Trial Chamber has previously held that in the conflict in Sierra Leone, where diamonds were mined and sold to raise revenue to finance war efforts, the use of a child to guard a diamond mine put the child at sufficient risk to constitute illegal use of the child pursuant to Article 4(c) of the Statute.<sup>3410</sup> Control over the diamond mines in Kono and Kenema Districts was crucial for the war effort of all armed groups in the conflict. As the diamond mines were in highly contested and strategic locations, the Trial Chamber finds that they were potential military targets for the warring factions. The Trial Chamber finds that due to the high risk of enemy attacks, those children who were used to guard the mines were in direct danger of being caught in hostilities. The Trial Chamber therefore finds that those children who were used to guard the mines were being used to actively participate in hostilities.<sup>3411</sup> Based on the evidence, and on the context in which this mining occurred, the Trial Chamber is satisfied that these children were used by members of the RUF and AFRC who knew or should have known that these children were under the age of 15 years.

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October 2008, p. 18834; Exhibit P-078, "Sierra Leone, 1998 – a Year of Atrocities Against Civilians, Amnesty International Report", p. 15; Exhibit P-077 (confidential), para. 53; Exhibit P-335, "Coalition to Stop the Use of Child Soldiers: Global Report on Child Soldiers, 2001", p. 377.

<sup>3404</sup> TF1-371, Transcript 28 January 2008, pp. 2344-2345; Augustine Mallah, Transcript 12 November 2008, pp. 20144-20146; Tamba Yomba Ngekia, Transcript 14 October 2008, pp. 18237-18238.

<sup>3405</sup> TF1-371, Transcript 28 January 2008, pp. 2334-2340; Abdul Otonjo Conteh, Transcript 29 September 2008, pp. 17535- 17537; Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 25-35; TF1-567, Transcript 2 July 2008, pp. 12886-12888; Tamba Yomba Ngekia, Transcript 14 October 2008, pp. 18237-18238.

<sup>3406</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20144-20146; TF1-174, Transcript 28 January 2009, pp. 23773-23775.

<sup>3407</sup> Abdul Otonjo Conteh, Transcript 29 September 2008, pp. 17537- 17538.

<sup>3408</sup> Eg. Prosecution Final Trial Brief, paras 348-349.

<sup>3409</sup> *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T-1234, Judgement (TC), 2 March 2009, para. 1725; *Lubanga Confirmation of Charges*, para. 263.

<sup>3410</sup> *Prosecutor v. Brima et al.*, Trial Judgement, SCSL-04-16-T, 20 June 2007, para. 1267.

<sup>3411</sup> See RUF Trial Judgement, para. 1727.

1460. Evidence was adduced on the use of children as bodyguards to military commanders.<sup>3412</sup> Children were given arms to guard the commanders' physical safety, homes, property and women.<sup>3413</sup>

1461. Several witnesses also testified regarding the participation of children in food finding missions.<sup>3414</sup> These missions occurred throughout the conflict where food was scarce, and children sent on these missions were sometimes armed<sup>3415</sup> or accompanied by gunmen.<sup>3416</sup>

1462. Evidence was adduced that children committed crimes including amputations,<sup>3417</sup> decapitation,<sup>3418</sup> rape,<sup>3419</sup> looting,<sup>3420</sup> burning structures,<sup>3421</sup> and capturing,<sup>3422</sup> threatening, beating,<sup>3423</sup> and killing civilians.<sup>3424</sup> Children were given weapons, sent on patrols, took part

<sup>3412</sup> TF1-189, Transcript 18 September 2008, p. 16549; TF1-371, Transcript 28 January 2008, pp. 2344-2345; Abu Keita, Transcript 23 January 2008, pp. 2055-2058; Jose Maria Caballero, Transcript 18 January 2008, pp. 1676-1678, 1680-1683; TF1-362; Transcript 27 February 2008, pp. 4911-4912.

<sup>3413</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20144-20146; TF1-174, Transcript 28 January 2009, pp. 23784-23785; Jose Maria Caballero, Transcript 18 January 2008, p. 1678.

<sup>3414</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8191; Jose Maria Caballero, Transcript 18 January 2008, p. 1678; TF1-174, Transcript 28 January 2009, p. 23829; TF1-362, Transcript 28 February 2008, pp. 4922-4924; TF1-371, Transcript 25 January 2008, pp. 2252-2254; Akiatu Tholley, Transcript 27 October 2008, p. 19279; TF1-143, Transcript 5 May 2008, p. 8979; Exhibit P-051, "UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border", p. 21.

<sup>3415</sup> TF1-158, Transcript 21 October 2008, pp. 18825-28826; TF1-362, Transcript 3 March 2008, pp. 5021-5022.

<sup>3416</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17318-17319.

<sup>3417</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3923-3926; Alex Tamba Teh, Transcript 8 January 2008, pp. 699-700; Exhibit P-202, "TF1-206, AFRC Transcript 28 June 2005", pp. 92, 105; Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7976-7978, 7996-7997, Transcript 21 April 2008, pp. 8061-8064, Transcript 22 April 2008, pp. 8161-8162, 8191; Transcript 29 April 2008, pp. 8865-8870; TF1-174, Transcript 28 January 2009, pp. 23798-23799; Jose Maria Caballero, Transcript 18 January 2008, pp. 1680-1681; Exhibit P-201, "Sia Kamara, RUF Transcript, 1 February 2005", p. 8; Exhibit P-077 (confidential), para. 60; Exhibit P-328, "Human Rights Watch Report, Sierra Leone – Getting Away with Murder, Mutilation, Rape, New Testimony from Sierra Leone, July 1999, p. 5.

<sup>3418</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 696-698.

<sup>3419</sup> Jose Maria Caballero, Transcript 18 January 2008, pp. 1680-1681; Exhibit P-077 (confidential), para. 62.

<sup>3420</sup> TF1-174, Transcript 27 January 2009, p. 23685, Transcript 28 January 2009, pp. 23784-23785; TF1-362, Transcript 3 March 2008, pp. 5021-5024; Jose Maria Caballero, Transcript 18 January 2008, pp. 1680-1681; Akiatu Tholley, Transcript 27 October 2008, pp. 19213-19216, 19268-19270.

<sup>3421</sup> Alex Tamba Teh, Transcript 8 January 2008, p. 723; Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8161-8162; TF1-174, Transcript 28 January 2009, pp. 23784-23785, 23798-23799; Sieh Mansaray, Transcript 14 October 2008, pp. 18302-18303; Exhibit P-205A, "TF1-023, AFRC Transcript, 9 March 2005", p. 30.

<sup>3422</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8002, 8006-8008, Transcript 22 April 2008, pp. 8290-8291, Transcript 23 April 2008, pp. 8392-8395.

<sup>3423</sup> TF1-064, Transcript 24 September 2008, pp. 17081-17082; Exhibit P-202, "TF1-206, AFRC Transcript 28 June 2005", pp. 92, 105; Samuel Kargbo, Transcript 22 May 2008, pp. 10533, 10535-10537; TF1-122, Transcript 8 July 2005, pp. 15211-15234, Transcript 19 September 2008, pp. 16745-16746.

<sup>3424</sup> TF1-174, Transcript 28 January 2009, pp. 23784-23785, 23786-23788, 23798-23799; Jose Maria Caballero, Transcript 18 January 2008, pp. 1676-1678, 1680-1683; Abdul Otonjo Conteh, Transcript 29 September 2008, pp. 17537-17538; Akiatu Tholley, Transcript 27 October 2008, pp. 19213-19216, 19268-19270; Exhibit P-077 (confidential), para. 42; Exhibit P-078, "Sierra Leone, 1998 – a Year of Atrocities Against Civilians, Amnesty International Report", p. 15; Exhibit P-328, "Human Rights Watch Report, Sierra Leone – Getting Away with

in ambushes, or used as spies to check whether enemy forces were in the surrounding villages.<sup>3425</sup>

1463. Children were forced to carry ammunition during the movement of the armed groups<sup>3426</sup> and children who were captured during an attack on their village or town were often forced to carry looted goods, often on their heads.<sup>3427</sup>

1464. The Trial Chamber has also heard evidence from various witnesses about the use of children, both boys and girls, for domestic chores, such as laundering, cooking and cleaning in the households of members of the armed groups<sup>3428</sup> and children being forced to move with these households from location to location.

(a) Kenema District

(i) Children used at Tongo Fields by the AFRC and RUF

Evidence

1465. Witness TF1-567 testified that during the Junta period the RUF and AFRC abducted civilians, who were forced to work in the mines in Tongo Fields, and were guarded by armed soldiers, some of them as young as 14 years old.<sup>3429</sup> Similarly, TF1-371 testified that some of the armed guards at Tongo Fields during the Junta period were SBUs aged 13, who carried AK-47s.<sup>3430</sup> Augustine Mallah testified that he saw armed children, aged 10 and above, guarding civilians who were mining at Tongo Fields at that time<sup>3431</sup> to ensure that

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Murder, Mutilation, Rape, New Testimony from Sierra Leone, July 1999, p. 5.

<sup>3425</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8161-8162, Transcript 23 April 2008, pp. 8396-8399, 8405-8407; Jose Maria Caballero, Transcript 18 January 2008, p. 1678; Stephen Ellis, Transcript 16 January 2008, p. 1435.

<sup>3426</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19178-19179.

<sup>3427</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8180-8181; Jose Maria Caballero, Transcript 18 January 2008, pp. 1673-1676; Exhibit P-078, "Sierra Leone, 1998 – a Year of Atrocities Against Civilians, Amnesty International Report", p. 15; TF1-158, Transcript 21 October 2008, p. 18878.

<sup>3428</sup> TF1-174, Transcript 28 January 2009, pp. 23773-23775; Dennis Koker, 15 January 2008, pp. 1234-1235; Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8102-8103; Jose Maria Caballero, Transcript 18 January 2008, pp. 1673-1676; TF1-362, Transcript 3 March 2008, pp. 5021-5024; Albert Saidu, Transcript 9 June 2008, p. 11340; Exhibit P-077 (confidential), paras 55, 60; TF1-026, Transcript 14 February 2008, pp. 3865-3867, 3873-3874.

<sup>3429</sup> TF1-567, Transcript 2 July 2008, pp. 12886-12888.

<sup>3430</sup> TF1-371, Transcript 28 January 2008, pp. 2334-2337; Exhibit P-5, "Map of Sierra Leone".

<sup>3431</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20138-20141.

they worked hard and did not escape.<sup>3432</sup> Abdul Otonjo Conteh testified that armed RUF combatants, including both adult and child combatants aged 12 to 15, guarded the mining<sup>3433</sup> at Cyborg in Tongo Fields.<sup>3434</sup> TF1-375 testified that he was told by “Boise” after the 1997 coup that SBUs were guarding mining sites, and that Sam Bockarie ordered SBUs to shoot and kill people who tried to take “gravel” from that area without permission.<sup>3435</sup>

1466. Abdul Otonjo Conteh testified that Sam Bockarie came to Tongo Fields every day during the junta period, accompanied by a convoy of adult and child combatants, aged 12 to 14, to collect diamonds.<sup>3436</sup> Conteh also testified that Sam Bockarie sent child combatants to attack civilians who were mining in the fields and he reported this in his capacity as a local committee member.<sup>3437</sup> Three people were killed and many injured after child combatants opened fire on civilians in Tongo Fields. Two civilians were killed and many others were injured by child combatants in Sandeyeima.<sup>3438</sup> The witness observed the two dead bodies.<sup>3439</sup>

### Findings

1467. Witness TF1-567 estimated that the children who he saw guarding the mines were aged from “14 upwards”, Mallah estimated the children “[t]hey were about ten years, 12 years, 15 years, you know”. Witnesses TF1-567, TF1-371 and Mallah were members of the RUF, knew of the abduction of children and were aware of the ages of those targeted. Conteh indicated that the children were “12 to 15” years of age. The Trial Chamber accepts his estimate as he was the father of three children and had been a secondary school teacher for several years prior to his capture.<sup>3440</sup> The evidence of TF1-375 corroborates the foregoing testimony that children were used in guarding mining. Each of these witnesses gave credible evidence of the ages of the children they saw and this evidence was not challenged in cross-examination. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that children under the age of 15 years were used by the AFRC and

<sup>3432</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20144-20146.

<sup>3433</sup> Abdul Otonjo Conteh, Transcript 29 September 2008, pp. 17535-17537.

<sup>3434</sup> Abdul Otonjo Conteh, Transcript 29 September 2008, pp. 17531-17535.

<sup>3435</sup> TF1-375, Transcript 23 June 2008, pp. 12498-12499.

<sup>3436</sup> Abdul Otonjo Conteh, Transcript 29 September 2008, pp. 17541-17542.

<sup>3437</sup> Abdul Otonjo Conteh, Transcript 29 September 2008, pp. 17527-17530.

<sup>3438</sup> Abdul Otonjo Conteh, Transcript 29 September 2008, pp. 17537-17538.

<sup>3439</sup> Abdul Otonjo Conteh, Transcript 29 September 2008, p. 17530.

RUF during the Junta period to guard mining sites in Tongo Fields and that the members of the AFRC and RUF knew or should have known that these children were under the age of 15 years. Accordingly, the Trial Chamber finds that the elements of the crime of using persons under the age of 15 years to participate actively in hostilities have been proved beyond reasonable doubt in relation to an unknown number of children in Tongo Fields between May 1997 and February 1998.

1468. The Trial Chamber notes that Conteh did not give any evidence regarding the age of the specific child combatants who killed civilians in Tongo Fields and therefore finds that it has not been proved beyond reasonable doubt that these killings were committed by children under the age of 15 years. However the Trial Chamber accepts his evidence that the children who accompanied Sam Bockarie were between 12 and 14 and therefore finds that it has been proved beyond reasonable doubt that the children who accompanied Sam Bockarie to collect diamonds, were under the age of 15 years. Based on the prevalence of children under the age of 15 used by the AFRC/RUF as bodyguards, the Trial Chamber is also satisfied that the members of the AFRC/RUF knew or should have known that these children were under the age of 15 years. The Trial Chamber finds that safeguarding the physical safety of military commanders, in particular where children are used as bodyguards, constitutes using children to participate actively in hostilities.<sup>3441</sup> The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that children under the age of 15 years were used by the AFRC and RUF during the Junta period to guard mining sites in Tongo Fields and to collect diamonds produced by civilians working in those mining sites. Based on the prevalence of children being conscripted and used by the RUF and AFRC the Trial Chamber further finds that the members of the AFRC and RUF knew or should have known that these children were under the age of 15 years. The Trial Chamber is therefore satisfied that the elements of the crime of using children to participate actively in hostilities have been proved beyond reasonable doubt in relation to this evidence.

(ii) Children committing crimes during the junta period

Evidence

<sup>3440</sup> Abdul Otonjo Conteh, Transcript 29 September 2008, pp. 17438, 17496.

<sup>3441</sup> See RUF Trial Judgement, para. 1731; *Lubanga*, ICC-01/04-01/06 Decision on Confirmation of Charges, PTC I, 29 January 2007, para. 263.



1469. Alex Bao's testimony in the AFRC and RUF trials was tendered by consent<sup>3442</sup> and he was cross examined in this trial.<sup>3443</sup> He testified that from 25 May 1997 to February 1998<sup>3444</sup> Issa Sesay had his "fighters", "boys" including small boys aged 12, 15 to 18 with the AFRC and RUF rebel forces at the Hangh Road Secretariat, Kenema and where he lived on Hangh Road, Kenema. These "boys" used to extort money from civilians.<sup>3445</sup> In this trial, Bao reaffirmed his prior statement that Sesay's "boys" were armed and very dangerous and would attack civilians and rob them.<sup>3446</sup> The witness testified in the RUF trial that time they assaulted a woman and took her money. When Bao tried to assist her he was beaten and locked up for two hours.<sup>3447</sup>

### Findings

1470. The Trial Chamber notes that Bao gave evidence that the boys at Hangh Road were aged 12 to 18. When asked how he knew the ages of the children, Bao responded, "I am a father of so many children, so I know who is 12, who is 15, who is 18".<sup>3448</sup> Bao testified similarly in the RUF trial, stating, "I am the father of many children, so I know when a child is 12 and above; I know".<sup>3449</sup> Bao was not challenged on his estimates of the children's ages in cross-examination in either trial.

1471. However, Bao did not give any evidence about the ages of the particular children who were involved in extorting money, nor did he give other specific examples of such incidents. With respect to the incident involving the attack of the woman, the witness did not identify the age of the assailants, nor whether it was the "small boys" with Issa Sesay who had attacked her.<sup>3450</sup>

1472. The Trial Chamber therefore finds that it has not been proved beyond reasonable doubt that the children involved in extorting money in Hangh Road or who attacked the woman were under the age of 15 years.

<sup>3442</sup> Exhibit P-173 "Alex Bao, AFRC Transcript 24 June 2005"; Exhibit P-174, "Alex Bao, RUF Transcript 7 July 2005".

<sup>3443</sup> Alex Bao, Transcript 19 September 2008.

<sup>3444</sup> Exhibit P-173, "Alex Bao, AFRC Transcript 24 June 2005", p. 15001.

<sup>3445</sup> Exhibit P-173, "Alex Bao, AFRC Transcript 24 June 2005", pp. 15001-15002.

<sup>3446</sup> Alex Bao, Transcript 19 September 2008, pp. 16745-16746.

<sup>3447</sup> Exhibit P-174, "Alex Bao, RUF Transcript 7 July 2005", pp. 15128-15130.

<sup>3448</sup> Exhibit P-173, "Alex Bao, AFRC Transcript 24 June 2005", pp. 15001-15002.

(b) Kailahun DistrictEvidence

1473. TF1-362 and TF1-189 testified that children who were trained at Bunumbu were sent or taken to the frontlines. TF1-362 testified that during the training, SBUs were forced to participate in food-finding by the AFRC and RUF missions<sup>3451</sup> They were accompanied by “securities” who carried arms, the SBUs carried knives and sticks, and that they would beat, or even kill civilians who put up any resistance.<sup>3452</sup> On cross-examination, the witness confirmed a previous statement in which she indicated that she sent her own SBU, aged about 10, on food finding missions and gave him her own gun.<sup>3453</sup>

1474. Dennis Koker testified that the stronger civilians captured during the retreat from Freetown,<sup>3454</sup> were taken for military training at Bunumbu, and after the training they were sent as reinforcements to fight in the war. Some of those sent for training told Koker they were aged 12 or 14 and he saw that they were “very small” and “not fit for military work”.<sup>3455</sup> During the 21 months Koker spent in Buedu up to 500 children were recruited as SBUs and given guns. They did domestic chores and fought at the war front.<sup>3456</sup> Koker testified that SBUs were small children aged 7 to 14.<sup>3457</sup>

1475. Albert Saidu heard that many of the abducted children trained by Monica Pearson were then sent to fight after their training. He testified that some of the children were as young as 8 years old.<sup>3458</sup>

Findings

1476. Although TF1-362 and TF1-189 did not specify the ages of the children who were sent to the frontlines the Trial Chamber is satisfied that this evidence relates to those

<sup>3449</sup> Exhibit P-174, “Alex Bao, RUF Transcript 7 July 2005”, p. 15123.

<sup>3450</sup> Exhibit P-174, “Alex Bao, RUF Transcript 7 July 2005”, pp. 15128-15130.

<sup>3451</sup> TF1-362, Transcript 27 February 2008, pp. 4904-4905.

<sup>3452</sup> TF1-362, Transcript 27 February 2008, pp. 4904-4905.

<sup>3453</sup> TF1-362, Transcript 3 March 2008, pp. 5021-5022.

<sup>3454</sup> Dennis Koker, Transcript 15 January 2008, p. 1258.

<sup>3455</sup> Dennis Koker, Transcript 15 January 2008, pp. 1261, 1271-1273.

<sup>3456</sup> Dennis Koker, Transcript 15 January 2008, pp. 1265-1266, 1277, 1297.

<sup>3457</sup> Dennis Koker, Transcript 15 January 2008, p. 1297.

<sup>3458</sup> Albert Saidu, Transcript 9 June 2008, pp. 11349-11350.

children who were trained and some of whom were under the age of 15. Koker also testified that SBUs were sent to the war front, and later clarified that SBUs could be defined as a unit of small boys aged 7 to 14. Koker ascertained the ages of children who were trained at Bunumbu by asking them their ages. Further, based on the prevalence of children under the age 15 who fought with the RUF, the Trial Chamber is satisfied that the members of the RUF knew or should have known that these children were under the age of 15 years. None of the witnesses specified the role that the children played at the front line, nor the duties they undertook while they were there, nor did they state if these children were armed. However the Trial Chamber notes that the evidence that children were sent and/or taken to the frontlines was not challenged and that “frontlines” was used in evidence to refer to the fighting area. The Trial Chamber therefore finds that the lives of these children were put at risk by sending them to the fighting areas, and becoming a military target. Accordingly, the Trial Chamber finds that children under the age of 15 years were used to actively participate in hostilities.

1477. Koker also testified that children trained at Bunumbu were used to do domestic chores. The Trial Chamber is not satisfied that the performance of domestic chores constitutes active participation in hostilities, as these activities are not related to the hostilities and do not directly support the military operations of the armed groups

1478. In the RUF case, Trial Chamber I held, in the context of food-missions in which the children who participated were unarmed, that “although this activity supports the armed group in a general sense, in our view it does not establish that the children openly carried arms while on such missions”<sup>3459</sup> and consequently found that such food-finding missions did not amount to active participation in hostilities.<sup>3460</sup>

1479. The Trial Chamber concurs that not every instance in which a child participated in a food-finding mission constitutes active participation in hostilities. However, to the extent that a food-finding mission may be considered “activities linked to combat”, that is, where there is a clear link between the mission and the hostilities, the child’s active participation in such a mission may constitute “use”. In the context of food-finding missions in which

<sup>3459</sup> RUF Trial Judgement, para. 1743.

<sup>3460</sup> RUF Trial Judgement, para. 1743.

children carried arms and committed crimes against civilians, the Trial Chamber finds that such activities constitute active participation in hostilities.

1480. TF1-362 testified that children were sent on food-finding missions with other recruits armed with knives and sticks, and that they beat and killed civilians if they met with resistance. She also sent her own 10 year old SBU, armed with a gun on one such mission.

1481. TF1-362 did not testify as to the exact ages of those people who were sent on such missions. The Trial Chamber has accepted her evidence that the SBUs trained at Bunumbu were as young as 7. Given her testimony that SBUs including her own 10 years old armed SBU, were sent on food finding missions the Trial Chamber finds beyond reasonable doubt that some of the children were under the age of 15 years. As those who were sent on such missions had already been screened by age the Trial Chamber finds beyond reasonable doubt that the perpetrators, including TF1-362, knew or should have known that children under the age of 15 years were sent on these food-finding missions and that they armed with knives and sticks.

1482. The Trial Chamber is accordingly satisfied that the Prosecution has proved beyond reasonable doubt that an unknown number of children who were sent on food-finding missions from Bunumbu between February to December 1998 were used to participate actively in hostilities.

(i) Use as bodyguards

Evidence

1483. Samuel Kargbo testified that he was beaten in March 1998 in Buedu by Mike Lamin's and Issa Sesay's securities, who included both men and small boys called SBUs.<sup>3461</sup>

1484. Aruna Gbonda testified that from 1996 to 2000, some of the RUF rebels in Kailahun were children aged 8 to 10 years old who were abducted and then trained. They carried guns and followed commanders such as Issa Sesay, Mosquito and Augustine Gbao.<sup>3462</sup>

Findings

<sup>3461</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10520, 10533, 10535-10537.

<sup>3462</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4280-4281.

1485. The Trial Chamber notes that Kargbo did not give any evidence about the age of the children who were involved in his flogging, indicating solely that they were “SBUs”. Moreover, the witness did not mention that the flogging had been perpetrated by SBUs in any previous statements, and the Trial Chamber finds that his explanation that the Prosecution forgot to record this, is unconvincing. Therefore, the Trial Chamber finds that it has not been established beyond reasonable doubt that the children involved in this incident were under the age of 15 years.

1486. Gbonda stated in his evidence that whilst he was Deputy Chiefdom commander from 1996 – 2000 he saw children, some aged eight, nine and ten, following commanders and carrying guns. Gbonda’s evidence of the age of the children was not challenged and he is the father of several children, five of whom died during the time of the hostilities.<sup>3463</sup> The Trial Chamber accepts his evidence and finds that the children he saw were aged less than 15 years. The Trial Chamber finds that as these children were armed with guns they were taking part in armed hostilities. Based on the prevalence of children being conscripted and used by the RUF and AFRC the Trial Chamber further finds that the members of the AFRC and RUF knew or should have known that these children were under the age of 15 Years. The Trial Chamber is therefore finds that it has been proved beyond reasonable doubt that these children were used to participate actively in hostilities between 1996 to 2000 in Kailahun.

(ii) Edna Bangura

Evidence

1487. The Trial Chamber has found that Bangura’s testimony relating to the date of her conscription into the RUF was inconsistent. Bangura gave further evidence relevant to the use of child soldiers in Buedu but given the lack of precision of Bangura’s evidence about the timing of events, the Trial Chamber is unable to determine beyond reasonable doubt that these events fall within the temporal jurisdiction of the court

(c) Kono District

(i) Children committing crimes in Kono in February/March 1998

Evidence

1488. Sia Kamara's testimony in the RUF trial was tendered by consent<sup>3464</sup> and she was cross examined in this trial.<sup>3465</sup> She testified in the RUF trial that she was captured in Yegbema near Kainako and Gandorhun,<sup>3466</sup> and then taken to Sawoa, Kono District.<sup>3467</sup> She was captured shortly after the RUF and AFRC were driven out of Freetown. During the retreat she saw Johnny Paul Koroma's convoy pass through Tongo Fields, where she was living prior to her capture.<sup>3468</sup> At Sawoa, Kamara witnessed "a little boy" "not up to 14" use a cutlass to amputate the right hands of five men, including her brother. The women were forced to clap and laugh while this was occurring.<sup>3469</sup> The small boy then chopped Kamara's upper right arm.<sup>3470</sup>

### Findings

1489. Although the witness was not precise as to the age of the boy and could not tell whether or not he had an Adam's apple<sup>3471</sup> her evidence as to his size and estimated age was not challenged. The Trial Chamber considers that, as a mother of four children,<sup>3472</sup> her estimation is based on experience of young children. The Trial Chamber therefore finds that it has been proved beyond a reasonable doubt that the child who committed these crimes was under the age of 15 years. Based on the prevalence of children under the age of 15 used by the AFRC/RUF to commit crimes,<sup>3473</sup> the Trial Chamber is satisfied that the members of the AFRC/RUF knew or should have known that the boy was under the age of 15 years.

1490. The Trial Chamber finds that the use of this child to amputate the hands of five men and chop Kamara's arm constitutes active participation in hostilities and that the elements of the crime of the use of children under the age of 15 to participate actively in hostilities by the AFRC/RUF have been proved beyond reasonable doubt. The Trial Chamber is satisfied

<sup>3463</sup> Aruna Gbonda, Transcript 19 February 2008, p. 4285.

<sup>3464</sup> Exhibit P-201, "Sia Kamara, RUF Transcript, 1 February 2005".

<sup>3465</sup> Sia Kamara, Transcript 15 October 2008.

<sup>3466</sup> Exhibit P-201, "Sia Kamara, RUF Transcript, 1 February 2005", p. 8; Sia Kamara, Transcript 15 October 2008, p. 18436.

<sup>3467</sup> Exhibit P-201, "Sia Kamara, RUF Transcript, 1 February 2005", p. 17.

<sup>3468</sup> Sia Kamara, Transcript 15 October 2008, pp. 18435-18436.

<sup>3469</sup> Exhibit P-201, "Sia Kamara, RUF Transcript, 1 February 2005", pp. 21-23.

<sup>3470</sup> Exhibit P-201, "Sia Kamara, RUF Transcript, 1 February 2005", p. 23.

<sup>3471</sup> Exhibit P-201, "Sia Kamara, RUF Transcript, 1 February 2005", p. 22.

<sup>3472</sup> Exhibit P-201, "Sia Kamara, RUF Transcript, 1 February 2005", p. 2.

<sup>3473</sup> Exhibit P-043, "Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007", p. 22.





from the context that this event occurred in Sawoa, Kono Province in February/March 1998 after the AFRC/RUF retreat from Freetown.

(ii) Children used for food-finding missions at Superman Ground in July 1998

Evidence

1491. Perry Kamara testified that Exhibit P-051<sup>3474</sup> was the RUF nominal roll record for Superman Ground, Kono District.<sup>3475</sup> Kamara explained that the page titled “list of manpower to go for food” dated 13 July 1998<sup>3476</sup> lists the people who “will take over security for them to go and guard the people who went for the food”.<sup>3477</sup> The page included three names with “SBU” written next to them. Kamara testified that the “SBU” notation indicated that they were boys aged 12 to 15.<sup>3478</sup> Kamara confirmed that the date written on the page coincided with his time at Superman Ground.<sup>3479</sup>

Findings

1492. While Exhibit P-051 lists the names of three individuals who are designated as “SBUs” who were sent to get food, it does not indicate their age. While Kamara testified that SBUs were between 12 and 15 years old, he did not provide any evidence about the age of these particular SBUs. Moreover, although Kamara was at Superman Ground at the time at which this roll record was written, he does not testify that he personally witnessed these food-finding missions.

1493. In addition, the exhibit does not indicate whether the SBUs who went on these missions were armed. Although Kamara testifies that the list indicates those who would provide security and those who had weapons (i.e. AK-47), the names of the SBUs do not specify that they were allocated weapons. Accordingly, the Trial Chamber finds that it has not been proved beyond a reasonable doubt that the children sent on these missions were

<sup>3474</sup> Exhibit P-051, “UNICEF Exercise Booklet Listing Names of Soldiers and Armed Serial Numbers as Well as Captives Along the Guinea and Sierra Leone Border”.

<sup>3475</sup> Perry Kamara, Transcript 5 February 2008, p. 3121.

<sup>3476</sup> Exhibit P-051, “UNICEF Exercise Booklet Listing Names of Soldiers and Armed Serial Numbers as Well as Captives Along the Guinea and Sierra Leone Border”, p. 25589.

<sup>3477</sup> Perry Kamara, Transcript 5 February 2008, p. 3128.

<sup>3478</sup> Perry Kamara, Transcript 5 February 2008, p. 3128.

<sup>3479</sup> Perry Kamara, Transcript 5 February 2008, p. 3127.

under the age of 15 years, nor that these food-finding missions constitute active participation in hostilities.

(iii) Children used to guard mining in Tombodu in December 1999

Evidence

1494. The evidence of Tamba Yomba Ngekia in the RUF trial was tendered by consent in this trial.<sup>3480</sup> He testified that he was captured on 16 December 1999<sup>3481</sup> by the RUF in Koidu, Kono District.<sup>3482</sup> He and 50 captured civilians were taken to Tombodu, where Officer Med, Colonel Jibo and Tactical brought mining equipment and informed them that “Issa sent us to you, you the civilians”.<sup>3483</sup> Ngekia and other captured civilians went down to the bridge in Tombodu and started mining, surrounded by boys aged 6 to 11 with guns.<sup>3484</sup> Ngekia testified that he was forced to mine for six months during the dry season.<sup>3485</sup>

Findings

1495. Exhibit P-196 shows that Ngekia was challenged on his evidence of the ages of the children who were guarding the mining at Tombodu in December 1999. He stated “when you look at them in the face you will know that they were children” and “[i]t’s easy to recognise a child. All of them were 10 years, 11 years – all of them were under 15”.<sup>3486</sup> He also stated that he was the father of six children.<sup>3487</sup> Given his clear observations and his experience as the father of children the Trial Chamber accepts his evidence as to the age of the children at the mine and therefore finds that it has been proved beyond reasonable doubt that these children were under the age of 15 years. Based on the prevalence of children under the age of 15 being conscripted and used by the RUF the Trial Chamber is satisfied

<sup>3480</sup> Exhibit P-196, “TF1-077, RUF Transcript 20 July 2004”; Exhibit P-197 (confidential), “TF1-077, RUF Transcript, 21 July 2004 (CS)”.

<sup>3481</sup> Tamba Yomba Ngekia, Transcript 14 October 2008, pp. 18241-18245.

<sup>3482</sup> Tamba Yomba Ngekia, Transcript 14 October 2008, pp. 18236-18237. The Trial Chamber notes that in cross-examination, the witness testified that he could not remember the exact date he was captured. He had stated in a 2002 interview that he was captured on 16 December 1999. The witness explained that in 2002 he could recall the date, but he could not recall it at the time of his in-court testimony. The Trial Chamber is satisfied with this explanation and finds that the events described by the witness took place during this time period (Tamba Yomba Ngekia, Transcript 14 October 2008, pp. 18241-18245).

<sup>3483</sup> Tamba Yomba Ngekia, Transcript 14 October 2008, p. 18237.

<sup>3484</sup> Tamba Yomba Ngekia, Transcript 14 October 2008, pp. 18237-18238.

<sup>3485</sup> Tamba Yomba Ngekia, Transcript 14 October 2008, pp. 18245-18247.

<sup>3486</sup> Exhibit P-196, “TF1-077, RUF Transcript 20 July 2004”, p. 28.

<sup>3487</sup> Exhibit P-196, “TF1-077, RUF Transcript 20 July 2004”, p. 15.





that the members of the RUF knew or should have known that these children was under the age of 15 years. The Trial Chamber has previously held that, in these circumstances, children who were used to guard the mines were being used to participate actively in hostilities. The Trial Chamber is accordingly satisfied that the Prosecution has proved beyond reasonable doubt that an unknown number of children who were used to guard mining in Tombudu in December 1999 were used to participate actively in hostilities.

(iv) Children used in Koidu in 2001

Evidence

1496. TF1-174 testified that he assembled 150 children, aged 11 to 16, who had been with the RUF in March 2001 on the way to Koidu. These children were then brought to the Caritas interim care centre in Makeni. Some children who were assembled told the witness that they had been digging for their adult commanders, others that they did domestic chores, and some stated they manned pits while carrying guns.<sup>3488</sup> Some children told the witness they received new guns after trips to Liberia while accompanying their commanders.<sup>3489</sup>

Findings

1497. TF1-174's evidence is hearsay, which is uncorroborated. Moreover, the evidence is inconclusive whether the specific duties were performed by children whose ages were below 15 years. The Trial Chamber is therefore, not satisfied that the elements of the crime of the use of children to actively participate in hostilities have been proved beyond reasonable doubt in relation to this evidence.

(v) Children used in Kono in March/April 1998

Evidence

1498. Alimamy Bobson Sesay testified that he and Commander Bomb Blast used SBUs in approximately March/April 1998 to amputate the limbs of civilians in Yomandu. Mohamed Savage also used SBUs to help with amputations during this time period.<sup>3490</sup> Between

<sup>3488</sup> TF1-174, Transcript 28 January 2009, pp. 23773-23775.

<sup>3489</sup> TF1-174, Transcript 28 January 2009, pp. 23775-23776.

<sup>3490</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8061-8064.

March/April and May/June 1998,<sup>3491</sup> Savage, Guitar Boy and some SBUs amputated the hands of approximately 15 civilians at Tombodu.<sup>3492</sup> Sesay testified that around the same time, “our” SBUs captured girls aged 8 to 10 years old at Masingbi Road and they lived with these girls and had sex with them.<sup>3493</sup>

1499. Alex Tamba Teh testified that after he heard that ECOMOG had taken over Kono, Rocky aka Emmanuel Williams shot and killed all the adult male captives at Igbaleh/Kamachende close to Koidu. Upon Rocky’s order, SBUs decapitated the men he had just killed.<sup>3494</sup> At Igbaleh, he saw SBUs amputating a small boy’s hands and feet before throwing him into a toilet pit.<sup>3495</sup> At Wonedu, SBUs set five houses on fire after Captain Banya instructed them to “go and light candles”.<sup>3496</sup>

1500. Samuel Bull testified that after his capture in Tongbodu in mid-April 1998,<sup>3497</sup> Issa, the commander, ordered a 14 year-old boy to take off his shirt and kill him. The boy took the shirt off and told Bull to lie on the ground, but Issa then decided he should not be killed.<sup>3498</sup>

1501. In the AFRC trial, Alhaji Tejan Cole testified that on 12 April 1998, at Bombafoidu, 200 rebels, among them 6 small boys who carried guns, attacked the town.<sup>3499</sup> Cole was asked to undress by a small boy, aged about 12 to 14, who had a gun.<sup>3500</sup>

### Findings

1502. Alimamy Bobson Sesay provided evidence which the Trial Chamber has already accepted that the SBUs who were trained were between 8 to 12 years. Therefore, based on his knowledge and experience of the age of SBUs, the Trial Chamber finds that it has been proved beyond a reasonable doubt that the children who amputated the limbs of civilians in Tombodu and Yomandu and captured girls aged 8 to 10 years of age at Masingbi Road and detained them for sexual purposes were under the age of 15 years and that they were used to

<sup>3491</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8064-8067.

<sup>3492</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7996-7997.

<sup>3493</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8002, 8006-8008.

<sup>3494</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 687-689, 694-695, 695-698, 718.

<sup>3495</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 699-700.

<sup>3496</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 704-705, 723.

<sup>3497</sup> TF1-064, Transcript 24 September 2008, pp. 17078-17081.

<sup>3498</sup> TF1-064, Transcript 24 September 2008, pp. 17081-17082.

<sup>3499</sup> Exhibit P-202, “TF1-206, AFRC Transcript 28 June 2005”, pp. 85-105.

<sup>3500</sup> Exhibit P-202, “TF1-206, AFRC Transcript 28 June 2005”, p. 92.

participate actively in hostilities. Based on the prevalence of children under the age of 15 being used by the RUF/AFRC to commit crimes the Trial Chamber is satisfied that the members of the RUF/AFRC knew or should have known that these children was under the age of 15 years. The Trial Chamber accordingly finds that the elements of the crime of using persons under the age of 15 to participate actively in hostilities by the AFRC/RUF have been proved beyond reasonable doubt in relation to an unknown number of children from early to mid-1998 in Yomandu, Tombodu and Masingbi Road.

1503. Tamba Teh testified that the SBUs were “small boys below the ages of 16, 15, right down”. He described some of the boys who Rocky ordered to decapitate civilians as so small that they “could not even lift their guns up except that they drag the guns on the ground”.<sup>3501</sup> When asked about the age of the boy whose hands and feet were amputated, the witness responded, “[w]ell, I can’t say I know exactly, but I am also a father and I know what age a child is[...].”<sup>3502</sup> In cross-examination, Tamba Teh was not questioned about the ages of the SBUs. The Trial Chamber accepts the witness’s observation on the size and age of the children who perpetrated the crimes and his personal experience as a father in assessing a child’s age and finds beyond a reasonable doubt that the children who decapitated those people killed by Rocky and the children who amputated a young boy were under the age of 15. Based on the prevalence of children under the age of 15 used by the RUF/AFRC to commit crimes, the Trial Chamber is satisfied that the members of the RUF/AFRC knew or should have known that these children were under the age of 15 years. The Trial Chamber is accordingly satisfied that the Prosecution has proved beyond reasonable doubt that children under 15 years were used to participate actively in hostilities by members of the RUF/AFRC in relation to each of these incidents. As Tamba Teh testified that these incidents occurred after ECOMOG had driven the RUF/AFRC from Kono District, the Trial Chamber is satisfied that it occurred in around April 1998.<sup>3503</sup>

1504. Samuel Bull was not challenged on his evidence that the boy who was ordered to kill him was 14. The Trial Chamber also notes that he is the father of five children,<sup>3504</sup> some of whom were in their teens at the time of this incident. The Trial Chamber therefore accepts his evidence and finds that it has been proved beyond reasonable doubt that the child was

<sup>3501</sup> Alex Tamba Teh, Transcript 8 January 2008, p. 697.

<sup>3502</sup> Alex Tamba Teh, Transcript 8 January 2008, p. 718.

<sup>3503</sup> See Factual Findings on Responsibility: Military Operations; Operation Fitti-Fatta *infra*.

under the age of 15. Based on the prevalence of children under the age of 15 used by the RUF to commit crimes, the Trial Chamber is satisfied that the members of the RUF knew or should have known that this child was under the age of 15 years. The Trial Chamber is satisfied that the child who was ordered to kill Bull by Issa Sesay was used to participate actively in hostilities. The Trial Chamber accordingly finds that the elements of the crime of using persons under the age of 15 to participate actively in hostilities by the AFRC/RUF have been proved beyond reasonable doubt in relation to this incident in mid-April 1998 at Tongbodu.

1505. Cole did not give any evidence about the ages of the boys who participated in the attack on Bombafoidu beyond saying that they were small and did not give any reason for his belief that the boy who asked him to undress was between 12 and 14 years old but he was not challenged on this evidence. The Trial Chamber accepts his evidence and therefore finds that it has been proved beyond a reasonable doubt that this child was under the age of 15 years. Based on the prevalence of children under the age of 15 being used by the AFRC/RUF the Trial Chamber is satisfied that the members of the AFRC/RUF knew or should have known that these children were under the age of 15 years. The Trial Chamber is accordingly satisfied that the Prosecution has proved beyond reasonable doubt that children who ordered to Cole to undress were used to participate actively in hostilities.

(d) Port Loko District

(i) Use of Akiatu Tholley to participate in hostilities in April/May 1999

Evidence

1506. The Trial Chamber has recounted the evidence that Tholley was brought to Masiaka in approximately April 1999 and remained there for approximately two months.<sup>3505</sup> Tholley testified that when she arrived in Masiaka, Issa Sesay said it was “his town”.<sup>3506</sup> On cross-examination Tholley stated she heard Issa Sesay receiving orders from Foday Sankoh via radio while Sankoh was incarcerated.

<sup>3504</sup> Samuel Bull, Transcript 24 September 2008, p. 17056

<sup>3505</sup> See Factual and Legal Findings on Alleged Crimes: Count 5 (Sexual Slavery); Akiatu Tholley used as a sexual slave in Allen Town and Waterloo, Evidence *supra*.

<sup>3506</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19201.

1507. Tholley testified that after James brought her to Masiaka, she tried to escape but was caught by a “rebel boy”<sup>3507</sup> who returned her to James. James beat her and gave her drugs which made her “brave enough to do wicked things and did not cry and did not have feelings of wanting to go home”.<sup>3508</sup> James taught her how to use an AK-47 and a pistol. On cross-examination Tholley agreed that this was not “actual training”.<sup>3509</sup> Two days later, she was sent by James, together with “his boys” on a food-finding mission.<sup>3510</sup> In a village near Masiaka, they met a woman and her adult daughters in a house and looted everything that they had. One of the boys told Tholley to kill the woman since she refused to join them. Initially, Tholley refused; however, he gave her marijuana to smoke and afterwards Tholley shot the woman in the back and killed her.<sup>3511</sup> They then gave the woman’s children loads to carry and went back to Masiaka.<sup>3512</sup>

1508. Tholley testified that during the time she was in Masiaka, she was taken to Port Loko by “some rebels” to be trained “how to fight”. Tholley did not specify the names or factions of the rebels that took her to Port Loko. She stated that she was taught how to load bullets, how to shoot a gun and how to hide. Other people, both male and female, children and adults, were being trained; however, Tholley was unable to estimate how many. Tholley testified that the boys being trained were about 8 years old and older. There was a woman in charge of the training, but Tholley did not know her name.<sup>3513</sup>

### Findings

1509. The Trial Chamber recalls that it has found that in the context of food-finding missions in which children carried arms and/or committed crimes against civilians, that such activities constitute active participation in hostilities.<sup>3514</sup> The Trial Chamber is therefore satisfied that when Tholley was sent on a food-finding mission during which she looted civilian property, used a weapon and killed a civilian woman in April or May 1999, she was actively participating in hostilities. Based on the prevalence of children being conscripted

<sup>3507</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19209-19211.

<sup>3508</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19211-19213.

<sup>3509</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19268-19270.

<sup>3510</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19279.

<sup>3511</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19269.

<sup>3512</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19213-19216.

<sup>3513</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19216-19217.

<sup>3514</sup> Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers) Use of children to participate actively in hostilities in Kailahun. Findings *supra*.

and used by the RUF/AFRC the Trial Chamber further finds that the members of the AFRC/RUF knew or should have known that these children were under the age of 15 years. The Trial Chamber is therefore satisfied that the elements of the crime of using children to participate actively in hostilities have been proved beyond reasonable doubt in relation to this evidence.

(e) Koinadugu District

(i) Use of child soldiers in Koinadugu District

Evidence

1510. Sieh Mansaray testified that from February to mid-March 1998,<sup>3515</sup> “the People’s Army” came through Kondembaia, Koinadugu District en route to Kono, and set up a checkpoint at his house as part of “Operation Pay Yourself”.<sup>3516</sup> Mansaray witnessed children aged 10, 12 and 15 with weapons as part of the People’s Army.<sup>3517</sup>

1511. Mansaray testified that on or about 20 or 21 May 1998,<sup>3518</sup> he was captured by the “Foday Sankoh rebels” in Kondembaia,<sup>3519</sup> and was present when “the boss” ordered the rebels to burn down the houses in the village.<sup>3520</sup> Mansaray saw boys aged 10, 13, 15 and older with guns who were following the boss’s command to burn down the houses in the village. Mansaray was not certain if the boys were captured or relatives of the rebels.<sup>3521</sup>

Findings

1512. Mansaray was not challenged on his estimation of the ages of the armed children that he saw with the People’s Army in February to mid-March 1998. The Trial Chamber notes that the witness was the father of eight children including a child who was 12 or 13 years at the time of the incidents.<sup>3522</sup> The Trial Chamber accepts his evidence and therefore finds that it has been proved beyond a reasonable doubt that some of the armed children seen by

<sup>3515</sup> Sieh Mansaray, Transcript 14 October 2008, p. 18272.

<sup>3516</sup> Sieh Mansaray, Transcript 14 October 2008, pp. 18262-18267.

<sup>3517</sup> Sieh Mansaray, Transcript 14 October 2008, p. 18268.

<sup>3518</sup> Sieh Mansaray, Transcript 14 October 2008, p. 18308.

<sup>3519</sup> Sieh Mansaray, Transcript 14 October 2008, p. 18300.

<sup>3520</sup> Sieh Mansaray, Transcript 14 October 2008, p. 18302.

<sup>3521</sup> Sieh Mansaray, Transcript 14 October 2008, p. 18303.

<sup>3522</sup> Sieh Mansaray, Transcript 14 October 2008, pp. 18262, 18269.

Mansaray and those children burning houses were under the age of 15 years. As these children were travelling with the Peoples Army and were armed, the Trial Chamber is satisfied that they were taking an active part in hostilities. Further, based on the prevalence of children under the age 15 who fought with the AFRC/RUF forces, also referred to as the People's Army, the Trial Chamber is satisfied that the members of the AFRC/RUF knew or should have known that these children were under the age of 15 years. The Trial Chamber is accordingly satisfied that the Prosecution has proved beyond reasonable doubt that an unknown number of children under the age of 15 years was used to participate actively in hostilities in Koinadugu District between March and May 1998.

(ii) Findings on victim witnesses in Koinadugu District

a. Akiatu Tholley used to participate actively in hostilities after April or May 1999

Evidence

1513. The Trial Chamber has found that Akiatu Tholley was conscripted into the AFRC/RUF in January through April or May 1999. Tholley testified that after this, "they" took her to Kurubonla, Koinadugu District to fight, although she was unable to recall when this was.<sup>3523</sup> On re-examination Tholley clarified that the woman who trained them was the one who sent them to fight in Kurubonla.<sup>3524</sup> There, Tholley fought with the rebels against Kamajors and civilians while carrying a gun. Tholley stated that the rebels she was with, "our colleagues", killed civilians and that is why "we too killed them"<sup>3525</sup>, which, taken together with Tholley's further evidence, the Trial Chamber understands to mean that Tholley herself participated in the killing of civilians. On cross-examination, Tholley denied telling the Prosecution that she was sent to Kono to fight as recorded in a previous statement and maintained that she fought in Kurubonla.<sup>3526</sup> She testified that she was sent to fight, to

<sup>3523</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19217.

<sup>3524</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19281.

<sup>3525</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19217-19218, 19270.

<sup>3526</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19267-19268.

kill civilians and loot property and agreed that he only fought in Kurubonla as a trained soldier during the war.<sup>3527</sup>

1514. After she had killed civilians during the fighting in Kurubonla, Tholley dropped the gun and ran away. She surrendered to ECOMOG at Lunsar. They thought she was a spy, beat her and took her to the police station. The police men also beat her. Tholley gave the police her address in Freetown and they contacted her family who came and collected her from the Kissy Police Station.<sup>3528</sup>

1515. On cross-examination, Tholley denied a prior statement to the Prosecution in which it was recorded that she said she was taken from Masiaka to Lunsar and that she stayed there for over a month then moved to Makeni. Tholley denied ever going to Makeni and clarified that she only went to Lunsar after she escaped from Port Loko on her way to Freetown.<sup>3529</sup>

### Findings

1516. On the basis of Tholley's evidence that she fought with "the rebels" against Kamajors and civilians, that she personally killed civilians and looted property while carrying a gun, the Trial Chamber is satisfied that Tholley actively participated in hostilities and was used as a child soldier by members of the AFRC/RUF. The Trial Chamber has previously found that Tholley was under the age of 15 during this time and that the perpetrators knew or should have known that she was under the age of 15 years. The Trial Chamber is accordingly satisfied that the Prosecution has proved beyond reasonable doubt that Akiatu Tholley, a child under the age of 15 years, was used to participate actively in hostilities in Koinadugu District after April or May 1999.

#### b. Use of TF1-143 to participate in hostilities in September 1998

### Evidence

1517. After being assigned to Kabila outside Konkoba village, TF1-143 accompanied Kabila, other fighters and their "boys" on a food-finding mission. They arrived at a farmhouse and Kabila ordered TF1-143 to rape the old woman they found there. TF1-143

<sup>3527</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19268-19270.

<sup>3528</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19218-19220.

<sup>3529</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19265-19267.



cried and refused to rape the woman, so Kabila made him lie in the sun with his eyes open the entire day as punishment.<sup>3530</sup>

1518. After his training in maintaining a weapon TF1-143 was forced to do push-ups for five hours in a house in the village. Kabila would lift TF1-143 and hit him against the wall as punishment for disobeying his orders, starting from TF1-143's refusal to rape the old woman in the farmhouse.<sup>3531</sup> In the evening, Kabila took TF1-143 into the bush and defecated. He ordered TF1-143 to eat the faeces, or he would kill him and tell the others that TF1-143 ran away. Again, this was punishment for TF1-143 disobeying Kabila's orders. TF1-143 complied and ate the faeces.<sup>3532</sup>

### Findings

1519. The Trial Chamber recalls that it has found that in the context of food-finding missions in which children carried arms and/or committed crimes against civilians, that such activities constitute active participation in hostilities.<sup>3533</sup> The Trial Chamber is therefore satisfied that when TF1-143 went on a food-finding mission shortly after he was captured with Kabila and other fighters, during which he was ordered to rape a women, constitutes active participation in hostilities. The Trial Chamber has previously found that TF1-143 was under the age of 15 and that members of the AFRC/RUF knew or should have known that he was under the age of 15. Trial Chamber accordingly is satisfied that the Prosecution has proved beyond reasonable doubt that TF1-143, child under the age of 15 years was used to participate actively in hostilities in Koinadugu District in or about September 1998.

### (f) Bombali District

#### (i) Children trained at Camp Rosos and used by the AFRC in July 1998

### Evidence

1520. Alimamy Bobson Sesay testified that small boys who were captured during the SLA attack on Karina in July 1998 were assigned to the wives of SLA and RUF commanders to

<sup>3530</sup> TF1-143, Transcript 5 May 2008, p. 8979.

<sup>3531</sup> TF1-143, Transcript 5 May 2008, p. 8981.

<sup>3532</sup> TF1-143, Transcript 5 May 2008, pp. 8981-8982.

<sup>3533</sup> Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers) Use of children to participate actively in hostilities in Kailahun, Findings *supra*.

do “small works” before being trained. After the training SBUs were sent on food finding missions, used for ambushes and patrols, and engaged in attacks on armed forces.<sup>3534</sup>

1521. After the troops left Rosos in September/October 1998, Bobson Sesay testified that SAJ Musa sent men, led by Major O-Five, as reinforcements for the Freetown attack.<sup>3535</sup> O-Five’s group of fighters was comprised of SBUs, aged about 8 to 10. Some carried weapons and some carried loads. According to O-Five, most of the SBUs had been captured in Koinadugu and later trained.<sup>3536</sup>

### Findings

1522. The Trial Chamber has already found that the children abducted and trained in Karina and Camp Rosos in July 1998 were under the age of 15 years.<sup>3537</sup> The Trial Chamber is not satisfied that the performance of domestic chores constitutes active participation in hostilities, as these activities were not related to the hostilities and did not directly support the military operations of the armed groups. The Trial Chamber therefore finds that the use of the children to perform “small works” for the commanders’ wives does not constitute active participation in hostilities.

1523. However, the Trial Chamber finds that given the military purpose and the presence of adult fighters, children who took part in patrols, including food-finding missions, and ambushes with the SLAs were actively participating in hostilities.<sup>3538</sup> Therefore, on the basis of the evidence that the SBUs trained at Camp Rosos were used to participate in ambushes, patrols, and food-finding missions, and participated in attacks on armed forces, the Trial Chamber finds beyond reasonable doubt that these children were used to participate actively in hostilities. The Trial Chamber is satisfied that AFRC/RUF members who had trained and lived with the SBUs at Camp Rosos and who took children on these missions knew or should have that the children were under the age of 15 years. The Trial Chamber accordingly is satisfied that the Prosecution has proved beyond reasonable doubt that an unknown

<sup>3534</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8161-8162.

<sup>3535</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8161-8163, 8166-8167.

<sup>3536</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8170-8174, 8176-8177, 8180-8181.

<sup>3537</sup> Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers); Children trained at Camp Rosos and used by the AFRC in July 1998 *supra*.

<sup>3538</sup> See RUF Trial Judgement, para. 1717.

number of children under the age of 15 years, were used to participate actively in hostilities in Bombali District in or about July 1998.

1524. Further, the Trial Chamber finds that carrying arms and ammunition constitutes active participation in hostilities, as this activity is related to the hostilities and directly supports the military operations of the armed group.<sup>3539</sup> The Trial Chamber is therefore satisfied that the children who Bobson Sesay saw with O-Five in September to October 1998, who were carrying ammunition for the rebels, were actively participating in hostilities. While Bobson Sesay provided no basis for his estimation that the SBUs who were trained at Rosos were between 8 and 10 years old, the Trial Chamber notes that he was not challenged on this evidence and that he was involved in the training of children of similar ages at Masingbi Road, and was therefore familiar with the physical appearance of children in this age range. The Trial Chamber has found that these events occurred in August/September 1998.<sup>3540</sup> The Trial Chamber is accordingly satisfied that the Prosecution has proved beyond reasonable doubt that an unknown number of children under the age of 15 years, were used to participate actively in hostilities in Bombali District on or about August/September 1998.

(ii) Children committing crimes after ECOMOG Intervention 1998

a. Children as bodyguards to commanders and committing crimes during Operation Pay Yourself (February 1998)

Evidence

1525. TF1-174 testified that on 17 February 1998, the start of Operation Pay Yourself,<sup>3541</sup> the children at Teko Barracks in Makeni with whom the witness worked began carrying guns and being with their “big ground commanders” again. They were involved in looting and made the witness and others afraid of them.<sup>3542</sup> The majority of the children at Teko Barracks were under the age of 14/15.<sup>3543</sup>

Findings

<sup>3539</sup> See AFRC Trial Judgement, para. 737.

<sup>3540</sup> Factual Findings on Responsibility: Military Personnel; Red Lion Battalion *infra*.

<sup>3541</sup> TF1-174, Transcript 27 January 2009, pp. 23671-23674.

<sup>3542</sup> TF1-174, Transcript 27 January 2009, p. 23685.

<sup>3543</sup> TF1-174, Transcript 27 January 2009, p. 23665.

1526. The Trial Chamber finds that whilst TF1-174 did not testify about the age of the specific children who carried arms, acted as bodyguards to commanders, and who were involved in looting, the Trial Chamber is satisfied, based on TF1-174's testimony that the majority of the children at Teko Barracks were under the age of 14/15, that most of these children were under the age of 15 years. The Trial Chamber has found that in the context of the conflict in Sierra Leone, that the use of children to commit crimes against civilians and/or safeguard the physical safety of military commanders, both constitute active participation in hostilities.<sup>3544</sup> Accordingly, the Trial Chamber is satisfied that those children from Teko Barracks who acted as bodyguards to commanders and engaged in looting were used by the RUF and AFRC to participate actively in hostilities. Based on the prevalence of children being conscripted and used by the RUF/AFRC the Trial Chamber finds that the members of the AFRC/RUF knew or should have known that these children were under the age of 15 years. The Trial Chamber accordingly is satisfied that the Prosecution has proved beyond reasonable doubt that an unknown number of children under the age of 15 years, were used to participate actively in hostilities at Teko Barracks in February 1998. The Trial Chamber is therefore satisfied that the elements of the crime of using children to participate actively in hostilities have been proved beyond reasonable doubt in relation to this evidence.

b. Children participating in burnings and amputations in Rosos between July and October 1998

Evidence

1527. Alimamy Bobson Sesay testified that during his stay in Rosos, between July and October 1998, SBUs participated in burnings and amputations. During food finding patrols in Rokulan and Royanka in Bombali, SBUs did the amputations as they were "the ones who had machetes".<sup>3545</sup>

Findings

1528. The Trial Chamber has found that in the context of the conflict in Sierra Leone, that the use of children to commit crimes against civilians constitutes active participation in

<sup>3544</sup> Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers); Use of children to participate actively in hostilities in Kailahun, Findings *supra*.

<sup>3545</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8102-8103, 8161-8162, 8191.





hostilities.<sup>3546</sup> The Trial Chamber is therefore satisfied that those children from Camp Rosos who participated in burnings and amputations were used by the AFRC/RUF to actively participate in hostilities. The Trial Chamber has already found that it has been proved beyond reasonable doubt that children who were trained at Camp Rosos were under the age of 15 years, and that AFRC/RUF members who used them to participate in food-finding missions, and to commit crimes against civilians knew or should have known that these children were under the age of 15 years. The Trial Chamber is accordingly satisfied that the Prosecution has proved beyond reasonable doubt that an unknown number of children under the age of 15 years, were used to participate actively in hostilities at Rosos between July and October 1998.

1529. The Trial Chamber is accordingly satisfied that the elements of the crime of the use of children under the age of 15 years to participate actively in hostilities have been proved beyond a reasonable doubt at Camp Rosos in July-October 1998.

(iii) Findings on victim witnesses in Bombali District

a. Use of Komba Sumana to participate actively in hostilities from approximately August to December 1998

Evidence

1530. Komba Sumana testified that after his military training was complete, Mosquito assembled the civilians into separate lines of adults and children. Sumana did not know the ages of his “colleagues”, but some were the same height as him and some were taller. “Soldiers” coming from the direction of Buedu brought weapons which were distributed to the adult civilians and then to the children. Sumana received an “AK”.<sup>3547</sup>

1531. On cross-examination, Sumana testified that Monica personally gave him an AK-47 and denied a prior statement given to a Prosecution investigator that he did not receive a weapon because he could not shoot, explaining that he had in fact stated he was not given a gun that was large. In the same statement, Sumana described the weapons distributed as

<sup>3546</sup> Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers); Use of children to participate actively in hostilities in Kailahun, Findings *supra*.

<sup>3547</sup> Komba Sumana, Transcript 6 October 2008, pp. 17936-17940, 17953-17954.

“new” whereas in a later statement it was recorded that he stated some were new and some old. Sumana explained that there were both new and old guns.<sup>3548</sup>

1532. Mosquito sent the trainees to “clear” Kono. They were joined by a number of “rebels” he had not met before and who were under the command of a man named “Blood”. They marched for three weeks back to PC Ground where they met “Issa”. The trainees were told that this was Operation No Living Thing and “Issa” said they would be sent to attack Koidu Town. Sumana was scared and did not participate in this attack.<sup>3549</sup> Instead, he gave his gun to a rebel named “Wallace” and hid in his house in Kissi Town. From the house, Sumana observed “Issa”, Morris Kallon, Augustine Gbao and Superman pass by in a vehicle and the others pass by on foot. Sumana learned from Wallace that the attack was not successful.<sup>3550</sup> The Trial Chamber recalls its finding that an unsuccessful attack on Koidu Town known as the Fitti-Fatta mission was launched by Superman in approximately mid-June 1998.<sup>3551</sup>

1533. Sumana remained in Kissi Town for about a week during which time Wallace returned Sumana’s gun to him. Towards the end of the rainy season, Superman clashed with Mosquito and left with all of the rebels in Kissi Town for Tombodu where they met an “SLA” named “Savage”. Together with Savage and his soldiers they continued on to Kurubonla, Koinadugu District.<sup>3552</sup>

1534. Sumana testified that the commanders in Kurubonla were SAJ Musa, General Bropleh, and Five-Five. Shortly after his arrival in Kurubonla, a convoy of STF, RUF and AFRC attacked the Guinean barracks at Mongor Bendugu. Sumana “fought” together with Wallace and the other fighters. Other commanders present during the attack were Superman, SAJ Musa, Savage and Komba Gbundema. Sumana testified that they successfully dislodged the Guineans and captured some large weapons including a 40 barrel and a tank which they were not able to carry away and which they burnt. They also captured a large

<sup>3548</sup> Komba Sumana, Transcript 7 October 2008, pp. 18030-18040.

<sup>3549</sup> Komba Sumana, Transcript 6 October 2008, pp. 17940-17942.

<sup>3550</sup> Komba Sumana, Transcript 6 October 2008, pp. 17942-17943.

<sup>3551</sup> Factual Findings on Responsibility: Military Operations; Operation Fitti-Fatta *infra*.

<sup>3552</sup> Komba Sumana, Transcript 6 October 2008, pp. 17943-17949.

amount of bullets including “AAs”, “mortars” and “AKs” as well as AA guns which they took with them.<sup>3553</sup>

1535. Approximately a week after the attack on Mongor Bendugu, after the rainy season had ended, a group of soldiers and rebels commanded by Five-Five left Kurubonla for Freetown. Sumana and others remained in Kurubonla for approximately a month and then moved to Koinadugu Town. There SAJ Musa was the commander and was deputised by Superman.<sup>3554</sup> Following a meeting organised by SAJ Musa, they attacked ECOMOG and the Kamajors at Kabala. Sumana testified that he took part in this attack. Sumana testified that during this attack, some civilians were captured, including adults and some who were the same height as Sumana but whose ages he did not know. The captured people were given military training at the barracks.<sup>3555</sup>

1536. A week after the first attack, the “rebels”, the “SLAs” and the STF attacked Kabala again. Sumana testified that he went on this attack with Wallace, under the command of Superman. SAJ Musa also commanded a group during this attack. Guns, bullets and civilians were captured and brought to Koinadugu where the captured civilians were trained.<sup>3556</sup>

1537. Sumana testified that after a conflict with Superman, SAJ Musa left Koinadugu Town. The Trial Chamber notes that SAJ Musa split with Superman in October 1998.<sup>3557</sup> Superman remained the commander and General Bropleh the deputy. Later, Superman’s group joined SAJ Musa and Five-Five in Makeni, Bombali District.<sup>3558</sup> On the way to Makeni, they attacked Binkolo and set houses on fire. Sumana testified that “there was a house that they said we should burn down” and that Komba Gbundema “passed that order”. Sumana was with an RUF rebel from Superman’s group named Blood and “together with that man... we burnt it down”.<sup>3559</sup> Sumana testified that he travelled with Blood as his bodyguard. Blood carried a communication set and was therefore unable to carry a gun.<sup>3560</sup>

<sup>3553</sup> Komba Sumana, Transcript 6 October 2008, pp. 17949-17959.

<sup>3554</sup> Komba Sumana, Transcript 6 October 2008, pp. 17959-17961.

<sup>3555</sup> Komba Sumana, Transcript 6 October 2008, pp. 17961-17963.

<sup>3556</sup> Komba Sumana, Transcript 6 October 2008, pp. 17963-17966.

<sup>3557</sup> Decision on Judicial Notice, 23 March 2009, Annex A, Fact 10.

<sup>3558</sup> Komba Sumana, Transcript 6 October 2008, pp. 17966-17969.

<sup>3559</sup> Komba Sumana, Transcript 6 October 2008, pp. 17967-17971.

<sup>3560</sup> Komba Sumana, Transcript 6 October 2008, pp. 17971-17973.

The Trial Chamber notes that on cross-examination, Sumana agreed with Defence counsel that he fought as an RUF rebel but stated that he never killed or amputated anyone, never burned a house, never looted and never raped.<sup>3561</sup>

1538. At Makeni, Sumana's group attacked ECOMOG together with SAJ Musa's group. They captured Makeni after two days. After it was captured, the RUF stayed in Teko Barracks, the STF were at Waterworks and the SLAs were in the centre of Makeni Town.<sup>3562</sup> Sumana testified that he subsequently overheard a communication between Five-Five and Superman at Superman's house in which Five-Five reported that SAJ Musa had been shot in Freetown.<sup>3563</sup> The Trial Chamber recalls that SAJ Musa was killed on 23 December 1998.<sup>3564</sup>

1539. Sumana's group was then taken to "Issa's" house and then to Lunsar where they remained for a month under the command of Superman. Sumana testified that during that time they dislodged ECOMOG from Gberi Junction together with Rambo's group which had come from Makeni<sup>3565</sup> but he did not specify whether he personally joined this attack. Sumana testified that he then returned to Makeni where he remained for a year,<sup>3566</sup> and ultimately disarmed in Port Loko.<sup>3567</sup>

### Findings

1540. Although Sumana did not testify to the exact nature of his participation in the hostilities described, the Trial Chamber is satisfied on the basis of his testimony that he was an "SBU", that he carried a gun, that he marched together with the troops from Kailahun to Kono District; that he was present and fought during attacks carried out by RUF/AFRC rebels under the command of Superman against enemy forces at Mongo Bendugu; Kabala in Koinadugu District and at Binkolo and Makeni in Bombali District during the period of

<sup>3561</sup> Komba Sumana, Transcript 7 October 2008, p. 18077.

<sup>3562</sup> Komba Sumana, Transcript 6 October 2008, pp. 17973-17974.

<sup>3563</sup> Komba Sumana, Transcript 6 October 2008, pp. 17976-17977.

<sup>3564</sup> It is a judicially noticed fact that SAJ Musa was killed in an explosion in Benguema on 23 December 1998. *Prosecutor v. Taylor*, SCSL-04-01-T-987, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the RUF Trial Judgement Pursuant to Rule 94(B), Fact 13.

<sup>3565</sup> Komba Sumana, Transcript 6 October 2008, pp. 17977-17980.

<sup>3566</sup> Komba Sumana, Transcript 6 October 2008, pp. 17980-17985.

<sup>3567</sup> Komba Sumana, Transcript 6 October 2008, p. 17991.



approximately August through December 1998, and that he acted as a bodyguard to a rebel named "Blood" that Sumana was used to participate actively in hostilities.

1541. The Trial Chamber has previously found that it was satisfied that Sumana's date of birth was 10 August 1984. It is therefore satisfied that during the period from August to December 1998, the witness was 14 years old and thus under the age of 15 years. Based on the prevalence of the use of children under the age of 15 for active participation in hostilities by the RUF/AFRC,<sup>3568</sup> the Trial Chamber is satisfied that the members of the RUF/AFRC knew or should have known that Sumana was under the age of 15 years. The Trial Chamber is accordingly satisfied that the elements of the crime of the use of a child under the age of 15 years to participate actively in hostilities have been proved beyond a reasonable doubt.

b. Training and Use of TF1-158 to participate actively in hostilities from approximately in 1998

1542. After witness TF1-158 was abducted from Bonoya, he was forced to carry rice and groundnut that the rebels had taken from civilians. They went to Ndaria village, Mamboma, Karina, Mateboi and then to Rosos. They travelled as a mixed group of RUF and AFRC, the majority were AFRC.<sup>3569</sup> On cross-examination, the witness denied telling the Prosecution that he was taken to Karina, Kurubonla, Serkoya, Rosos and then Lunsar stating that only after his second abduction, did he arrive at Lunsar.<sup>3570</sup>

1543. TF1-158 and his group spent three days in Rosos, during which the witness was trained to fight under the direction of Staff Alhaji. He was trained to dismantle, clean, couple, cock,<sup>3571</sup> fire and load a gun as well as how to fix a magazine on the gun and to crawl.<sup>3572</sup> The witness was given a "two pistol grip" gun. Approximately 300 other people who were also trained, some 8 to 11 years old and some adults. After training, the rebels gave the trainees drugs to make them bold and brave so they would not fear anything. The rebels pierced the skin below the witness' eye and applied cocaine, called "brown brown",

<sup>3568</sup> Exhibit P-043, "Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007", p. 22.

<sup>3569</sup> TF1-158, Transcript 21 October 2008, p. 18878.

<sup>3570</sup> TF1-158, Transcript 21 October 2008, pp. 18874-18875.

<sup>3571</sup> TF1-158, Transcript 21 October 2008, p. 18832

<sup>3572</sup> TF1-158, Transcript 21 October 2008, pp. 18822.

on it, making the witness feel “like a mad person”.<sup>3573</sup> On cross-examination the witness stated that while he was in Rosos he heard people talking about an attack on Freetown. After his release he learned the attack took place on 6 January.<sup>3574</sup>

1544. While in Rosos, the rebels took the witness and others on a food-finding mission in a village nearby. Staff Alhaji assembled those who were to go in the morning and everyone, including the witness, was given a gun. They took food items and livestock from civilians and came back to Rosos. In Rosos, Staff Alhaji reported to Five-Five and O-Five but mainly to Gullit.<sup>3575</sup> The witness also testified that when he was in Rosos, he observed child combatants being “marked” with “RUF” on their shoulders or marked on their faces in order to make them brave.<sup>3576</sup>

1545. Defence Counsel cross-examined Witness TF1-158 at length on his prior statements to OTP and on the evidence he adduced during the AFRC trial. Neither the interview records nor the transcript were tendered into evidence and the Trial Chamber is unable to consider them in total. Witness TF1-158 stated Counsel was “confusing me with questions”<sup>3577</sup> and denied or gave explanations for inconsistencies put to him. In particular he stated that some RUF, including Kill Man No Blood and Allusein were part of their group who came to Rosos.<sup>3578</sup>

### Findings

1546. The Trial Chamber considers that the removal and carrying away of looted goods is a foreseeable and integral part of the appropriation of the private property of a civilian. The taking and resultant carrying away of the property has a direct nexus with the conflict and the use of children to carry loads constitutes active participation in hostilities, as these activities were related to the hostilities. The Trial Chamber has found that in the context of food-finding missions in which children carried arms constitutes active participation in hostilities.<sup>3579</sup> The Trial Chamber therefore finds that the use of the witness to go on an

<sup>3573</sup> TF1-158, Transcript 21 October 2008, pp. 18813-18825.

<sup>3574</sup> TF1-158, Transcript 21 October 2008, pp. 18887-18888.

<sup>3575</sup> TF1-158, Transcript 21 October 2008, pp. 18825-18827.

<sup>3576</sup> TF1-158, Transcript 21 October 2008, p. 18846.

<sup>3577</sup> TF1-158, Transcript 21 October 2008, p. 18897

<sup>3578</sup> TF1-158, Transcript 21 October 2008, p. 18883

<sup>3579</sup> Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers) Use of children to participate actively in hostilities in Kailahun, Findings *supra*.

armed food-finding mission to loot food from civilians, in Rosos after September 1998 constituted active participation in hostilities. Based on the prevalence of children being conscripted and used by the RUF/AFRC the Trial Chamber further finds that the members of the AFRC/RUF who used the witness knew or should have known that these children were under the age of 15 years.

1547. The Trial Chamber therefore finds that the elements of the crime of the use of TF1-158, a child under the age of 15 years, to participate actively in hostilities have been proved beyond reasonable doubt.

i. Use TF1-158 to participate actively in hostilities in approximately July 1999

Evidence

1548. Witness TF1-158 testified that after he was trained, some RUF and AFRC (referred to as SLAs<sup>3580</sup>) came from Makeni. He knew some were RUF since some of them had “RUF” tattoos on their shoulders. On cross-examination the witness stated that an order to attack Kabala came from Makeni, clarifying a prior statement in which he said Brigadier Issa was the one who ordered the mixed group to attack Kabala.<sup>3581</sup> The joint group went together to attack Kabala but were ambushed by Kabbah’s soldiers, and shooting “all over” ensued. Since they “were not actually allowed to attack the town”, the witness went into a shop and took a bicycle so he could return to Kamabai. While climbing on a hill he dodged fire, crawled into a gutter, took out his gun and put it down until he saw Savage who told him they were to go back.<sup>3582</sup>

1549. After the attack, the witness returned with Savage to Kamabai, where they rested and were further trained. During the training, the witness heard of a grudge between the RUF and the AFRC in Makeni. At this time, the witness saw Superman and General Issa, of the RUF, fighting against the AFRC. Superman and “General Issa” were in an AA van with a two-barrel gun mounted on it. “They were shooting seriously and Savage too was returning

<sup>3580</sup> E.g. TF1-158 Transcript 21 October pp. 18902-3, 18923 (in cross examination when citing a prior statement recorded by Prosecution investigators).

<sup>3581</sup> TF1-158, Transcript 21 October 2008, p. 18902.

<sup>3582</sup> TF1-158, Transcript 21 October 2008, p. 18834.

fire”. Savage and the witness then went to Kabala. On the way to Kabala, Savage killed men in Fadugu.<sup>3583</sup> It was put to the witness that he did not mention this incident in his testimony in the AFRC Trial and the witness explained that he forgot.<sup>3584</sup>

1550. On cross-examination, the witness testified this was the first time he saw “General Issa”, Issa Sesay<sup>3585</sup> and stated that a record of interview in 2005 when he referred to “Brigadier Issa” and that he saw Brigadier Issa once, in a vehicle, “during the time the disarmament has taken place. He used to go to Karina” was incorrectly recorded.<sup>3586</sup>

1551. The witness, Officer Demo, Savage and the others in their group arrived at the Makakura Checkpoint in Kabala where they surrendered to Pa Kabbah’s soldiers who disarmed them, including taking the witness’ gun. In order to enter Kabala, Kabbah’s soldiers gave the fighters either an “ex-combatant” wristband to adults or “ex-child combatant” wristband to those who were small boys. The witness was given a “child combatant” wristband.<sup>3587</sup>

1552. On cross-examination, the witness estimated that he was 11 years old at the time he disarmed and had been with the rebels for about 10 months, inclusive of the time he escaped.<sup>3588</sup> After a few weeks in Kabala, UN trucks came and took child combatants to a care centre in Lunsar “under Caritas”<sup>3589</sup>. Then the RUF, which had not yet disarmed, came to Lunsar. Some of the “child combatants”, aged 10 to 15 and above, decided to join the RUF and left with them.<sup>3590</sup> On cross-examination it was put to the witness that he had not previously testified to this evidence. He stated that he had given this information to the OTP just prior to his testimony and denied being prompted. He stated that he thought he should “say it”.<sup>3591</sup>

## Findings

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- <sup>3583</sup> TF1-158, Transcript 21 October 2008, pp. 18833-18837.  
<sup>3584</sup> TF1-158, Transcript 21 October 2008, pp. 18889-18903, 18913-18918.  
<sup>3585</sup> TF1-158, Transcript 21 October 2008, p. 18899.  
<sup>3586</sup> TF1-158, Transcript 21 October 2008, p. 18914.  
<sup>3587</sup> TF1-158, Transcript 21 October 2008, pp. 18838-18839.  
<sup>3588</sup> TF1-158, Transcript 21 October 2008, p. 18849.  
<sup>3589</sup> TF1-158, Transcript 21 October 2008, pp. 18839-18840.  
<sup>3590</sup> TF1-158, Transcript 21 October 2008, pp. 18838-18841.  
<sup>3591</sup> TF1-158, Transcript 21 October 2008, pp. 18918-18919.

1553. The Trial Chamber accepts TF1-158's evidence that he went with a group to attack Kabala while he was carrying a gun; that hostilities erupted between the two sides; that he was in the line of fire and therefore had to hide in a gutter and hide his gun. Accordingly the Trial Chamber finds that TF1-158 actively participated in hostilities and was used as a child soldier by members of the AFRC/RUF under the command of Issa Sesay and Denis Mingo in the Bombali District after 7 July 1999. On the basis of the witness's unchallenged testimony that he was 10 years old when he was captured in approximately September 1998, and during his training in July-August 1999, and based on his testimony that he was 11 years old when he was disarmed in 1999 and was acknowledged as a "child combatant" on his surrender at Kabala, the Trial Chamber is satisfied that he was under the age of 15 years at the time of this attack. Based on the prevalence of children under the age of 15 used by the AFRC/RUF in hostilities,<sup>3592</sup> the Trial Chamber is satisfied that the members of the AFRC/RUF knew or should have known that TF1-158 was under the age of 15 years. The Trial Chamber is accordingly satisfied that the elements of the crime of the use of TF1-158 a child under the age of 15 years to participate actively in hostilities in Bombali District at an unknown date after 7 July 1999 have been proved beyond a reasonable doubt.

ii. TF1-143 used to participate actively in hostilities from approximately September to December 1998

Evidence

1554. The Trial Chamber has already found that TF1-143 was abducted in Koinadugu in September 1998.<sup>3593</sup> He testified that they left Koinadugu with the rest of the advance team consisting of more than 200 people. Kabila informed TF1-143 that the advance team was mostly "AFRC dominant but was mixed",<sup>3594</sup> and included some RUF.<sup>3595</sup> After leaving Koinadugu Town, the team was informed that Nigerian soldiers were stationed in Karina.<sup>3596</sup>

<sup>3592</sup> Exhibit P-043, "Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007", p. 22.

<sup>3593</sup> See Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers); Abduction, Training and Use of TF1-143 in September 1998 *supra*.

<sup>3594</sup> TF1-143, Transcript 5 May 2008, pp. 8988

<sup>3595</sup> TF1-143, Transcript 5 May 2008, pp. 8988-8989.

<sup>3596</sup> TF1-143, Transcript 5 May 2008, p. 8989.

TF1-143 testified that Kabila told him to stay in the bush and lie down. TF1-143 heard gunfire and after the shooting had stopped, the group went through Karina.<sup>3597</sup>

1555. In the second village after Karina,<sup>3598</sup> O-Five ordered that boys who had been captured and marked should be trained.<sup>3599</sup> Kabila and Mohamed trained the boys for two hours on how to parade with a weapon, how to escape and how to crawl. After this training Kabila gave TF1-143 two blue tablets. TF1-143 testified that after he took the tablets he “started feeling a way that [he] was not feeling before. [He] started being bold; [his] eyes going red at the time”.<sup>3600</sup>

1556. TF1-143 testified that in the next village, Five-Five ordered that they should loot, kill and burn down the town.<sup>3601</sup> At a house in the village Kabila and TF1-143 found five people – two men, a woman, her child and another child.<sup>3602</sup> Kabila killed one man as a demonstration, and TF1-143 then killed the other four using a machete.<sup>3603</sup> TF1-143 testified that Kabila had threatened to kill him if he did not kill the four people, and that he felt bold enough to commit these acts because of the blue tablets he had ingested.<sup>3604</sup>

1557. The group reached a village called Kamalo and took boats to cross a river to Kakuna, where there were Nigerian soldiers. TF1-143 was told to stay in the forest outside Kakuna Town, where he heard heavy firing.<sup>3605</sup> He testified that he was carrying some of Kabila’s ammunition and the machete he had used to hack the four people to death.<sup>3606</sup> He testified that previously Kabila had made him carry his GMG gun which was large with a round box, used large bullets and the ammunition was worn around the neck. However, the gun was too large and heavy for TF1-143, so Kabila stopped giving it to him.<sup>3607</sup>

<sup>3597</sup> TF1-143, Transcript 5 May 2008, pp. 8990-8991.

<sup>3598</sup> TF1-143, Transcript 5 May 2008, p. 9000.

<sup>3599</sup> TF1-143, Transcript 5 May 2008, pp. 8991-8992.

<sup>3600</sup> TF1-143, Transcript 5 May 2008, p. 8992.

<sup>3601</sup> TF1-143, Transcript 5 May 2008, p. 8997.

<sup>3602</sup> TF1-143, Transcript 5 May 2008, p. 8998.

<sup>3603</sup> TF1-143, Transcript 5 May 2008, pp. 8997-8999.

<sup>3604</sup> TF1-143, Transcript 5 May 2008, pp. 8999-9000.

<sup>3605</sup> TF1-143, Transcript 5 May 2008, pp. 9001-9003.

<sup>3606</sup> TF1-143, Transcript 5 May 2008, p. 9004.

<sup>3607</sup> TF1-143, Transcript 5 May 2008, pp. 9004-9005.

1558. On cross-examination, TF1-143 could not explain why there was nothing in the previous statements to the Prosecution about Kabila's heavy gun stating that he remembered telling the Prosecution about the gun in his 2007 interview.<sup>3608</sup>

1559. Three villages before Colonel Eddie Town,<sup>3609</sup> Kabila trained TF1-143 on how to shoot a weapon. The gun had two handles and could be held "at the back and in front". They went to the riverside and TF1-143 was instructed to shoot the gun and aim into the river. He shot it once and they returned to town.<sup>3610</sup>

1560. Kabila then brought out some marijuana and told TF1-143 that he should start smoking. Kabila continued to wrap marijuana for him and he would smoke it wherever they went.<sup>3611</sup>

1561. TF1-143 testified that in the next village, Komba ordered "his boys" to capture a girl. The boys captured her at gunpoint, stripped her naked and left her in a house for Komba. TF1-143 was standing guard at the door of the house with John, one of Komba's boys, while Komba "used her" that is he raped her.<sup>3612</sup>

1562. During the march from Colonel Eddie Town to Freetown, the group stayed in the forest during the day and walked at night.<sup>3613</sup> TF1-143 testified that at a deserted village along the way, SAJ Musa ordered the town to be burned. Kabila sprinkled petrol around a house, and TF1-143 then struck a match and set the house on fire.<sup>3614</sup>

1563. TF1-143 testified that the group travelling from Colonel Eddie Town was comprised of SAJ Musa's group and the Red Lion group. SAJ Musa's group was AFRC mixed with RUF.<sup>3615</sup> The Red Lion group included Junior Lion, Gullit and Foday Pump Lock. On cross-examination, TF1-143 agreed that he had never specifically referred to the Red Lion group by name to the Prosecution in any of his five previous interviews, the latest coming three

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<sup>3608</sup> TF1-143, Transcript 5 May 2008, pp. 9057-9060.

<sup>3609</sup> TF1-143, Transcript 5 May 2008, p. 9007.

<sup>3610</sup> TF1-143, Transcript 5 May 2008, p. 9005.

<sup>3611</sup> TF1-143, Transcript 5 May 2008, p. 9007.

<sup>3612</sup> TF1-143, Transcript 5 May 2008, pp. 9008-9010.

<sup>3613</sup> TF1-143, Transcript 5 May 2008, p. 9019.

<sup>3614</sup> TF1-143, Transcript 5 May 2008, pp. 9016, 9018.

<sup>3615</sup> TF1-143, Transcript 5 May 2008, pp. 9019-9020.

weeks before his examination-in-chief.<sup>3616</sup> TF1-143 explained that the Prosecution had not asked him about the two groups travelling from Colonel Eddie Town. He only told them about the commanders who were present and SAJ Musa's group since that was the group he was part of and knew.<sup>3617</sup> Additionally, TF1-143 explained that he had forgotten many things that happened to him in the past, but as the interviews progressed he began to recall most of the things he experienced.<sup>3618</sup> TF1-143 denied being asked to name the Red Lion group during his testimony,<sup>3619</sup> or learning of any evidence that had been given earlier in the case.<sup>3620</sup>

### Findings

1564. The Trial Chamber notes that the witness omitted to mention both Kabila's heavy gun, and the Red Lion group in previous statements to the Prosecution. However, it notes that the witness was very young at the time that he gave his statements and had experienced traumatic events while given narcotics, and therefore finds that his explanation that he began to recollect more about the events that occurred as the interviews progressed to be convincing. The Trial Chamber has therefore accepted TF1-143's testimony.

1565. The Trial Chamber has found that in the context of the conflict in Sierra Leone, the use of children to commit crimes against civilians and carrying arms and ammunition constitutes active participation in hostilities, as this is related to the hostilities and directly supports the military operations of the armed group.<sup>3621</sup> The Trial Chamber finds TF1-143's evidence that he killed four civilians at a village near Karina on Kabila's orders; that he partook in the capture of a girl who was then raped by Komba at a village near Colonel Eddie Town, that he set fire to a deserted house in a village near Colonel Eddie Town; and that he carried some of Kabila's ammunition and his gun during the journey from Koinadugu to Colonel Eddie Town to be credible. Based on the prevalence of children being conscripted and used by the RUF/AFRC the Trial Chamber further finds that the members of the AFRC/RUF knew or should have known that these children were under the age of 15

<sup>3616</sup> TF1-143, Transcript 5 May 2008, pp. 9055-9057.

<sup>3617</sup> TF1-143, Transcript 5 May 2008, p. 9055.

<sup>3618</sup> TF1-143, Transcript 5 May 2008, p. 9053.

<sup>3619</sup> TF1-143, Transcript 5 May 2008, p. 9052.

<sup>3620</sup> TF1-143, Transcript 5 May 2008, p. 9057.

<sup>3621</sup> Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers); Use of children to participate actively in hostilities in Kailahun, Findings *supra*.



years. Accordingly, the Trial Chamber is satisfied that it has been proved beyond reasonable doubt that TF1-143, a child under the age of 15 years was used to participate actively in hostilities by members of the AFRC/RUF.

(g) Freetown and the Western Area

(i) Children committing crimes in Freetown and the Western Area during and after January 1999

Evidence

1566. In Exhibit P-335, the Coalition to Stop the Use of Child Soldiers reports that 10% of the armed forces which attacked Freetown in January 1999 were children.<sup>3622</sup>

1567. Confidential Exhibit P-077 reports that during the rebels' attack on Freetown, 8 to 11 year old boys raped, killed and amputated the hands of civilians.<sup>3623</sup>

1568. In Exhibit P-310, the UN Secretary-General reports that a significant number of rebel fighters in the Freetown attack in January 1999 were children and that boys as young as 8 to 11 were killing and inflicting injuries.<sup>3624</sup> In Exhibit P-328, Human Rights Watch reports that RUF child combatants, armed with pistols, rifles and machetes, were seen actively participating in killings and amputations during the Freetown attack.<sup>3625</sup>

1569. TF1-174 testified that during the course of his work with children, some told him they fought in Freetown in January 1999. The witness named four of these children in a confidential exhibit.<sup>3626</sup>

1570. Mohamed Sesay testified that about a week and a half after the Freetown attack, he was taken to a junction where a 13 year old boy was ordered to amputate his arm. The boy

<sup>3622</sup> Exhibit P-335, "Coalition to Stop the Use of Child Soldiers: Global Report on Child Soldiers, 2001", p. 378.

<sup>3623</sup> Exhibit P-077 (confidential), paras 42, 60.

<sup>3624</sup> Exhibit P-310, "UN Security Council, Fifth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1999/237, 4 March 1999", para. 25.

<sup>3625</sup> Exhibit P-328, "Human Rights Watch Report, Sierra Leone – Getting Away with Murder, Mutilation, Rape, New Testimony from Sierra Leone, July 1999", p. 5, ERN 23003.

<sup>3626</sup> TF1-174, Transcript 27 January 2009, pp. 23707–23709; Exhibit P-280 (confidential).





hit Sesay's left arm with a machete. His arm was not amputated completely and the 'commando' took the axe from the boy and amputated both of Sesay's hands.<sup>3627</sup>

1571. Alimamy Bobson Sesay testified that during the Freetown attack, SBUs captured young girls, about 8 years old, and brought them to the State House and "used them for sexual purposes".<sup>3628</sup> From February to March 1999, at Benguema, SBUs captured young girls aged 8 and had sexual intercourse with them.<sup>3629</sup>

1572. Witness TF1-023 testified in the AFRC trial that she was captured at Consider Lane in Calaba Town on 22 January 1999 by a young rebel boy with a gun.<sup>3630</sup> Later that day, TF1-023 was taken to Allen Town along with other captives.<sup>3631</sup> At Allen Town, the captured civilians were guarded by armed SBUs aged 13 to 15.<sup>3632</sup>

### Findings

1573. The Trial Chamber finds that the information contained in Exhibits P-077, P-335, P-310 and P-328 on the prevalence of children used by the rebels forces during the attack on Freetown, is based on hearsay and does not give sufficient information of the locations, times and perpetrators to return a finding in relation to the crime of the use of children under the age of 15 years to participate actively in hostilities. However, this evidence may corroborate other findings on specific incidents. Alimamy Bobson Sesay's evidence did not provide the age range of the children used to capture young girls but the Trial Chamber notes its findings above that Alimamy Bobson Sesay trained SBUs and that these units were made up of children aged 5-17. The Trial Chamber finds that TF1-174's account, which is based on hearsay and is uncorroborated, is insufficient to make findings on any specific incident of the use of child soldiers, particularly as TF1-174 provides no information about the ages of the children to whom he spoke.

1574. TF1-023 did not provide any evidence about the age of the "rebel boy" with the gun who captured her in Calaba on 22 January 1999. The Trial Chamber therefore finds that it has not been established that this boy was under the age of 15 years. While she indicates that

<sup>3627</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3900-3901, 3915-3919, 3923-3926.

<sup>3628</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8290-8291.

<sup>3629</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8392-8399.

<sup>3630</sup> Exhibit P-205A, "TF1-023, AFRC Transcript, 9 March 2005", p. 30.

<sup>3631</sup> Exhibit P-205A, "TF1-023, AFRC Transcript, 9 March 2005", p. 32.

the children who guarded her and the other captives in Allen Town were aged 13 to 15 years old, in cross-examination in the AFRC trial, TF1-023 was questioned about the ages of the small boys and testified, "I could not tell their actual age because I didn't ask them for their ages. So I only guessed".<sup>3633</sup> The Trial Chamber therefore finds that it has not been proven beyond a reasonable doubt that these children were under the age of 15.

1575. The Trial Chamber notes that Mohamed Sesay's evidence was not challenged and that he testified that he is the father of four children.<sup>3634</sup> The Trial Chamber is therefore satisfied that the "boy" who assaulted Sesay was under the age of 15 years at the time of this attack and, based on the prevalence of children under the age of 15 used by the AFRC/RUF in hostilities,<sup>3635</sup> the Trial Chamber is satisfied that the members of the AFRC/RUF knew or should have known that the boy who assaulted Mohamed Sesay was under the age of 15 years. The Trial Chamber recalls that it has found that in the context of the conflict in Sierra Leone, the use of children to commit crimes against civilians constitutes active participation in hostilities.<sup>3636</sup> Accordingly the Trial Chamber is satisfied that it has been proved beyond reasonable doubt that a child under the age of 15 years was used to participate actively in hostilities by members of the AFRC/RUF by assaulting and amputating the hands of Mohamed Sesay in January 1999 in Freetown.

(ii) Children used by the AFRC and RUF after 6 January 1999

Evidence

1576. Osman Jalloh testified that in January 1999,<sup>3637</sup> he saw children who appeared to be 8 to 10 years old, who were carrying guns, and packing stones on the highway to block ECOMOG at Sanyinoh Junction, between Wellington and Calaba Town.<sup>3638</sup>

1577. Paul Nabieu Conteh testified that he saw about 25 children aged 10 to 14 wearing military uniforms at Benguema after 19 January 1999, some carrying guns. The children

<sup>3632</sup> Exhibit P-205A, "TF1-023, AFRC Transcript, 9 March 2005", p. 35.

<sup>3633</sup> Exhibit P-205B (confidential), p. 12.

<sup>3634</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3898.

<sup>3635</sup> Exhibit P-043, "Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007", p. 22.

<sup>3636</sup> Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers); Use of children to participate actively in hostilities in Kailahun, Findings *supra*.

<sup>3637</sup> Osman Jalloh, Transcript 1 October 2008, pp. 17674-17677, 17682-17684.

<sup>3638</sup> Osman Jalloh, Transcript 1 October 2008, pp. 17706-17709, 17695-17698.





were attached to commanders such as Gunboot, Tina Musa and Brigadier Five-Five who had 5 to 10 children. The children were sent to flog civilians who committed crimes.<sup>3639</sup>

1578. Alimamy Bobson Sesay testified that from February to March 1999, Benguema was a military training centre. Every commander had a small boy, aged 8 to 12, and they were ordered to train them to help repel enemy attacks. The small boys were trained individually by the commanders on weaponry, and taken on patrols.<sup>3640</sup>

1579. Bobson Sesay also testified that around March/April 1999, the troops at Newton were joined by RUF and "SLA" under the command of KBC who came with 8 fighters, including 2 SBUs around 10 years old, from Liberia, who had "AKs". KBC said that his group was put together and sent by Charles Taylor.<sup>3641</sup> At Newton, children participated in ambushes and patrols until the troops left in April-May 1999.<sup>3642</sup>

1580. Exhibit P-310 reports that between 6 January and mid-February 1999 approximately 2000 children went missing in the aftermath of the Freetown attack. Escapees reported that abducted boys were either selected for training as fighters, or used as porters.<sup>3643</sup> Exhibit P-077 records that there were 1,192 reports of children missing between January 6 and February 4, 1999. Escapees reported that young boy abductees tended to be used as porters or were selected for training as fighters.<sup>3644</sup>

### Findings

1581. The Trial Chamber finds that the information contained in Exhibits P-310 and P-077 is based on hearsay and is inconclusive whether the missing children were abducted by any of the warring factions. Bobson Sesay and Conteh's accounts corroborate each other that, in the period after the Freetown attack children were present at Benguema, carried guns, and accompanied commanders. As Conteh testifies that these children were wearing military uniforms, and were sent to flog civilians, and as Bobson Sesay testifies that they were sent

<sup>3639</sup> Exhibit P-215, "TF1-277, AFRC Transcript, 8 April 2005", pp. 93-98; TF1-277, AFRC Transcript, 11 April 2005" pp. 5-8, 15-23.

<sup>3640</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8392-8399.

<sup>3641</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8400-8404; Transcript 24 April 2008, pp. 8436-8437.

<sup>3642</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8405-8407.

<sup>3643</sup> Exhibit P-310, "UN Security Council, Fifth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1999/237, 4 March 1999", para. 26.

<sup>3644</sup> Exhibit P-077 (confidential), paras 55, 60.

on patrol, the Trial Chamber is satisfied that these children were used to actively participate in hostilities. Conteh testified that the children were between 10 and 14, and Bobson Sesay testified that they were between 8 and 12, placing them in approximately the same age range. Accordingly, the Trial Chamber is satisfied that some of the children who were trained at Benguema and who accompanied commanders during this time were under the age of 15 years. On the basis of the prevalence of the military training of children under the age of 15 by the AFRC and RUF,<sup>3645</sup> the Trial Chamber is satisfied that the members of the AFRC and RUF knew or should have known that these children were under the age of 15 years. Further, based on Bobson Sesay's evidence that these children were trained militarily by their commanders, the Trial Chamber is satisfied that these children were conscripted into an armed group, the AFRC/RUF.

1582. The Trial Chamber is therefore satisfied that an unknown number of children were used to participate actively in hostilities by the RUF/AFRC forces in Benguema from the end of January until March 1999. The Trial Chamber is accordingly satisfied that the elements of the crime of conscripting of children under the age of 15 years into armed forces and of the crime of the use of children under the age of 15 years to participate actively in hostilities have been proved beyond reasonable doubt.

(iii) Findings on victim witnesses in Freetown and the Western Area

a. TF1-143 used to actively participate in hostilities in January 1999

Evidence

1583. As the group of fighters, including TF1-143, who had left Colonel Eddie Town approached Freetown, an advance team comprised of commanders and fighters was able to take over the barracks in Benguema, where the Sierra Leone soldiers were being trained.<sup>3646</sup> The advance team looted ammunition, and Kabila had TF1-143 and his "other boy" carry some looted ammunition.<sup>3647</sup>

<sup>3645</sup> Exhibit P-043, "Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007", p. 22.

<sup>3646</sup> TF1-143, Transcript 5 May 2008, pp. 9022-9023.

<sup>3647</sup> TF1-143, Transcript 5 May 2008, p. 9023.

1584. When they entered Freetown, the group went to Allen Town, where TF1-143 stayed behind because his feet had become swollen.<sup>3648</sup> TF1-143 joined Adama Cut Hand's team in Allen Town. TF1-143 testified that although he had not heard the name Adama Cut Hand<sup>3649</sup> nor met her before, he knew some of "her boys".

1585. On cross-examination, TF1-143 was questioned about prior statements he had given to the Prosecution regarding Adama Cut Hand.<sup>3650</sup> In his testimony, the witness denied seeing Adama at Koinadugu, Benguema or Waterloo.<sup>3651</sup> Yet in his first interview with the Prosecution on 7 April 2003, TF1-143 stated that Adama Cut Hand was in Koinadugu, he was part of her Cut Hand Group and Adama was his immediate boss.<sup>3652</sup> TF1-143 insisted that he had made corrections to these previous statements and that Kabila was his boss from the time he was captured up to Freetown.<sup>3653</sup> In that same interview, TF1-143 stated that a group from Makeni joined his group at Benguema, and that he saw most of the commanders together at that time, including Adama Cut Hand.<sup>3654</sup> TF1-143 explained that he was just listing the names of commanders he knew, but also agreed with Defence Counsel that he was listing the names of people who he had claimed to remember being at Koinadugu and Waterloo.

1586. On re-examination, TF1-143 confirmed that during his interview on 16-18 April 2008, he had made corrections to his previous statements to the Prosecution regarding Adama Cut Hand. TF1-143 stated that he "only met and worked with Adama Cut Hand when the group entered Freetown. Before that time he had only heard her name".<sup>3655</sup> The Trial Chamber notes that this correction is still inconsistent with TF1-143's examination-in-chief, in which he claimed that he had not even heard Adama Cut Hand's name before he met her in Allen Town.

1587. Adama Cut Hand's base was in Foamex. She informed TF1-143 that he would be part of the patrol. One of her girls, Mariama, was injured, so TF1-143 took the girl's AK-

<sup>3648</sup> TF1-143, Transcript 5 May 2008, p. 9027.

<sup>3649</sup> TF1-143, Transcript 5 May 2008, p. 9026.

<sup>3650</sup> TF1-143, Transcript 6 May 2008, pp. 9081-9087.

<sup>3651</sup> TF1-143, Transcript 6 May 2008, p. 9081.

<sup>3652</sup> TF1-143, Transcript 6 May 2008, pp. 9082-9083.

<sup>3653</sup> TF1-143, Transcript 6 May 2008, pp. 9082, 9083.

<sup>3654</sup> TF1-143, Transcript 6 May 2008, pp. 9085-9086.

<sup>3655</sup> TF1-143, Transcript 6 May 2008, p. 9098.

47.<sup>3656</sup> TF1-143 testified that at the base he saw two men being brought by Adama Cut Hand's boys. She ordered the boys to hold the men's arms, and amputated one man's arm at the wrist and the other's at the elbow.<sup>3657</sup>

1588. Adama Cut Hand ordered TF1-143 and "her boys" to loot and to bring her any person who "refused or made comments against them". The witness went with a group of eight boys to Kissy.<sup>3658</sup> They looted a store where two men objected to the boys' behaviour. The boys took the two men to Adama Cut Hand, and she amputated their arms.<sup>3659</sup> During the amputations, TF1-143 pointed his weapon at the men.<sup>3660</sup>

1589. TF1-143 and "one of Adama's boys" then went on patrol to Kissy market.<sup>3661</sup> They knocked on the door of a shop but no one answered. After forcing the door open, TF1-143 found two men inside.<sup>3662</sup> Since the men had refused to open the door, TF1-143 and the other boy agreed to amputate the men's hands. TF1-143 used a machete to amputate one man at the wrist and the other at the elbow. Afterwards the boys took what they wanted from the store and left.<sup>3663</sup>

1590. They returned to Foamex, where they heard heavy shooting, and so withdrew to Allen Town, where TF1-143 hid in a mosque.<sup>3664</sup> After three days in hiding, TF1-143 was arrested by Nigerian soldiers and questioned by the SSD, the Sierra Leone police. They were able to locate TF1-143's brother, who retrieved him from the police.<sup>3665</sup>

### Findings

1591. The Trial Chamber notes that the witness gave prior statements to the Prosecution which are inconsistent on the material issue of whether he had met Adama Cut Hand in Koinadugu, or whether he had met her for the first time in Freetown in 1999. The witness was very young at the time that he gave his statements, and had endured traumatic events.

<sup>3656</sup> TF1-143, Transcript 5 May 2008, pp. 9028-9029, 9035.

<sup>3657</sup> TF1-143, Transcript 5 May 2008, pp. 9028-9029.

<sup>3658</sup> TF1-143, Transcript 5 May 2008, p. 9032.

<sup>3659</sup> TF1-143, Transcript 5 May 2008, p. 9033.

<sup>3660</sup> TF1-143, Transcript 5 May 2008, p. 9034.

<sup>3661</sup> TF1-143, Transcript 5 May 2008, p. 9034.

<sup>3662</sup> TF1-143, Transcript 5 May 2008, p. 9035.

<sup>3663</sup> TF1-143, Transcript 5 May 2008, pp. 9035-9036.

<sup>3664</sup> TF1-143, Transcript 5 May 2008, p. 9036.

<sup>3665</sup> TF1-143, Transcript 5 May 2008, pp. 9037-9038.

Moreover, the Trial Chamber notes that the witness corrected the record of when he first met Adama Cut Hand in a subsequent interview to the Prosecution, stating that he had first met her in Freetown. The Trial Chamber is therefore satisfied, that despite these inconsistencies, the witness is credible, and that his detailed account of his participation in atrocities during the Freetown attack in January 1999 can be relied upon. Accordingly the Trial Chamber finds that TF1-143, a child under the age of 15 years, carried looted ammunition, looted a store, held a gun to facilitate Adama Cut Hand amputating the arms of two civilian men, with another child amputated the arms of two civilian men and looted their store.

1592. The Trial Chamber recalls that it has found that in the context of the conflict in Sierra Leone, the use of children to commit crimes against civilians, and to carry arms and ammunition constitutes active participation in hostilities.<sup>3666</sup> Given that the Trial Chambers has found that TF1-143 has committed crimes and carried ammunition the Trial Chamber finds that it has been proved beyond reasonable doubt that TF1-143 was used to participate actively in hostilities in Freetown in January 1999.

1593. The Trial Chamber has previously found that it has been proved beyond reasonable doubt that TF1-143 was under the age of 15 at the time at which these events occurred, and that the perpetrators knew or should have known that he was under the age of 15 years.

1594. The Trial Chamber therefore finds that the elements of the crime of the use of a child under the age of 15 years to participate actively in hostilities has been proved beyond reasonable doubt in relation to this evidence.

#### (h) Findings in Relation to Other Districts in Sierra Leone

1595. The Trial Chamber finds that the Prosecution has not adduced evidence of conscription or use of child soldiers in Bonthe, Moyamba, Pujehun, Bo and Kambia Districts.

#### Conclusion

1596. Based on the foregoing, the Trial Chamber finds that the requirements of Count 9 have been established with respect to the following:

<sup>3666</sup> Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers); Use of children to participate actively in hostilities in Kailahun, Findings *supra*.



- i. An unknown number of children under the age of 15 years were conscripted into the RUF in Kangari Hills between 30 November 1996 and May 1997;
- ii. Komba Sumana, a child under the age of 15 years, was conscripted into the RUF/AFRC under the command of Superman from April/May 1998 to 10 August 1999 when he was abducted in Koidu, Kono District and trained in Kailahun District;
- iii. TF1-026, a child under the age of 15 years, was conscripted into the RUF/AFRC from February/March 1999 to November/December 1999 when she was abducted in Freetown and trained in Kailahun District;
- iv. An unknown number of children under the age of 15 years were conscripted into the RUF/AFRC between February 1998 and December 1998 when they were abducted and trained at Bunumbu, Kailahun District;
- v. An unknown number of children under the age of 15 years were conscripted into the RUF/AFRC from December 1998 onwards in Yengema, Kono District;
- vi. An unknown number of children under the age of 15 years were conscripted into the RUF/AFRC in March 1998 and trained at Superman Ground, Kono District;
- vii. An unknown number of children under the age of 15 years were conscripted into the RUF/AFRC in February 1998 in Koidu Town;
- viii. An unknown number of children under the age of 15 years were conscripted into the AFRC/RUF after April 1998 between Woama and Baima, Kono District;
- ix. An unknown number of children under the age of 15 years were conscripted into the AFRC/RUF from mid-March 1998 to April 1998 and trained at Masingbi Road, Kono District;
- x. TF1-143, a child under the age of 15 years, was conscripted into the RUF/AFRC in approximately September 1998 in Koinadugu District;
- xi. An unknown number of children under the age of 15 years were abducted at Karina and conscripted into the AFRC/RUF in July 1998 at Camp Rosos, Bombali District;

- xii. Approximately 100 children were enlisted or conscripted into the RUF after being abducted from a care centre in Makeni, Bombali District in May 2000;
- xiii. Approximately 45 children were enlisted or conscripted into the RUF after being abducted from a care centre in Makeni, Bombali District in May 2000;
- xiv. TF1-158, a child under the age of 15 years, was conscripted into the AFRC/RUF from September to late 1998 in Bombali District;
- xv. TF1-158, a child under the age of 15 years, was again conscripted into the RUF/AFRC in Bombali District from July to August 1999;
- xvi. Akiatu Tholley, a child under the age of 15 years, was conscripted into the AFRC/RUF from January 1999 until April/May 1999 in Port Loko District;
- xvii. An unknown number of children were used by the RUF/AFRC Junta to participate actively in hostilities from May 1997 until February 1998 by guarding mines in Tongo Fields, Kenema District;
- xviii. An unknown number of children were used by Sam Bockarie to participate actively in hostilities from May 1997 until February 1998 by attacking civilians and by acting as bodyguards at Tongo Fields, Kenema District;
- xix. An unknown number of children under the age of 15 years were used by the RUF/AFRC to participate actively in hostilities by their presence at the frontlines between February 1998 and December 1998 from Bunumbu, Kailahun District;
- xx. An unknown number of children under the age of 15 years were used by the RUF/AFRC to participate actively in hostilities by participating in armed food-finding missions between February 1998 and December 1998 from Bunumbu, Kailahun District;
- xxi. An unknown number of children were used by the RUF and RUF/AFRC to participate actively in hostilities by their armed presence with commanders between 1996 and 2000 in Kailahun District;

- xxii. An unknown number of children under the age of 15 years were used by the AFRC/RUF to actively participate in hostilities by committing crimes against civilians from mid-March 1998 to April 1998 at Masingbi Road, Kono District;
- xxiii. A child was used by fighters to participate actively in hostilities at sometime after February 1998 in Sawoa, Kono District by committing an amputation;
- xxiv. An unknown number of children were used by the RUF/AFRC to participate actively in hostilities in December 1999 by guarding mines in Tombodu, Kono District;
- xxv. An unknown number of children were used by the RUF/AFRC to actively participate in hostilities between March and June 1998 in Yomandu and Tombodu, Kono District by committing crimes;
- xxvi. An unknown number of children were used by the RUF/AFRC to participate actively in hostilities in March/April 1998 in Igbaleh and Wonedu, Kono District by committing crimes;
- xxvii. A child under the age of 15 years was used by the RUF/AFRC to participate actively in hostilities in mid-April 1998 in Tongbodu, Kono District;
- xxviii. An unknown number of children under the age of 15 years were used by RUF/AFRC members to participate actively in hostilities on April 12, 1998 in Bombafoidu, Kono District;
- xxix. Akiatu Tholley, a child under the age of 15 years, was used by the AFRC/RUF to participate actively in hostilities in approximately April or May 1999 in Port Loko District;
- xxx. Akiatu Tholley, a child under the age of 15 years, was used by the AFRC/RUF to participate actively in hostilities in Koinadugu District in late 1999;
- xxxi. An unknown number of children under the age of 15 years were used by the AFRC/RUF to participate actively in hostilities in Kondembaia, Koinadugu District in February to mid-March 1998;

- xxxii. An unknown number of children under the age of 15 years were used by the RUF to participate actively in hostilities in Kondembaia, Koinadugu District in February to mid-March 1998 by committing crimes;
- xxxiii. An unknown number of children were used by the RUF/AFRC to participate actively in hostilities by carrying arms and ammunition in approximately September to October 1998 in Koinadugu District;
- xxxiv. An unknown number of children under the age of 15 years were used by the AFRC/RUF to participate actively in hostilities in July to August 1998 in Camp Rosos, Bombali District;
- xxxv. An unknown number of children under the age of 15 years were used to participate actively in hostilities by looting and acting as bodyguards to commanders in Makeni, Bombali District in February 1998;
- xxxvi. Komba Sumana, a child under the age of 15 years, was used by the RUF/AFRC under the command of Superman to participate actively in hostilities from August to December 1998 in Koinadugu and Bombali Districts;
- xxxvii. TF1-158, a child under the age of 15 years, was used by the AFRC/RUF to participate actively in hostilities by carrying looted items and participating in food-finding missions from September to November 1998 in Bombali District;
- xxxviii. TF1-158, a child under the age of 15 years, was used by the RUF/AFRC to participate actively in hostilities when he took part in an attack on Kabala, Bombali District, at an unknown date after 7 July 1999;
- xxxix. TF1-143, a child under the age of 15 years, was used by the RUF/AFRC to participate actively in hostilities from September to December 1998 in Bombali District;
- xl. TF1-143, a child under the age of 15 years, was used by the RUF/AFRC to participate actively in hostilities in September 1998 near Konkoba Village, Koinadugu District;

- xli. An unknown number of children were conscripted into the RUF/AFRC in Benguema, Western Area, from January to March 1999;
- xlii. An unknown number of children were used by the RUF/AFRC to participate actively in hostilities in Benguema, Western Area, from January to March 1999.
- xliii. A child under the age of 15 years, was used by the AFRC/RUF to actively participate in hostilities in approximately the third week of January in Freetown, Western Area, by attempting to amputate a civilian's hands;
- xliv. TF1-143, a child under the age of 15 years, was used by the RUF/AFRC to actively participate in hostilities during the Freetown attack in January 1999.

1597. Based on the foregoing substantial evidence relating to the prevalence of children associated with armed groups fighting in Sierra Leone.<sup>3667</sup> The Trial Chamber finds that there was a consistent pattern of conduct among these armed groups, including the RUF and the AFRC, of abducting children and forcing them into Small Boys Units (SBU) and Small Girls Units (SGU).<sup>3668</sup> These units were made of up children generally in the range of 5 to 17 years.<sup>3669</sup>

1598. Throughout the armed conflict in Sierra Leone the RUF and AFRC forcibly abducted children of various ages from their homes or forced traditional rulers to provide recruits.<sup>3670</sup>

<sup>3667</sup> Jose Maria Caballero, Transcript 18 January 2008, pp. 1654-1655, 1658-1660, 1662-1665; Stephen Ellis, Transcript 18 January 2008, pp. 1619-1620.

<sup>3668</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20144-20146; TF1-174, Transcript 27 January 2009, pp. 23669-23671; Isaac Mongor, Transcript 31 March 2008, p. 6206.

<sup>3669</sup> Exhibit P-215, "Paul Conteh, AFRC Transcript 11 April 2005", p. 27; TF1-029, Transcript 28 November 2005, p. 13; TF1-375, Transcript 23 June 2008, pp. 12543-12546; TF1-174, Transcript 27 January 2009, pp. 23665-23669, Transcript 28 January 2009, pp. 23773-23775; Augustine Mallah, Transcript 12 November 2008, pp. 20144-20146.

<sup>3670</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3918-3923; Alice Pyne, Transcript 18 June 2008, pp. 12194-12198; Dennis Koker, Transcript 15 January 2008, pp. 1231, 1243-1244; Alex Tamba Teh, Transcript 8 January 2008, p. 689; TF1-375, Transcript 23 June 2008, pp. 12543-12546; TF1-174, Transcript 28 January 2009, pp. 23715-23716, 23773-23775; Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8092, 8102-8103, 8175-8180; TF1-122, Transcript 24 June 2005, pp. 15056-15061; Jose Maria Caballero, Transcript 18 January 2008, pp. 1673-1676; Perry Kamara, Transcript 5 February 2008, pp. 3087, 3099-3101; Fayia Musa, Transcript 20 April 2010, p. 39456; Exhibit P-043, "Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007", pp. 5, 19; Exhibit P-077 (confidential), para. 55; Exhibit P-078, "Sierra Leone, 1998 – a Year of Atrocities Against Civilians", pp. 13-14; Exhibit P-310, "UN Security Council, Fifth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1999/237, 4 March 1999; TF1-026, Transcript 14 February 2008, pp. 3844-3847; Akiatu Tholley, Transcript 23 October 2008, pp. 19176-19178; TF1-158, Transcript 21 October 2008, pp. 18821, 18829; TF1-143, Transcript 5 May 2008, pp. 8970-8975; Exhibit P-335, "Coalition to Stop the Use of Child Soldiers: Global Report on Child Soldiers, 2001", p. 379.

Following their abduction, many children were forced to undergo military training<sup>3671</sup> in order for them to fight with the armed groups,<sup>3672</sup> or defend themselves in case of an attack.<sup>3673</sup>

1599. The training was generally comprised of instructions on the use of weaponry,<sup>3674</sup> at times practiced with live ammunition;<sup>3675</sup> how to attack a town, fight and kill,<sup>3676</sup> how to guard,<sup>3677</sup> how to set an ambush,<sup>3678</sup> and how to burn houses.<sup>3679</sup> Children sometimes died during the course of military training.<sup>3680</sup>

1600. The Trial Chamber also notes the RUF and AFRC's practice of giving children narcotics. Cocaine was sometimes administered by opening a cut on a children's body, putting cocaine on it and then covering it up with a plaster.<sup>3681</sup> The Trial Chamber finds that

<sup>3671</sup> Alice Pyne, Transcript 18 June 2008, pp. 12194-12198; Augustine Mallah, Transcript 12 November 2008, pp. 20144-20146; Aruna Gbonda, Transcript 19 February 2008, pp. 4280-4281; Dennis Koker, 15 January 2008, p. 1261; TF1-189, Transcript 18 September 2008, pp. 16534-16238; TF1-362, Transcript 27 February 2008, pp. 4895-4899; TF1-174, Transcript 27 January 2009, pp. 23700 – 23702; Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7976-7979, Transcript 21 April 2008, pp. 8180-8181; TF1-371, Transcript 30 January 2008, pp. 2629-2631; Jose Maria Caballero, Transcript 18 January 2008, pp. 1662, 1673-1676; Perry Kamara, Transcript 5 May 2008, p. 3088; Exhibit P-043, "Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007", pp. 5-6; Exhibit P-077 (confidential), para. 55; Exhibit P-078, "Sierra Leone, 1998 – a Year of Atrocities Against Civilians, Amnesty International Report", p. 15; Exhibit P-310, "UN Security Council, Fifth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1999/237, 4 March 1999; TF1-026, Transcript 14 February 2008, pp. 3867-3868, 3870-3873; Akiatu Tholley, Transcript 27 October 2008, pp. 19216-19217; TF1-143, Transcript 5 May 2008, pp. 8980-8981; p. 8991-8992, p. 9005; Exhibit P-335, "Coalition to Stop the Use of Child Soldiers: Global Report on Child Soldiers, 2001", p. 377; Exhibit D-012, "Confidential Witness to Truth: Report of the Sierra Leone TRC, Vol 2", paras 148-149; P-364, "Restricted Revolutionary United Front – Sierra Leone (RUF/SL), Nominal Role of Trained RUF Personnel".

<sup>3672</sup> Dennis Koker, 15 January 2008, pp. 1243-1244; TF1-174, Transcript 27 January 2009, pp. 23698-23700; Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8396-8399, Transcript 29 April 2008, pp. 8865-8870; Emmanuel Bull, Transcript 25 September 2008, pp. 17316-17318, 17327.

<sup>3673</sup> TF1-026, Transcript 14 February 2008, pp. 3868-3870.

<sup>3674</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7976-7978, Transcript 21 April 2008, pp. 8092, 8102-8103, 8159-8161, Transcript 23 April 2008, pp. 8396-8399; TF1-026; Akiatu Tholley, Transcript 27 October 2008, pp. 19216-19217; TF1-158, Transcript 21 October 2008, pp. 18813-18825, 18831-18833; TF1-143, Transcript 5 May 2008, TF1-143, Transcript 5 May 2008, pp. 8980-8981; pp. 8991-8992, p. 9005.

<sup>3675</sup> TF1-362, Transcript 28 February 2008, p. 4295; Emmanuel Bull, Transcript 25 September 2008, pp. 17316-17318, 17327; Jose Maria Caballero, Transcript 18 January 2008, pp. 1673-1676.

<sup>3676</sup> TF1-362, Transcript 28 February 2008, pp. 5008, Transcript 3 March 2008, pp. 5014-5015; TF1-158, Transcript 21 October 2008, pp. 18831-18833.

<sup>3677</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8092, 8102-8103.

<sup>3678</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8159-8161; Jose Maria Caballero, Transcript 18 January 2008, pp. 1673-1676; TF1-026, Transcript 14 February 2008, pp. 3868-3870; TF1-158, Transcript 21 October 2008, pp. 18813-18825.

<sup>3679</sup> Komba Sumana, Transcript 6 October 2008, pp. 17927-17936;

<sup>3680</sup> TF1-362, Transcript 3 March 2008, pp. 5017-5018.

<sup>3681</sup> TF1-174, Transcript 28 January 2009, pp. 23801 – 23803; Jose Maria Caballero, Transcript 18 January 2008, pp. 1678-1679; Exhibit P-077 (confidential), para. 54; Exhibit P-078, "Sierra Leone, 1998 – a Year of

this practice exemplifies a method of coercion used to make the children fearless and carry out orders without hesitation,<sup>3682</sup> and shows that children would likely commit violent acts while under the influence of such substances.

1601. The use of narcotics caused some children to develop drug addictions.<sup>3683</sup>

1602. The foregoing evidence shows that children were of importance to the AFRC and the RUF as they carried out orders “quickly” and “they followed their bosses’ way”<sup>3684</sup>

1603. The Trial Chamber finds that the existence of specific combat units, namely the SBU and SGU, designated for children, demonstrates the institutionalized nature of conscription and use of children by the AFRC and the RUF. Based on evidence that the leadership of the forces was engaged in the abduction,<sup>3685</sup> military training,<sup>3686</sup> and use of children,<sup>3687</sup> and that they acknowledged<sup>3688</sup> or must have observed that such persons were children the Trial Chamber finds that the perpetrators knew or should have known that children under the age of 15 were conscripted or used by the armed forces.

1604. During the conflict in Sierra Leone, frequent and brutal acts of violence directed against civilians were a hallmark of the operations of the RUF and AFRC forces. The Trial Chamber finds that the acts of children who participated in such acts of violence were directly linked to hostilities. Further, such crimes typically occurred while the children were armed and in the company of adult fighters and commanders. In these circumstances, and

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Atrocities Against Civilians, Amnesty International Report”, p. 15; TF1-158, Transcript 21 October 2008, pp. 18813-18825.

<sup>3682</sup> TF1-174, Transcript 28 January 2009, pp. 23801 – 23803; Jose Maria Caballero, Transcript 18 January 2008, pp. 1678-1680; TF1-150, Transcript 18 February 2008, pp. 4060-4061; DCT-292, Transcript 31 May 2010, pp. 41673-41674; Akiatu Tholley, Transcript 27 October 2008, pp. 19209-19213; TF1-143, Transcript 5 May 2008, pp. 8992, 9006-9007; Exhibit P-335, “Coalition to Stop the Use of Child Soldiers: Global Report on Child Soldiers, 2001”, p. 378; Exhibit D-012, “Confidential Witness to Truth: Report of the Sierra Leone TRC, Vol 2”, paras 148-149.

<sup>3683</sup> Exhibit P-043, “Expert Report of Jessica Alexander, Children Associated with Fighting Forces in the Conflict in Sierra Leone, 4 May 2007”, p. 24.

<sup>3684</sup> Exhibit P-215, “Paul Conteh, AFRC Transcript 11 April 2005”, pp. 27; Isaac Mongor, Transcript 31 March 2008, p. 6206. Throughout this overview section, the term “children” has been used generically.

<sup>3685</sup> TF1-174, Transcript 28 January 2009, pp. 237332 – 23737.

<sup>3686</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20144-20146; Exhibit P-062, “AFRC/RUF Alliance Command Structure After the Fall of the Junta, Circa March 1998, as indicated by TF1-371.”

<sup>3687</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20144-20146; Abu Keita, Transcript 23 January 2008, pp. 2055-2058; Exhibit P-335, “Coalition to Stop the Use of Child Soldiers: Global Report on Child Soldiers, 2001”, pp. 378-379.

<sup>3688</sup> Fayia Musa, Transcript 20 April 2010, pp. 39456-7; DCT-292, Transcript 1 June 2010, p. 41821; Transcript 3 June 2010, pp. 42025-42028; Martin George, Transcript 28 April 2010, pp. 40217-40219, 40242-

given the prevailing context of guerrilla warfare, these children would constitute legitimate military targets as they would be perceived as actively participating in hostilities.<sup>3689</sup> Moreover, the purpose of these crimes was ultimately to damage or harm the adversary by eradicating support for opposing forces, or destroying territory.<sup>3690</sup> The Trial Chamber therefore finds that in the context of the conflict in Sierra Leone, the use of children to commit crimes against civilians constitutes active participation in hostilities.<sup>3691</sup>

1605. In conclusion, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between 30 November 1996 and until 2000, in Tonkalili, Kailahun, Kono, Bombali and Port Loko Districts, as well as in Freetown and the Western Area, members of the RUF/AFRC, an armed force or group, conscripted, enlisted and/or used for active participation in hostilities an unknown number of persons under the age of 15 and that the perpetrators knew or should have known that such persons were under the age of 15, as charged in the Indictment,<sup>3692</sup> and as shown in the evidence above.

1606. The Trial Chamber recalls that the Prosecution has proved beyond reasonable doubt that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving among others, members of the RUF, AFRC and CDF.<sup>3693</sup> The Trial Chamber is satisfied that for all of the aforementioned acts of conscription and/or enlistment into an armed force or group and/or use for active participation in hostilities of persons under the age of 15 years in the aforementioned areas of Sierra Leone there was a nexus between the conscription, enlistment and/or use and the armed conflict, that each of the victims was not taking an active part in the hostilities at the time of conscription, enlistment and/or use and that the perpetrators knew this fact. Therefore, the Trial Chamber is satisfied that the aforementioned acts of conscription and/or enlistment into an armed force or group and/or

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<sup>3689</sup> See RUF Judgement, para. 1723. As indicated by Trial Chamber I, the Trial Chamber is “mindful that an overly expansive definition of active participation in hostilities would be inappropriate as its consequence would be that children associated with armed groups lose their protected status as persons hors de combat under the law of armed conflict. Nonetheless, the Trial Chamber finds that the nature and purpose of the crimes committed against civilians warrants their characterisation as active participation in hostilities. The Trial Chamber considers this interpretation necessary to ensure that children are protected from any engagement in violent functions of the armed group that directly support its conflict against the adversary, and in which the child combatant would be a legitimate military target for the opposing armed group or groups”.

<sup>3690</sup> See RUF Judgement, para. 1722.

<sup>3691</sup> Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers) Use of children to participate actively in hostilities in Kailahun, Findings *supra*.

<sup>3692</sup> Indictment, para. 22.

<sup>3693</sup> See Law and Findings on the General Requirements: Article 3: War Crimes, para. 573 *supra*.



use for active participation in hostilities of persons under the age of 15 constitute other serious violations of international humanitarian law under Article 4 of the Statute.

1607. Accordingly, the Trial Chamber finds that the elements of the crimes of conscription, enlistment and use of children to actively participate in armed conflict pursuant to Count 9 of the Indictment have been proved beyond reasonable doubt in the instances listed above.



**E. Count 10 (Enslavement)**

Allegations and Submissions

1608. The Indictment alleges that “[b]etween about 30 November 1996 and about 18 January 2002, members of RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters, assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused, engaged in widespread and large scale abductions of civilians and use of civilians as forced labour”.<sup>3694</sup>

1609. Enslavement is alleged to have occurred between about 1 July 1997 and about 28 February 1998 in Kenema District, between about 1 February 1998 and about 18 January 2002 in Kono District, between about 30 November 1996 and about 18 January 2002 in Kailahun District and between about 21 December 1998 and 28 February 1999 in Freetown and the Western Area.<sup>3695</sup>

1610. The Prosecution submits that the RUF and its allies enslaved the civilian population in various locations in Sierra Leone and that the evidence proves beyond reasonable doubt the Accused’s guilt with respect to that enslavement (Count 10).<sup>3696</sup>

1611. Defence witness DCT-068 agreed in cross-examination that civilians in Sierra Leone were forced to carry ammunition boxes on footpaths.<sup>3697</sup> Defence witness Isatu Kallon agreed in cross-examination that the RUF forced civilians in Sierra Leone to cultivate farms, to give their harvests to the RUF, and to carry produce to the riverside with Guinea to trade. This witness also agreed that the civilians had no choice but to do these things and that it was the rebels who would actually sell or trade the produce and would keep the money or goods received in exchange.<sup>3698</sup> The evidence of these two witnesses establishes that in none of the incidents described by them were the civilians acting of their own free will. Thus on evidence provided by the Defence, the Trial Chamber is satisfied beyond reasonable doubt that members of the RUF intentionally exercised powers of ownership over civilians in

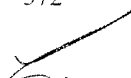
<sup>3694</sup> Indictment, para. 23.

<sup>3695</sup> Indictment, paras 24-27.

<sup>3696</sup> Prosecution Final Trial Brief, para. 1068.

<sup>3697</sup> DCT-068, Transcript 12 March 2010, p. 37201.

<sup>3698</sup> Isatu Kallon, Transcript 24 June 2010, pp. 43333-43335.





Sierra Leone by depriving them of their liberty and forcing them to do work under the control of the RUF.

1612. However, such Defence evidence does not specifically identify any particular district as the place where these crimes occurred. What follows is a consideration of evidence of enslavement in the specific districts of Sierra Leone alleged in the Indictment.

1613. The Trial Chamber has held that as enslavement is a crime of a continuous nature, it is permissible for the Prosecution not to have pleaded specific locations within districts in which it alleges instances of enslavement occurred.<sup>3699</sup> Accordingly, the Trial Chamber has considered evidence of enslavement in all locations within the districts, whether or not they were specifically pleaded in the Indictment.

#### 1. Kenema District

1614. The Indictment alleges that between about 1 July 1997 and about 28 February 1998, members of the RUF, AFRC, AFRC/RUF Junta or alliance and/or Liberian fighters used an unknown number of civilians living in the District as forced labour in various locations such as the Tongo Fields area.<sup>3700</sup>

##### (a) Tongo Fields

1615. In relation to enslavement alleged to have taken place in Tongo Fields the Trial Chamber has considered the evidence of witnesses TF1-371, TF1-567, TF1-062, TF1-590, DCT-068, Augustine Mallah, Issa Sesay, Dauda Aruna Fornie, Alex Bao, Karmoh Kanneh, Abdul Conteh, Alimamy Bobson Sesay, Charles Ngebeh and Exhibits P-173 and P-278.<sup>3701</sup>

1616. Witness TF1-062 confirmed evidence he had given in the AFRC Trial and a transcript of that testimony was admitted into evidence.<sup>3702</sup> TF1-062 was a miner who was living and working in Tongo Field in 1997, and had six men employed to mine for him.<sup>3703</sup>

<sup>3699</sup> See Preliminary Issues: Issues Relating to the Pleading in the Indictment *supra*.

<sup>3700</sup> Indictment, paras 23, 24.

<sup>3701</sup> The Prosecution also cited evidence in relation to the mining operations in Kenema from TF1-338, Sahr Charles, Mustapha Mansaray, Finda Gbamanja, Isaac Mongor, TF1-367 and Mohamed Kabbah. The Trial Chamber has considered the testimony of these witnesses and concluded that the evidence cited concerns incidents which do not fall within the Indictment period and/or the Kenema District.

<sup>3702</sup> TF1-062, Transcript 27 January 2009, p. 23612; Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005".

<sup>3703</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", p. 14911; TF1-062, Transcript 27 January

His evidence in the AFRC Trial was that he heard on the radio on 25 May 1997 that the government in Freetown had been overthrown. At the time, CDF Kamajors were in control of the Tongo area.<sup>3704</sup> Sometime in August 1997, he heard gunfire and, soon after, observed soldiers entering Tongo Field, some of whom he recognized as members of the SLA.<sup>3705</sup> The witness identified Sam Bockarie (a.k.a. Mosquito) as the commander of the men.<sup>3706</sup>

1617. Approximately three days after capturing Tongo, Bockarie gathered the civilians of Tongo Field in a public meeting at Tongo Park attended by witness TF1-062.<sup>3707</sup> Bockarie told the civilians that the AFRC/RUF government, formed in Freetown, was now in control of Tongo<sup>3708</sup>. Bockarie also told the civilians that they would be asked to mine for diamonds.<sup>3709</sup> Soon after this meeting, Bockarie left Tongo Field, leaving other SLA commanders in charge of the mining. However, 'Mosquito' would continue to visit Tongo Field more or less at weekly intervals.<sup>3710</sup>

1618. Witness TF1-062 stated that the civilians of Tongo Field were subsequently required to elect a civilian chairman, named Mopleh,<sup>3711</sup> who was responsible for organising the civilian mining. Commander Pa Seth Marrah informed the civilians, through Mopleh, that Bockarie had ordered that they should mine for "the Government" two days a week.<sup>3712</sup> Thereafter, the AFRC/RUF would designate certain days as 'government days'.<sup>3713</sup> On 'government days', the civilians of Tongo Field were forced to go and work in the mines in an area known as Cyborg Pit.<sup>3714</sup>

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2009, p. 23618.

<sup>3704</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14913, 14949-14951.

<sup>3705</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14914, 14950-14952.

<sup>3706</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14914-14915, 14974.

<sup>3707</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", p. 14920.

<sup>3708</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", p. 14922.

<sup>3709</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14922-4.

<sup>3710</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14932, 54.

<sup>3711</sup> This commander is referred to in the transcript as 'Mompleh'. The Trial Chamber has adopted the spelling 'Mopleh' for consistency and is satisfied that this is the same person referred to in the evidence of Augustine Mallah, Dauda Aruna Fornie, Karmoh Kanneh and TF1-062 below.

<sup>3712</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14931-2.

<sup>3713</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", p. 14934.

<sup>3714</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14929-14930, 14934.

1619. Witness TF1-062 worked for the AFRC/RUF government at Cyborg Pit for about four months, from August 1997 until they were ousted from Tongo Field by the CDF during the Muslim month of Ramadan.<sup>3715</sup>

1620. TF1-062 estimated that over a thousand civilians worked in the mines on 'government days'.<sup>3716</sup> The witness did not mine personally but instructed and supervised his six men in their work.<sup>3717</sup> The AFRC/RUF administration did not provide the civilians with food, mining equipment or payment for work undertaken.<sup>3718</sup> TF1-062 testified that civilians would not refuse to work on 'government days' since they knew that if they did so, the AFRC/RUF would mete out "discipline". The witness gave, as an example, the case of one of his worker who hid in an attempt to avoid work, but was found and beaten.<sup>3719</sup>

1621. On 'government days', civilians were compelled to hand over any diamonds found to the AFRC/RUF fighters supervising the mining.<sup>3720</sup> The fighters at Cyborg Pit were armed with guns, such as RPGs, LMGs, G3s, and AK-47s, and would watch the civilian miners to ensure that all diamonds found were surrendered.<sup>3721</sup> Civilians who attempted to keep diamonds found on a government mining day would be flogged almost to death.<sup>3722</sup> On two occasions, TF1-062 watched AFRC/RUF soldiers shoot and kill civilian miners who were alleged to have disobeyed orders.<sup>3723</sup> In addition, the witness regularly saw corpses being brought out of Cyborg Pit, and he was informed by his workers at the pit that these civilians had been shot by AFRC/RUF soldiers. To TF1-062's knowledge, no civilians in or around the pit were in possession of guns.<sup>3724</sup>

1622. On non-government days, AFRC/RUF soldiers would also be present at Cyborg Pit. The civilians were permitted to mine their own diamonds which they could sell<sup>3725</sup> but the

<sup>3715</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", p. 14945.

<sup>3716</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", p. 14934.

<sup>3717</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", p. 14933.

<sup>3718</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14938-9.

<sup>3719</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", p. 14934.

<sup>3720</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14933-14934, 14940.

<sup>3721</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14938-14939, 14941-2.

<sup>3722</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", p. 14940.

<sup>3723</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14942-14943.

<sup>3724</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", pp. 14943-14944.

<sup>3725</sup> Exhibit P-278, "TF1-062, AFRC Transcript 27 June 2005", p. 14936.

AFRC/RUF would still ask them to wash gravel for them and would take some diamonds found by civilians.<sup>3726</sup>

1623. The Trial Chamber also heard evidence from Augustine Mallah, a security commander to Mike Lamin<sup>3727</sup> who initially spent one to two months mining in Tongo Field, from approximately June to August 1997.<sup>3728</sup> He went to Tongo with Captain Gweh, a junior commando, to undertake some mining because ‘Mosquito’ had just recaptured the Tongo area from the Kamajors.<sup>3729</sup> He carried out both his own private and government mining but prioritised the latter.<sup>3730</sup>

1624. Mallah estimated that between 600 and 700 civilians laboured in the Tongo mines.<sup>3731</sup> He testified hearing from the “OC Secretariat” about procedures the AFRC/RUF had put in place in Tongo. First, any diamond weighing above five carats was designated a government diamond.<sup>3732</sup> If it was less than five carats then it belonged to the ‘officer or RUF soldier who took it’.<sup>3733</sup> Second, there was a civilian overseeing committee which would ensure the provision of civilian manpower required for ‘government’ mining for the AFRC/RUF junta. Third, the committee would also give guidance regarding where the most productive mining could be found. Finally, the committee would ‘evaluate’ the diamonds obtained from the mining.<sup>3734</sup>

1625. The witness personally visited government mining sites in Tongo and saw civilians mining there.<sup>3735</sup> Unless they were too sick or old to do so, civilians were forced to mine and were not permitted to refuse. Mallah himself forced civilians to mine for him.<sup>3736</sup> AFRC and RUF armed guards prevented civilians from escaping and forced them to carry out the tasks required of them.<sup>3737</sup> Anyone found escaping would be shot. The civilians were deprived of

<sup>3726</sup> Exhibit P-278, “TF1-062, AFRC Transcript 27 June 2005”, p. 14937.

<sup>3727</sup> Augustine Mallah, Transcript 12 November 2008, p. 20102.

<sup>3728</sup> Augustine Mallah, Transcript 17 November 2008, p. 20139, Augustine Mallah, Transcript 12 November 2008, pp. 20365, 20149.

<sup>3729</sup> Augustine Mallah, Transcript 12 November 2008, p. 20138.

<sup>3730</sup> Augustine Mallah, Transcript 12 November 2008, p. 20143.

<sup>3731</sup> Augustine Mallah, Transcript 12 November 2008, p. 20146.

<sup>3732</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20142-3.

<sup>3733</sup> Augustine Mallah, Transcript 13 November 2008, p. 20258.

<sup>3734</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20142-3.

<sup>3735</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20143-4.

<sup>3736</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20144-6.

<sup>3737</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20143-4.

food and rest and flogged if their work was not up to the standard expected. The witness testified that he saw civilians flogged and killed and that he flogged civilians himself if they refused to mine for him.<sup>3738</sup>

1626. Mallah testified that any diamonds found at the mines were collected by the AFRC/RUF and evaluated at the OC Secretariat, who would then pass them on to PLO 2. Members of the AFRC/RUF and PLO 2 told him that the diamonds were sent to Eddie Kanneh, the resident Minister at the time who would take them straight to AFRC Johnny Paul Koroma in Freetown. The witness was also present at a meeting in February 1998 on Bockarie's veranda in Buedu when Johnny Paul Koroma referred to receiving diamonds that the AFRC and RUF had mined in Tongo and Kono.<sup>3739</sup>

1627. The witness was sent back to Tongo in November 1997 to mine for Mike Lamin and remained there for two months before returning to Kenema in January 1998.<sup>3740</sup> He witnessed that the conditions for the civilians in the mines had deteriorated<sup>3741</sup> He described the procedure by which civilians were gathered to work in the mines: at daybreak, the OC Secretariat, Captain Jalloh, would assemble a group of armed AFRC and RUF troops, split them into subgroups and allocate them to areas in the town of Tongo, where they would conduct house-to-house searches to capture civilians. The fighters stripped the captured civilians naked, tied them together with their shirts and marched them to the Secretariat where they were assigned to the various commanders for government mining.<sup>3742</sup> During his visits to Cyborg Pit, the witness saw the civilians working under 'stricter' conditions. As an example, he described how civilians mining outside hours designated by the AFRC/RUF, would be flogged by guards and if they tried to escape, they would be shot and possibly killed.<sup>3743</sup>

1628. The Trial Chamber also heard evidence from Dauda Aruna Fornie ("DAF"), who testified about organised diamond mining operations in Tongo for the combined RUF/AFRC government. Fornie stated that he worked as a radio operator for the RUF/AFRC at the

<sup>3738</sup> Augustine Mallah, Transcript 12 November 2008, p. 20144.

<sup>3739</sup> Augustine Mallah, Transcript 12 November 2008, p. 20195.

<sup>3740</sup> Augustine Mallah, Transcript 13 November 2008, p. 20165.

<sup>3741</sup> Augustine Mallah, Transcript 12 November 2008, p. 20154.

<sup>3742</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20154-5.

<sup>3743</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20155-6.

battalion headquarters radio station in Tongo<sup>3744</sup> for approximately three months from the rainy season<sup>3745</sup> until November or December 1997,<sup>3746</sup> during which time he conducted mining for himself.<sup>3747</sup> Fornie testified that Bockarie organised the mining in Tongo although he was based in Kenema. The witness personally saw him in Tongo on three occasions<sup>3748</sup>.

1629. Fornie described the system of 'organised mining' in which the RUF/AFRC would forcibly assemble civilians and take them to mine, particularly at Cyborg Pit. He witnessed checkpoints set up along the roads by military police officers to whom commanders would send requests for a particular number of civilians required for mining at Cyborg. At Cyborg, the AFRC/RUF would put 150 to 200 civilians to work daily extracting gravel and washing it. Some civilians were also appointed as supervisors but these supervisors were always themselves supervised by soldiers, such as Major Gweh. A man named Mopleh would collect all the diamonds at the end of the day and hand them to the commander in charge of Tongo.<sup>3749</sup>

1630. Karmoh Kanneh, (a.k.a Eagle)<sup>3750</sup>, an RUF captain<sup>3751</sup>, testified that he headed the successful mission to 'clear' the enemy from Tongo Field.<sup>3752</sup> The witness confirmed that the attack took place in 1997 but could not remember the precise date.<sup>3753</sup> After completion of the mission, he remained in Tongo Fields for one month to 'defend the area and put [diamond] mining activities in place'. He also undertook some personal mining.<sup>3754</sup> The witness stated that Sam Bockarie was the senior commander in charge of Tongo Field and Mopleh was in charge of the mining until he escaped with over a thousand diamonds.<sup>3755</sup>

1631. Karmoh Kanneh testified that the civilians did not mine willingly but were forced to 'dance to [the] tunes' of the soldiers with guns. Civilians who refused to mine would be

<sup>3744</sup> Dauda Aruna Fornie, Transcript 8 December 2008, p. 21940.

<sup>3745</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21418-9.

<sup>3746</sup> Dauda Aruna Fornie, Transcript 8 December 2008, p. 21951.

<sup>3747</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21421.

<sup>3748</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21421.

<sup>3749</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21423-7.

<sup>3750</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9312.

<sup>3751</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9355.

<sup>3752</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9367-8.

<sup>3753</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9373, 9386.

<sup>3754</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9378.

<sup>3755</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9376-9.



forced to work by being flogged and beaten. The witness saw such floggings on two occasions.<sup>3756</sup> On the first occasion, soldiers arrested a civilian for refusing to carry out diamond mining work. One of them beat the civilian on the buttocks and took him to work.<sup>3757</sup> On the second occasion, a civilian tried to hide to avoid work but was discovered by soldiers, who beat him on his back and buttocks with a cane and took him back to work.<sup>3758</sup>

1632. Karmoh Kanneh testified to the imposition of two 'government days' per week when the civilians had to mine for the AFRC/RUF government.<sup>3759</sup> Four days were 'free' mining for soldiers and civilians and the seventh day was a rest day when no mining took place. The witness stated that any diamond found on a government day belonged to the government and was handed over to either a government committee, the AFRC, Mompleh or Sam Bockarie personally.<sup>3760</sup> Even on a non-government day, big diamonds were taken from the civilians.<sup>3761</sup>

1633. Alex Bao, a civil police officer based in Kenema Town in the relevant period, testified that the AFRC/RUF in Kenema Town, commanded by Issa Sesay and Akim, formed a strong force and left for Tongo Fields.<sup>3762</sup> Several days later, he spoke with many displaced civilians arriving in Kenema from Tongo, who told him that the AFRC/RUF had captured many able-bodied men and forced them to mine diamonds for them.<sup>3763</sup> The witness later heard that RUF Banyu was in charge of the RUF in Tongo Field.<sup>3764</sup>

1634. Alimamy Bobson Sesay testified that during the AFRC government period both the AFRC and RUF were mining in Tongo under the control of the AFRC Secretariat led by Staff Sergeant 'Junior Sherrif'. The witness learned from a report by Sherrif that it was the civilians who were doing the mining under the orders of the RUF and AFRC. The witness knew the circumstances under which the civilians were mining in Tongo because he had

<sup>3756</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9368-9, 9371-3.

<sup>3757</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9374.

<sup>3758</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9374-5.

<sup>3759</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9373, 9375.

<sup>3760</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9376-80.

<sup>3761</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9376-7.

<sup>3762</sup> Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", p. 15055

<sup>3763</sup> Exhibit P-173, "TF1-122, AFRC Transcript 24 June 2005", p. 15056; Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", p. 15159.

<sup>3764</sup> Exhibit P-174, "TF1-122, RUF Transcript 7 July 2005", p. 15159.

experienced the same thing in Kono, where the civilians were forced to mine under gunpoint.<sup>3765</sup> The witness testified that “what I knew was that they had what they called two pile – two pile system. And they also used another way whereby civilians would excavate the gravel and share it between the RUF and the civilians. There were areas where they actually used force that you never had anything”.<sup>3766</sup>

1635. Witness TF1-567 testified that he was one of the fighters who attacked and captured Tongo Fields together with ‘Mosquito’ in 1997. He remained there until the Junta was dislodged from Freetown and the Kamajors had dislodged the AFRC/RUF from Tongo.<sup>3767</sup> Mosquito and Eddie Kanneh then organised mining in Tongo under the auspices of a civilian chairman. After this Chairman escaped with some of the diamonds, Sam Bockarie appointed one of his bodyguards, Mohamed Kanneh, to channel diamonds through to him. Eddie Kanneh appointed Junior Sherrif to do the same.<sup>3768</sup>

1636. TF1-567 testified that fighters and civilians carried out ‘government’ mining in Tongo Fields, and specifically at Sand Sand and Cyborg Ground.<sup>3769</sup> Civilians were ‘collected’ by soldiers to do so.<sup>3770</sup> Civilians who were mining were watched by soldiers with guns. If a soldier suspected that a civilian had stolen a diamond, he would demand that the civilian present the diamond and if the civilian did not, the fighter would kill him. Any civilians who refused to work would be beaten up and forced to work.<sup>3771</sup> Any diamonds found during ‘government’ mining were given directly to Sam Bockarie. The witness understood that Mohamed Kanneh also channelled diamonds to Eddie Kanneh but never personally saw such diamonds being handed over.<sup>3772</sup>

1637. Abdul Conteh was a secondary school teacher who was carrying out diamond mining in 1996 and 1997 on land he had inherited in the village of Sandeyeima, Tongo Fields. In the

<sup>3765</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7913, 7915.

<sup>3766</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7913-7915.

<sup>3767</sup> TF1-567, Transcript 2 July 2008, p. 12890.

<sup>3768</sup> TF1-567, Transcript 2 July 2008, pp. 12884-5.

<sup>3769</sup> TF1-567, Transcript 2 July 2008, pp. 12886, 12888-9.

<sup>3770</sup> TF1-567, Transcript 2 July 2008, p. 12886.

<sup>3771</sup> TF1-567, Transcript 2 July 2008, pp. 12886-7.

<sup>3772</sup> TF1-567, Transcript 2 July 2008, pp. 12886-7.





relevant period, he was in Tongo Fields between 11 August 1997 and 10 November 1997.<sup>3773</sup>

1638. The witness testified that on 11 August 1997, while he was at his mining site, he heard heavy gunfire. He then saw a group of combatants, wearing red pieces of cloth tied to their foreheads moving from Tongo Fields to Kenema. He identified one of these combatants as Sam Bockarie, having later seen him in Tongo.<sup>3774</sup>

1639. Conteh testified that he was aware that the AFRC conducted surface diamond mining during the relevant period in the Tongo Fields area, predominantly at Cyborg Pit, which he estimated to be 400 yards from the township of Tongo.<sup>3775</sup> The witness estimated that at least 300 people worked there every day under the control of Sam Bockarie and his RUF soldiers. The witness's office was located on the main road and he could see civilians being marched to the township of Tongo. The wives of the captured civilians told him that their villages had been raided by the RUF soldiers. He described how the civilians were tied together in 'twos' by their shirts 'like slaves'.<sup>3776</sup>

1640. Conteh was forced to stop mining his land completely because it was requisitioned by the AFRC for their mining.<sup>3777</sup> After the AFRC took over, there was no further civilian mining undertaken because all mining was then done for the government.<sup>3778</sup> He testified to 'government' mining being carried out at Cyborg, Wuima, Bomi, Pandembu and his own area, Sandeyiema.<sup>3779</sup>

1641. The witness described three occasions in which he heard that the AFRC/RUF had sought to prevent private civilian mining continuing in Tongo Fields. First, he heard that Sam Bockarie sent child soldiers to Pandembu, a village in the Tongo Fields area,<sup>3780</sup> to kill civilians who were mining for themselves instead of for the AFRC/RUF government.<sup>3781</sup>

<sup>3773</sup> Abdul Conteh, Transcript 29 September 2008, pp. 14796-7.

<sup>3774</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17514-5.

<sup>3775</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17532-3.

<sup>3776</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17534-5.

<sup>3777</sup> Abdul Conteh, Transcript 29 September 2008, p. 17535.

<sup>3778</sup> Abdul Conteh, Transcript 29 September 2008, p. 17537.

<sup>3779</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17535-6.

<sup>3780</sup> Abdul Conteh, Transcript 29 September 2008, p. 17538.

<sup>3781</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17537-17538.

Three civilians were killed by the child soldiers.<sup>3782</sup> Conteh and the other Caretaker Committee members went to investigate, and saw the three corpses with bullet wounds.<sup>3783</sup> He also heard reports through the Caretaker Committee at Tongo that child combatants had killed two civilians who were washing gravel and that several more had been wounded at his former mine at Sandeyeima. He also heard that three civilians were killed and two were wounded at Wuima.<sup>3784</sup>

1642. The witness saw armed RUF combatants guarding workers at Cyborg Pit.<sup>3785</sup> He stated that the civilians were mining in 'very rough conditions' and were fed 'two cups of garri' after a day's mining. The civilian miners were not otherwise paid for their work. The AFRC/RUF held the civilians in the 'headquarters campus' overnight and gave each group rest after three-day work cycles during which time the civilians remained 'under command'.<sup>3786</sup>

1643. Abdul Conteh was introduced to Sam Bockarie on 16 August 1997 at the OC Secretariat, Sekou Kunateh's office. He testified that Sam Bockarie did not stay in Tongo Fields permanently but came each day with rebels to collect diamonds from Sekou Kunateh, arriving every morning before 8am and leaving at 6pm for Kenema Town.<sup>3787</sup> He also testified to seeing AFRC soldiers in Tongo Fields during the relevant period but could not estimate the exact number, except that it was less than the number of RUF rebels.<sup>3788</sup> Conteh testified that he saw diamonds being counted and weighed in the office of Sekou Kunateh, the OC Secretariat. He said Kunateh told him that the diamonds were being forwarded to Sam Bockarie.<sup>3789</sup>

1644. Charles Ngebeh, was one of the RUF rebels who took part in the attack on Tongo Fields in 1997 and remained there to mine until the 'AFRC left power'.<sup>3790</sup> He stated that the attack took place during the rainy season of June/July 1997. He testified that the AFRC and RUF mined in Tongo using the labour of civilians forced from their homes to carry gravel

<sup>3782</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17537-17538.

<sup>3783</sup> Abdul Conteh, Transcript 29 September 2008, p. 17538.

<sup>3784</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17537-8; Transcript 30 September 1998, pp. 17555-6.

<sup>3785</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17537-8.

<sup>3786</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17542-3.

<sup>3787</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17540-1.

<sup>3788</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17541-2.

<sup>3789</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17543-4.

and sand. If someone refused to mine he would either be killed or beaten up. Civilians were sometimes allowed to take a portion of the gravel for themselves.<sup>3791</sup>

1645. TF1-590 testified that during the relevant period he lived in Kenema for 10 months. In cross-examination, he testified to hearing about the RUF forcing people to mine diamonds in Tongo. He saw civilians being harassed by the RUF and AFRC to undertake 'government mining' and saw people who had their implements and money confiscated. The witness's extended family members, including cousins and nephews, were forced to mine. However, the witness was never personally prevented from mining in his village or from keeping the diamonds he found.<sup>3792</sup>

1646. According to DCT-068, a member of the RUF<sup>3793</sup> and former miner, who visited Tongo Fields at some point in 1998 during the Junta period, the miners were guarded by men with guns at the Tongo Fields mines for 'security reason' to protect them against enemy attack, not to forcibly take the diamonds from them or for any other sort of 'coercion'.<sup>3794</sup> He agreed that there were incidents in which miners had been shot in the pits but played down any suggestion that this was widespread, stating that the main cause of the shootings of civilians were civilians crossing without permission into the AFRC/RUF-designated "no-go" areas.<sup>3795</sup>

1647. The Trial Chamber heard evidence from another Defence witness, Issa Sesay, that the RUF mined in Tongo Fields, in joint control with the AFRC, from August 1997 when Sam Bockarie captured the area from the Kamajors until the Kamajors pushed them out again in January 1998.<sup>3796</sup> He corroborated Karmoh Kanneh's evidence that he, Kanneh, took part in the attack on Tongo in 1997. Sesay stated that Bockarie then promoted Kanneh to the rank of Captain and appointed him commander of the RUF in Tongo.<sup>3797</sup> Issa Sesay could not give detailed evidence about the conditions for civilians in Tongo during the Junta period as he was not there on a daily basis. He testified however to having heard about

<sup>3790</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37864, 37886-7.

<sup>3791</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37871-3.

<sup>3792</sup> TF1-590, Transcript 16 June 2008, pp. 11913-5.

<sup>3793</sup> DCT-068, Transcript 11 March 2010, pp. 37075-37078.

<sup>3794</sup> DCT-068, Transcript 11 March 2010, pp. 37142-3.

<sup>3795</sup> DCT-068, Transcript 11 March 2010, pp. 37143-4.

<sup>3796</sup> Issa Sesay, Transcript 26 July 2010, pp. 44650-44651.

<sup>3797</sup> Issa Sesay, Transcript 27 July 2010, pp. 44783-44785.

forced mining there and that civilians were allowed to wash gravel for themselves on some days.<sup>3798</sup>

1648. TF1-371, an RUF commander, testified that during the Junta administration, he visited Tongo Fields, which was being run by the RUF through their mining commanders, and SLA with an SLA Secretariat. He saw ‘hundreds of civilians in open fields mining diamonds’ and digging for gravel, watched over by armed guards holding AK-47s.<sup>3799</sup> He was told by a commander there, Major Gweh, that the civilians were locals of the area who had been captured during the fighting. Others were former CDF Kamajors or their sympathisers<sup>3800</sup>. He testified that workers in Tongo Fields were not paid.<sup>3801</sup> Diamonds mined in Tongo Fields during the Junta period were handed over to Sam Bockarie and Issa Sesay.<sup>3802</sup>

### Findings

1649. The Trial Chamber has already determined that the AFRC and RUF attacked Tongo Fields in August 1997 and conducted mining operations there under the command and control of Sam Bockarie. The AFRC and RUF left Tongo Fields in January 1998 when attacked by the CDF and Kamajor fighters.<sup>3803</sup>

1650. On the basis of the foregoing evidence, the Trial Chamber is satisfied that the AFRC and RUF abducted and forced a large but unknown number of civilians to engage in mining in Tongo Fields during the relevant period. With the exception of Defence witness DCT-068, all the witnesses testified to civilians being forced to mine in Tongo Fields, predominantly at Cyborg Pit. Further, Augustine Mallah, Dauda Aruna Fornie, Alex Bao, TF1-567, Abdul Conteh, Charles Ngebeh and TF1-371 provided testimony that civilians were ‘collected’ or ‘captured’ and forced to go to the mines to work. Augustine Mallah is the only witness to suggest that civilians were initially gathered for work by a committee of civilian elders, with forcible abductions from civilians’ homes only occurring in late 1997. The Trial Chamber notes however that Mallah’s evidence pertaining to the earlier civilian

<sup>3798</sup> Issa Sesay, Transcript 16 August 2010, p. 46373

<sup>3799</sup> TF1-371, Transcript 28 January 2008, p. 2340 (CS).

<sup>3800</sup> TF1-371, Transcript 28 January 2008, p. 2339.

<sup>3801</sup> TF1-371, Transcript 28 January 2008, p. 2337.

<sup>3802</sup> TF1-371, Transcript 28 January 2008, p. 2341.

<sup>3803</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful

involvement in the collecting of civilians to work in the mines is based on hearsay as Mallah testified to hearing this from the OC Secretariat, whereas the later evidence of worsened conditions, including the abductions of civilians, is an eye-witness account. The evidence of the other witnesses points overwhelmingly to a systematic practice of civilian abductions as a precursor to the enforced mining in the Tongo Fields.

1651. The evidence shows that those civilians who refused to work met with violence. For example, Augustine Mallah testified to witnessing civilians both flogged and killed and to flogging civilians himself if they refused to mine for him, while TF1-062 described how one of the men working with him was beaten for seeking to avoid work. Karmoh Kanneh also described two occasions when civilians were flogged or beaten for refusing to work.

1652. On the basis of the testimony of TF1-062, Augustine Mallah, Karmoh Kanneh, TF1-567, Abdul Conteh, DCT-068 and TF1-371, the Trial Chamber finds that civilians were forced to labour in the presence of armed guards, who beat or killed those who attempted to escape or committed other perceived breaches of the mining rules. The AFRC/RUF thereby controlled the civilians' physical environment and took measures to prevent their escape. For example, Witness TF1-062 testified to watching, on two occasions, AFRC/RUF soldiers shoot and kill civilian miners who were alleged to have disobeyed orders.

1653. The explanation provided by DCT-068 that the armed guards were stationed at the mines to protect civilians from attacks by government forces is not accepted by the Trial Chamber, since it is contrary to the wealth of evidence demonstrating that the armed guards were there to prevent the civilians from escaping and/or stealing diamonds.

1654. The Trial Chamber further finds that such work was undertaken either entirely without substantive pay or that civilians were given wholly insufficient compensation in the form of meagre food items. Civilians were forced to deliver diamonds they found to members of the AFRC or RUF and any attempt by a civilian to keep a mined diamond was met with violence. For example, TF1-062 testified that civilians received no food, mining equipment or payment from the AFRC/RUF administration. Augustine Mallah described how civilians were deprived of food and any diamonds found would be confiscated by the AFRC/RUF, a fact corroborated by Dauda Aruna Fornie, Karmoh Kanneh and TF1-567.

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killings in Kenema District (25 May 1997 to about 31 March 1998) *supra*.

Abdul Conteh testified to witnessing miners being given only 'two cups of garri' for their work.

1655. Although the Trial Chamber heard evidence from TF1-062, Karmoh Kanneh and Issa Sesay that civilians were permitted to keep and sell diamonds collected on some days of the week and may have worked voluntarily on 'non-government days', this does not alter its finding that, at least on 'government days' civilians were forced to mine without pay and without their consent.

1656. Whilst the evidence before the Trial Chamber is not conclusive about the number of civilians mining at any one time in the Tongo Fields area, witnesses provided estimates of between 150-200 (DAF) and over 1000 (TF1-062). The Trial Chamber finds it reasonable to conclude that the total number exceeds these figures given the testimonies it has heard describing how civilians continued to be abducted and forced to work in Tongo Fields throughout AFRC/RUF occupation.

1657. The Trial Chamber finds that the conditions in which civilians worked at the mines cumulatively created an atmosphere of terror in which genuine consent was not possible. The Trial Chamber is therefore satisfied beyond reasonable doubt that through abductions, deprivation of liberty and forced mining without pay in 1997 and 1998, members of the AFRC/RUF forces intentionally asserted and exercised powers of ownership over civilians in Kenema District.

### Conclusion

1658. The evidence adduced by the Prosecution proves beyond reasonable doubt that in Kenema District during the Indictment period, members of the AFRC/RUF forces<sup>3804</sup> intentionally exercised powers of ownership over a large but unknown number of civilians by depriving them of their freedom and forcing them to mine for diamonds in various locations in the Tongo Fields area.

1659. The Trial Chamber has already found that the chapeau requirements in relation to the crime of enslavement have been proved beyond reasonable doubt.<sup>3805</sup> The Trial Chamber

<sup>3804</sup> See Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kenema District (25 May 1997 to about 31 March 1998) *supra*.

<sup>3805</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.



further finds in relation to Kenema District that the acts of the perpetrators in each of the above crimes of enslavement formed part of the attack directed against the civilian population and that the perpetrators knew that the abductions of civilians and their use as forced labour formed a part of that attack. The Trial Chamber therefore finds that the elements of enslavement as a crime against humanity (Count 10) have been proved beyond reasonable doubt.

## 2. Kono District

1660. The Indictment alleges that between about 1 February 1998 and about 18 January 2002, members of the RUF, AFRC, AFRC/RUF Junta or alliance and/or Liberian fighters abducted an unknown number of civilians, and took them to various locations outside the District, or to locations within the District such as AFRC and/or RUF camps, Tombodu or Tumbodu, Koidu and Wonedu, and used them as forced labour.<sup>3806</sup>

1661. In relation to enslavement alleged to have taken place in Kono, the Trial Chamber has considered the evidence of witnesses Alimamy Bobson Sesay, Tamba Yomba Ngekia, Sheku Bah Kuyateh, Komba Sumana, Dennis Koker, Perry Kamara, Alice Pyne, Finda Gbamanja, Samuel Komba, Ibrahim Fofana, Emmanuel Bull, Sahr Charles, Alex Tamba Teh, Gibril Sesay and TF1-362, as well as Exhibit P-078.

### (a) Kono District in general

#### Evidence

1662. Alimamy Bobson Sesay testified that when he arrived in Kono around mid-March 1998, he brought with him some civilians that he had captured in Makeni and used them to carry loads.<sup>3807</sup> Johnny Paul Koroma held a meeting in Koidu Town in which he declared Kono a no-go zone for civilians and ordered the troops “to get some able bodied civilians who will assist us and they will serve as recruits”.<sup>3808</sup> Koroma ordered that only captured civilians who were able-bodied were to be spared, the rest were to be executed.<sup>3809</sup> Soon after this meeting the witness and other members of his squad, including the RUF, started

<sup>3806</sup> Indictment, paras 23, 25.

<sup>3807</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7975-7976.

<sup>3808</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7950.

<sup>3809</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7952.

executing Koroma's orders and shot to death an unknown number of civilians in Koidu Town.<sup>3810</sup> The witness gave further evidence about organising food-finding patrols in the Kono forest, capturing unarmed civilians, taking their food and using them to carry food they had just stolen. They sometimes also took along civilians to carry the food they had taken from other civilians.<sup>3811</sup>

### Findings

1663. Alimamy Bobson Sesay's evidence establishes that civilians captured by the RUF and AFRC in Kono District were forced to carry loads, go on food-finding missions and carry the looted food back, in circumstances in which they had no freedom of choice or movement in that they were kept in captivity in a very vulnerable position by armed men. The Trial Chamber is therefore satisfied beyond reasonable doubt that by depriving the civilians of their liberty and forcing them to work, members of the AFRC/RUF forces<sup>3812</sup> intentionally exercised powers of ownership over these civilians from around mid-March 1998.

#### (b) Koidu

##### (i) Carrying of Loads

1664. The Prosecution alleges that between 1 February 1998 and 18 January 2002, civilians were abducted by the RUF and AFRC/RUF and forced to perform various types of labour, particularly carrying loads.<sup>3813</sup> The Trial Chamber has considered the evidence of Tamba Yomba Ngekia, Sheku Bah Kuyateh, Komba Sumana and Dennis Koker, and Exhibit P-078 in relation to these allegations.

### Evidence

1665. Tamba Yomba Ngekia confirmed evidence he had given in the RUF Trial<sup>3814</sup> and a transcript of that testimony was admitted into evidence.<sup>3815</sup> He testified in the RUF Trial that

<sup>3810</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7954, 7955.

<sup>3811</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7981.

<sup>3812</sup> See Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kono District (Between about 1 February 1998 and 31 December 1998) *supra*.

<sup>3813</sup> Prosecution Final Trial Brief, para 1093.

<sup>3814</sup> Tamba Yomba Ngekia, Transcript 14 October 2008, p. 18235.

<sup>3815</sup> Exhibit P-196, "TF1-077, RUF Transcript 20 July 2004".

on 16 or 17 December 1999<sup>3816</sup> he was asleep in his house in Koidu Town when he heard heavy gun fire. At dawn he went outside and saw many corpses. He was captured by armed RUF men – “they all had guns”<sup>3817</sup> – along with almost 50 other civilians and forced to carry looted goods such as household equipment, clothes and radios to Tombodu. The men told him: “We are RUF. You are now in our control. You are no longer in ECOMOG control”.<sup>3818</sup>

1666. Dennis Koker, who was in Koidu in early 1998 after the ECOMOG Intervention,<sup>3819</sup> testified that he saw RUF and ‘juntas’ capture civilians at gunpoint in Kono and use them to carry looted property. If a civilian refused, he would be shot.<sup>3820</sup> The rebels would fire warning shots to frighten civilians and ‘put them under their control’.<sup>3821</sup> Koker personally used civilians to carry loads to Gandorhun.<sup>3822</sup> Women were also taken as ‘wives’.<sup>3823</sup>

1667. Koker also testified that RUF and ‘juntas’ captured civilians, including many women and children, at gunpoint to provide ‘reinforcement to fight for them’ and forcibly ‘initiated’ them. Some were taken to the training base in Bunumbu.<sup>3824</sup> Anyone who refused was shot. He said that none of the top commanders tried to stop the practice because ‘they wanted the civilians to work for them because it was for free. It was slavery.’<sup>3825</sup>

1668. Sheku Bah Kuyateh testified that he was captured in Koidu Town by an armed man and taken to work at Kainkordu Road as a mechanic for the RUF commander CO Matthew,

<sup>3816</sup> On cross-examination in the present case, the witness confirmed that despite his evidence in the RUF trial and his prior statement to the Prosecution, he did not recall the precise date on which he had been captured, only that it was in “’98, towards ‘99”. He later agreed that the 16 December 1999 should stand in testimony. See Tamba Yomba Ngekia, Transcript 14 October 2008, p. 18241-4. The Trial Chamber is satisfied that, although he exhibited some confusion about this date, that this event occurred in December 1999.

<sup>3817</sup> Exhibit P-196, “TF1-077, RUF Transcript 20 July 2004”, p. 18630.

<sup>3818</sup> Exhibit P-196, “TF1-077, RUF Transcript 20 July 2004”, pp. 18629-18630.

<sup>3819</sup> Dennis Koker, Transcript 15 January 2008, pp. 1223, 1236.

<sup>3820</sup> Dennis Koker, Transcript 15 January 2008, pp. 1241-5. See also Dennis Koker, Transcript 16 January 2008, p. 1342. The witness was answering questions that were asked specifically in respect of Koidu Town although in his testimony he refers to Kono, not Koidu. In view of the fact that the witness explains that the RUF/AFRC were in control of ‘the surrounding villages’ in Kono District as well as Koidu Town itself and that he personally visited other villages (Dennis Koker, Transcript 15 January 2008, p. 1244), the Trial Chamber finds that the witness is not confining his evidence to Koidu Town but may additionally be referring to any of those surrounding villages.

<sup>3821</sup> Dennis Koker, Transcript 15 January 2008, pp. 1243-5.

<sup>3822</sup> Dennis Koker, Transcript 15 January 2008, pp. 1246.

<sup>3823</sup> Dennis Koker, Transcript 15 January 2008, p. 1245.

<sup>3824</sup> Dennis Koker, Transcript 15 January 2008, p. 1261.

<sup>3825</sup> Dennis Koker, Transcript 15 January 2008, p. 1257.

who was a Liberian, between February and April 1998. The witness was placed under armed guards so that he would not move without their knowledge and described himself as a 'slave'. There was 'nowhere for [him] to go away from them'. The witness met another boy, a Fullah, who told him that he had also been captured by CO Matthew and worked for him as a mechanic. The witness did not know whether the Fullah was free to leave or not.<sup>3826</sup> On cross-examination, he clarified a prior statement to the Prosecution in which he stated that he had remained 'over a month' with CO Matthew, confirming that he had remained between February and April. On re-examination, the witness testified that he knew that the rebels were looking for mechanics at the time so, despite his modest training, he deliberately told the Fullah boy that he was a mechanic so that the boy would not kill him.<sup>3827</sup>

1669. Komba Sumana testified that in approximately March/April 1998 he was hiding in the bush and saw his parents and siblings captured by armed "rebels" in his father's hut outside of Pakidu village.<sup>3828</sup> Some of the rebels "had combats, full combats on. Some others had combat trousers and civilian clothes".<sup>3829</sup> The witness saw the rebels ask one man for rice and when he replied that he did not have any they tipped the hot water heated for the rice over his head. The witness saw a rebel tie a rope around his father's throat and ask him for rice. When his father started crying they removed the rope and tied it around his brother's throat and asked him for rice.<sup>3830</sup> The man who had hot water tipped over his head had wounds all over his head and he carries the scars to this day.<sup>3831</sup> The witness saw that his father, mother, elder brothers and six other people had all been captured and he saw the rebels put rice and other belongings they had looted onto the heads of these people and "ask" them to carry the loads to Koidu Town.<sup>3832</sup> As these civilians carried the loads "there were some rebels at their back and some in front and they were in the middle".<sup>3833</sup> Sumana further testified that his brother Kai was being held in a house in Koidu Town by "rebels" called

<sup>3826</sup> Sheku Bah Kuyateh, Transcript 31 October 2008, pp. 19695-701.

<sup>3827</sup> Sheku Bah Kuyateh, Transcript 31 October 2008, pp. 19766

<sup>3828</sup> Komba Sumana, Transcript 6 October 2008, pp. 17894, 17895.

<sup>3829</sup> Komba Sumana, Transcript 6 October 2008, p. 17897.

<sup>3830</sup> Komba Sumana, Transcript 6 October 2008, p. 17896.

<sup>3831</sup> Komba Sumana, Transcript 6 October 2008, p. 17897.

<sup>3832</sup> Komba Sumana, Transcript 6 October 2008, pp. 17893-17900. The witness was unable to give a time period for these events except that they happened in the months following the time 'the soldiers overthrew the government' when the rainy season had started (Komba Sumana, Transcript 6 October 2008, pp. 17884, 17886, 17894). The Trial Chamber has previously found that this is a reference to the ECOMOG Intervention of 14 February 1998.

<sup>3833</sup> Komba Sumana, Transcript 6 October 2008, p. 17900.

Killer and Peleto where he was tasked with domestic chores including doing laundry, fetching water and pounding rice.<sup>3834</sup>

1670. Alimamy Bobson Sesay testified that he took civilians on food-finding patrols in Koidu in May/June 1998 and forced them to carry loads.<sup>3835</sup> Bobson Sesay said that food finding was “a continuous process”: “From our entry into Koidu Town right to our withdrawal it continued to happen”.<sup>3836</sup> (The circumstances under which these civilians were forced to carry loads is more fully discussed under the heading “Kono District in general” above.)

1671. Exhibit P-078, a report by Amnesty International, tells of the abduction of a woman and her five children from Njalia Nimikoro, a village 10 kilometres south-west of Koidu around 18 August 1998 as well as the release by rebels of 250 captured civilians from Koidu around 15 August 1998.<sup>3837</sup>

#### Findings

1672. Exhibit P-078 provides corroborative evidence that members of the AFRC/RUF forces<sup>3838</sup> abducted civilians in and around Koidu in August 1998.

1673. Considering the circumstances of Ngekia’s capture in Koidu Town in December 1999, with many corpses lying around and men armed with guns telling the civilians that they were now in RUF control, the Trial Chamber is satisfied that the civilians were forced to carry the looted goods to Tombodu. The Trial Chamber is satisfied beyond reasonable doubt that members of the RUF/AFRC, by depriving the civilians of their liberty and forcing them to carry loads, intentionally exercised powers of ownership over the civilians.

1674. Dennis Koker’s first-hand evidence that civilians were captured at gunpoint and forced to carry loads under threat of being shot if they refused, establishes that civilians were deprived of their liberty and forced to carry loads against their will. The Trial Chamber is

<sup>3834</sup> Komba Sumana, Transcript 6 October 2008, pp. 17994-7.

<sup>3835</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, p. 8067.

<sup>3836</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, p. 8068.

<sup>3837</sup> Exhibit P-078, “Sierra Leone – 1998 – A Year of Atrocities Against Civilians, Amnesty International Report”; p. 15, para 3.

<sup>3838</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kono District (Between about 1 February 1998 and 31 December 1998) *supra*.

satisfied beyond reasonable doubt that members of the AFRC/RUF forces thereby intentionally exercised powers of ownership over them in early 1998. (Koker also testified that other civilians were captured and recruited into their forces, and that some civilians were brought to Bunumbu. His evidence in relation to the training of these civilians at Bunumbu has been considered in the section on Bunumbu/Camp Lion in Kailahun District.<sup>3839</sup>)

1675. Kuyateh gave first-hand evidence that when he was initially captured he was told by his captor he would not be released and that he was put under armed guard while under RUF CO Matthew's control. The Trial Chamber is therefore satisfied beyond reasonable doubt that Kuyateh was deprived of his liberty and forced to work as a mechanic and that members of the RUF/AFRC thereby intentionally exercised powers of ownership over him between February and April 1998.

1676. In relation to the carrying of loads by Komba Sumana's parents, brothers and other civilians, the Trial Chamber is satisfied on the evidence that they were forced to do so. The presence of armed men and the earlier demonstrations of violence by the rebels created circumstances in which it was not possible that these civilians acted under their own free will. The Trial Chamber therefore finds that it has been proved beyond reasonable doubt that the rebels, who were members of the AFRC/RUF forces,<sup>3840</sup> by depriving these civilians of their liberty and forcing them to carry loads, intentionally exercised powers of ownership over them in around March/April 1998.

1677. Further, Sumana gave first-hand evidence that his brother was prevented from escaping from the house in Koidu Town where he was held captive by the rebels, who had refused Sumana's requests for his release. Accordingly, the Trial Chamber is satisfied that Sumana's brother, Kai, was deprived of his liberty and forced to do domestic chores. Consequently, the Trial Chamber is satisfied beyond reasonable doubt that members of the AFRC/RUF forces intentionally exercised powers of ownership over him.

1678. In relation to Alimamy Bobson Sesay's evidence that civilians carried loads on food-finding missions, the Trial Chamber has found that these civilians were deprived of their

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<sup>3839</sup> Factual and Legal Findings on Alleged Crimes: Count 10 (Enslavement); Bunumbu/Camp Lion *infra*.

<sup>3840</sup> See Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kono District (Between about 1 February 1998 and 31 December 1998) *supra*.

liberty and forced to carry loads by members of the AFRC/RUF who intentionally exercised powers of ownership over them (See under heading “Kono District in general” above).

(ii) Forced Military Training

1679. The Prosecution alleges that adults and young boys were forcibly recruited into fighting forces and coercively trained in Koidu. These captive civilians were trained in weaponry and were issued machetes with which they would be required to perform amputations.<sup>3841</sup>

Evidence

1680. Alimamy Bobson Sesay testified that when he arrived in Kono around mid-March 1998, he brought with him some civilians that he had captured in Makeni and used them to carry loads. Some of the able-bodied ones, including women, were trained and used for military purposes.<sup>3842</sup> Johnny Paul Koroma held a meeting in Koidu Town in which he declared Kono a no-go zone for civilians and ordered the troops “to get some able bodied civilians who will assist us and they will serve as recruits”.<sup>3843</sup> Koroma ordered that only the captured civilians who were able-bodied were to be spared, the rest were to be executed.<sup>3844</sup> The witness testified that he and other commanders gave civilians basic weapons training at Masingbi Road in Koidu Town from mid-March to April 1998. Training was going on in two areas: “the RUF side and the SLA side”.<sup>3845</sup> Some of the civilians who were trained were small boys (SBUs) around the ages of eight, ten and twelve; some were adults between the ages of 25 to 30.<sup>3846</sup> Some SBUs were issued with machetes and taken to Yomandu to carry out amputations on civilians.<sup>3847</sup>

Findings

1681. The Trial Chamber finds on this evidence that it was not possible that these civilians, in particular the small boys, were receiving military training of their own free will. The Trial

<sup>3841</sup> Prosecution Final Trial Brief, para 1094.

<sup>3842</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7975-6.

<sup>3843</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7950.

<sup>3844</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7952.

<sup>3845</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7976.

<sup>3846</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7977.

<sup>3847</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7976-9.





Chamber is satisfied beyond reasonable doubt that members of the AFRC/RUF forces,<sup>3848</sup> by depriving these civilians of their freedom and forcing them to undergo military training, intentionally exercised powers of ownership over them at Masingbi Road in Koidu Town from mid-March until April 1998.

(c) Tombodu

(i) Carrying of Loads/Forced Labour

1682. The Prosecution alleges that civilians were abducted from various locations and forced to carry loads to Tombodu.<sup>3849</sup> The Trial Chamber has considered the evidence of Samuel Komba, Tamba Yomba Ngekia, Ibrahim Fofana and Sahr Charles, and Exhibit P-014 in relation to these allegations.<sup>3850</sup>

Evidence

1683. Samuel Komba<sup>3851</sup> confirmed evidence he had given in the AFRC Trial that in March 1998,<sup>3852</sup> soldiers dressed in uniform took him and his wife to Giema, told them to lie down and gave orders for them to be shot if they tried to escape.<sup>3853</sup> They then carried luggage towards Tombodu. The soldiers also gave two other people loads to carry saying that the people should come with them because the soldiers were going to save them. The witness stated that on arrival at Tombodu, the soldiers put the loads of the civilians on the ground and “we sat down on the ground and they stood on top of us. They were our bosses”.<sup>3854</sup> The soldiers also referred to the civilians as slaves.<sup>3855</sup>

1684. Ibrahim Fofana described being tied up while a house containing his family members was burnt. He and five other civilians were then given heavy loads of looted goods and

<sup>3848</sup> See Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kono District (Between about 1 February 1998 and 31 December 1998) *supra*.

<sup>3849</sup> Prosecution Final Trial Brief, para. 1092.

<sup>3850</sup> The Trial Chamber has already considered Ngekia’s evidence that he was forced to carry loads from Koidu Town to Tombodu in the section on Koidu Town. Factual and Legal Findings on Alleged Crimes: Count 10 (Enslavement); Koidu *supra*.

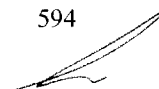
<sup>3851</sup> Samuel Komba, Transcript 13 October 2008, pp. 18145-18186.

<sup>3852</sup> See Exhibit P-189, “TF1-072, AFRC Transcript 1 July 2005”, p. 18441.

<sup>3853</sup> Exhibit P-189, “TF1-072, AFRC Transcript 1 July 2005”, pp. 18440-1.

<sup>3854</sup> Exhibit P-189, “TF1-072, AFRC Transcript 1 July 2005”, p. 18444.

<sup>3855</sup> See Exhibit P-189, “TF1-072, AFRC Transcript 1 July 2005”, pp. 18440-6.







made to carry them to Tombodu at gunpoint by soldiers in military uniform.<sup>3856</sup> Fofana testified that this occurred before 5 April 1998<sup>3857</sup> and after the three men were killed by the soldiers in February 1998 (as described earlier in his evidence).<sup>3858</sup>

1685. Sahr Charles<sup>3859</sup> confirmed evidence he had given in the RUF case that in Tombodu around February/March 1999,<sup>3860</sup> rebels “asked” civilians “with guns over [their] heads” to bring old vehicles from the bush 3 miles away, which they did.<sup>3861</sup> The rebels also placed packets of rice, looted goods and coffee on the heads of civilians at gunpoint and arrested civilians to make them carry the goods from the looted homes back to Tombodu.<sup>3862</sup>

### Findings

1686. Samuel Komba’s evidence establishes that he and three other persons, including his wife, were forced to carry baggage from Giema to Tombodu in March 1998. As the fighters gave orders that the civilians should be killed if they escaped, and stood on top of the civilians claiming that they were the “boss”, the Trial Chamber is satisfied that the fighters exercised physical control over the movements of the civilians, and that the civilians had no choice but to carry these loads. As the fighters referred to the civilians as slaves, the Trial Chamber is satisfied that they acted intentionally in forcing the civilians to carry these loads. The Trial Chamber therefore finds that it has been proved beyond reasonable doubt that members of the AFRC/RUF forces<sup>3863</sup> intentionally exercised powers of ownership over these civilians.

1687. The Trial Chamber accepts Fofana’s evidence of being forced to carry loads by the soldiers. His evidence is corroborated to a certain extent by Exhibit P-014, which is a video clip concerning the rebel attack on Fofana’s village and the subsequent atrocities committed by them. Accordingly, the Trial Chamber is satisfied that Fofana and four other civilians were forced to carry heavy loads of looted goods to Tombodu. That they were forced to

<sup>3856</sup> Ibrahim Fofana, Transcript 28 October 2008, pp. 19334-7.

<sup>3857</sup> Ibrahim Fofana, Transcript 28 October 2008, p. 19343.

<sup>3858</sup> Ibrahim Fofana, Transcript 27 October 2008, p. 19327.

<sup>3859</sup> Sahr Charles, Transcript 15 October 2008, pp. 18361-18426.

<sup>3860</sup> Exhibit P-199A, “TF1-304, RUF Transcript 13 January 2005”, p. 18929.

<sup>3861</sup> Exhibit P-199A, “TF1-304, RUF Transcript 13 January 2005”, pp. 18929-18935.

<sup>3862</sup> Exhibit P-199A, “TF1-304, RUF Transcript 13 January 2005”, pp. 18929-18935.

<sup>3863</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kono District (Between about 1 February 1998 and 31 December 1998) *supra*.

carry these goods at gunpoint guarded by armed fighters indicates that the rebels exerted physical control over their movement and that they had no choice but to perform this work. The Trial Chamber therefore finds that it has been proved beyond reasonable doubt that members of the ARFC/RUF forces<sup>3864</sup> intentionally exercised powers of ownership over Fofana and the other civilians sometime between February and April 1998.

1688. Sahr Charles' evidence establishes that in February/March 1999 civilians were forced to carry old vehicles from the bush to Tombodu and that they were also forced to carry loads of food and looted items. As the civilians had been arrested and forced to carry these goods at gunpoint, the Trial Chamber is satisfied that the rebels exerted physical control over their movements and that they had no choice but to perform this work. The Trial Chamber therefore finds that it has been proved beyond reasonable doubt that members of the AFRC/RUF forces intentionally exercised powers of ownership over these civilians.

(d) Wonedu

(i) Food-finding missions/ Domestic Chores

1689. The Prosecution alleges that enslaved civilians were kept under captivity in Wonedu and marked with "RUF" and "AFRC" carved on their bodies to prevent them from escaping. Civilians were forcibly sent on food-finding missions sometimes 50 miles away from Wonedu.<sup>3865</sup>

Evidence

1690. Alex Tamba Teh testified that after he was captured in approximately April 1998,<sup>3866</sup> an RUF<sup>3867</sup> commander named Rocky took Teh to his base in Wonedu.<sup>3868</sup> Upon his arrival, Teh saw other captured civilians there whom he described as being 'under captivity' and who were used as 'manpower' to go food-finding for the rebels up to 50 miles away in Koronko, Koinadugu District.<sup>3869</sup> Any food that was found was called 'government

<sup>3864</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kono District (Between about 1 February 1998 and 31 December 1998) *supra*.

<sup>3865</sup> Prosecution Final Trial Brief, para. 1097.

<sup>3866</sup> Alex Teh, Transcript 8 January 2008, pp. 683-8.

<sup>3867</sup> Alex Teh, Transcript 8 January 2008, p. 721.

<sup>3868</sup> Alex Teh, Transcript 8 January 2008, p. 704.

<sup>3869</sup> Alex Teh, Transcript 8 January 2008, pp. 705-6, 721. The Trial Chamber notes that the Koronko area lies outside Kono District. However, as the civilians were sent from Kono District on missions to this area, and

property' and civilians who touched it would be shot to death. They were also used to cut palm nuts and palm fruits.<sup>3870</sup> All the captured civilians apart from Teh had "RUF" carved on their fronts and "AFRC" on their backs to prevent them from escaping and going to ECOMOG.<sup>3871</sup> Teh also testified that civilians were sent from Wonedu on food-finding missions, *inter alia*, to Guinea under the command of AFRC Captain KS Banya.<sup>3872</sup>

### Findings

1691. The Trial Chamber is satisfied on the evidence of Alex Tamba Teh that in about April 1998 civilians in Wonedu were forced to go on food-finding missions and carry out domestic chores. It is further satisfied that all the civilians had "AFRC" and "RUF" carved into their bodies to prevent them from escaping. The Trial Chamber accordingly finds that the civilians were deprived of their liberty and had no choice but to undertake the food-finding missions and domestic chores. The Trial Chamber is therefore satisfied beyond reasonable doubt that members of the AFRC/RUF forces intentionally exercised powers of ownership over these civilians.

#### (e) Yengema

##### (i) Forced Military Training

### Evidence

1692. The Prosecution alleges that more than 100 captured civilians were forcibly trained at Yengema training base, located at Koidu Highway, from the end of 1998 until 2000.<sup>3873</sup>

1693. Witness TF1-362 gave evidence that a training base operated at Yengema, near Koidu Highway from December 1998 until disarmament in 2000. Over a hundred civilians were forcibly trained to fight there. Some of these civilians had been transferred from the previous training camp in Bunumbu while others had been captured by the RUF in Koidu Town. The witness testified that these civilians underwent physical and practical training,

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returned to the base in Wonedu with the food, the Trial Chamber considers that such missions fall within the indictment locations.

<sup>3870</sup> Alex Teh, Transcript 8 January 2008, p. 704.

<sup>3871</sup> Alex Teh, Transcript 8 January 2008, pp. 707, 721.

<sup>3872</sup> Alex Teh, Transcript 8 January 2008, pp. 708, 723.

<sup>3873</sup> Prosecution Final Trial Brief, para. 1101.





were trained to use live weapons and that many died during ‘crawling’ training.<sup>3874</sup> The witness testified that recruits who attempted to escape from Yengema were killed, and that Sesay’s bodyguards, instructors and other recruits killed 5 civilians.<sup>3875</sup> After the training, the “recruits” were assigned to the frontline commanders including Morris Kallon, Denis Mingo and Rambo.<sup>3876</sup>

### Findings

1694. TF1-362’s evidence establishes that civilians died on the training base due to the harshness of the training, and that those who attempted to escape were killed. The Trial Chamber is therefore satisfied that the RUF/AFRC deprived these civilians of their liberty, exercised control over their movements, and forced them to undergo military training under the threat of physical violence. Accordingly, the Trial Chamber is satisfied beyond reasonable doubt that from approximately December 1998 onwards, members of the RUF/AFRC, including TF1-362, intentionally exercised powers of ownership over an unknown number of civilians at Yengema.

#### (f) AFRC/RUF Camps (Domestic Chores/Forced Labour/Food-finding Missions)

1695. The Prosecution alleges that from about 1 February 1998 to about 18 January 2002,<sup>3877</sup> civilians were abducted and taken to camps run by the AFRC/RUF and subjected to forced labour including diamond mining, collecting food, domestic chores, military training and carrying arms and ammunition.<sup>3878</sup>

1696. The Trial Chamber has considered the evidence of Finda Gbamanja, Perry Kamara, Komba Sumana, Alice Pyne, and Exhibit P-051 in respect of these allegations.

### Evidence

1697. Finda Gbamanja testified that she was a young girl living in Koidu Town with her family when the rebels attacked. She was unable to say what month or year this was, but

<sup>3874</sup> TF1-362, Transcript 27 February 2008, pp. 4916-4917, 4920; TF1-362, Transcript 28 February 2008, pp. 4921-4924.

<sup>3875</sup> TF1-362, Transcript 28 February 2008, p. 4929

<sup>3876</sup> TF1-362, Transcript 28 February 2008, p. 4925.

<sup>3877</sup> Indictment, para. 25

<sup>3878</sup> Prosecution Final Trial Brief, paras 1098, 1099, 1102.

remembers that prior to this she had heard on the radio that Johnny Paul Koroma had been removed from power.<sup>3879</sup> She and her family fled to Baima. They stayed there “for a long period” but fled to the bush when the rebels came. She and her family left the bush during the rainy season because of the rain and went back to Baima.<sup>3880</sup> She spent two days there but on the third day she was captured by rebels. She saw the rebels club her mother with a gun and shoot her father to death.<sup>3881</sup>

1698. Gbamanja testified that the rebels took her to Koidu Town, where she stayed with a female rebel named Hawa and was forced to launder and cook. One day she was sent in search of vegetables and encountered Sergeant Foday, who said to her: “Madam, which of the two do you prefer, your life or going to my house?” The witness was then taken to Sergeant Foday’s house, where she was forced to have sex with him every night and was forced to launder, cook and fetch water for him. She stated that she could not run away because ‘they were all over the place’.<sup>3882</sup>

1699. The witness testified that when ECOMOG attacked Koidu Town she left with Sergeant Foday and went to Superman Ground. At that location she was also forced to cook, launder and have sex with him.<sup>3883</sup> Eventually Sgt. Foday’s wife came to stay with him, so the witness was sent to Mamie’s house. Mamie was the wife of a friend of Sergeant Foday, and Mamie was also a rebel. While staying with Mamie, the witness was forced to pound rice, launder and harvest palm oil.<sup>3884</sup> The witness said that she saw how one civilian at Superman Ground who attempted to escape was recaptured, forced to parade and then had his testicles lacerated. Rebels then forced other civilians to kill him.<sup>3885</sup>

1700. Perry Kamara identified Exhibit P-051 as a record of various lists that were normally kept by Superman and the Joint Security at Superman Ground.<sup>3886</sup> The witness recognised his own name amongst a list of soldiers at Superman Ground, which listed their names and

<sup>3879</sup> Finda Gbamanja, Transcript 28 January 2009, pp. 23835-23837.

<sup>3880</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23850.

<sup>3881</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23851-23856.

<sup>3882</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23861-23864.

<sup>3883</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23864-23866.

<sup>3884</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23867.

<sup>3885</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23874

<sup>3886</sup> Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”; Perry Kamara, Transcript 5 February 2008, pp. 3121-3122. The Independent Defence Office (IDU), Military Police (MP) and the Intelligence Officer

ranks.<sup>3887</sup> The document includes another hand-written list entitled “Name of Civilians from Banya Ground and Their Care Taker”, which is undated.<sup>3888</sup> Kamara testified that the document coincides with the time he was at Superman Ground<sup>3889</sup> and that the civilian women named on the list lived with the commanders against whom their names were listed. He stated that some of the women were “wives” to the commanders with whom they stayed and could be used as labourers with the permission of their caretaker.<sup>3890</sup>

1701. Perry Kamara explained that in Exhibit P-051 under the heading ‘List of manpower to go for food – SLPA<sup>3891</sup>/RUF’,<sup>3892</sup> the names listed on the left of the page are civilians who went for food and the names listed on the right are the armed guards who would accompany them.<sup>3893</sup> Exhibit P-051 has other lists entitled ‘Names of Civilians from Banya Ground’ and ‘Names of New Captives along Guinea/Sierra Leone highway’.<sup>3894</sup> Kamara also stated that the part of Exhibit P-051 entitled ‘Civilian Women and Officers in Charge’,<sup>3895</sup> indicates the RUF/AFRC fighters for whom civilians could be required to perform hard labour, domestic work or enter into a forced marriage.<sup>3896</sup>

1702. Perry Kamara testified that when the RUF went on food-finding missions from the camps around Koidu Town, including Superman Ground, Gandorhun Highway, Banya Ground, Tombodu, Sewafe pass and Yomandu, they would abduct civilians who would then be forced to carry loads, mine diamonds, and carry out domestic chores in the camps. These civilians were also used to build the Buedu airstrip and to collect arms and ammunition and

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Unit were involved in the maintenance of the document. See Perry Kamara, Transcript 5 February 2008, p. 3138.

<sup>3887</sup> Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”, ERN 00025574(A); Perry Kamara, Transcript 5 February 2008, pp. 3123-3124.

<sup>3888</sup> Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”, ERN 00025583.

<sup>3889</sup> Perry Kamara, Transcript 5 February 2008, p. 3127.

<sup>3890</sup> Perry Kamara, Transcript 5 February 2008, pp. 3125-3126.

<sup>3891</sup> Kamara testified that SLPA stands for Sierra Leone People’s Army. See Perry Kamara, Transcript 5 February 2008, p. 3127.

<sup>3892</sup> Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”, ERN 00025588 and Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”, ERN 00025589-90.

<sup>3893</sup> Perry Kamara, Transcript 5 February 2008, pp. 3126, 3127.

<sup>3894</sup> Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”, ERN 00025591.

<sup>3895</sup> Exhibit P-051, “UNICEF Exercise Booklet listing Names of Soldiers and Armed Serial Numbers as well as Captives Along the Guinea and Sierra Leone Border, December 1998”, ERN 00025592-95.

<sup>3896</sup> Perry Kamara, Transcript 5 February 2008, pp. 3125-3134.

food and drugs from Sam Bockarie in Buedu, Kailahun.<sup>3897</sup> In order to get food, the RUF rebels would go to a civilian zone, attack the civilians and force them to carry food from their homes back to the RUF bases.<sup>3898</sup>

1703. Komba Sumana, who the Trial Chamber has found was captured in April/May 1998,<sup>3899</sup> was taken shortly thereafter to a camp in Kissi Town. The witness said that he was captured by men wearing “uniform trousers and civilian clothes” who were speaking Liberian English<sup>3900</sup>. In the camp in Kissi Town he was taken to the boss of the rebels, a Major Wallace, a Liberian.<sup>3901</sup> The witness said he wanted to leave but was told he had to stay as he was going to become an SBU. On hearing this, the witness started crying. He wanted to go and find his family but “they didn’t allow me”.<sup>3902</sup> One evening someone came from PC Ground with a message from Issa that all those who had been captured had to assemble at PC Ground the next morning. The witness was told that “if anybody did not go, if it was found out later you, whom they would find out, if you are a civilian they will kill you”.<sup>3903</sup> At PC Ground, Issa Sesay assembled the captured civilians and stated that Mosquito had requested that the civilians be sent to Kailahun for training. The selection process then took place at gunpoint and then they walked for 3 weeks with rebels to Buedu.<sup>3904</sup> The witness specifically recalled civilians being present at Kissi Town, Banya Ground and PC Ground who had to carry out domestic chores. He testified that he personally went on food-finding missions, pounded husk rice and fetched water accompanied by an armed fighter.<sup>3905</sup>

1704. Alice Pyne, who arrived at PC Ground in February 1998,<sup>3906</sup> testified that the RUF rebels used to go out into the villages around PC Ground and capture civilian men, women and children. The women were taken as ‘wives’ of the RUF rebels to ‘work for him just like a woman would work for her husband in the home’. Sometimes they were beaten but some

<sup>3897</sup> Perry Kamara, Transcript 5 February 2008, pp. 3113-7.

<sup>3898</sup> Perry Kamara, Transcript 5 February 2008, p. 3116.

<sup>3899</sup> See Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers); Abduction and Training of Komba Sumana in approximately July/August 1998 *supra*.

<sup>3900</sup> Komba Sumana, Transcript 6 October 2008, p. 17908.

<sup>3901</sup> Komba Sumana, Transcript 6 October 2008, p. 17910.

<sup>3902</sup> Komba Sumana, Transcript 6 October 2008, p. 17912.

<sup>3903</sup> Komba Sumana, Transcript 6 October 2008, pp. 17925, 17926.

<sup>3904</sup> Komba Sumana, Transcript 6 October 2008, pp. 17926-7928.

<sup>3905</sup> Komba Sumana, Transcript 6 October 2008, p. 17912.

<sup>3906</sup> Alice Pyne, Transcript 18 June 2008, p. 12160.

were cared for by their 'husband' who brought them clothes and food.<sup>3907</sup> She testified that the civilians were forced to carry loads of property from the places where they were captured by RUF fighters. They could not refuse because the rebels had guns and if they did refuse, they would be beaten or shot.<sup>3908</sup>

### Findings

1705. The Trial Chamber is satisfied on Gbamanja's evidence that she was forced to perform domestic chores for Hawa and Sergeant Foday in Koidu Town, for Sergeant Foday and Mamie at Superman Ground and for Sergeant Foday's mother and the RUF at Giema. The Trial Chamber accepts her evidence that in none of the circumstances described in her evidence was she able to run away, that attempting to escape would be met by extreme violence and that refusing to do work would also lead to punishment. The Trial Chamber is therefore satisfied that none of the domestic duties she performed was done of her own free will. (The Trial Chamber has previously found that she was also held in captivity by Sergeant Foday and used as a sex slave<sup>3909</sup>. Evidence on this aspect of her captivity is considered in the section dealing with the crime of sexual slavery.)

1706. The Trial Chamber is satisfied beyond reasonable doubt that members of the AFRC/RUF forces<sup>3910</sup> perpetrated the crime of enslavement in relation to Gbamanja in the following instances:

- i. The female rebel Hawa intentionally exercised powers of ownership over Gbamanja by depriving her of her liberty and forcing her to perform domestic duties.
- ii. Mamie, a female rebel, intentionally exercised powers of ownership over Gbamanja by depriving her of her liberty and forcing her to perform domestic duties.

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<sup>3907</sup> Alice Pyne, Transcript 18 June 2008, p. 12195.

<sup>3908</sup> Alice Pyne, Transcript 18 June 2008, pp. 12197-8.

<sup>3909</sup> See Factual and Legal Findings on Alleged Crimes: Count 5 (Sexual Slavery); Rape of Finda Gbamanja, Findings *supra*.

<sup>3910</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kono District (Between about 1 February 1998 and 31 December 1998) *supra*.



1707. The Trial Chamber is satisfied from the context that these incidences of enslavement in relation to Gbamanja occurred from around April until at least December 1998.

1708. Perry Kamara's evidence is consistent with the evidence given by Alimamy Bobson Sesay that the RUF captured civilians and forced them to go on food finding missions and to carry looted food back to RUF bases. Kamara's evidence also corroborates the evidence of Finda Gbamanja that captured civilians were used by the RUF to perform domestic chores at Superman Ground. The Trial Chamber finds that Kamara's evidence is further proof to establish beyond reasonable doubt that the RUF captured civilians and intentionally exercised rights of ownership over them by depriving them of their liberty and using them as forced labour. (Kamara's evidence regarding the use of civilians to build the airstrip at Buedu has been considered in the section on Kailahun.<sup>3911</sup>)

1709. Sumana's evidence establishes that he and other civilians at Kissi Town, Banya Ground and PC Ground carried out domestic chores such as pounding rice, fetching water and went on food-finding missions. Sumana testified that he was captured by armed rebels, that he wanted to leave Kissi Town but was told he could not, that he was told that any civilian who did not assemble at PC Ground would be killed. The Trial Chamber is satisfied beyond reasonable doubt on this evidence that he was deprived of his liberty and forced to perform these tasks and that members of the RUF thereby intentionally exercised powers of ownership over him from around April/May 1998. (The Trial Chamber has considered Sumana's evidence regarding military training in Bunumbu in the section on Kailahun.<sup>3912</sup>)

1710. In relation to Alice Pyne's evidence regarding the use of civilian women as wives at PC Ground, the Trial Chamber has previously found on this evidence that these civilians were used as sex slaves.<sup>3913</sup> The Trial Chamber is further satisfied on her previously considered evidence that civilians in PC Ground were forced carry loads of looted property under threat of being beaten or shot if they refused. The Trial Chamber therefore finds that it has been proved beyond reasonable doubt that RUF fighters intentionally exercised powers of ownership over these civilians from around February 1998.

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<sup>3911</sup> Factual and Legal Findings on Alleged Crimes: Count 10 (Enslavement); Kailahun District *infra*.

<sup>3912</sup> Factual and Legal Findings on Alleged Crimes: Count 10 (Enslavement); Kailahun District *infra*.

<sup>3913</sup> Factual and Legal Findings on Alleged Crimes: Count 5 (Sexual Slavery); RUF and AFRC fighters brought sexual slaves from Koidu Town to PC Ground and Superman Ground in 1998 *supra*.

(g) Other Locations

Evidence

1711. Emmanuel Bull testified that he was living with his family in Mortema, Kono, in February 1998. ECOMOG had ousted the AFRC government and the AFRC/RUF forces had fled from Mortema.<sup>3914</sup> However, one day Bull and his family heard approaching gunfire and feared the return of the AFRC/RUF forces, so they decided to flee to another village called Fakoyia. In all, about 21 family members fled, including Bull, his father and his elder brother Samuel. Rather than go to Fakoyia itself they decided that it was safer to hide in a cave near there. They lived in the cave for more than a month; Bull spent his birthday there on 2 March.<sup>3915</sup> One day Bull returned to the cave from gathering bush yams and learned that AFRC/RUF fighters had been there and had raped two girls, "A" and "B" (the girls' real names were suppressed to protect their privacy) and had taken A away with them. Bull was shocked. His love for A made him want to follow the fighters to rescue her.<sup>3916</sup> He planned to befriend the fighters if he could, in order to find A.<sup>3917</sup>

1712. Six or seven men, including Bull, his father and brother Samuel, set out to follow the fighters in the direction of Mortema. On the way, they encountered five well-armed AFRC/RUF fighters who warned them not to run away. Bull and his group all ran away to the bush. Some escaped but Bull was captured, along with his father and brother. The fighters took away their personal belongings and then threatened to kill them for running away. The three men begged the fighters not to kill them.<sup>3918</sup> They were then forced to walk at gun point towards Fakoyia. On the way, the fighters found some people hiding in the bush. The people fled but the fighters captured one of them, a woman, and took her along with them. The fighters made Bull and the others carry the belongings of the people who had fled. Bull carried on his head a fowl coop and a gallon of palm oil. He had no choice as he believed he would be killed if he refused. His father was driven away by the fighters, who did not want old people walking with them.<sup>3919</sup>

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<sup>3914</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17194-17197.

<sup>3915</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17202-17206.

<sup>3916</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17212, 17238.

<sup>3917</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17219-17220.

<sup>3918</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17220-17222.

<sup>3919</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17225-17231.

1713. On the way, the fighters saw a palm wine tapper in a palm tree. One of them pointed a gun at him and told him to climb down. While their attention was thus distracted, Bull's brother ran away. One of the fighters threatened Bull that he would suffer for what his brother did. Bull then begged them not to kill him.<sup>3920</sup> The fighters decided that Bull should carry the load of rice his brother had been carrying. One of the fighters beat the palm wine tapper viciously about the head with his gun butt, so that he was bleeding from the mouth, nose and ears. Bull could not tell whether the palm wine tapper was dead but the fighters left him lying there and they all moved on.<sup>3921</sup> Bull was now carrying a bag of rice, the palm oil and the fowl coop. Bull testified that it was not easy; he was perspiring and exhausted but carried on.<sup>3922</sup> When they stopped to rest, Bull was able to befriend an AFRC/RUF fighter named Pikin. Bull's motive in doing this was to go to the fighters' camp in order to find A. When the group reached a certain area the rebels told the witness that he could put the load down and they would ask someone else to come and collect it. The witness had hopes of finding A so he pleaded to remain with them and they agreed.<sup>3923</sup> Pikin later allowed Bull to meet A and Bull was able to give her some advice on how to survive. After this meeting, Pikin told Bull to leave the group and Bull walked away into the forest.<sup>3924</sup>

1714. Bull testified that in April 1998 he was walking near Mamboma, Kono, when he was ambushed at gunpoint and captured by 11 to 15 AFRC/RUF men. Later in the day, the same men gave him a bag and a two-gallon rubber container of palm oil and told him to follow them 'the few yards' to Mamboma.<sup>3925</sup> When Bull entered Mamboma he saw dead bodies and "a head cut off and placed on a stick". One of the fighters said to him: "You, that's the way we are going to cut your head".<sup>3926</sup> Bull then described how he, his father and brother were instructed by AFRC/RUF men to carry loads of stolen property from Mamboma to Njaiama Nimikoro. Bull said that the man in charge was called Cobra, an RUF Liberian man, who was "the number 1 violence man, because he will go there threaten people, hit people".<sup>3927</sup> Everybody was heavily laden. His brother, who is handicapped, was still made to walk. Everybody was tired and Bull was walking bare foot on thorns; "it was a really,

<sup>3920</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17231-17233.

<sup>3921</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17234-17236.

<sup>3922</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17235-17236.

<sup>3923</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17236-17239.

<sup>3924</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17239-17241.

<sup>3925</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17261-3.

<sup>3926</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17264.

really, really, really, sad experience". The AFRC/RUF fighters kept going up and down urging the civilians to keep walking.<sup>3928</sup> Cobra told them "if anybody close [sic] your eyes on us...we are going to close our eyes on you". Bull understood this to mean that if anybody said they were tired they would be executed.<sup>3929</sup> A suckling mother who became tired was shot and somebody took her baby.<sup>3930</sup> About an hour away from Njaiama Nimikoro, a quarrel broke out between the RUF and AFRC and Bull remembered one of them saying: "Okay, let's put all the civilians on one side. We will kill all of them".<sup>3931</sup> However, the situation was calmed and the civilians were told to remove the items they were carrying and Bull testified to walking this last stretch without load.<sup>3932</sup> In Njaiama Nimikoro, individual AFRC/RUF men selected civilians from the group whom they wanted to take away with them. For example, one woman later told Bull that the AFRC/RUF man who had selected her had taken her virginity and used her as his wife. A lot of women were in the group, so that one AFRC/RUF man would have four or five women. Children were also selected and taken away by AFRC/RUF men.<sup>3933</sup>

1715. Finally, Bull testified that at a location between Woama and Baima, the AFRC/RUF rebels, acting on orders from Bai Bureh, forced around 16-20 civilians, including the witness, to train for two weeks in weaponry and military manoeuvres. In relation to the training, an AFRC rebel told him 'if you don't do it, you are dead'.<sup>3934</sup> He testified to being forced to do hard exercise during training while sick with malaria and malnourished. If the trainees were perceived to be underperforming they would be hit on the back with a machete.<sup>3935</sup> The civilians were also sent on food-finding missions with armed fighters.<sup>3936</sup>

### Findings

1716. The Trial Chamber is satisfied, based on Bull's evidence, that he and other civilians were forced to carry loads from Mortema to an unidentified location. After being captured

<sup>3927</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17267.

<sup>3928</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17272-17273.

<sup>3929</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17273.

<sup>3930</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17275.

<sup>3931</sup> Emmanuel Bull, Transcript 25 September 2008, p. 17279.

<sup>3932</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17268-17280.

<sup>3933</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17285-17289.

<sup>3934</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17316-8, 17327.

<sup>3935</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 173127-8

<sup>3936</sup> Emmanuel Bull, Transcript 25 September 2008, pp. 17318-9.

by well-armed AFRC/RUF rebels, Bull and the other civilians were threatened that they were going to be killed, were forced to walk at the point of a gun, saw a palm wine tapper viciously beaten, and were forced to carry very heavy loads. The evidence very clearly establishes that these civilians were deprived of their liberty and did not carry loads for the rebels of their own free will. The Trial Chamber accordingly finds that it has been proved beyond reasonable doubt that members of the AFRC/RUF forces<sup>3937</sup> intentionally exercised powers of ownership over these civilians.

1717. Furthermore, Bull's evidence concerning the march from Mamboma to Njaiama Nimikoro establishes beyond reasonable doubt that the witness and other civilians were forced to carry their loads under threat of death. The Trial Chamber therefore finds that it has been proved beyond reasonable doubt that members of the AFRC/RUF forces intentionally exercised rights of ownership over these civilians by depriving them of their liberty and forcing them to carry loads.

1718. Furthermore, in relation to the training that Bull and 16 to 20 other civilians underwent at a location between Woama and Baima, Bull's evidence establishes that he was threatened with death if he refused to undergo the training, that he was required to perform training exercises while he was sick, and that trainees who were perceived to be underperforming were hit on the back with machetes. The Trial Chamber is therefore satisfied that the perpetrators deprived the civilians of their liberty, exercised control over their movement and took measures to prevent their escape. The Trial Chamber therefore finds that it has been proved beyond reasonable doubt that members of the AFRC/RUF forces intentionally exercised powers of ownership over these civilians at a location between Woama and Baima.

(h) Mining

1719. The Prosecution alleges that the AFRC/RUF controlled diamond mining fields in Kono District from at least January 1998 through the remainder of the Indictment period and abducted and forced civilians to mine diamonds in many locations in the district.<sup>3938</sup> The Trial Chamber has considered the evidence of TF1-367, TF1-371, Albert Saidu, TF1-516,

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<sup>3937</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kono District (Between about 1 February 1998 and 31 December 1998) *supra*.

<sup>3938</sup> Prosecution Final Trial Brief, paras 1088-90.

Perry Kamara, Mustapha Mansaray, TF1-338, Issa Sesay, and Exhibit P-382 in respect of these allegations.

### Evidence

1720. The Trial Chamber heard evidence from TF1-367, who was a mining commander in Kono from 1998 to 2000,<sup>3939</sup> that civilians were captured either in the bush or by Morris Kallon and Issa Sesay in towns such as Makeni and Magburaka and forced to work in the Kono mines. The civilians worked because they 'wanted to save their lives' and those who refused were beaten. They worked without pay and any diamonds found were ultimately handed over to the witness. The civilian miners were guarded by armed 'securities' and Black Guards who protected them from harassment or molestation by other people and prevented the civilians from stealing the diamonds. The witness testified that there were rules in place that if someone lost or stole a diamond, he would be killed or seriously beaten. TF1-367 personally witnessed such a beating at Kokuima. TF1-367 estimated that on an average day, 200-300 civilians would be mining in government mines in the Kono District.<sup>3940</sup>

1721. TF1-371 who was in Kono in 1997<sup>3941</sup> testified that the AFRC and RUF were engaged in mining in Kono, including Koidu and 'the township'. This mining was organised and overseen by the AFRC Secretariat and representatives of the Supreme Council including Gullit and SLA Cobra, the mining commander. Morris Kallon and Bockarie also visited occasionally.<sup>3942</sup>

1722. TF1-371 witnessed more than 500 civilians working under the supervision of RUF and SLA guards armed with AK-47s. These were local civilians who had been 'taken' by the AFRC/RUF and ordered to mine. He observed that they were dishevelled and worked

<sup>3939</sup> TF1-367, Transcript 21 August 2008, pp. 14191-14192. TF1-367 was responsible *inter alia* for the sites in Tombodu, Kaisambo, Benz Garage (Kokuima), Bondovulahun, Ngaya, Ndomahina and Bandafay. See TF1-367, Transcript 21 August 2008, p. 14194.

<sup>3940</sup> TF1-367, Transcript 21 August 2008, pp. 14198-14203; TF1-367, Transcript 28 August 2008, pp. 14915-14919; TF1-367, Transcript 1 September 2008, p. 15053. The witness was clear that he was not giving evidence about any 'private' sites where mining was conducted for the high command, Issa Sesay, Morris Kallon and Superman about which he had no knowledge. See TF1-367, Transcript 21 August 2008, p. 14200; TF1-367, Transcript 28 August 2008, pp. 14907-8.

<sup>3941</sup> TF1-371, Transcript 29 January 2008, p. 2447 (CS).

<sup>3942</sup> TF1-371, Transcript 28 January 2008, p. 2335 (CS).

'grudgingly' and without pay, and were not allowed to take diamonds for themselves.<sup>3943</sup> The mined diamonds were given to the AFRC mining commander and transported to Johnny Paul Koroma in Freetown.<sup>3944</sup> TF1-371 testified that mining was still going on in Kono during 1998.<sup>3945</sup>

1723. TF1-371 testified that when he went back to Kono in December 1999, he again witnessed local civilians mining under armed guard in a similar way to what he had seen in 1997. The witness was unable to conclude whether the civilians were mining voluntarily because the roads had been opened up by then and it was therefore possible for the civilians to move to Freetown, Kenema or Makeni. TF1-371 stated that he knew that the armed guards were present to prevent the civilians stealing the diamonds but he did not ask Issa Sesay whether there was any other purpose for them.<sup>3946</sup>

1724. Albert Saidu, in cross-examination and re-examination, confirmed the substance of a prior statement that he gave to the Prosecution in October/November 2007 in which he stated that the RUF forced civilians to mine for them in Kono 'after the first Intervention'<sup>3947</sup> until disarmament. He said that some civilians also mined voluntarily for individual commanders. All civilians were watched by RUF armed guards to prevent them from stealing diamonds.<sup>3948</sup>

1725. TF1-516, who was mining in Bakundu in Kono during the Junta period,<sup>3949</sup> testified that at that time, civilians were forced at gunpoint to mine 'whether [they] liked it or not' in demarcated government pits under the command of Captain Moriba and, ultimately, 'Gullit'. If they refused, they would be flogged: the witness observed this happen in Bakundu Pit, Number 11, Lebanon, Small Sefadu and Ngaiya, all in Koidu. Armed security was provided to prevent the workers escaping. When asked whether these guards ever used their weapons,

<sup>3943</sup> TF1-371, Transcript 28 January 2008, pp. 2335-2337 (CS).

<sup>3944</sup> TF1-371, Transcript 28 January 2008, pp. 2340-2341 (CS).

<sup>3945</sup> TF1-371, Transcript 28 January 2008, p. 2488 (CS).

<sup>3946</sup> TF1-371, Transcript 29 January 2008, pp. 2447-2448 (CS).

<sup>3947</sup> The Trial Chamber finds that the 'first Intervention' is a reference to the ECOMOG Intervention in February 1998. See also Albert Saidu, Transcript 5 June 2008, p. 11148

<sup>3948</sup> Albert Saidu, Transcript 5 June 2008, pp. 11147, 11150; Albert Saidu, Transcript 9 June 2008, pp. 11344-5.

<sup>3949</sup> TF1-516, Transcript 9 April 2008, p. 7119. The Trial Chamber notes that the Indictment only alleges that enslavement occurred in Kono District from 1 February 1998 onwards, and that the Junta period ended on 14 February 1998. Evidence relating to the junta period therefore largely falls outside the indictment period for enslavement in this district, and the Trial Chamber has only considered evidence of forced mining occurring after 1 February 1998. See Preliminary Issues: Issues Relating to the Pleading in the Indictment *supra*.

the witness stated that the terror was enough to make the civilians obey orders. Any diamonds found were to be reported to the mining commander who informed Bockarie. The witness stated that, unlike in other areas he visited, there was no system for sharing the mined gravel with the workers.<sup>3950</sup>

1726. The witness also testified that after the ECOMOG intervention, everyone pulled out of Kono and the mining stopped until it was re-instated in late 1998 under the control of the mining commander.<sup>3951</sup> The witness was no longer in Kono but heard about the mining there on the radio.<sup>3952</sup> He heard from 'Augustine' that, since there were no civilians left in Kono when it was re-captured, a mining unit comprising both RUF soldiers and civilians was sent from Kailahun to mine in Kono.<sup>3953</sup>

1727. TF1-516 testified that when Issa Sesay took over the mining in Koidu at the end of 1999, he was told by "Elevation", Sesay's radio operator, that mining had intensified in Kono. He heard from people in Kono that Sesay had installed a 'two-pile' system whereby one pile was reserved for the government and the other for the labourer. However, in practice, if there was 'something attractive' in a pile belonging to a labourer, that pile was also confiscated by the RUF. He was told that the mining was 'open' and that authority was given to anyone who had the ability to mine. However, 'government pits' also remained in which civilians were still forced to mine.<sup>3954</sup> The witness confirmed, however, that no radio messages were sent through him at that time to his commander, Benjamin Yeaten about civilians being forced to mine, even though Yeaten had requested reports on this mining situation in Kono.<sup>3955</sup>

1728. Perry Kamara testified on diamond mining in Kono after the Freetown invasion in early 1999.<sup>3956</sup> He gave evidence that when the mining in Kono came under the control of Issa Sesay, the RUF continued to use civilians to mine, including some who worked permanently for the government without pay.<sup>3957</sup>

<sup>3950</sup> TF1-516, Transcript 9 April 2008, pp. 7119-26; TF1-516, Transcript 10 April 2008, pp. 7150-5.

<sup>3951</sup> TF1-516, Transcript 9 April 2008, pp. 7129-31.

<sup>3952</sup> TF1-516, Transcript 10 April 2008, p. 7160.

<sup>3953</sup> TF1-516, Transcript 10 April 2008, p. 7161.

<sup>3954</sup> TF1-516, Transcript 10 April 2008, pp. 7169-70, 7175-8.

<sup>3955</sup> TF1-516, Transcript 10 April 2008, pp. 7178-81.

<sup>3956</sup> Perry Kamara, Transcript 6 February 2008, p. 3262

<sup>3957</sup> Perry Kamara, Transcript 6 February 2008, p. 3265



1729. Mustapha Mansaray, who was appointed mining commander in Ngaiya, Kono District on 14 January 2001,<sup>3958</sup> testified that he was in control of the villages of Ngaiya, Yengema, Tongoma, Bandafay, and Small Ngaiya containing over 200 mining pits.<sup>3959</sup> He testified that he instructed AFRC/RUF fighters to gather civilians to wash gravel, which the fighters would do ‘forcefully’ at gunpoint. If anyone resisted, he would be beaten or killed. The witness observed civilians being beaten but could not provide a first-hand account of how many civilians had died in this way.<sup>3960</sup> However, he stated that he had heard from his staff that some civilians had been killed by AFRC/RUF fighters during shooting that broke out after the civilians had refused to wash gravel.<sup>3961</sup>

1730. Mansaray testified that a two-pile system was in operation in Kono while he was commander. Under that system, the gravel containing diamonds was split between the RUF/AFRC administration and the civilians. The civilians were guarded even when washing their own gravel and if a big diamond was found in a civilian’s pile, the mining unit would seize it and take it to the mining office. If the office had anything to give the civilian in return, they would do so. If the civilian refused to hand such a diamond over, it would be taken from him. Mansaray was under orders from his overall commander to beat or kill civilians who refused to hand over big diamonds to the RUF/AFRC. He gave evidence that only beatings, not killings happened in his own area.<sup>3962</sup> Mansaray stated that Issa Sesay’s bodyguards used to capture civilians at Number 11 mine and take them to mine for the RUF.<sup>3963</sup>

1731. TF1-338 testified that a two-pile system was in operation in RUF-controlled mines between 2000 and 2002 whereby the gravel was shared between the RUF Commanders and the “government”; and the civilians were not given anything.<sup>3964</sup> He testified that Issa Sesay forced civilians to mine in the government pits at this time.<sup>3965</sup>

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<sup>3958</sup> Mustapha Mansaray, Transcript 5 March 2008, p. 5340.

<sup>3959</sup> Mustapha Mansaray, Transcript 5 March 2008, p. 5341.

<sup>3960</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5346, 5347-5350.

<sup>3961</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5342-5346; See also Mustapha Mansaray, Transcript 6 March 2008, pp. 5399-5401.

<sup>3962</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5346, 5347-5350.

<sup>3963</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5352-5353.

<sup>3964</sup> TF1-338, Transcript 3 September 2008, pp. 15315-15318.

<sup>3965</sup> TF1-338, Transcript 3 September 2008, pp. 15316.

1732. Issa Sesay gave evidence for the Defence that he took over control of the mining in Kono in February 2000.<sup>3966</sup> He testified that from July to December 1998 there was low-key mining in the jungles around Koidu, but that there was no mining in Koidu Town itself in that period because ECOMOG was in control there. The RUF maintained a mining unit in Kono from 1998 to August 2001 when they disarmed in Kono. Effective mining recommenced in December 1998 when the RUF recaptured Kono and lasted until disarmament in July/August 2001.<sup>3967</sup> He testified that in 1999, mining under the RUF commander was purely for the RUF and nothing was shared. Civilians received food, medicines and sometimes clothing, but never received money.<sup>3968</sup>

1733. Issa Sesay testified that when he was in command of mining in Kono from February 2000, civilians were not forced to mine in Kono. The RUF operated a two-pile system, whereby the mined diamonds would be divided into two piles—one pile for the civilian miners and one pile for the RUF. The RUF only had rights over the RUF pile.<sup>3969</sup> Sesay denies that the two-pile system was mere propaganda or that from February 2000 the RUF forced any civilian from Makeni or Magburaka to go to mine in Kono. Everyone went of their own volition.<sup>3970</sup>

1734. Exhibit P-382, a document dated 21 January 2001 issued by Issa Sesay's office, grants safe passage for the bearer who is in search of 'manpower for government mining'.<sup>3971</sup>

### Findings

1735. TF1-367 testified that civilians were captured either in the bush or in other towns such as Makeni and Magburaka and forced to work in the mines. Mustapha Mansaray also testified that AFRC/RUF fighters would forcefully "gather" civilians to wash gravel for the AFRC/RUF fighters and that Issa Sesay's bodyguards used to capture civilians at Number 11 mine and take them to mine for the RUF. TF1-371 testified that civilians living locally

<sup>3966</sup> Issa Sesay, Transcript 2 August 2010, p. 45200; Issa Sesay, Transcript 16 August 2010, pp. 46366-46367.

<sup>3967</sup> Issa Sesay, Transcript 26 July 2010, pp. 44638-44639; 44248-44249.

<sup>3968</sup> Issa Sesay, Transcript 16 August 2010, p. 46369.

<sup>3969</sup> Issa Sesay, Transcript 26 July 2010, pp. 44642-44643; Issa Sesay, Transcript 2 August 2010, p. 45200; Issa Sesay, Transcript 16 August 2010, pp. 46366-46367.

<sup>3970</sup> Issa Sesay, Transcript 16 August 2010, p. 46368

<sup>3971</sup> Exhibit P-382, "Revolutionary United Front Party of Sierra Leone, Clearance, From the Office of the AG. Chairman RUF/SL – Gen. Issa H. Sesay, to all Functional Areas", p.1.





were taken by the AFRC/RUF and ordered to mine. Exhibit P-382 provides corroborative evidence that the AFRC/RUF forces needed manpower to carry out their mining operations. The Trial Chamber is satisfied on this evidence that members of the AFRC/RUF forces abducted a large but unknown number of civilians from locations within and outside of Kono District to labour in the mines.

1736. TF1-367 testified that the civilians worked in the mines under armed guards in order to save their lives. TF1-371 testified that civilians working in the mines did so grudgingly and without pay. Albert Saidu testified that the RUF forced civilians to mine for them under armed guards. TF1-516 testified that civilians were forced at gunpoint to mine and would be flogged if they refused. Perry Kamara testified that the RUF used civilians to mine, including some who worked permanently for the government without pay. Mustapha Mansaray testified that civilians worked in the mines under armed guards and that he had heard of some civilians being killed by AFRC/RUF fighters for refusing to work. TF1-338 testified that civilians were not given anything from the two-pile system that was in operation and that Issa Sesay forced civilians to mine in the government pits.

1737. All of such evidence contradicts Issa Sesay's testimony that civilians were not forced to mine during this period. The Trial Chamber accordingly does not accept the testimony of Issa Sesay. Not only is his testimony outweighed by the overwhelming evidence, but he also has a motivation to downplay civilian mistreatment while he was in command of mining.

1738. The Trial Chamber finds that the overwhelming evidence led by the Prosecution establishes that the civilians working in the mines were not doing so of their own free will. Such evidence proves beyond reasonable doubt that from at least January 1998 through the remainder of the Indictment period members of the AFRC/RUF forces<sup>3972</sup> intentionally exercised powers of ownership over a large but unknown number of civilians by depriving them of their liberty and forcing them to work in the diamond mines in many locations in Kono District.

a. Tombodu

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<sup>3972</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kono District (Between about 1 February 1998 and 31 December 1998) *supra*.

1739. The Prosecution alleges that captured civilians were forced to mine in Tombodu for no pay and had no way to escape.<sup>3973</sup> The Trial Chamber has considered the evidence of Alimamy Bobson Sesay, TF1-567, Tamba Yomba Ngekia, and Sahr Charles in relation to these allegations.

1740. Alimamy Bobson Sesay, who was in Koidu Town in June 1998,<sup>3974</sup> visited the Tombodu mining area when on patrol and testified to seeing an unknown number of civilians working there who had been captured by the SLA and RUF.<sup>3975</sup>

1741. TF1-567 moved to Koidu Town during 1999.<sup>3976</sup> The witness testified that after the RUF recaptured Koidu Town,<sup>3977</sup> they began mining operations in the Tombodu area under mining commander CO Lion. He described seeing civilians in the township and surrounding area 'captured forcefully' to carry out the mining.<sup>3978</sup>

1742. Tamba Yomba Ngekia testified that shortly after 16 December 1999, three RUF soldiers, who introduced themselves as Officer Med, Colonel Gibbo and Major Tactical told the witness and a group of around 50 civilians that they had been sent by Colonel Issa to take the group to mine at Tombodu Bridge. At Tombodu, the civilians were forced to dig and mine at gunpoint and could not refuse. Ngekia described seeing a town chief, Major S. E. Sogbeh, who refused to mine, shot and killed as an example to the other workers. He also heard Officer Med command the boys guarding the miners to shoot anyone who refused to work.<sup>3979</sup> He testified that there were 'many' civilians on his shift and that 70 new miners were delivered in chains and tied with rope around their waists. The miners were forced to work naked and at gunpoint so they would not escape. There was no medication and miners were given only one plantain a day to eat.<sup>3980</sup> Any diamonds they found were taken away by Officer Med.<sup>3981</sup>

<sup>3973</sup> Prosecution Final Trial Brief, paras 1091-1092.

<sup>3974</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8021.

<sup>3975</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8029-8030.

<sup>3976</sup> TF1-567, Transcript 2 July 2008, p. 12925.

<sup>3977</sup> The Trial Chamber has previously found that the RUF recaptured Koidu Town in December 1998. See Factual Findings on Responsibility: Freetown Invasion; The Implementation of the Plan *infra*.

<sup>3978</sup> TF1-567, Transcript 2 July 2008, p. 12926.

<sup>3979</sup> Exhibit P-196, "TF1-077, RUF Transcript 20 July 2004", pp. 18629-18632.

<sup>3980</sup> Exhibit P-196, "TF1-077, RUF Transcript 20 July 2004", pp. 18631-18634. See also Tamba Yomba Ngekia, Transcript 14 October 2008, p. 18251.

<sup>3981</sup> Exhibit P-196, "TF1-077, RUF Transcript 20 July 2004", pp. 18632. See also Tamba Yomba Ngekia,

1743. Sahr Charles confirmed testimony he had given in the RUF Trial<sup>3982</sup> and a transcript of that testimony was admitted into evidence.<sup>3983</sup> He testified in the RUF Trial that he was living in Tombodu in 1999 when forced mining occurred in Benditu, Tombodu. Such mining went on for two years. RUF Officer Med came to Benditu, Tombodu in April 1999<sup>3984</sup> and told the witness and other civilians that they would be forced to mine, despite their refusal to do so. The rebels also collected civilians from other villages against their will and brought them tied in ropes to mine in Tombodu.<sup>3985</sup> The rebels guarded the miners with guns to prevent them running away. If miners became tired, they recovered in sheds at the mines but were not permitted to leave the pit. They could not refuse to mine because they had 'a gun over their head' and if they stopped working, the rebels would throw stones at them to force them to start again. The miners were not paid and were fed only gari.<sup>3986</sup> During the time the witness spent mining there, the number of civilians involved rose from 150 on the first day (the witness counted them) to 500. Any diamonds uncovered by the miners were immediately taken by the rebels.<sup>3987</sup> If the civilians failed to find diamonds they were assembled and accused of witchcraft, taken to a cell called the guard room, stripped naked and were flogged, stabbed in the head and rubbed with mud.<sup>3988</sup> The witness denied that there was any two-pile system in Tombodu in 2000.<sup>3989</sup>

### Findings

1744. The evidence of Alimamy Bobson Sesay, TF1-567, Ngekia and Sahr Charles establishes that the AFRC/RUF forced an unknown number of civilians to engage in mining in various locations in Tombodu. The Trial Chamber is satisfied on such evidence that the AFRC/RUF forces systematically captured civilians from villages around Tombodu and forced them to labour in the mines in Tombodu. Ngekia testified that new miners were

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Transcript 14 October 2008, p. 18251.

<sup>3982</sup> Sahr Charles, Transcript 15 October 2008, p. 18364.

<sup>3983</sup> Exhibit 199A, "TF1-304, RUF Transcript 12, 13, 14, 17 January 2004".

<sup>3984</sup> In cross-examination, the witness testified that the mining did not start until April 2000. Exhibit 199A, "TF1-304, RUF Transcript 12 May 2004", p. 19011.

<sup>3985</sup> Exhibit 199A, "TF1-304, RUF Transcript 13 January 2005", pp. 18941-18946.

<sup>3986</sup> Exhibit 199A, "TF1-304, RUF Transcript 13 January 2005", pp. 18946-18948.

<sup>3987</sup> Exhibit 199A, "TF1-304, RUF Transcript 13 January 2005", pp. 18950, 18954.

<sup>3988</sup> Exhibit 199A, "TF1-304, RUF Transcript 13 January 2005", pp. 18957-18959.

<sup>3989</sup> Exhibit 199A, "TF1-304, RUF Transcript 14 January 2005", p. 19136. See also Sahr Charles, Transcript 15 October 2008, pp. 18402-18403.

brought to the mines in chains, and Charles testified that civilians were gathered in villages against their will and tied together with ropes to be brought to the mines.

1745. The Trial Chamber is also satisfied from the evidence of Ngekia and Charles, that civilians were guarded by armed fighters to prevent them from escaping and that, as Ngekia testified, the miners were forced to work naked to prevent escape. Both witnesses described how civilians were punished if they refused to work, or if they did not find diamonds. Ngekia described how the town chief who refused to mine was killed to set an example for the other miners, while Charles testified that civilians were stripped naked and flogged if they failed to find diamonds. The evidence of Ngekia and Charles also establishes that the miners worked without pay and were fed only subsistence rations.

1746. Ngekia testified that there were 50 civilians in his group that were taken to Tombodu Bridge and that they were later joined by 70 other civilians. Charles testified that there were initially 150 civilians mining at Bintuma but that this number grew to 500. As Ngekia was mining at Tombodu Bridge, and Charles at Bintuma, the Trial Chamber is satisfied that up to 620 civilians were forced to mine in Tombodu during this period.

1747. Accordingly, the Trial Chamber is satisfied beyond reasonable doubt on the evidence adduced by the Prosecution that members of the AFRC/RUF forces intentionally exercised power of ownership over a large but unknown number of civilians by depriving them of their liberty and forcing them to work in mines in Tombodu, at around June 1998 and throughout 1999-2000.

b. Koidu Town

1748. The Prosecution alleges that during the Junta period the AFRC/RUF forced enslaved civilians to mine throughout Kono, including Koidu Town.<sup>3990</sup> Pursuant to the Indictment, the Trial Chamber has considered evidence of forced mining occurring between about 1 February 1998 and about 18 January 2002.<sup>3991</sup> Witnesses Alimamy Bobson Sesay, Perry Kamara and Foday Lansana gave evidence in relation to these allegations.

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<sup>3990</sup> Prosecution Trial Brief, paras 1095, 1096.

<sup>3991</sup> Indictment, para 25.

## Evidence

1749. Alimamy Bobson Sesay who was in Koidu Town in June 1998<sup>3992</sup> testified that civilians captured by the AFRC/RUF were forced to mine at gunpoint at Five-Five Spot, Masingbi Road, and Koidu Town. These civilians were also engaged in ‘secret’ night-time mining for Hassan Papa Bangura and ‘Bazzy’.<sup>3993</sup> The diamonds that were mined were “government property”, that is, they belonged to the RUF organisation and Superman, who was in control of the mining, had orders from ‘Mosquito’ to take them.<sup>3994</sup>

1750. Perry Kamara testified that mining took place throughout 1998 at Superman Ground, which was two miles from Koidu, under the direction of Sam Bockarie, Morris Kallon and mining commanders such as CO Kennedy, Mr Abdul and Mr Coomber. Captured civilians mined during the day under armed guard to prevent them escaping. They were then locked in a house or shipping containers guarded by gunmen. Kamara gave evidence that all the civilians had the letters “RUF” carved into their chests and foreheads to prevent them from escaping and that anyone caught trying to escape was killed.<sup>3995</sup>

1751. Foday Lansana, who was in Kono from January 1998 to September 1998 testified that civilians and Internal Defence Units filed many reports that Morris Kallon was killing civilians who refused to mine for him in Koidu Town.<sup>3996</sup>

## Findings

1752. The Trial Chamber accepts the first-hand accounts of Alimamy Bobson Sesay and Perry Kamara, as corroborated by Foday Lansana, that civilians were forced by AFRC/RUF commanders to mine at various locations in and around Koidu Town, including Masingbi Road, Five-Five Spot and Superman Ground. On the basis of their evidence that such civilians were under armed guards, had “RUF” carved into their bodies to prevent them escaping, and that anyone who tried to escape would be killed, the Trial Chamber is satisfied beyond reasonable doubt that from February 1998 onwards, members of the AFRC/RUF

<sup>3992</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8021.

<sup>3993</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8028-8030.

<sup>3994</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8034.

<sup>3995</sup> Perry Kamara, Transcript 5 February 2008, pp. 3143-3146.

<sup>3996</sup> Foday Lansana, Transcript 21 February 2008, pp. 4513-5415.

forces intentionally exercised powers of ownership over these civilians by depriving them of their liberty and forcing them to labour in the mines.

### Conclusion

1753. The foregoing findings by the Trial Chamber establish that the Prosecution has proved beyond reasonable doubt that members of the AFRC/RUF forces<sup>3997</sup> engaged in widespread and large scale abductions of civilians in Kono District and used them as forced labour to carry loads, perform domestic chores, go on food-finding missions, undergo military training, and work in diamond mines as detailed in the various crimes discussed above.

1754. The Trial Chamber has already found that the chapeau requirements in relation to the crime of enslavement have been proved beyond reasonable doubt.<sup>3998</sup> The Trial Chamber further finds in relation to Kono District that the acts of the perpetrators in each of the above crimes of enslavement formed part of the attack directed against the civilian population and that the perpetrators knew that the abductions of civilians and their use as forced labour formed part of that attack. The Trial Chamber therefore finds that the elements of enslavement as a crime against humanity (Count 10) have been proved beyond reasonable doubt.

### 3. Kailahun District

1755. The Indictment alleges that between about 30 November 1996 and about 18 January 2002, members of RUF, AFRC, AFRC/RUF Junta or alliance and/or Liberian fighters brought abducted civilian men, women and children to various locations within the District and used them and residents of the District as forced labour.<sup>3999</sup>

1756. The Prosecution claims that the RUF and its allies brought abducted civilians from other areas of Sierra Leone and used them alongside Kailahun natives as slave labour to transport arms, ammunition and other materiel, to farm, to perform domestic work, and to fight for the AFRC/RUF forces. Civilians were also forced to perform other duties such as

<sup>3997</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kono District (Between about 1 February 1998 and 31 December 1998) *supra*.

<sup>3998</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.

<sup>3999</sup> Indictment, paras 23, 26.



laundry, cooking, gardening and road clearing. The Prosecution submits that if the civilians refused to work they were flogged. The civilians did not have freedom of movement; if they were caught travelling without a pass they were killed. The Prosecution also claims that following the Intervention, the RUF ordered the residents of Kailahun to harvest agricultural products which the RUF sold for revenue.<sup>4000</sup>

1757. In relation to crimes of enslavement alleged to have taken place in the Kailahun District, the Trial Chamber has considered the testimony of witnesses Aruna Gbonda, Mustapha Mansaray, Edna Bangura, Augustine Mallah, Dennis Koker, Alex Tamba Teh, Mohamed Kabbah, Perry Kamara, Abu Keita, Isaac Mongor, Finda Gbamanja, Komba Sumana, Albert Saidu, TF1-371, TF1-375, TF1-026, TF1-189, TF1-362 and Exhibits D-013 and D-060.

(a) Buedu

(i) Carrying Loads/Domestic Chores

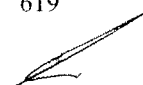
1758. The Prosecution alleges that civilians captured by the AFRC/RUF forces in 1998 and 1999 from various locations in Sierra Leone were brought to Buedu and were forced to carry loads from one town to another, to work on farms and to train as fighters. It claims that groups of SBUs, SGUs and sometimes older people would go on food finding missions, capture civilians and use them to take looted items back to Buedu.<sup>4001</sup> The Prosecution further alleges that abducted women not claimed by commanders as sex slaves were forced to do domestic work or serve as bodyguards. Washing, cooking and cleaning were done by a “works unit”, made up of girls belonging to various commanders.<sup>4002</sup>

1759. The Trial Chamber has considered the evidence of Augustine Mallah, Dennis Koker, TF1-371 and Edna Bangura in relation to these allegations.

Evidence

<sup>4000</sup> Prosecution Final Trial Brief, paras 1103-1106.

<sup>4001</sup> Prosecution Final Trial Brief, paras. 1107-1108. The Prosecution cites the evidence of Aruna Gbonda in support of these allegations (see Prosecution Final Trial Brief, footnote 3142). However, his evidence relates to the use of civilians to do domestic chores in Talia, not Buedu. The Trial Chamber has therefore considered this evidence in the section on Talia. The Prosecution also alleges, under its submissions on Buedu, that civilians were forced to work on the farms of Sam Bockarie, Issa Sesay and Morris Kallon and to train as fighters (see Prosecution Final Trial Brief, paragraph 1107). The Trial Chamber has considered these allegations in the





1760. Augustine Mallah was in Buedu for two months in around February-May 1998.<sup>4003</sup> Mallah testified that not long after the ECOMOG intervention in February 1998, the AFRC and RUF captured civilians mostly from Kenema<sup>4004</sup> and brought them to Buedu where they joined other civilians. The civilians performed domestic duties, and those who were neither sick nor old were beaten if they refused to do the work assigned. Mallah personally witnessed civilians being beaten for refusing to work. Chores included cultivating small farms, laundering, cooking, cleaning and clearing roads.<sup>4005</sup>

1761. Dennis Koker, who was in Buedu between early 1998 and 16 December 1999,<sup>4006</sup> testified that civilians who had been captured in Masiaka, Makeni and Koidu were taken to Buedu. The civilians worked for RUF commanders without pay, taking loads from one town to another. Those who refused to do so were beaten. Children were required to do household chores for the fighter's wives.<sup>4007</sup>

1762. TF1-371, who was in Buedu from March 1998 to April 1999, witnessed civilians being used to work for commanders. The civilians were used to do farm work, and to carry loads for combatants across the Moa River. He testified that the civilians were not paid for their work, and that they were forced to do it. They were also ordered to contribute cocoa and coffee that they had harvested to the commanders, including Sam Bockarie, in Buedu. The witness said that the RUF would go to their farms, "use them to harvest their coffee and their cocoa, and use them to bring the produce to Buedu, and Sam Bockarie take what they are producing and sell it to other businessmen who pay for it and they were not the recipient of whatever revenue was generated from the product". TF1-371 added that the locals who had cocoa and coffee farms were ordered by the RUF High Command to harvest that produce, which was then sold by the RUF High Command to generate revenue to buy other

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section on farming in Giema

<sup>4002</sup> Prosecution Final Trial Brief, para. 1108.

<sup>4003</sup> Augustine Mallah, Transcript 13 November 2008, p. 20203.

<sup>4004</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20171-20172.

<sup>4005</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20204-20206.

<sup>4006</sup> Dennis Koker, Transcript 15 January 2008, pp. 1258, 1276-1277.

<sup>4007</sup> Dennis Koker, Transcript 15 January 2008, pp. 1261, 1265-1266.

items for the fighters.<sup>4008</sup> Captured girls were part of the “works committee”, and were used to do domestic chores such as cooking and laundry.<sup>4009</sup>

1763. Edna Bangura testified that she was captured in Masingbi in 1994 when she was 10 years of age. After being raped by three RUF rebels she was forced to carry a load on her head and walk to Buedu with other captured civilians. She said that she had no option but to carry the load and would have been killed had she refused.<sup>4010</sup> Shortly after arriving in Buedu, she was assigned to stay with a rebel commander named CO Scorpion and his wife, Hawa.<sup>4011</sup> Bangura testified that while she was in Buedu, she and other SGUs had to perform domestic chores, including laundry, cooking and pounding rice. She and other civilians were also sent by CO Scorpion on "food finding missions", which involved entering civilians' houses, threatening them with guns, then taking their food. The witness testified that they also made the captured civilians carry the looted items back to Buedu on their heads.<sup>4012</sup> The witness stated that she was based in Buedu from 1994 until November or December 1998 and that these food finding missions occurred throughout the time she was living in Buedu.

### Findings

1764. Based on the testimonies of Mallah, Koker and TF1-371, the Trial Chamber is satisfied that civilians were used to do domestic chores, such as laundry, cooking, cultivating small farms and carrying loads. Given the testimonies of Mallah and Koker that they witnessed civilians being beaten for refusing to work, and TF1-371's testimony that the civilians were forced to work and were not paid for their labour, the Trial Chamber is further satisfied that the civilians had no option but to work, and that this constituted forced labour. The Trial Chamber therefore finds that it has been proved beyond reasonable doubt that members of the RUF intentionally exercised powers of ownership over these civilians. Although the witnesses testified about slightly different time periods during which this forced labour occurred, the Trial Chamber is satisfied that this labour began after the Intervention in around February 1998 and continued until some point in 1999.

<sup>4008</sup> TF1-371, Transcript 29 January 2008, pp. 2505-2506 (CS).

<sup>4009</sup> TF1-371, Transcript 29 January 2008, pp. 2504-2509 (CS).

<sup>4010</sup> Edna Bangura, Transcript 20 October 2008, pp. 18665-18668.

<sup>4011</sup> Edna Bangura, Transcript 20 October 2008, pp. 18672, 18676, 18679.

<sup>4012</sup> Edna Bangura, Transcript 20 October 2008, pp. 18679-18683.

1765. The Trial Chamber accepts the evidence of TF1-371 that civilians who owned cocoa and coffee farms were forced to farm by the RUF and that the RUF took the produce and kept the proceeds of its sale. The Trial Chamber therefore finds that the civilians were not farming of their own free will. The Trial Chamber accordingly finds that it has been proved beyond reasonable doubt that members of the RUF, by forcing these civilians to farm and to hand over the produce, intentionally exercised powers of ownership over them from March 1998 to April 1999.

1766. Edna Bangura's evidence relating to domestic chores is vague as to the time period in which she was forced to perform these chores. The Trial Chamber cannot therefore be satisfied that such crimes occurred during the Indictment period. However, she testified that the food-finding missions continued until she left Buedu at the end of 1998. The Trial Chamber accepts her evidence and is satisfied that during the Indictment period she and other civilians were forced to go on food-finding missions. The Trial Chamber therefore finds that the Prosecution has proved beyond reasonable doubt that members of the AFRC/RUF forces<sup>4013</sup> intentionally exercised powers of ownership over Bangura and other civilians by depriving them of their liberty and forcing them to go on food-finding missions.

(ii) Carrying Arms and Ammunition

Evidence

1767. Alex Tamba Teh testified that he was taken from Superman Ground in Kono with many other civilians under an RUF escort to Buedu. There he met other civilians who had been "taken" from all different areas. The civilians were told by their captors that they had been brought there to collect arms and ammunition from Dawa.<sup>4014</sup> Approximately 150 civilians from Buedu were ordered to go to Dawa and to carry arms and ammunition that had arrived on a helicopter back to Bockarie's house at Buedu. The witness and other civilians were then "asked" by Issa Sesay to carry some of this materiel on their heads to Superman Ground in Kono.<sup>4015</sup>

<sup>4013</sup> See Factual and Legal Findings on Alleged Crimes: Count 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kailahun District (between about 1 February 1998 and about 30 June 1998) *supra*.

<sup>4014</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 728-731.

<sup>4015</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 734-736.

1768. TF1-371 testified that Augustine Gbao assembled 200 civilians from Kailahun who were ordered to carry arms and ammunition from Buedu across the Moa River towards Koidu, for an attack on Koidu, in December 1998. He personally witnessed the civilians carrying the loads to the crossing point of the Moa River. He testified that they did not carry these loads voluntarily, but were ordered to do so.<sup>4016</sup>

### Findings

1769. Alex Tamba Teh's evidence establishes that approximately 150 civilians carried loads of arms and ammunition from Dawa to Sam Bockarie's house in Buedu. His evidence that Issa Sesay then ordered an unknown number of civilians to carry some of these arms and ammunition to Superman Ground in Kono is corroborated by the testimony of TF1-371, who testified that approximately 200 civilians were forced to carry arms and ammunition from Buedu across the Moa River to Superman Ground in December 1998 and that they did not do so voluntarily. The context indicates that this occurred at around November/December 1998.<sup>4017</sup> In the circumstances described by the witnesses, and given that the AFRC/RUF forces were engaged in widespread and large scale abductions of civilians in Kailahun District for use as forced labour, the Trial Chamber draws the conclusion that these civilians carried arms and ammunition for their captors because they were forced to do so. The Trial Chamber thus finds it proved beyond reasonable doubt that members of the AFRC/RUF forces intentionally exercised powers of ownership over the civilians by depriving them of their liberty and forcing them to carry arms and ammunition.

### (iii) Forced Military Training

#### Evidence

1770. Witness TF1-026 testified that she was captured by RUF rebels at her home in Wellington, Freetown on 6 January 1999. The rebels shot and killed her sister and told the witness that if she did not stop crying or tried to escape she would also be killed.<sup>4018</sup> The RUF rebels took her and other captured civilians on a journey through Calaba Town,

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<sup>4016</sup> TF1-371, Transcript 28 January 2008, pp. 2415-2417 (CS).

<sup>4017</sup> Issues relating to this shipment of arms have been addressed in the section on the responsibility of the Accused. See Factual Findings on Responsibility: Freetown Invasion; The Plan *infra*.

<sup>4018</sup> TF1-026, Transcript 14 February 2008, pp. 3843-3844, 3846.

Waterloo and Makeni<sup>4019</sup> until ultimately, after about a month, she was taken to Buedu along with 19 other civilian female captives.<sup>4020</sup> The civilians spent six months being forcibly trained in Buedu.<sup>4021</sup> They were told that anyone trying to escape would be killed. The witness stated that “they will tell us to crawl using our arms and we will crawl and they will tell us to roll from one point to the other. They also taught us how to shoot a gun”.<sup>4022</sup> When two of the civilians were caught attempting to escape, they were publicly shot and killed in order to deter others from escaping.<sup>4023</sup> This incident also resulted in Bockarie passing an order that all detainees have "RUF" carved into their chests with a knife in order to prevent their escape.<sup>4024</sup>

### Findings

1771. Based on TF1-026’s first-hand evidence, the Trial Chamber is satisfied that at least 19 civilians were forcibly trained in Buedu from approximately February to July 1999. The evidence that recruits who attempted to escape were publicly shot, and that “RUF” was carved into the chests of the other recruits to prevent them escaping, establishes that the rebels deprived these civilians of their liberty and exercised control over them, so that the civilians had no choice but to undergo this training. The Trial Chamber is therefore satisfied that it has been proved beyond reasonable doubt that members of the AFRC/RUF forces, including Bockarie, intentionally exercised powers of ownership over these civilians.

#### (iv) Construction of Buedu Airstrip

1772. The Prosecution alleges that, following Taylor’s message that an airfield was necessary for the delivery of arms and ammunition, Sam Bockarie ordered civilians to work on the construction of the airstrip near Buedu. The Prosecution submits that the RUF sent between 200 and 300 civilians to work on the airfield day and night with security escorts.<sup>4025</sup> The Trial Chamber has considered the evidence of witnesses Mohamed Kabbah, Perry Kamara, Abu Keita, Isaac Mongor and Dennis Koker in relation to this allegation.

<sup>4019</sup> TF1-026, Transcript 14 February 2008, pp. 3848, 3862, 3865.

<sup>4020</sup> TF1-026, Transcript 14 February 2008, p. 3867.

<sup>4021</sup> TF1-026, Transcript 14 February 2008, p. 3870.

<sup>4022</sup> TF1-026, Transcript 14 February 2008, p.3869

<sup>4023</sup> TF1-026, Transcript 14 February 2008, p. 3871.

<sup>4024</sup> TF1-026, Transcript 14 February 2008, p. 3871.

<sup>4025</sup> Prosecution Final Trial Brief, para. 1109.

## Evidence

1773. Mohamed Kabbah testified that in April 1998, Sam Bockarie arranged a meeting in Buedu of over 100 persons, including AFRC representatives, at which he stated that an airstrip was to be constructed in Buedu.<sup>4026</sup> Kabbah testified that the airfield was constructed by civilians and soldiers but was subsequently not used. Kabbah stated: “We constructed the airfield for a plane but we never saw a plane land there”.<sup>4027</sup>

1774. Perry Kamara testified that pursuant to Bockarie’s order, 200 to 300 civilians were sent by the RUF to Kailahun to work on the airstrip project. Kamara testified that civilians were forced to work both day and night on the project and at all times were accompanied by RUF security escorts.<sup>4028</sup> Some civilians had “RUF” carved into their chests or foreheads in order to prevent their escape.<sup>4029</sup>

1775. Isaac Mongor testified that civilians worked on the airstrip in Buedu which was being prepared by Sam Bockarie. Mongor testified that civilians had no option not to work, and were not paid for their work, although they were fed by the RUF.<sup>4030</sup>

1776. Abu Keita testified that he was shown the site of the airstrip by Issa Sesay in late September 1998. The MP commander Kaisoko and the G5 collected civilians from the various towns to work on the airstrip. Keita testified that civilians were not paid for their work.<sup>4031</sup>

1777. Dennis Koker told the Trial Chamber that the RUF captured civilians, who were stripped naked and tied together with a rope in order to prevent their escape. They were taken to Buedu to work on the airstrip.<sup>4032</sup>

## Findings

<sup>4026</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16147-16148.

<sup>4027</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16147-16148.

<sup>4028</sup> Perry Kamara, Transcript 5 February 2008, p. 3105. See also Perry Kamara, Transcript 5 February 2008, p. 3116.

<sup>4029</sup> Perry Kamara, Transcript 5 February 2008, p. 3145.

<sup>4030</sup> Isaac Mongor, Transcript 31 March 2008, pp. 6202-6204.

<sup>4031</sup> Abu Keita, Transcript 23 January 2008, pp. 1987-1988.

<sup>4032</sup> Dennis Koker, Transcript 15 January 2008, pp. 1268, 1270-1271.

1778. The Trial Chamber is satisfied that under orders from Sam Bockarie, at least 200 civilians were forced to provide their labour, both day and night, without pay, for the purposes of constructing the RUF airfield outside Buedu at some point in 1998.

1779. Given evidence that the civilians worked on the airstrip without pay, that they were forced to work both day and night, that they had "RUF" carved on their chests to prevent them escaping and that they were accompanied by security escorts, the Trial Chamber is satisfied that the movement of the civilians was controlled. It further finds that the use of violence and threats of violence by the perpetrators to deter escape indicates that the civilians were deprived of their liberty and did not work of their own free will. The Trial Chamber is therefore satisfied beyond reasonable doubt that members of the AFRC/RUF forces exercised the powers of ownership over at least 200 civilians who worked on the airstrip at some point in 1998, and that they exercised these powers intentionally.

1780. The issue of whether the Accused gave the order to Bockarie to build the airstrip has been addressed in the section on the responsibility of the Accused.<sup>4033</sup>

(b) Bunumbu/Camp Lion

1781. The Prosecution alleges that large numbers of captured civilians were forcibly trained at the Bunumbu training base in Kailahun District, which was opened just after the Intervention and was in operation throughout 1998.<sup>4034</sup>

(i) Forced Military Training

Evidence

1782. Dennis Koker was in Buedu from February 1998 to December 1999, during which time he served as the RUF Military Police (MP) Guard Commander and, later, as MP Adjutant.<sup>4035</sup> Koker testified that civilians captured by the RUF from different villages were brought to Buedu to the MP office. All captured civilians had been given a pass by the commanders who had captured them and at the MP office their passes were checked against a list to make sure that no one had escaped. Anyone without a pass would either be shot or

<sup>4033</sup> Factual Findings on Responsibility: Operational Support; Support and Training, Alleged Order to Build an Airfield in Buedu *infra*.

<sup>4034</sup> Prosecution Final Trial Brief, paras 1118-1119.

<sup>4035</sup> Dennis Koker, Transcript 15 January 2008, p. 1260.



put into a dungeon.<sup>4036</sup> Koker said that “the stronger ones were taken to the training bases – Bunumbu”.<sup>4037</sup> Koker testified that the captured civilians in Buedu were not in good condition. They were worn out, malnourished and worked without pay. Children were taken away from their parents and sent for military training, some as young as 12 or 14 years of age. Once trained, the civilians were sent to the front lines as reinforcements.<sup>4038</sup> Koker estimated that during his time in Buedu 1,300 captured civilians – 500 children and 800 men and women – went through the MP office.<sup>4039</sup>

1783. TF1-362 testified that an RUF training base named Camp Lion was established in Bunumbu in February 1998 on the orders of Sam Bockarie, and operated until the end of 1998.<sup>4040</sup> She testified that there were approximately 200 recruits, who were captured civilians from Freetown, Quiva and Daru, and included young boys, young girls, women and old persons.<sup>4041</sup> Some civilian “recruits” died during military training exercises and the High Command was informed.<sup>4042</sup> Recruits who tried to escape had “RUF” carved into their foreheads and chest.<sup>4043</sup> The trainees were also sent on food-finding missions, assisted the commanders’ wives, performed domestic chores and cultivated farms.<sup>4044</sup>

1784. TF1-189 testified that she had been captured and raped in March 1998 by rebels whom she described in various parts of her evidence as “RUF rebels and the junta SLA”,<sup>4045</sup> “RUF rebels” and “juntas”,<sup>4046</sup> “Sankoh rebels”, “Charles Taylor rebels”,<sup>4047</sup> “RUF rebels” and “junta fighters”.<sup>4048</sup> She was held captive in a location in Kailahun District when she heard about the attack on Freetown on 6 January 1999. Some time after that the rebels took away 20 captives, aged 12 to 18, both male and female, and she learned that they had been taken to “the training base” at which CO Monica was the commander, where they were taught “how to use guns, how to fire them, and they have to crawl under a barbed wire”. She

<sup>4036</sup> Dennis Koker, Transcript 15 January 2008, pp. 1261-1264.

<sup>4037</sup> Dennis Koker, Transcript 15 January 2008, p. 1261.

<sup>4038</sup> Dennis Koker, Transcript 15 January 2008, pp. 1265, 1271, 1272.

<sup>4039</sup> Dennis Koker, Transcript 15 January 2008, p. 1277.

<sup>4040</sup> TF1-362, Transcript 27 February 2008, pp. 4915-4917, 4867-4868 (CS).

<sup>4041</sup> TF1-362, Transcript 27 February 2008, pp. 4899-4900 (CS).

<sup>4042</sup> TF1-362, Transcript 27 February 2008, p. 4905 (CS).

<sup>4043</sup> TF1-362, Transcript 27 February 2008, p. 4927 (CS).

<sup>4044</sup> TF1-362, Transcript 27 February 2008, p. 4906 (CS).

<sup>4045</sup> TF1-189, Transcript 17 September 2008, p. 16492.

<sup>4046</sup> TF1-189, Transcript 17 September 2008, p. 16497.

<sup>4047</sup> TF1-189, Transcript 17 September 2008, p. 16501.

learned that if CO Monica “ordered you to do something and you refused, she will beat you up”. After the training, the trainees were sent to the front lines.<sup>4049</sup>

1785. Komba Sumana, who the Trial Chamber has found was trained at Bunumbu from April/May 1998 to approximately August 1998,<sup>4050</sup> testified that civilians were taught how to handle weapons, and how to attack towns and houses.<sup>4051</sup> He said that civilians were beaten during their training, and sometimes were not provided with food.<sup>4052</sup>

1786. TF1-371 heard that throughout 1998, Bunumbu training base in Kailahun was used for training civilians who had been captured in Kono.<sup>4053</sup>

1787. Exhibit D-013, a report by a Training Commander at Camp Lion, Bunumbu from 21 May 1998, indicates that there were 603 recruits at Bunumbu training base in May 1998.<sup>4054</sup>

### Findings

1788. The Trial Chamber accepts the first-hand evidence of witnesses Koker, Sumana and TF1-362 regarding the military training of civilians at Bunumbu from approximately February 1998 until the end of 1998, as corroborated by Exhibit D-013 and the evidence of TF1-371 and TF1-189.

1789. Given the evidence that the recruits were beaten and sometimes deprived of food, that some had “RUF” carved into their chests to prevent their escape, and given that they were on the base in the presence of many armed fighters, the Trial Chamber is satisfied that the RUF exercised control over the trainees’ movements, and that the civilians were forced to undergo military training under the threat of physical violence. Koker, TF1-362 and TF1-189 testified that civilians who were trained at Bunumbu were later sent to the frontlines. The Trial Chamber finds that this military training, which was a preparatory step to sending these civilians to the frontlines as fighters, constituted forced labour. The Trial Chamber is therefore satisfied beyond reasonable doubt that from approximately February to December

<sup>4048</sup> TF1-189, Transcript 17 September 2008, p. 16504.

<sup>4049</sup> TF1-189, Transcript 18 September 2008, pp. 16534-16239.

<sup>4050</sup> See Factual and Legal Findings on Alleged Crimes: Count 10 (Enslavement); Abduction and Training of Komba Sumana in approximately July/August 1998 *supra*.

<sup>4051</sup> Komba Sumana, Transcript 6 October 2008, pp. 17930-17931.

<sup>4052</sup> Komba Sumana, Transcript 6 October 2008, p. 17931.

<sup>4053</sup> TF1-371, Transcript 4 February 1998, pp. 2949-2950.

1998, members of the AFRC/RUF forces intentionally exercised powers of ownership over an unknown number of civilians at Bunumbu.

(c) Locations in Luawa Chiefdom

(i) Mining

1790. The Prosecution alleges that civilians were forced to mine diamonds by Issa Sesay and Sam Bockarie in Yandohun, Luawa Chiefdom, in 1997, and that civilians were also forced to mine at a site between Monfidor in the Luawa Chiefdom and Sahbahun near the Moa River.<sup>4055</sup> The Trial Chamber has considered the evidence of Aruna Gbonda in relation to these allegations.

Evidence

1791. Aruna Gbonda testified that diamond expert Patrick Bangula, who was appointed by Issa Sesay and Sam Bockarie to look for diamonds, gathered and directed the civilians of Yandohun in mining activities. When asked to give a date, Gbonda replied: "It looks like it was in '97 or '98, in between. That was the time that happened. I think so".<sup>4056</sup> Gbonda also told the Trial Chamber that he heard that there was mining by civilians at a location by the Moa River between Monfidor and Sahbahun.<sup>4057</sup> When asked about the treatment of civilians in these locations, the witness stated that "they were capturing forcefully. If you were a civilian and they told you to do something, you had to do it".<sup>4058</sup>

Findings

1792. The Trial Chamber notes that Gbonda did not visit the mine in Yandohun or the location between Monfidor and Sahbahun personally. He was told about the mining in Yandohun by civilians who had worked there, whom he spoke to in Buedu.<sup>4059</sup> There is no indication from his evidence of how he knew about the mining at the other location.

<sup>4054</sup> Exhibit D-013, "Confidential Sierra Leone People's Army, Try Base Manpower Statistic, 21 May 1998".

<sup>4055</sup> Prosecution Final Trial Brief, paras 1110-1111.

<sup>4056</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4274-4276. The witness actually states that "it looks like" it was between 1997 and 1998, and that he "thinks" that is when it happened.

<sup>4057</sup> Aruna Gbonda, Transcript 19 February 2008, p. 4276-4278.

<sup>4058</sup> Aruna Gbonda, Transcript 20 February 2008, pp. 4290-4291.

<sup>4059</sup> Aruna Gbonda, Transcript 19 February 2008, p. 4276.

1793. Gbonda's evidence did not indicate whether or not the civilians who worked in the mines were forced to do so, or did so voluntarily. He did state that civilians had been captured forcefully, but since he was not at either location mentioned above it is not clear how he knew this. The Prosecution alleges that at the location between Monfidor and Sahbahun, "civilians were beaten if they delayed the work; the witness himself was beaten many times".<sup>4060</sup> However, the witness did not state that civilians were beaten at these locations, but at a location in Giema.<sup>4061</sup>

1794. There was no other evidence of mining in Kailahun District, or that civilians were forced to mine in these regions or in any other part of Kailahun District. Therefore, the Trial Chamber finds that Gbonda's uncorroborated hearsay evidence fails to prove beyond reasonable doubt that civilians were enslaved and forced to mine at these locations.

(d) Talia

1795. The Prosecution alleges that from 1996 to 2000, the RUF forced around 50 civilians to farm rice in Talia, and that from 1997 to 1999, every adult in Talia was forced to work in the production of palm oil during the month of March. It also alleges that women in Talia were forced to fish for the RUF.<sup>4062</sup> The Trial Chamber has considered the evidence of Aruna Gbonda in relation to this allegation.

(i) Farming and Fishing

Evidence

1796. Aruna Gbonda, a rice farmer and Deputy Chiefdom Commander, testified that he worked for the rebels near Talia village from 1996.<sup>4063</sup> In Talia, the RUF would tell the civilians to farm for them, and the civilians would clear the bush, farm the land, harvest the rice and give it to the rebels. Up to 50 people farmed in Talia between 1996 and 2000.

<sup>4060</sup> Prosecution Final Trial Brief, footnote 3151.

<sup>4061</sup> Further, it is not clear from his testimony on this point whether he actually witnessed this or was extrapolating from his own treatment in the context of rice farming to the treatment of the civilians in the mines.

<sup>4062</sup> Prosecution Final Trial Brief, paras 1112-1113.

<sup>4063</sup> Aruna Gbonda, Transcript 19 February 2008, p. 4238.

Civilians were not paid for their work and were beaten for failing to perform the labour assigned to them. The witness himself was beaten by a rebel for refusing to work.<sup>4064</sup>

1797. The witness said that in 1997, 1998 and 1999, civilians were also asked to contribute cacao that they had harvested in Talia. They would then transport the cacao to the rebels at the riverside near Kailahun Town, who would ultimately turn it over to Augustine Gbao.<sup>4065</sup>

1798. Gbonda testified that from 1997 to 1999, Gbao told civilians to contribute palm oil. The civilians harvested the palm oil and gave it to the rebels on three different occasions in Giema or near the riverside near Kailahun Town. The rebels would then trade the palm oil for rice, Maggi, salt and cigarettes and the civilians then carried these items to a store in Kailahun Town.<sup>4066</sup>

1799. In addition, female civilians were forced to fish for the RUF in February and March, between 1994 and 2000, and the witness saw one woman who refused to fish beaten by the rebels.<sup>4067</sup> Male civilians were also forced to give game that they had hunted to Sam Bockarie.<sup>4068</sup>

### Findings

1800. The Trial Chamber is satisfied on Gbonda's testimony that at least 50 civilians were forced to farm near Talia from 1996 to 2000. While some of the time period during which this farming occurred may fall outside of the Indictment period, the Trial Chamber is satisfied that such farming also occurred from 30 November 1996 until 2000. As the civilians were not paid for their work and were beaten if they refused to work, the Trial Chamber is satisfied that they were forced to work against their will and that this farming constituted forced labour. The Trial Chamber therefore finds that it has been proved beyond reasonable doubt that members of the RUF intentionally exercised powers of ownership over at least 50 civilians in Talia from 30 November 1996 to some point in 2000.

1801. Gbonda testified that from 1997 to 1999, civilians were told to contribute cacao and palm oil to RUF rebels which was ultimately given to Augustine Gbao. Civilian men were

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<sup>4064</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4251-4253.

<sup>4065</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4259-4261.

<sup>4066</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4261-4265.

<sup>4067</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4265-4268

also told to contribute game that they had hunted to Sam Bockarie. However, there was no evidence that the civilians were forced to grow cacao or palm oil or forced to hunt, or that they were guarded or deprived of their liberty while doing so. While the evidence indicates that the contributions were not voluntary, this does not constitute forced labour. Accordingly, the Trial Chamber finds that the elements of the crime of enslavement have not been proved beyond reasonable doubt in relation to these incidents.

1802. Gbonda also testified that civilians had to carry items that had been traded for the palm oil to a store in Kailahun. However, he provided no evidence about whether these civilians did so voluntarily or whether they were forced to do so. The Trial Chamber accordingly finds that the elements of the crime of enslavement have not been proved beyond reasonable doubt in relation to this incident.

1803. The Trial Chamber is satisfied that Gbonda's evidence does establish that RUF members ordered women to fish, and that women who refused to fish would be beaten. The Trial Chamber is satisfied that the rebels exercised control over their movement, and that the women had no choice but to fish for the rebels. While some of this time period during which the fishing occurred falls outside of the Indictment, there is evidence that this fishing also occurred from 30 November 1996 until 2000. The Trial Chamber is therefore satisfied that it has been proved beyond reasonable doubt that from 30 November 1996 to 2000, members of the RUF intentionally exercised powers of ownership over an unknown number of women who were forced to fish.

(e) Giema

1804. The Prosecution alleges that large numbers of civilians were forced to cultivate a swamp farm for Issa Sesay from 1996 to 2000, and that around 150 civilians were forced to work on a big farm in Giema for the RUF in 1997.<sup>4069</sup>

(i) Farming

Evidence

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<sup>4068</sup> Aruna Gbonda, Transcript 19 February 2008, p. 4271.

<sup>4069</sup> Prosecution Final Trial Brief, para. 1114.

1805. Aruna Gbonda testified that he and approximately 150 other civilians were told by rebels, including Issa Sesay, to cultivate a big farm in Kambama, just outside Giema in 1997 in order to supply the rebels with rice. According to the witness, “every village people [sic] would have to cultivate a farm for rebels”.<sup>4070</sup> Gbonda also testified that between 1996 and 2000 he and other civilians cultivated a swamp farm right outside Giema growing rice for Issa Sesay.<sup>4071</sup>

1806. Dennis Koker, who was in Buedu between early 1998 and 16 December 1999,<sup>4072</sup> testified that civilians were forced to work on “Mosquito’s farms. Morris Kallon’s farm [. . .] Issa’s farms”. If civilians refused to work on the farms, their property would be burned or they would be detained in military cells.<sup>4073</sup> He testified that civilians worked on farms without pay.<sup>4074</sup>

### Findings

1807. The Trial Chamber is satisfied from the evidence of Koker and Gbonda that civilians worked on swamp farms outside Giema belonging to RUF commanders. Gbonda testified that this farming occurred from 1996 until 2000, while Koker, who was in Buedu from early 1998 to December 1999, does not give a precise time during which this farming occurred. As the civilians worked on these farms without pay, and were threatened with detention or having their property burned if they refused to work, the Trial Chamber is satisfied that they were deprived of their liberty and had no choice but to work. The Trial Chamber is therefore satisfied beyond reasonable doubt that members of the RUF, including Issa Sesay, intentionally exercised powers of ownership over an unknown number of citizens who worked on swamp farms from 30 November 1996 to 2000.

1808. The evidence also establishes that civilians cultivated a large farm outside Giema in 1997 for Issa Sesay. Given Koker’s evidence as to the fate of civilians who refused to work on farms for the rebels, the Trial Chamber is satisfied that the civilians did not cultivate this large farm of their own free will, but did so in fear of what would happen to them if they refused to do so. The Trial Chamber is therefore satisfied beyond reasonable doubt that

<sup>4070</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4256-4258.

<sup>4071</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4258-4259.

<sup>4072</sup> Dennis Koker, Transcript 15 January 2008, pp. 1258, 1276-1277.

<sup>4073</sup> Dennis Koker, Transcript 15 January 2008, p. 1266.

<sup>4074</sup> Dennis Koker, Transcript 15 January 2008, p. 1265

those civilians were forced to work on the big farm and that members of the RUF thereby intentionally exercised the powers of ownership over them.

(ii) Domestic Chores/Cultivation of Rice

1809. The Prosecution alleges that civilians were abducted in Koidu Town and taken to Superman Ground and that some were then taken to other locations including Dodo, Balahun, Talia, Ngeigor and Mamboma in Kailahun to work for relatives of AFRC/RUF fighters or to engage in activities such as cultivation of rice.<sup>4075</sup>

Evidence

1810. Finda Gbamanja testified that while she was staying with Sergeant Foday's mother in Giema, she performed domestic chores such as pounding rice, cooking, laundering, and fishing. She was also forced to do "government work" for the RUF consisted of planting seeds and weeding while she was in Giema and Ngeigor.<sup>4076</sup> On one occasion, when she was very tired and refused to do the government work, she was put in "the dungeon" for a day as punishment. She spent one Christmas in Giema<sup>4077</sup>

1811. TF1-189 testified that while she and other captives were at Mamboma, from September 1998 to July 1999, they performed domestic tasks such as cooking, cleaning, washing clothes and cultivating a farm for RUF rebels. She indicated that when they were taken from Kailahun Town to Mamboma, she did not try to escape as she had been warned not to.<sup>4078</sup>

Findings

1812. Based on Gbamanja's first-hand evidence, the Trial Chamber is satisfied that she performed domestic chores for Sergeant Foday's mother in Giema, and did other work, such as weeding, in Giema and Ngeigor. Given that she was punished when she refused to do this work, the Trial Chamber is satisfied that she had no choice but to do so. The Trial Chamber is therefore satisfied beyond reasonable doubt that members of the AFRC/RUF forces<sup>4079</sup>

<sup>4075</sup> Prosecution Final Trial Brief, para. 1124.

<sup>4076</sup> Finda Gbamanja, Transcript 29 January 2009, pp. 23878, 23880.

<sup>4077</sup> Finda Gbamanja, Transcript 29 January 2009, p. 23879.

<sup>4078</sup> TF1-189, Transcript 18 September 2008, pp. 16533-16534.

<sup>4079</sup> See Factual and Legal Findings on Alleged Crimes: Count 2 and 3 (Unlawful Killings); Alleged unlawful



intentionally exercised powers of ownership over Gbamanja. The Trial Chamber is satisfied from the context that this occurred at some point in late 1998.<sup>4080</sup>

1813. Gbamanja also testified that civilians were sent to other towns such as Dodo, Balahun and Mamboma, but her evidence did not indicate what they did in these locations.<sup>4081</sup> However, TF1-189 gave evidence of what the captive civilians were forced to do in Mamboma. The Trial Chamber is satisfied on her evidence that civilians were used to perform domestic and other duties in Mamboma, and that they did so against their will. The Trial Chamber therefore finds it proved beyond reasonable doubt that members of the RUF intentionally exercised powers of ownership over TF1-189 and other captive civilians by depriving them of their liberty in Mamboma from September 1998 to July 1999.

(iii) Mining

Evidence

1814. Aruna Gbonda testified that he personally saw a mine at Giema, where the mining workforce comprised “many” civilians.<sup>4082</sup> He testified that civilians who refused to work were seriously beaten.<sup>4083</sup>

Findings

1815. The witness did not give any evidence capable of proving that the mining occurred during the Indictment period. The Trial Chamber therefore finds that it has not been proved beyond reasonable doubt that civilians were enslaved at this location at a time relevant to the Indictment.

(f) Kailahun Town

(i) Carrying Loads/ Arms and Ammunition

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killings in Kailahun District (between about 1 February 1998 and about 30 June 1998) *supra*.

<sup>4080</sup> The witness was in Koidu in 1998, then was sent to Giema where she was stayed for a year (and was there over Christmas, during which time these events occurred). She was then sent to Kailahun Town, and escaped at the time when Bockarie left for Monrovia (December 1999).

<sup>4081</sup> The evidence in relation to Talia has been discussed in that section.

<sup>4082</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4277-4279; Aruna Gbonda, Transcript 20 February 2008, pp. 4290-4292.

<sup>4083</sup> Aruna Gbonda, Transcript 20 February 2008, pp. 4290-4292.





1816. The Prosecution alleges that following the Intervention in February 1998, AFRC/RUF forces retreating from Kenema captured more than 400 civilians, who were forced to carry loads to Kailahun Town.<sup>4084</sup> It further alleges that in August 1998, civilians were forced by the AFRC to carry ammunition and wounded soldiers from Koidu to Kailahun Town.<sup>4085</sup> The Trial Chamber has considered the evidence of Augustine Mallah, Dennis Koker, and TF1-189, as well as Exhibit D-060 in relation to these allegations.

### Evidence

1817. Augustine Mallah testified that when the AFRC and RUF forces retreated from Kenema in February 1998, they captured over 400 civilians along the way, and took them to Kailahun Town.<sup>4086</sup>

1818. In Exhibit D-060, notes of an interview given by Sheku Alex Bao to the Prosecution, Bao stated that he personally witnessed “soldiers/rebels” abducting civilians to carry their loot when they left Kenema.<sup>4087</sup>

1819. Dennis Koker testified that the RUF captured civilians in Kono, including women and children. They were given loads to carry and those civilians who refused were shot.<sup>4088</sup> These civilians were brought to Kailahun Town with the fighters<sup>4089</sup>, and they were given arms and ammunition to carry on their heads from Kailahun Town to Jokibu on the frontlines at some point after March 1998.<sup>4090</sup>

1820. TF1-189 testified that after ECOMOG attacked Koidu Town in August 1998, she and hundreds of other civilians left and travelled with the rebels to Kailahun. The civilians carried loads or boxes of ammunition on their heads, or carried wounded rebels. TF1-189 witnessed the rebels kill a 12-year old boy who had stopped because the box of ammunition

<sup>4084</sup> Prosecution Final Trial Brief, para. 1115.

<sup>4085</sup> Prosecution Final Trial Brief, para. 1117.

<sup>4086</sup> Augustine Mallah, 13 November 2008, pp. 20171-20773.

<sup>4087</sup> Exhibit D-060, “SCSL, Office of the Prosecutor, Interview Notes, 25 November 2004”, para. 20.

<sup>4088</sup> Dennis Koker, Transcript 15 January 2008, pp. 1243-1245.

<sup>4089</sup> Dennis Koker, Transcript 15 January 2008, pp. 1246, 1250.

<sup>4090</sup> Dennis Koker, Transcript 15 January 2008, pp. 1251-1254.

that he was carrying was too heavy. The rebels and SLAs were carrying guns during this march.<sup>4091</sup>

### Findings

1821. The allegation by the Prosecution that captured civilians were used to carry loads from Kenema to Kailahun Town is not supported by the evidence. Mallah did not testify that the civilians carried anything. The only mention Bao makes of civilians being forced to carry looted goods was in an interview with the Prosecution on 25 November 2004 (Exhibit D-060), but Bao did not mention any such fact in any of his sworn evidence in the AFRC Trial, the RUF Trial or the present trial.<sup>4092</sup> The Trial Chamber therefore finds that it has not been proved beyond reasonable doubt on this evidence that civilians were forced to carry loads from Kenema District to Kailahun Town during the retreat in February 1998.

1822. However, Koker's testimony leaves no doubt that the civilians carrying arms and ammunition from Kailahun Town to Jokibu were forced to do so under fear of death. The Trial Chamber is therefore satisfied beyond reasonable doubt that members of the RUF intentionally exercised powers of ownership over these civilians by depriving them of their liberty and forcing them to carry arms and ammunition some point after March 1998.

1823. Furthermore, TF1-189 gave first-hand evidence that civilians were made to carry loads of ammunition on their heads or carry wounded rebels on the way from Koidu to Kailahun in August 1998, and that she witnessed a civilian being killed for refusing to do this work. The Trial Chamber is satisfied on this evidence that the civilians had no choice but to carry these loads. It therefore finds that it has been established beyond reasonable doubt that members of the AFRC/RUF forces intentionally exercised powers of ownership over these civilians.

#### (ii) Manual Labour/Domestic Chores

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<sup>4091</sup> TF1-189, Transcript 17 September 2008, pp. 16521-16523.

<sup>4092</sup> See TF1-122, Transcript 8 September 2008, pp. 16618-16760.

1824. The Prosecution alleges that from 1996-2001, between 400 and 800 civilians were forced to weed Kailahun Town using hoes and machines and that in 1998, other enslaved civilians in Kailahun Town were forced to do domestic duties for commanders.<sup>4093</sup>

### Evidence

1825. TF1-189 testified that once the captured civilians from Koidu reached Kailahun she was forced to stay with a commander named Gogomeh, together with five other female captives and four rebels.<sup>4094</sup> TF1-189 testified that during this time, she and the other captured women and girls were made to cook, wash the rebel's clothes and were "wives".<sup>4095</sup>

1826. TF1-189 said that she left Gogomeh's place only twice, on both occasions to accompany a female rebel to shop for food items.<sup>4096</sup> She did not try to escape again because she was warned that if she tried to do so "it would not be good for [her]". None of the other captive women and girls escaped.<sup>4097</sup> The witness was in Kailahun Town from August to September 1998.<sup>4098</sup>

1827. Aruna Gbonda testified that when he was deputy chiefdom commander in Kailahun Town from 1996-2000, a rebel called Morrie Fekai would relay messages to him via another rebel called Sellu to gather civilians to weed the grass in Kailahun Town. He estimated that around 400-800 civilians were used to weed.<sup>4099</sup>

### Findings

1828. The evidence that TF1-189 was forced to have sexual intercourse has already been considered in the context of sexual slavery, and the Trial Chamber has found that TF1-189 was used as a sexual slave in Kailahun Town between August and September 2009.<sup>4100</sup> Such evidence will therefore not be considered in this section.

<sup>4093</sup> Prosecution Final Trial Brief, para. 1116.

<sup>4094</sup> TF1-189, Transcript 17 September 2008, pp. 16523-16524.

<sup>4095</sup> TF1-189, Transcript 17 September 2008, p. 16524.

<sup>4096</sup> TF1-189, Transcript 17 September 2008, pp. 16524-16525; Transcript 18 September 2008, pp. 16529-16530.

<sup>4097</sup> TF1-189, Transcript 18 September 2008, pp. 16530, 16558

<sup>4098</sup> TF1-189, Transcript 17 September 2008, pp. 16523-16525; Transcript 18 September 2008, pp. 16558-16659 (PS).

<sup>4099</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4272-4273.

<sup>4100</sup> Factual and Legal Findings on Alleged Crimes: Count 5 (Sexual Slavery); TF1-189 used as a sexual slave by RUF members in Kailahun Town from August 1998-September 1998 *supra*.

1829. TF1-189's evidence that she and other captured civilians were used to do domestic chores and that they were threatened with the consequences should they try to escape, establishes that they were forced to labour in the commanders' homes against their will. Consequently, the Trial Chamber finds that it has been proved beyond reasonable doubt that members of the AFRC/RUF forces<sup>4101</sup> the rebels intentionally exercised powers of ownership over her and the other civilians from August until September 1998 in Kailahun Town.

1830. In relation to Gbonda's evidence that civilians were used to weed the grass in Kailahun District, Gbonda stated that the civilians who did the weeding were gathered by himself (not by the AFRC/RUF forces) and there was nothing in his evidence to indicate that these civilians were forced to work against their will. The Trial Chamber accordingly finds that, in this instance, forced labour has not been proved beyond a reasonable doubt.

(g) Pendembu

1831. The Prosecution alleges that around 500 civilians were captured in Pendembu, and that many were forced to do domestic work. It also alleges that from May/June 1999 to July 2000, fighters would sign up for women whom they would then take to their homes to be used as sex slaves and for domestic work.<sup>4102</sup>

(i) Domestic Chores

Evidence

1832. Mustapha Mansaray testified that between May 1999 and July 2000 he was in charge of the screening in Pendembu, under the overall command of IDU commander Augustine Gbao.<sup>4103</sup> The witness testified that during this time period, the RUF screened up to 500 civilians in Pendembu. Some women who were captured by the fighters were not brought to the screening process but were kept by the fighters, and the witness never knew what happened to them.<sup>4104</sup> Some of these civilians were assigned to fighters' homes, where they performed domestic duties. Women were also screened as part of this process and assigned

<sup>4101</sup> See Factual and Legal Findings on Alleged Crimes: Count 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kailahun District (between about 1 February 1998 and about 30 June 1998) *supra*.

<sup>4102</sup> Prosecution Final Trial Brief, para. 1121.

<sup>4103</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5318-5324.

to fighters' homes where they were forced to have sexual intercourse and to perform domestic duties.<sup>4105</sup> When asked if they went with the fighters voluntarily, the witness replied with an unequivocal "no".<sup>4106</sup> When asked the same question later in his testimony he stated that he did not know what was in the women's minds and did not know whether they were willing or not.<sup>4107</sup> However, the witness stated that there were many complaints from captured women that they had lost their property and had been forced to come with the fighters.<sup>4108</sup>

### Findings

1833. The Trial Chamber is satisfied from Mansaray's testimony that between May 1999 and July 2000 in Pendembu, civilians who had been abducted by the RUF were assigned to fighters, and made to perform domestic duties. Based on his evidence, the Trial Chamber finds that these civilians did not do so of their own free will. Some women were also used as sexual slaves (this aspect of their captivity is considered in the section dealing with sexual slavery<sup>4109</sup>). Accordingly, the Trial Chamber finds that it has been proved beyond reasonable doubt that, by depriving the civilians of their liberty and forcing them to work, members of the AFRC/RUF forces intentionally exercised rights of ownership over them.

#### 4. Other Locations

1834. The Prosecution alleges that in 1999, civilians captured in the Daru and Segbwema area by RUF and AFRC fighters were forced to carry loads for the fighters.<sup>4110</sup>

1835. The Prosecution also alleges that in 2000, Albert Saidu was sent to Vahun, Liberia, by Issa Sesay to take a letter to General 50 who, in response to the letter, gave Saidu ammunition to take to Bomaru. Strong civilian men in Bomaru were made to carry the loads of ammunition to Pendumbu, then to Manowa Ferry, and further into Kailahun.<sup>4111</sup>

<sup>4104</sup> Mustapha Mansaray, Transcript 5 March 2008, p. 5232.

<sup>4105</sup> Mustapha Mansaray, Transcript 5 March 2008, p. 5327.

<sup>4106</sup> Mustapha Mansaray, Transcript 5 March 2008, p. 5321.

<sup>4107</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5326-5327.

<sup>4108</sup> Mustapha Mansaray, Transcript 5 March 2008, p. 5324.

<sup>4109</sup> Factual and Legal Findings on Alleged Crimes: Count 5 (Sexual Slavery); Captured civilians used as sexual slaves in Pendembu, Findings *supra*.

<sup>4110</sup> Prosecution Final Trial Brief, para. 1120.

<sup>4111</sup> Prosecution Final Trial Brief, para. 1123.

(i) Carrying Loads/Arms and AmmunitionEvidence

1836. Mustapha Mansaray testified that civilians captured by the RUF and AFRC in Daru and Segbwema were brought to Pendembu for screening at some point after May/June 1999 when the witness was posted to Pendembu.<sup>4112</sup> In Exhibit D-060, notes of an interview given by Sheku Alex Bao to the Prosecution, Bao states that when the rebels captured Segbwema, they abducted many civilians to carry their things.<sup>4113</sup>

1837. Albert Saidu testified that in 2000, strong civilians were used by rebels to carry ammunition, which had come from Vahun, from Bomaru to Pendembu, then to Manowa Ferry and further into Kailahun.<sup>4114</sup>

Findings

1838. Although Mustapha Mansaray stated that civilians were captured in Daru and Segbwema by the RUF and AFRC in January 1999, there is no mention in his evidence of civilians being forced to carry loads while travelling to Pendembu. Exhibit D-060 contains notes of an interview given by Sheku Alex Bao to the Prosecution on 25 November 2004, in which he stated that when rebels captured Segbwema, they abducted civilians to carry their things. No indication is given in the document of when this occurred. Moreover, Bao did not mention any such incident in his sworn evidence in this trial, nor in the evidence he gave in the AFRC or RUF trials. The Trial Chamber therefore finds that the elements of the crime of enslavement have not been proved beyond reasonable doubt in relation to this incident.

1839. Albert Saidu's evidence is that civilians assisted the soldiers to transport the ammunition, but there is no mention of the civilians having been forced to do so. Accordingly, the Trial Chamber finds that it has not been proved beyond reasonable doubt that the civilians were used as forced labour.<sup>4115</sup>

(ii) Farming

<sup>4112</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5318, 5320.

<sup>4113</sup> Exhibit D-060, "SCSL, Office of the Prosecutor, Interview Notes, 25 November 2004", para. 19.

<sup>4114</sup> Albert Saidu, Transcript 5 June 2008, pp. 11105-11110.

<sup>4115</sup> Factual Findings on Responsibility: Arms and Ammunition; Allegations of Direct Supply by the Accused, During Issa Sesay's Leadership (December 1999-January 2000) *infra*.

1840. The Prosecution alleges that from 1996 to 2000, civilians in Sandialu were forced to harvest coffee which was ultimately given to RUF commander Augustine Gbao.<sup>4116</sup>

#### Evidence

1841. Aruna Gbonda testified that civilians in Sandialu contributed coffee which they had harvested to the rebels, which was ultimately given to Augustine Gbao.<sup>4117</sup>

#### Findings

1842. Gbonda gives the only evidence of coffee harvesting in this particular location, and his evidence is not strong. He did not make it clear whether he personally witnessed civilians in Sandialu harvesting coffee or contributing it to the rebels, nor did he provide any specific dates during which the harvesting of coffee at this location occurred. Further, his evidence does not indicate whether the civilians contributed this produce voluntarily, or whether they were forced to do so. The mere contribution of coffee does not of itself constitute forced labour. Accordingly, the Trial Chamber finds that the elements of the crime of enslavement have been not been proved beyond reasonable doubt in relation to this incident.

#### Conclusion

1843. The foregoing findings by the Trial Chamber establish that the Prosecution has proved beyond reasonable doubt that members of the AFRC/RUF forces<sup>4118</sup> engaged in widespread and large scale abductions of civilians in Kailahun District and used them as forced labour to carry loads, farm, fish, carry out domestic chores, go on food-finding missions, undergo military training and construct an airfield as detailed in the various crimes discussed above.

1844. The Trial Chamber has already found that the chapeau requirements in relation to the crime of enslavement have been proved beyond reasonable doubt.<sup>4119</sup> The Trial Chamber further finds in relation to Kailahun District that the acts of the perpetrators in each of the above crimes of enslavement formed part of the attack directed against the civilian

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<sup>4116</sup> Prosecution Final Trial Brief, para. 1122.

<sup>4117</sup> Aruna Gbonda, Transcript 19 February 2008, pp. 4268-4269.

<sup>4118</sup> See Factual and Legal Findings on Alleged Crimes: Count 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kailahun District (between about 1 February 1998 and about 30 June 1998) *supra*.

<sup>4119</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.



population and that the perpetrators knew that the abductions of civilians and their use as forced labour formed part of that attack. The Trial Chamber therefore finds that the elements of enslavement as a crime against humanity (Count 10) have been proved beyond reasonable doubt.

##### 5. Freetown and the Western Area

1845. The Indictment alleges that between about 21 December 1998 and about 28 February 1999, members of the RUF, AFRC, AFRC/RUF Junta or alliance and/or Liberian fighters abducted an unknown number of civilians, including a large number of children, from locations throughout Freetown and the Western Area, and used them as forced labour.<sup>4120</sup>

1846. Documentary evidence corroborates the sworn evidence discussed below that large-scale abductions and crimes against humanity occurred in Freetown and the Western Area during this period. Exhibit P-204B (Confidential), is a report in which it is calculated that 99% of the patients treated at the FAWE<sup>4121</sup> sexual violence counselling and health care program in Freetown in 1999 had been abducted, with the majority abducted during the Freetown attack.<sup>4122</sup> Exhibit D-191, a Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, reports that rebels abducted an unverifiable number of people in Freetown.<sup>4123</sup> Exhibit P-365 states that 3000 children were reported missing and believed to have been abducted by rebels.<sup>4124</sup>

1847. Another report, Exhibit P-077 (Confidential), states that rebels advancing into the city on January 6-7 forced civilians into the streets to act as human shields,<sup>4125</sup> that during the attack, rebels abducted a large but unverifiable number of people,<sup>4126</sup> and that thousands of children were abducted by rebels.<sup>4127</sup> Exhibit P-328, a Human Rights Watch report, states that a central feature of the Freetown attack was the use of civilians as human shields, and

<sup>4120</sup> Indictment, paras 23, 27.

<sup>4121</sup> Forum for African Women Educationalists.

<sup>4122</sup> Exhibit P-204B (confidential), p. 2.

<sup>4123</sup> Exhibit D-191, "UN Security Council, Fifth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1999/237, 4 March 1999", para. 26.

<sup>4124</sup> Exhibit P-365, "Sierra Leone: The Forgotten Crisis, Report to the Minister of Foreign Affairs, The Honorable Lloyd Axworthy, P.C., M.P. From David Pratt, M.P. Nepean-Carleton, Special Envoy To Sierra Leone, 23 April 1999", p. 00209247, para. 4.

<sup>4125</sup> Exhibit P-077 (confidential), para. 41.

<sup>4126</sup> Exhibit P-077 (confidential), paras 55-56.

<sup>4127</sup> Exhibit P-077 (confidential), para. 60.

that rebels marched in or behind thousands of civilians making up the human shield.<sup>4128</sup> Human Rights Watch also reported that thousands of civilians were abducted as rebels retreated from the city, and family members were often beaten or killed if they attempted to resist the abductions.<sup>4129</sup>

1848. What follows is a consideration of the sworn evidence of enslavement alleged to have been perpetrated in specific locations in Freetown and the Western Area.

(i) Carrying Loads

Evidence

1849. Ibrahim Wai testified that on 23 December 1998, “SLA/RUF” soldiers entered Tombo and looted his goods. A commander named “Mohammed” then ordered the witness to carry these goods to the “station” in Tombo. He was told that if he attempted to turn back, he would be shot.<sup>4130</sup>

1850. Perry Kamara testified that by the time his convoy reached Benguema around 25 December 1998, the RUF/AFRC had more than 1,000 civilians carrying loads for them. He stated that “the father who was among us was full of admiration saying that we were able to control the civilians who were carrying loads for us”.<sup>4131</sup>

1851. Witness TF1-026 testified that on 6 January 1999, she was captured by RUF rebels under the command of CO Rocky from her home near Wellington and that over 50 civilians were forced to carry bags of looted property for the rebels on the way from Calaba Town to Waterloo. The rebels told them that they would be shot if they tried to escape, and the witness saw them kill one man who tried to run away.<sup>4132</sup>

1852. Abu Bakarr Mansaray confirmed evidence he had given in the AFRC Trial that he was captured in Freetown on 8 January 1999 by three rebels armed with AK-47s, who were under the command of Gullit. They forced him to go to State House where he was locked in

<sup>4128</sup> Exhibit P-328, “Human Rights Watch Report, Sierra Leone - Getting Away with Murder, Mutilation, Rape, New Testimony from Sierra Leone, July 1999, Vol. 11 No. 3 (A)”, p. 23000, para. 5.

<sup>4129</sup> Exhibit P-328, Human Rights Watch Report, Sierra Leone - Getting Away with Murder, Mutilation, Rape, New Testimony from Sierra Leone, July 1999, Vol. 11 No. 3 (A)”, p. 22999, para. 2; p. 23001, para. 6.

<sup>4130</sup> Ibrahim Wai, Transcript 16 October 2008, pp. 18560-18563.

<sup>4131</sup> Perry Kamara, Transcript 6 February 2008, p. 3214.

<sup>4132</sup> TF1-026, Transcript 14 February 2008, pp. 3843-3844, 3847-3850, 3862-3865.

the kitchen with approximately 50 other civilians for four days without food or water. He testified that civilians who attempted to escape were stopped by rebels who pointed guns at them.<sup>4133</sup> He was then chained and forced to carry a heavy bomb for the 45 minute trek to Calaba Town.<sup>4134</sup> On cross-examination (in the AFRC Trial), it was suggested to him that it would have been impossible for him to get from Freetown to Calaba Town in 45 minutes while carrying a heavy bomb after not having eaten for four days.<sup>4135</sup> Mansaray was also cross-examined on this aspect of his evidence in the present trial and he explained that the reason he stated a time of 45 minutes was because the rebels told him it had taken them 45 minutes to reach Calaba Town.<sup>4136</sup>

1853. Alimamy Bobson Sesay testified that in about the third week of January 1999, the civilians who had been captured in Freetown moved with the RUF/AFRC rebels, including the witness, through Kissy. The civilians, including women, were all given loads to carry of goods that had been looted from Freetown including rice, clothing and jeans. He testified that they were guarded so that they would not escape.<sup>4137</sup>

1854. Witness TF1-023 confirmed testimony she had given in the AFRC Trial<sup>4138</sup> and a transcript of that testimony was admitted into evidence.<sup>4139</sup> The witness testified in the AFRC Trial that she was abducted by rebels from Calaba Town on 22 January 1999 along with four men, three women and a young child. They joined a group of other captured civilians and moved with the rebels to Allen Town, where they joined another group of captured civilians (totalling 100 in all). During the journey, TF1-023 was given a small bag to carry. The civilians stayed at Allen Town for three days and were guarded by SBUs with guns to prevent them escaping.<sup>4140</sup>

1855. Paul Conteh confirmed testimony he had given in the AFRC Trial<sup>4141</sup> and a transcript of that testimony was admitted into evidence<sup>4142</sup>. Conteh testified that on 23 January 1999,

<sup>4133</sup> Exhibit P-222, "TF1-024, AFRC Transcript, 7 March 2005", pp. 20427-20429, 20432-20434.

<sup>4134</sup> Exhibit P-222, "TF1-024, AFRC Transcript, 7 March 2005", pp. 20432, 20435-20437, 20464-20467.

<sup>4135</sup> Exhibit P-222, "TF1-024, AFRC Transcript, 7 March 2005", pp. 20464-20467.

<sup>4136</sup> Abu Bakarr Mansaray, Transcript 29 October 2008, p. 19561.

<sup>4137</sup> Alimamy Bobson Sesay, 23 April 2008, pp. 8346-8348.

<sup>4138</sup> TF1-023, Transcript 22 October 2008, p. 18932.

<sup>4139</sup> Exhibit P-205A, "TF1-023, AFRC Transcript, 9 March 2005".

<sup>4140</sup> Exhibit P-205A, "TF1-023, AFRC Transcript, 9 March 2005", pp. 19321-19325. The Prosecution alleges at footnote 3194 of their Final Trial Brief that these civilians "had been captured to use as human shields", but this is not supported by the evidence of this witness.

during the retreat from Freetown, the AFRC looted his house and forced him to carry the looted goods to a camp at Kola Tree, where approximately 200 civilians were also being held captive. During the journey, they beat him so that he would walk more quickly, and after showing him the corpse of a civilian who had been shot, told him that this is what would happen to him if he tried to escape.<sup>4143</sup> After staying at Kola Tree, the civilians were then forced to carry loads as they moved with the rebels towards Regent on approximately 28 January 1999.<sup>4144</sup>

1856. Akiatu Tholley testified that she was captured in the RUF/AFRC rebel attack on Wellington on 5 January 1999<sup>4145</sup> and was beaten up. She and other civilians were then forced to carry heavy boxes of ammunition in a convoy to Allen Town. She testified that if civilians refused to carry the ammunition, they would be killed. The witness personally saw some civilians killed for refusing to carry these boxes.<sup>4146</sup> When the civilians reached Allen Town, they refused to carry the ammunition any further, and the rebels ordered them to strip naked and told them they would be killed. The civilians escaped when jets flew overhead and the rebels took shelter.<sup>4147</sup>

### Findings

1857. The Trial Chamber is satisfied, based on Ibrahim Wai's first-hand evidence that he was forced by RUF/AFRC soldiers to carry goods looted from his house to the station in Tumbo, and that he was told that he would be shot if he turned back. The Trial Chamber accordingly finds that it has been proved beyond reasonable doubt that members of the AFRC/RUF forces<sup>4148</sup> intentionally exercised powers of ownership over Wai on 23 December 1998 in Tumbo, Western Area.

<sup>4141</sup> Paul Conteh, Transcript 27 October 2008, pp. 19286-19287.

<sup>4142</sup> Exhibit P-215, "TF1-227, AFRC Transcript 8 April 2005".

<sup>4143</sup> Paul Conteh, Transcript 27 October 2008, pp. 19298-19299, 19301-19302; Exhibit P-215, "TF1-227, AFRC Transcript 8 April 2005", pp. 20814-20822.

<sup>4144</sup> Exhibit P-215, "TF1-227, AFRC Transcript 8 April 2005", pp. 20830-20831.

<sup>4145</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19173, 19174, 27 October 2008, pp. 19244, 19245.

<sup>4146</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19173-19179.

<sup>4147</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19180-19183.

<sup>4148</sup> See Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Freetown and the Western Area (between about 21 December 1998 and about 28 February 1999) *supra*.

1858. The Trial Chamber finds that Perry Kamara's detailed first-hand account of how the RUF/AFRC fighters controlled the civilians, and how the civilians were forced to carry loads against their will, proves beyond a reasonable doubt that members of the AFRC/RUF forces intentionally exercised powers of ownership over approximately 1000 civilians on the way to Benguema on 25 December 1998.

1859. On the basis of TF1-026's first-hand testimony, the Trial Chamber is satisfied that she and over 50 other civilians carried bags of looted property from Calaba Town to Waterloo. As the RUF rebels threatened the civilians with death if they tried to escape, and as the witness personally saw them kill one civilian who had tried to run away, the Trial Chamber is satisfied that these civilians had no choice but to carry these loads. The Trial Chamber therefore finds that it has been proved beyond a reasonable doubt that members of the AFRC/RUF forces intentionally exercised powers of ownership over at least 50 civilians from Calaba Town to Waterloo on 6 January 1999.

1860. Mansaray's first-hand testimony establishes that he and approximately 50 other captured civilians were locked in a kitchen at State House under armed guards for approximately 4 days without food and water. The Trial Chamber is therefore satisfied that the physical movement of the civilians was controlled. The Trial Chamber accepts Mansaray's testimony of being forced to carry a bomb from there to Calaba Town in January 1999. He has sworn this evidence on oath in both the AFRC Trial and the present trial and although his estimate of 45 minutes may not be accurate, the Trial Chamber has no doubt that he was telling the truth about being forced to carry a bomb. The Trial Chamber is accordingly satisfied beyond reasonable doubt that members of the AFRC/RUF forces intentionally exercised powers of ownership over him.

1861. Alimamy Bobson Sesay gave a detailed first-hand account about civilians carrying loads through Kissy. As the civilians had been previously abducted, and were guarded by armed fighters as they moved through Kissy, the Trial Chamber is satisfied that the AFRC/RUF fighters exercised physical control over the movement of the civilians, who had no choice but to carry the loads. The Trial Chamber accordingly finds that members of the AFRC/RUF forces intentionally exercised powers of ownership over an unknown number of civilians in Kissy in the third week of January 1999.

1862. On the basis of TF1-023's first-hand evidence, the Trial Chamber is satisfied that she was abducted with eight other people in Calaba Town, was told by the rebels to carry a bag, and that she was taken to Allen Town where she was held for three days with 100 other civilians. Given that the civilians were guarded by armed SBUs to prevent them escaping, the Trial Chamber is satisfied that the rebels exercised control over the physical movement of the civilians. The Trial Chamber accordingly finds that it has been proved beyond reasonable doubt that members of the AFRC/RUF forces exercised powers of ownership over TF1-023 for approximately 3 days from 22 January 1999.

1863. On the basis of Conteh's first-hand testimony, the Trial Chamber is satisfied that AFRC/RUF fighters forced him to carry goods they had looted from his home to a camp in Kola Tree on 23 January 1999, and that he and other civilians were then forced to carry loads to Regent approximately 28 January 1999. As the witness was abducted, beaten, and threatened with death if he attempted to escape, the Trial Chamber is satisfied that he had no choice but to carry the loads. The Trial Chamber accordingly finds that it has been proved beyond reasonable doubt that members of the AFRC/RUF forces intentionally exercised the powers of ownership over Conteh and other civilians on 23 and approximately 28 January 1999.

1864. Akiatu Tholley's evidence proves beyond reasonable doubt that she and other civilians were forced by RUF/AFRC rebels to carry heavy boxes of ammunition from Wellington to Allen Town. Considering her evidence that they were threatened with death if they refused to work, that she personally witnessed civilians being killed, and that they were ordered to strip naked and threatened with death when they refused to carry the ammunition any further, the Trial Chamber is satisfied beyond reasonable doubt that members of the AFRC/RUF forces intentionally exercised powers of ownership over Tholley and an unknown number of civilians from Wellington to Allen Town in late January 1999. (Although the witness testified that this incident occurred on 5 January 1999, her subsequent movement with her captors from Wellington to Allen Town to Waterloo to Masiaka indicates that this occurred as the rebels withdrew from Freetown through Wellington later in January 1999.)

(ii) Domestic Chores and other tasks

Evidence

1865. Patrick Sheriff testified that he and three other civilians were captured in the bush by an armed AFRC member in Mabureh Town in the Western Area, on 30 December 1998. They were forced to process palm fruits in order obtain palm oil, even though the witness was injured. The witness stated that he did the job “to save his life”. He also saw approximately 30 captured civilians in the town, who were used by the rebels to cook, pound rice and collect water.<sup>4149</sup>

1866. Alimamy Bobson Sesay testified that when the AFRC fighters were at PWD and Ferry Junction towards the third week of January, they would use civilians to look for tyres and burn them in order to light up the area.<sup>4150</sup>

1867. Alimamy Bobson Sesay also testified that 400 civilians<sup>4151</sup> were “placed under strict monitoring” and forced by fighters based in Benguema in February-March 1999 to do various tasks including pounding rice, cooking, laundering, going on patrols and ambushes, going on food finding missions and carrying loads.<sup>4152</sup>

1868. Paul Conteh’s testimony in the AFRC Trial, a transcript of which was admitted into evidence, was that on around 22 January 1999, at the camp in Kola Tree, civilians were forced to work for AFRC commanders by cooking or doing domestic chores. One of the AFRC fighters showed him a corpse and told him that this might happen to him if he tried to escape.<sup>4153</sup>

1869. Conteh gave further evidence in the AFRC Trial that a few days later, he went with a group of captured civilians and rebels to Benguema, where there were already 200 civilians. He testified that civilians were forced by AFRC fighters to destroy a bridge under the supervision of armed fighters and to perform domestic duties, including cooking, laundry and pounding rice.<sup>4154</sup>

## Findings

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<sup>4149</sup> Patrick Sheriff, Transcript 3 October 2008, pp. 17796-17800.

<sup>4150</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8434-8435.

<sup>4151</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, p. 8453.

<sup>4152</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8391-8397.

<sup>4153</sup> Exhibit P-215, “TF1-227, AFRC Transcript 8 April 2005”, pp. 20819-20821.

<sup>4154</sup> Exhibit P-215, “TF1-227, AFRC Transcript 11 April 2005”, pp. 20834-20838.

1870. Sheriff's evidence establishes that he and three other captured civilians were ordered to process palm fruits, despite the fact that he was injured, and that he did the job to "save his life". The Trial Chamber is therefore satisfied that these civilians did not do the work of their own free will. Accordingly, the Trial Chamber finds that it has been proved beyond reasonable doubt that members of the AFRC/RUF forces intentionally exercised powers of ownership over four civilians in Mabureh Town around 30 December 1998.

1871. Sheriff also testified that he saw in Mabureh about 30 civilians carrying out domestic chores, but did not state whether they were doing so voluntarily or not. The Trial Chamber therefore cannot establish that the elements of enslavement are proved in this instance.

1872. Alimamy Bobson Sesay's evidence that civilians were used to look for tyres to burn does not go so far as to give any indication of whether the civilians were forced to carry these tyres or whether they did so voluntarily, nor of how long the civilians were occupied in doing this.<sup>4155</sup> Accordingly, the Trial Chamber finds that the elements of the crime of enslavement have not been proved beyond reasonable doubt in relation to this incident.

1873. As regards the Kola Tree incident, the Trial Chamber is satisfied on the first-hand evidence of Paul Conteh that AFRC commanders used civilians to cook and perform domestic chores around 22 January 1999. As the civilians had been abducted and brought to Kola Tree against their will, and as one of the fighters threatened Conteh with death if he attempted to escape, the Trial Chamber is satisfied that the civilians had no choice but to do this work. The Trial Chamber accordingly finds that it has been proved beyond reasonable doubt that members of the AFRC/RUF forces intentionally exercised powers of ownership over civilians at Kola Tree in Freetown around 22 January 1999.

1874. As regards the Benguema incident, Paul Conteh's and Alimamy Bobson Sesay's first-hand evidence establishes that in approximately February-March 1999, civilians were used by AFRC/RUF fighters to perform various duties, including domestic chores such as cooking, laundry and pounding rice, as well as destroying a bridge. As one of the rebels threatened Conteh that he might be killed if he attempted to escape, as the civilians were supervised by armed fighters, and "under strict monitoring", the Trial Chamber is satisfied

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<sup>4155</sup> While duration is not an element of the crime of enslavement, it may be relevant from an evidentiary perspective. See Applicable Law: Specific Elements of the Crimes; Count 10: Abductions and Forced Labour (Article 2(c) of the Statute) *supra*.



that the physical movement of the civilians was restricted and that there were means taken to deter their escape. The Trial Chamber accordingly finds that it has been proved beyond reasonable doubt that between February and March 1999, members of the AFRC/RUF forces intentionally exercised powers of ownership over a group of approximately 400 civilians in Benguema, Western Area.

### Conclusion

1875. The foregoing findings by the Trial Chamber establish that the Prosecution has proved beyond reasonable doubt that members of the AFRC/RUF forces engaged in widespread and large scale abductions of civilians in Freetown and the Western Area and used them as forced labour to carry loads, perform domestic chores and destroy a bridge, as detailed in the various crimes discussed above.

1876. The Trial Chamber has already found that the chapeau requirements in relation to the crime of enslavement have been proved beyond reasonable doubt.<sup>4156</sup> The Trial Chamber further finds in relation to Freetown and the Western Area that the acts of the perpetrators in each of the above crimes of enslavement formed part of the attack directed against the civilian population and that the perpetrators knew that the abductions of civilians and their use as forced labour formed part of that attack. The Trial Chamber therefore finds that the elements of enslavement as a crime against humanity (Count 10) have been proved beyond reasonable doubt.

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<sup>4156</sup> See Law and Findings on the General Requirements: Article 2: Crimes Against Humanity, para. 559 *supra*.

**F. Count 11 (Pillage)**

1877. The Indictment alleges that members of RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters, assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused, “engaged in widespread unlawful taking of civilian property”, including the following:<sup>4157</sup>

- (i) Kono District: Between about 1 February 1998 and about 31 December 1998, in various locations, including Koidu, Tombodu or Tumbodu and Bumpe;<sup>4158</sup>
- (ii) Bombali District: Between about 1 February 1998 and about 30 April 1998, in various locations, including Makeni;<sup>4159</sup>
- (iii) Port Loko District: Between about 1 February 1998 and about 30 April 1998, in various locations, including Masiaka;<sup>4160</sup>
- (iv) Freetown and the Western Area: Between about 21 December 1998 and about 28 February 1999, throughout Freetown and the Western Area.<sup>4161</sup>

1878. The Prosecution submits that after ECOMOG dislodged the junta from Freetown in February 1998, there was no money to pay the AFRC/RUF fighters, so Johnny Paul Koroma declared “Operation Pay Yourself” over the international media, ordering the fighters to “go around and loot and take whatever they ... wanted which was valuable to them” from civilians. With the declaration of “Operation Pay Yourself” there commenced a “continuous looting spree from civilians” by retreating AFRC/RUF forces.<sup>4162</sup> The Prosecution claims that the looting spree followed the route of the retreating AFRC/RUF forces from Freetown. “Operation Pay Yourself” was declared in Masiaka, and the looting spree continued east as the fighters further withdrew to Makeni.<sup>4163</sup> In Makeni, senior AFRC/RUF commanders reinforced the order for “Operation Pay Yourself” and strategically decided that “each ... soldier should take ... responsibility [for] feeding himself”. They “should gather food for

<sup>4157</sup> Indictment, para. 28

<sup>4158</sup> Indictment, para. 29.

<sup>4159</sup> Indictment, para. 30.

<sup>4160</sup> Indictment, para. 30A.

<sup>4161</sup> Indictment, para. 31.

<sup>4162</sup> Prosecution Final Trial Brief, para. 1142, citing the evidence of witnesses Alimamy Bobson Sesay, 17 April 2008, pp. 7933-7935; TF1-375, TT, 23 June 2008, p. 12500; and Exhibit P-130, para 27.

[themselves] and all that [they] needed to use during the time [they] were in the jungle. ...  
 “Operation Pay Yourself” meant [they] could take anything from [a] civilian”.<sup>4164</sup>

### 1. Kono District

1879. The Prosecution submits that the looting which occurred in Kono District “marked the culmination of Operation Pay Yourself and, thereafter, the settlement of the District by AFRC/RUF forces. Looting also took place during the Indictment timeframe in the context of Kono being declared a ‘No Go Zone for Civilians’”.<sup>4165</sup>

1880. Several witnesses testified to various acts of looting in areas of Kono District outside of Koidu and Tombodu<sup>4166</sup> or to looting in the District generally, without specifying a more precise location.<sup>4167</sup> Such evidence does not fall within the scope of the Indictment, and is relevant only insofar as it demonstrates that the activity was widespread, and therefore assists in establishing the chapeau requirements. Evidence of looting in Kono District prior to the Indictment period<sup>4168</sup> and after the Indictment period<sup>4169</sup> has not been considered.

#### (a) Koidu Town

1881. The Trial Chamber relies on the evidence of Sheku Bah Kuyateh, Samuel Bull, Perry Kamara, TF1-371, Alimamy Bobson Sesay, TF1-367, Dennis Koker and Issa Sesay in relation to these allegations.

<sup>4163</sup> Prosecution Final Trial Brief, paras 1144, 1147, 1150.

<sup>4164</sup> Prosecution Final Trial Brief, paras 1443, 1150, citing the evidence of Perry Kamara, 5 February 2008, pp. 3096, 3098.

<sup>4165</sup> Prosecution Final Trial Brief, para. 1154 (quoting Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7950-7951).

<sup>4166</sup> See, e.g., Alice Pyne, Transcript 18 June 2008, pp. 12146-12148 (describing looting in Gaya); Mustapha Mansaray, Transcript 30 October 2008, p. 19598 (describing looting in Wordu); Emmanuel Bull, Transcript 25 September 2008, pp. 17221-17222 (describing looting on a footpath near Motema) and pp. 17265-17272 (describing looting in Mamboma); Samuel Bull, Transcript 24 September 2008, p. 17077 (describing looting in Fakoyia bush); p. 17086 (describing looting on a footpath near Motema); pp. 17111-17112 (describing looting in Mamboma); Finda Gbamanja, Transcript 28 January 2009, p. 23841 (describing looting in Baiama Town); Exhibit P-199A, “Sahr Charles, RUF Trial Transcript, 12 January 2005”, pp. 18896, 18899 (describing looting of the witness’s belongings in the bush two miles outside of Tombodu).

<sup>4167</sup> Isaac Mongor, Transcript 31 March 2008, p. 6201; TF1-516, Transcript 8 April 2008, p. 6852; Samuel Bull, Transcript 24 September 2008, p. 17061; TF1-516, Transcript 9 April 2008, p. 7129; Mustapha Mansaray, Transcript 30 October 2008, p. 19598.

<sup>4168</sup> Sheku Bah Kuyateh, Transcript 30 October 2008, pp. 19682-19683; Gibril Sesay, Transcript 28 October 2008, pp. 19369-19373, 19376-19377.

<sup>4169</sup> Exhibit P-196, “Statement of Tamba Yomba Ngekia”, pp. 77-78; RUF Trial Transcript 20 July 2004, TF1-077, pp. 77-78; Exhibit P-196, RUF Trial Transcript 21 July 2004, TF1-077, p. 21; Tamba Yomba Ngekia, Transcript 14 October 2008, pp. 18236, 18242-18245.

1882. Sheku Bah Kuyateh, who was in Koidu Town in mid-February 1998,<sup>4170</sup> testified that “[t]he very day that we heard that ECOMOG had dislodged the juntas from Freetown, on that same day the juntas [both AFRC and RUF troops]<sup>4171</sup> started looting right from the first day and the following day they continued their looting spree”.<sup>4172</sup> Although the civilian population of Koidu Town temporarily “dislodged” the “juntas”<sup>4173</sup> and invited the Kamajors in to defend the town,<sup>4174</sup> the town came under attack two weeks later and the witness fled along with much of the civilian population.<sup>4175</sup> Upon returning to Koidu Town a couple of days later, Kuyateh observed that those who had perpetrated the attack on Koidu, were led by a member of the RUF<sup>4176</sup> and “were looting and they were on an operation that they referred to as Operation Pay Yourself”.<sup>4177</sup> This looting spree continued for two days.<sup>4178</sup> Kuyateh further testified that later, in April 1998,<sup>4179</sup> there was “rampant looting”<sup>4180</sup> in Koidu Town.

1883. TF1-375 gave evidence that approximately a month after the ECOMOG Intervention “[w]e attacked Kono and we took over the town. We started looting”.<sup>4181</sup> Kuyateh and TF1-375 described this as the first attack on Koidu following the ECOMOG intervention.<sup>4182</sup>

1884. Samuel Bull testified that in February 1998, Koidu Town was subject to “a lot of looting [...] done by the AFRC and the People's Army. They broke into shops using guns and they took everything from the shops”.<sup>4183</sup> The witness did not see the property taken away but he saw the empty shops and other consequences of the alleged attack.<sup>4184</sup>

<sup>4170</sup> Sheku Bah Kuyateh, Transcript 30 October 2008, p. 19685.

<sup>4171</sup> Sheku Bah Kuyateh, Transcript 31 October 2008, p. 19690.

<sup>4172</sup> Sheku Bah Kuyateh, Transcript 31 October 2008, p. 19689.

<sup>4173</sup> Sheku Bah Kuyateh, Transcript 31 October 2008, p. 19689.

<sup>4174</sup> Sheku Bah Kuyateh, Transcript 31 October 2008, p. 19692.

<sup>4175</sup> Sheku Bah Kuyateh, Transcript 31 October 2008, p. 19692.

<sup>4176</sup> Sheku Bah Kuyateh, Transcript 31 October 2008, pp. 19693, 19694, 19751.

<sup>4177</sup> Sheku Bah Kuyateh, Transcript 31 October 2008, p. 19693.

<sup>4178</sup> Sheku Bah Kuyateh, Transcript 31 October 2008, p. 19694.

<sup>4179</sup> Sheku Bah Kuyateh, 31 October 2008, p. 19699.

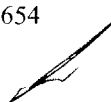
<sup>4180</sup> Sheku Bah Kuyateh, 31 October 2008, p. 19701.

<sup>4181</sup> TF1-375, Transcript 23 June 2008, p. 12504.

<sup>4182</sup> TF1-375, Transcript 23 June 2008, pp. 12504-12505; TF1-201; Transcript 31 October 2008, p. 19692.

<sup>4183</sup> Samuel Bull, Transcript 24 September 2008, p. 17060.

<sup>4184</sup> TF1-065, Transcript 24 September 2008, p. 17061 (“I was not present when they were doing those things, but when I got to Koidu Town, around Opera, by Kaikondo Road, we saw shops were open and empty”).




1885. Witness Alice Pyne testified that she was in Gaya, in Kono District, when she heard from civilians and members of the RUF and AFRC coming from Koidu Town that looting took place in Koidu Town as part of “Operation Pay Yourself”.<sup>4185</sup>

1886. There is also evidence of the looting of a bank in Koidu Town. In this regard, the Prosecution asserts that before AFRC and RUF forces “burned Koidu Town to the ground”, the Commercial Bank in Koidu Town was looted. The Prosecution submits that the “[w]hile the details vary as to whether the raid was carried out on the orders of Superman, the evidence is consistent that it was members of the AFRC/RUF who carried out the raid and that the money and diamonds taken were later taken to Sam Bockarie in Buedu”.<sup>4186</sup>

1887. Witness TF1-367 stated that upon the arrival of in Koidu Town of the RUF/AFRC and STF fighters that had left Freetown following the February 1998 ECOMOG Intervention,<sup>4187</sup> a group of SLAs and STF organised to break into a bank in Koidu.<sup>4188</sup> The break-in occurred at night and was the first joint operation of the SLAs and the STF.<sup>4189</sup> TF1-367 testified that when Superman learned of the break-in from his bodyguards,<sup>4190</sup> Superman ordered Ray, Peleto and others to go and find the perpetrators.<sup>4191</sup> Some escaped, but others were arrested and the money seized.<sup>4192</sup> The money was in Superman’s possession when Sam Bockarie sent a message for Superman to give the money to TF1-367 to take to Bockarie in Kailahun.<sup>4193</sup> Superman then gave 56 million leones to TF1-367 in a travelling bag to deliver to Sam Bockarie.<sup>4194</sup>

1888. Alimamy Bobson Sesay, a member of the AFRC, testified that he participated in the looting of the bank just prior to the ECOMOG bombardment of Koidu Town which occurred in the post-Intervention period.<sup>4195</sup> The witness stated that he, Superman and Bomb

<sup>4185</sup> Alice Pyne, Transcript 18 June 2008, p. 12147.

<sup>4186</sup> Prosecution Final Trial Brief, para. 1158.

<sup>4187</sup> TF1-367, Transcript 20 August 2008, pp. 14133-14134.

<sup>4188</sup> TF1-367, Transcript 20 August 2008, pp. 14141-14146.

<sup>4189</sup> TF1-367, Transcript 20 August 2008, p. 14141.

<sup>4190</sup> TF1-367, Transcript 20 August 2008, p. 14142.

<sup>4191</sup> TF1-367, Transcript 20 August 2008, pp. 14141-14142.

<sup>4192</sup> TF1-367, Transcript 20 August 2008, pp. 14141-14145.

<sup>4193</sup> TF1-367, Transcript 20 August 2008, pp. 14144-14145.

<sup>4194</sup> TF1-367, Transcript 20 August 2008, p. 14146.

<sup>4195</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8008, 8016-8018. In cross-examination, Sesay stated that Bazy and Hasan Papa Bangura participated in the break-in of the bank. Alimamy Bobson Sesay, Transcript 21 April 2008, p. 8065.

Blast broke into the bank and took six bags of money.<sup>4196</sup> The money was in Superman's possession until it was given to Eldred Collins in Koidu Gieya to bring to Kailahun.<sup>4197</sup> The witness said that Superman told him and the other looters that Mosquito had called and told them that the money should be taken to Kailahun.<sup>4198</sup>

1889. Witness TF1-371 was in Kailahun Town when he learned about the robbery of the Commercial Bank in Koidu Town, which happened during the post-ECOMOG Intervention period.<sup>4199</sup> TF1-371 testified that when Sam Bockarie heard about the looting, he instructed Denis Mingo, aka Superman, to take the looted money from the bank and to bring it to him in Buedu.<sup>4200</sup>

1890. Witness Dennis Koker testified that during the attack on Koidu Town in the post-ECOMOG Intervention period, RUF and AFRC fighters broke into the bank and stole money and diamonds.<sup>4201</sup> Koker stated that he saw the fighters break into the bank and saw 18 bags of money taken from the premises.<sup>4202</sup> Koker testified that he was there and "saw it all".<sup>4203</sup> After the bank was robbed, he left for Gandorhun with Johnny Paul Koroma, Morris Kallon and others.<sup>4204</sup>

1891. Defence witness Issa Sesay testified that in early April 1998, AFRC, RUF and STF fighters broke into a bank in Kono.<sup>4205</sup> Issa Sesay heard that Superman arrested the perpetrators when he found out about the break-in.<sup>4206</sup>

1892. Witness Perry Kamara, a radio operator, was in Koidu Town at the time the Commercial Bank was looted during the post ECOMOG Intervention period.,<sup>4207</sup> Kamara testified that Superman implemented the orders of Sam Bockarie to "destroy" the bank.<sup>4208</sup> Kamara stated that the bank was "destroyed" and that he saw leones, sterling pounds, US

<sup>4196</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8017.

<sup>4197</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8016-8017.

<sup>4198</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8017.

<sup>4199</sup> TF1-371, Transcript 28 January 2008, pp. 2390-2391 (CS).

<sup>4200</sup> TF1-371, Transcript 28 January 2008, pp. 2390-2391 (CS).

<sup>4201</sup> Dennis Koker, Transcript 15 January 2008, pp. 1246-1247.

<sup>4202</sup> Dennis Koker, Transcript 15 January 2008, p. 1247.

<sup>4203</sup> Dennis Koker, Transcript 15 January 2008, p. 1247.

<sup>4204</sup> Dennis Koker, Transcript 15 January 2008, p. 1248.

<sup>4205</sup> Issa Sesay, Transcript 8 July 2010, pp. 44058-44059.

<sup>4206</sup> Issa Sesay, Transcript 8 July 2010, pp. 44058-44059.

<sup>4207</sup> Perry Kamara, Transcript 5 February 2008, p. 3105.

dollars and a cup half filled with diamonds in Superman's house.<sup>4209</sup> The proceeds were recorded and the information sent to Sam Bockarie.<sup>4210</sup>

1893. Prosecution witnesses and Defence witness Issa Sesay all testified that the bank in Koidu Town was looted by AFRC, RUF and STF fighters in February or March or April 1998. The evidence also establishes that cash was taken from the bank.

1894. In another incidence of looting, witness Gibril Sesay testified that in Koidu in February 1998<sup>4211</sup> a group of armed "juntas and RUF rebels"<sup>4212</sup> "went around midnight knocking at doors, raping women, looting people's property"<sup>4213</sup> and that "[a]fter looting people's property they took away those property".<sup>4214</sup> The witness went on to say that this group looted his baling machine and some of his furniture.<sup>4215</sup> The witness estimated that the baling machine had a market value of 500,000 leones but was unsure as to the value of the furniture.<sup>4216</sup>

(b) Tombodu

1895. Witness Sahr Bindi testified that members of the RUF and AFRC violently looted his and his family's property<sup>4217</sup> in the "bush" around Tombodu.<sup>4218</sup> A group of AFRC and RUF troops approached the hut in which Bindi was living, ordered the inhabitants to leave the hut and demanded that they hand over food and valuable property, including diamonds, or face death.<sup>4219</sup> Bindi stated that "they blindfolded us, they beat us up and they asked us to take out the money and the diamonds, the palm oil, the rice and we said we did not have and they tripped us and we fell into the ants, and they pointed a gun in my stomach and they said if I did not take out the money and the diamonds they would kill me".<sup>4220</sup> The witness was beaten and stabbed in the head during this incident, leaving a scar that he showed to the Trial

<sup>4208</sup> Perry Kamara, Transcript 5 February 2008, pp. 3105-3106.

<sup>4209</sup> Perry Kamara, Transcript 5 February 2008, p. 3106.

<sup>4210</sup> Perry Kamara, Transcript 5 February 2008, p. 3106.

<sup>4211</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19366-19377.

<sup>4212</sup> Gibril Sesay, Transcript 28 October 2008, p. 19378.

<sup>4213</sup> Gibril Sesay, Transcript 28 October 2008, p. 19376.

<sup>4214</sup> Gibril Sesay, Transcript 28 October 2008, p. 19376.

<sup>4215</sup> Gibril Sesay, Transcript 28 October 2008, p. 19377.

<sup>4216</sup> Gibril Sesay, Transcript 28 October 2008, p. 19378.

<sup>4217</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18473-18474.

<sup>4218</sup> Sahr Bindi, Transcript 16 October 2008, p. 18471.

<sup>4219</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18472-18476.

Chamber during his testimony.<sup>4221</sup> Fearing that “death was near” Bindi provided the fighters with money, a bike and food.<sup>4222</sup>

1896. Bindi estimated that the attack on Tombodu had occurred in February 1998<sup>4223</sup> during the dry season<sup>4224</sup>. He stated that he had moved to Tombodu from Koidu because of an AFRC/RUF attack on Koidu Town. He was unable to remember the date of the attack on Koidu Town, but it had occurred after the re-instatement of President Kabbah.<sup>4225</sup> President Kabbah was re-instated in March 1998.<sup>4226</sup> Therefore, the Trial Chamber is satisfied that the looting described by the witness took place during the Indictment period.

(c) Bumpe

1897. The Trial Chamber relies on the evidence of Perry Kamara and Ruko Turay in relation to allegations of looting in Bumpe.

1898. Perry Kamara testified that RUF and AFRC forces retreated from Freetown in February 1998<sup>4227</sup>, passing through Bumpe, amongst other towns and villages, and that, as they went along, they looted civilian goods and abducted school children and women from their husbands “and they killed the husbands”.<sup>4228</sup>

1899. Ruko Turay confirmed testimony she had given in the RUF Case, a transcript of which was admitted into evidence.<sup>4229</sup> Turay testified in the RUF Case that, while in her home in Bumpe in the rainy season of 1998, a young man in combat uniform – a rebel<sup>4230</sup> - took “the better articles” from her bag. “The ones he didn’t want he threw away. The others he went away with them”.<sup>4231</sup> The witness testified that later the rebels removed all her

<sup>4220</sup> Sahr Bindi, Transcript 16 October 2008, p. 18474.

<sup>4221</sup> Sahr Bindi, Transcript 16 October 2008, p. 18476.

<sup>4222</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18476-18478.

<sup>4223</sup> Sahr Bindi, Transcript 16 October 2008, p. 18465.

<sup>4224</sup> Sahr Bindi, Transcript 16 October 2008, p. 18473.

<sup>4225</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18460-18461.

<sup>4226</sup> Decision on the Prosecution Motion for Judicial Notice, Fact E.

<sup>4227</sup> Perry Kamara, Transcript 5 February 2008, pp. 3094-3095.

<sup>4228</sup> Perry Kamara, Transcript 5 February 2008, pp. 3100-3101.

<sup>4229</sup> Ruko Turay, Transcript 14 October 2008, pp. 18346-18359; Exhibit P-198, “TF1-218, RUF Trial Transcript, 1 February 2005”.

<sup>4230</sup> Exhibit P-198, “TF1-218, RUF Trial Transcript, 1 February 2005”, p. 18879.

<sup>4231</sup> Exhibit P-198, “TF1-218, RUF Trial Transcript, 1 February 2005”, p. 18877. See also Ruko Turay, Transcript 14 October 2008, pp. 18352, 18357 (for the first time frame).



clothes and left her naked and she was then raped. She heard one of the rebels say: “We have got clothes. We have got rice. We have got everything”.<sup>4232</sup> The rebel who had taken her things came back with them and placed them down near her while he raped her.<sup>4233</sup> The witness stated that the rebels declared that they were going to kill her and the other women held captive so, when she got the chance, she fled naked into the bush. As she fled, a rebel shot at her, hitting her in the hand.<sup>4234</sup>

## Findings

1900. Based on the evidence above, the Trial Chamber is satisfied beyond reasonable doubt that between about 1 February 1998 and about 31 December 1998 members of the AFRC/RUF and STF forces<sup>4235</sup> intentionally appropriated property without the consent of the owners in Koidu Town, Tombodu and Bumpe in Kono District.

### 2. Bombali District

#### (a) Makeni

1901. Witnesses TF1-367, Alimamy Bobson Sesay, Dennis Koker, Alice Pyne and TF1-174 provided first-hand accounts of looting by RUF and AFRC forces in Makeni from February to March 1998 during the looting spree referred to as ‘Operation Pay Yourself’.<sup>4236</sup> Their evidence is corroborated by the evidence of Issa Sesay, who arrived in Makeni after the looting had occurred,<sup>4237</sup> Charles Ngebeh<sup>4238</sup> and Exhibit P-303, a “Humanitarian Situation Report for Sierra Leone” from the Office of the United Nations Humanitarian Coordinator, covering the period 21 January to 12 February 1998, which refers to the “abduction” of vehicles in Makeni.

1902. Witness TF1-367, a member of the RUF, testified that he participated in looting in Makeni, and that he and members of the AFRC/RUF and STF forces, shouting “Operation

<sup>4232</sup> Exhibit P-198, “TF1-218, RUF Trial Transcript, 1 February 2005”, p. 18882.

<sup>4233</sup> Exhibit P-198, “TF1-218, RUF Trial Transcript, 1 February 2005”, p. 18882.

<sup>4234</sup> Exhibit P-198, “TF1-218, RUF Trial Transcript, 1 February 2005”, pp. 18883-18884.

<sup>4235</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kono District (Between about 1 February 1998 and 31 December 1998) *supra*.

<sup>4236</sup> TF1-367, Transcript 20 August 2008, pp. 14137-14139; Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7938; Dennis Koker, Transcript 15 January 2008, pp. 1232-1235; Alice Pyne, Transcript 18 June 2008, p. 12149.

<sup>4237</sup> Issa Sesay, Transcript 7 July 2010, pp. 43963-43968, 43979.

Pay Yourself’, looted civilian property such as food, clothing, vehicles and “whatever you came across that could be moved”.<sup>4239</sup>

1903. The looting is corroborated by Alimamy Bobson Sesay, who saw RUF members and others break into shops and loot food and other items during this time period.<sup>4240</sup>

1904. Alimamy Bobson Sesay also testified that he was in Makeni for two days during Operation Pay Yourself<sup>4241</sup> and that during this time, he, Ibrahim Bazy Kamara and Hassan Papa Bangura (also known as “Bomb Blast”) broke into a bank and took money from a safe.<sup>4242</sup>

1905. Dennis Koker testified that he saw RUF rebels looting clothing and household property from civilians in Makeni during this time period.<sup>4243</sup>

1906. Alice Pyne testified that she saw Operation Pay Yourself taking place in Makeni, where AFRC/RUF forces were looting civilians’ property from their houses.<sup>4244</sup>

1907. Witness TF1-174 testified that looting in Makeni began on 17 February 1998 and continued until 2 or 3 March 1998.<sup>4245</sup> The witness gave evidence that, during this period, combined RUF and AFRC forces engaged in Operation Pay Yourself, in which they looted the seminary, the schools, civilian houses, including his own, and the bishop’s vehicles at the mission.<sup>4246</sup>

1908. Defence witness Issay Sesay testified that AFRC/RUF forces carried out Operation Pay Yourself in Makeni by taking people’s property and cars forcefully from them. Shops, houses and even a Catholic hospital were looted.<sup>4247</sup>

1909. Defence witness Charles Ngebeh admitted in cross-examination that AFRC/RUF forces engaged in looting from the time they retreated from Freetown until they reached

<sup>4238</sup> Charles Ngebeh, Transcript 12 April 2010, pp. 38637-38368.

<sup>4239</sup> TF1-367, Transcript 20 August 2008, p. 14138.

<sup>4240</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7938.

<sup>4241</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7934-7938.

<sup>4242</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7938.

<sup>4243</sup> Dennis Koker, Transcript 15 January 2008, pp. 1232-1235.

<sup>4244</sup> Alice Pyne, Transcript 18 June 2008, pp. 12148-12149.

<sup>4245</sup> TF1-174, Transcript 17 January 2009, pp. 23672-23674.

<sup>4246</sup> TF1-174, Transcript 27 January 2009, p. 23674-23676.

Kono, including looting in Masiaka, Makeni, the Peninsula Road route, Fogbo and Koidu. Ngebeh agreed that the looting was called “Operation Pay Yourself”.<sup>4248</sup>

### Findings

1910. On the basis of the foregoing evidence, the Trial Chamber is satisfied beyond a reasonable doubt that between about 1 February 1998 and about 30 April 1998, AFRC/RUF forces intentionally appropriated property without the consent of the owners in Makeni in Bombali District.

1911. The Prosecution also led evidence of looting in Karina Town in Bombali District, which was not pleaded in the Indictment.<sup>4249</sup> As the Trial Chamber has held above,<sup>4250</sup> such evidence does not fall within the scope of the Indictment but is relevant to proof of the chapeau requirements.

### 3. Port Loko District

#### (a) Masiaka

1912. Witnesses TF1-371, Dennis Koker, Charles Ngebeh and Issa Sesay gave evidence of looting in Masiaka by the AFRC/RUF forces in the period from 1 February 1998 to 30 April 1998.

1913. Prosecution witness TF1-371 testified that during this time period in Masiaka he observed that civilians were forced out of their houses by the combatants, who looted whatever civilian property they could lay their hands on.<sup>4251</sup>

1914. Prosecution witness Dennis Koker testified that he travelled through Masiaka during the retreat from Freetown after the February 1998 ECOMOG Intervention, and that his “colleagues” entered into civilians’ houses and took property from them, including food,

<sup>4247</sup> Issa Sesay, Transcript 7 July 2010, pp. 43962-43968, 43979.

<sup>4248</sup> Charles Ngebeh, Transcript 12 April 2010, pp. 38637-38638.

<sup>4249</sup> TF1-028, Transcript 7 May 2008, pp. 9140-9144; Prosecution Final Trial Brief, para. 1153.

<sup>4250</sup> See Preliminary Issues: Issues Relating to the Pleading in the Indictment *supra*.

<sup>4251</sup> TF1-371, Transcript 28 January 2008, pp. 2352-2353 (CS).

motorcycles, and bicycles.<sup>4252</sup> Koker testified that the perpetrators were “[t]he group in which I was, RUF, the juntas, we were all one group now”.<sup>4253</sup>

1915. Defence witness Charles Ngebeh testified in cross-examination that AFRC/RUF forces engaged in looting from the time they retreated from Freetown until they reached Kono, including looting in Masiaka, Makeni, the Peninsula Road route, Fogbo and Koidu. Ngebeh agreed that the looting was called “Operation Pay Yourself”.<sup>4254</sup>

1916. Defence witness Issa Sesay testified that when the AFRC/RUF forces reached Masiaka they entered civilian homes and took people’s property from them. Sesay said that “that was what they called Operation Pay Yourself, because if you saw someone’s vehicle and you commandeered it, when the person was not willing to hand it over to you, that was paying yourself”.<sup>4255</sup>

### Findings

1917. On the basis of this evidence the Trial Chamber is satisfied beyond a reasonable doubt that between about 1 February 1998 and 30 April 1998 members of the AFRC/RUF forces intentionally appropriated property without the consent of the owners in Masiaka in Port Loko District.

1918. The Prosecution also led evidence of pillage in Lunsar in Port Loko District, which was not pleaded in the Indictment.<sup>4256</sup> As the Trial Chamber has held above,<sup>4257</sup> such evidence does not fall within the scope of the Indictment but is relevant to proof of the chapeau requirements.

<sup>4252</sup> Dennis Koker, Transcript 15 January 2008, pp. 1231-1232.

<sup>4253</sup> Dennis Koker, Transcript 15 January 2008, p. 1231.

<sup>4254</sup> Charles Ngebeh, Transcript 12 April 2010, pp. 38637-38638.

<sup>4255</sup> Issa Sesay, Transcript 7 July 2010, pp.43963-43964.

<sup>4256</sup> Alimamy Bobson Sesay, Transcript 17 April 2008 pp. 7936-7937; Prosecution Final Trial Brief, para. 1149. See also Issa Sesay, Transcript 7 July 2010, p. 43964.

<sup>4257</sup> See Preliminary Issues: Issues Relating to the Pleading in the Indictment *supra*.

#### 4. Freetown and the Western Area

1919. The Prosecution submits that the looting in Freetown and the Western Area from 21 December 1998 to 28 February 1999 occurred in the context of the Freetown attack, and that it was widespread and committed in conjunction with other crimes.<sup>4258</sup>

1920. In considering these allegations, the Trial Chamber relies on the evidence of TF1-143, Alimamy Bobson Sesay, Perry Kamara, Abu Bakarr Mansaray, Paul Nabieu Conteh, Allusein Conteh, Mohammed Sampson Bah, Samuel Radder John, TF1-021, TF1-083, TF1-026, Ibrahim Wai, Akiatu Tholley, Sarah Koroma and Exhibits P-077 and P-328.

##### (a) Freetown and the Western Area in general

1921. TF1-143 testified that he was a small boy when he was abducted by an RUF commander named Kabila<sup>4259</sup> and taken to SAJ Musa's group, which was a mix of AFRC and RUF fighters.<sup>4260</sup> "It was AFRC who made up – who was dominant, but they were mixed. Some of them wore black and they had red bandanas on their heads. Kabila told us that we were mixed in the group. That is SAJ Musa's group. We were mixed with RUF and AFRC".<sup>4261</sup>

1922. TF1-143 testified that on the evening of SAJ Musa's burial,<sup>4262</sup> he and the mixed group of RUF and AFRC he was with came to Waterloo Junction and headed towards Freetown.<sup>4263</sup> He testified that his group broke into and looted shops on the way to Freetown.<sup>4264</sup>

1923. Alimamy Bobson Sesay gave evidence that during the January 1999 invasion of Freetown, he and the members of his "fighting force" captured civilians as ordered by Gullit.<sup>4265</sup> During their retreat from Freetown, these civilians were forced to carry large quantities of goods that he and the other members of the fighting forces had taken from

<sup>4258</sup> Prosecution Final Trial Brief, para. 3288.

<sup>4259</sup> TF1-143, Transcript 5 May 2008, pp. 8976-8977, 8979, 8993.

<sup>4260</sup> TF1-143, Transcript 5 May 2008, pp. 8985, 9019, 9021, 9052, 9054.

<sup>4261</sup> TF1-143, Transcript 5 May 2008, p. 8988.

<sup>4262</sup> It is a judicially noticed fact that SAJ Musa was killed in an explosion in Benguema on 23 December 1998. *Prosecutor v. Taylor*, SCSL-04-01-T-987, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the RUF Trial Judgement Pursuant to Rule 94(B), Fact 13.

<sup>4263</sup> TF1-143, Transcript 5 May 2008, p. 9025.

<sup>4264</sup> TF1-143, Transcript 5 May 2008, pp. 9025-9026.

civilians in Freetown.<sup>4266</sup> He further explained that “[t]hey were the people we took the things from and, like I said, ‘from your pocket to my pocket,’ and if you refused you will die”.<sup>4267</sup> The witness described the looted items as “[...] rice, sometimes valuable materials like good clothing and jean materials. Those were - but they were more of valuables that we moved with, more of food and valuable items. Those were the things that we looted when we came to Freetown, and also money because we did not joke about money issues”.<sup>4268</sup>

1924. Perry Kamara testified that he heard that, while Rambo’s forces and the Red Lion Battalion retreated from Freetown after the January 1999 invasion, the civilians who were with them carried “loads of properties that had been looted from civilians in Freetown”.<sup>4269</sup>

1925. Exhibit P-328, a Human Rights Watch Report from July 1999, stated that, in conjunction with the January 1999 Freetown attack, “the rebels went on systematic looting raids in which families were hit by wave after wave of rebels demanding money and valuables”.<sup>4270</sup> Confidential Exhibit P-077 also indicated that during the first days of the January 1999 rebel offensive in Freetown and in the subsequent period, rebels engaged in “widespread theft of money and looting of residences and business properties”.<sup>4271</sup> Findings

1926. Based on the foregoing evidence, the Trial Chamber is satisfied beyond reasonable doubt that members of the AFRC/RUF forces<sup>4272</sup> intentionally appropriated property without the consent of the owners throughout Freetown and the Western Area during the Indictment period.

1927. The Prosecution also adduced the following specific incidences of looting at places within Freetown and the Western Area.

<sup>4265</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8341, 8343.

<sup>4266</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8347.

<sup>4267</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8347.

<sup>4268</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8347.

<sup>4269</sup> Perry Kamara, Transcript 06 February 2008, pp. 3251-3252.

<sup>4270</sup> Exhibit P-328, “Human Rights Watch Report, Sierra Leone—Getting Away with Murder, Mutilation, Rape, New Testimony from Sierra Leone, July 1999, Vol. 11, No. 3 (A), Part 1”, p. 23000.

<sup>4271</sup> Exhibit P-077 (confidential), para. 59.

<sup>4272</sup> See Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Freetown and the Western Area (between about 21 December 1998 and about 28 February 1999) *supra*.

(b) State House and Berry Street

1928. Alimamy Bobson Sesay testified that on 6 January 1999, he and other members of the AFRC/RUF forces broke into the UN House and “commandeered” vehicles, which they took to State House.<sup>4273</sup> These vehicles were later used by Gullit and other senior commanders.<sup>4274</sup>

1929. Witness Abu Bakarr Mansaray<sup>4275</sup> confirmed testimony he had given in the AFRC Case, a transcript of which was admitted into evidence.<sup>4276</sup> In that case, he testified that he was abducted by Gullit’s forces as they retreated from Freetown following the attack on the capitol in January 1999.<sup>4277</sup> During this retreat, the witness observed rebels looting properties.<sup>4278</sup> He testified that he saw the retreating rebels loot from the Vice President’s office, loot a car on Berry Street and also loot the car of the witness’s father.<sup>4279</sup> He also testified that the rebels looted his shirt, trousers and shoes.<sup>4280</sup>

Findings

1930. The Trial Chamber is satisfied beyond reasonable doubt on this evidence that during the Indictment period, members of the AFRC/RUF forces intentionally appropriated vehicles without the consent of the owners, which they brought back to State House, and also intentionally appropriated other civilian property without the consent of the owners including a car from Berry Street, items from the Vice President’s office, and clothing from the witness.

(c) Kissy

1931. Witness TF1-143 testified that following SAJ Musa’s burial<sup>4281</sup> he and seven other boys working under the command of Adama Cut Hand looted things from a shop and loaded

<sup>4273</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8291.

<sup>4274</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8291.

<sup>4275</sup> Abu Bakarr Mansaray, Transcript 29 October 2008, pp. 19515-19568.

<sup>4276</sup> Exhibit P-222, AFRC Trial Transcript, 7 March 2005.

<sup>4277</sup> Exhibit P-222, AFRC Trial Transcript, 7 March 2005, TF1-024, p. 20435.

<sup>4278</sup> Exhibit P-222, AFRC Trial Transcript, 7 March 2005, TF1-024, p. 20436.

<sup>4279</sup> Exhibit P-222, AFRC Trial Transcript, 7 March 2005, TF1-024, pp. 20436, 20467, 20470, 20471.

<sup>4280</sup> Exhibit P-222, “TF1-024, AFRC Trial Transcript, 7 March 2005”, pp. 20436, 20470.

<sup>4281</sup> It is a judicially noticed fact that SAJ Musa was killed in an explosion in Benguema on 23 December 1998. *Prosecutor v. Taylor*, SCSL-04-01-T-987, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the RUF Trial Judgement Pursuant to Rule 94(B), Fact 13.

them into a vehicle.<sup>4282</sup> While the boys were looting the shop, two men present in the shop protested against the looting.<sup>4283</sup> As Adama Cut Hand had instructed the boys to bring any civilians to her who objected to having their possessions taken, the witness and the other boys took the two men to Adama Cut Hand. She then amputated an arm from each man.<sup>4284</sup>

1932. Following this incident, TF1-143 went with another of Adama Cut Hand's boys, to Kissy Market where the boys attempted to enter another shop with two men inside.<sup>4285</sup> When the two men would not open the door, they forcibly entered the shop and amputated a hand from each man.<sup>4286</sup> TF1-143 further recalled that, after the amputations, "[w]hilst they were crying we just took what we wanted from the shop and we went".<sup>4287</sup>

### Findings

1933. The Trial Chamber is satisfied beyond a reasonable doubt that TF1-143 and his companions, who were members of the AFRC/RUF forces,<sup>4288</sup> intentionally appropriated civilian property from two stores in Kissy without the consent of the owners during the Indictment period.

#### (d) Falcon Street

1934. Allusein Conteh testified that a "gang" arrived on Falcon Street in Kissy sometime around 8 January 1999 and demanded to stay at his house.<sup>4289</sup> The apparent leader of the gang, as well as the women and children in the gang, wore civilian clothes, and there were other men and boys in the gang also wearing civilian clothes.<sup>4290</sup> The witness recalled that they called each other "junta"<sup>4291</sup> and he concluded that they belonged to the RUF because

<sup>4282</sup> TF1-143, Transcript 5 May 2008, pp. 9032-9033.

<sup>4283</sup> TF1-143, Transcript 5 May 2008, pp. 9032-9033.

<sup>4284</sup> TF1-143, Transcript 5 May 2008, p. 9033.

<sup>4285</sup> TF1-143, Transcript 5 May 2008, pp. 9034-9035.

<sup>4286</sup> TF1-143, Transcript 5 May 2008, pp. 9035-9036.

<sup>4287</sup> TF1-143, Transcript 5 May 2008, p. 9036.

<sup>4288</sup> Freetown and the Western Area, Physical Violence Findings; Amputations of two men's hands in Kissy Market

*supra*.

<sup>4289</sup> Allusein Conteh, Transcript 30 January 2009, pp. 23998-23999.

<sup>4290</sup> Allusein Conteh, Transcript 30 January 2009, pp. 23999-24000.

<sup>4291</sup> Allusein Conteh, Transcript 30 January 2009, p. 24000.



they were not wearing uniforms; they came in plain clothes and had young girls with them.<sup>4292</sup>

1935. During their stay in the area, the witness testified that this gang took and slaughtered a sheep and was “going around taking people’s chickens and asking the boys around to take people’s chickens around and they killed them”.<sup>4293</sup>

1936. Allusein Conteh testified further that two or three days after the departure of this gang, two or three other men, whom he described as “combatants” because they were wearing military uniforms,<sup>4294</sup> came to his house on Falcon Street.<sup>4295</sup> After searching the house, the combatants threatened him and demanded money.<sup>4296</sup> They then cocked a gun at his back.<sup>4297</sup> The witness gave the combatants 50,000 Leones and they went away.<sup>4298</sup>

### Findings

1937. The Trial Chamber is satisfied beyond reasonable doubt on this evidence that members of the AFRC/RUF forces intentionally appropriated a sheep and chickens from civilians in the area of Falcon Street, and also looted 50,000 leones without the consent of the owners..

### (e) Rowe Street

1938. Mohammed Sampson Bah confirmed testimony he had given in the AFRC Trial,<sup>4299</sup> a transcript of which was admitted into evidence.<sup>4300</sup> In the AFRC case he testified that on or about 6 January 1999 “rebels” dressed in military clothing arrived in Kissy and “raided the area”.<sup>4301</sup> The witness also testified that later in the month of January the rebels began “taking people’s properties”.<sup>4302</sup> The “rebels” entered people’s houses and took their “televisions, radios, whatever is [a] valuable thing, they will take it, put it in a vehicle and go

<sup>4292</sup> Allusein Conteh, Transcript 30 January 2008, p. 24004.

<sup>4293</sup> Allusein Conteh, Transcript 30 January 2009, p. 24001.

<sup>4294</sup> Allusein Conteh, Transcript 30 January 2009, pp. 24003-24004.

<sup>4295</sup> Allusein Conteh, Transcript 30 January 2009, p. 24001.

<sup>4296</sup> Allusein Conteh, Transcript 30 January 2009, p. 24003.

<sup>4297</sup> Allusein Conteh, Transcript 30 January 2009, p. 24003.

<sup>4298</sup> Allusein Conteh, Transcript 30 January 2009, p. 24003.

<sup>4299</sup> Mohammed Sampson Bah, Transcript 22 – 23 October 2008, pp. 19032 – 19112.

<sup>4300</sup> Exhibit P-207, , “TF1-084, AFRC Trial Transcript 6 April 2005”.

<sup>4301</sup> Exhibit P-207, “TF1-084, AFRC Trial Transcript 6 April 2005”, pp. 20594-20595.

with it".<sup>4303</sup> Bah also testified that a rebel named Akim threatened to turn Kissy into a desert.<sup>4304</sup>

1939. The witness further testified that in January 1999 he, along with some other civilians who were attempting to hide from the rebels, were arrested by the rebels on Rowe Street.<sup>4305</sup> Upon their arrest, "[the rebels] took all we had with us".<sup>4306</sup> After the civilians were placed in a queue, the rebels searched the witness and the others and took what they had, including money.<sup>4307</sup> Bah testified that the rebels took his watch and 200 dollars from his pocket.<sup>4308</sup> The rebel who took his wristwatch placed it on his own wrist.<sup>4309</sup> Shortly thereafter, the witness's hand was amputated.<sup>4310</sup>

### Findings

1940. The Trial Chamber is satisfied beyond reasonable doubt on this evidence that on or about 6 January 1999 in Kissy members of the AFRC/RUF forces<sup>4311</sup> intentionally appropriated a watch and 200 dollars from Mohammed Sampson Bah without his consent, and in January 1999 on Rowe Street intentionally appropriated other items, including televisions and radios from civilians without their consent.

#### (f) Congress Road

1941. Samuel Radder John testified that when the rebels entered Freetown in January 1999 he met some RUF fighters that he had known some years earlier<sup>4312</sup> and also met someone he had been to school with who was now an RUF rebel.<sup>4313</sup> The witness also confirmed testimony he had given in the AFRC Trial, a transcript of which was admitted into

<sup>4302</sup> Exhibit P-207, "TF1-084, AFRC Trial Transcript, 6 April 2005", pp. 20595-20596.

<sup>4303</sup> Exhibit P-207, "TF1-084, AFRC Trial Transcript, 6 April 2005", p. 20596.

<sup>4304</sup> Exhibit P-207, "TF1-084, AFRC Trial Transcript, 6 April 2005", p. 20596.

<sup>4305</sup> Exhibit P-207, "TF1-084, AFRC Trial Transcript, 6 April 2005", p. 20597.

<sup>4306</sup> Exhibit P-207, "TF1-084, AFRC Trial Transcript, 6 April 2005", p. 20598.

<sup>4307</sup> Exhibit P-207, "TF1-084, AFRC Trial Transcript, 6 April 2005", p. 20598.

<sup>4308</sup> Exhibit P-207, "TF1-084, AFRC Trial Transcript, 6 April 2005", pp. 20598-20599.

<sup>4309</sup> Exhibit P-207, "TF1-084, AFRC Trial Transcript, 6 April 2005", p. 20599.

<sup>4310</sup> Exhibit P-207, "TF1-084, AFRC Trial Transcript, 6 April 2005", p. 20599.

<sup>4311</sup> Factual and Legal Findings on Alleged Crimes: Counts 7 & 8 (Physical Violence); Amputation of Mohamed Sampson Bah's hand on Rowe Street in Kissy *supra*.

<sup>4312</sup> Samuel Radder John, Transcript 23 October 2008, pp. 19162-19163; see also Exhibit P-212B (confidential), pp. 20724 - 20726.

<sup>4313</sup> Samuel Radder John, Transcript 23 October 2008, p. 19163.

evidence.<sup>4314</sup> In the AFRC Trial, the witness testified that on 18 January 1999 a group of military men entered the establishment in Kissy where the witness was employed.<sup>4315</sup> The witness described the men as a mix of “junta” and RUF because of their “ordinary and haphazard military attire”.<sup>4316</sup> These men used sticks to beat the witness and other civilians.<sup>4317</sup> Later that day he was shot and wounded by these men, but was able to run away.<sup>4318</sup>

1942. The witness collected his family and hid in the hills for about two days. He and his family then returned to his home on Congress Road to collect food and other belongings before fleeing again.<sup>4319</sup> While there, three of these men came back.<sup>4320</sup> The witness testified that two of the men were wearing plain clothes and military trousers and the third man wore a full military uniform and carried a gun.<sup>4321</sup> The witness stated that these were the same men he had encountered earlier at his place of employment.<sup>4322</sup> While the witness was arguing with one of the men, the other two took money and food from his bags, and left.<sup>4323</sup>

### Findings

1943. The Trial Chamber finds that this evidence proves beyond a reasonable doubt that on Congress Road in January 1999 members of the AFRC/RUF forces intentionally appropriated Samuel Radder John’s money and food without his consent.

### (g) Rogbalan Mosque

1944. Witness TF1-021, who is now deceased, testified in the AFRC Trial and a transcript of that testimony was admitted into evidence pursuant to Rule 92quater.<sup>4324</sup> TF1-021 testified in the AFRC Trial that he was present at Rogbalan Mosque on a Friday in January

<sup>4314</sup> Exhibit P-212B (confidential).

<sup>4315</sup> Exhibit P-212B (confidential), p. 20734.

<sup>4316</sup> Exhibit P-212B (confidential), p. 20734.

<sup>4317</sup> Exhibit P-212B (confidential), p. 20735.

<sup>4318</sup> Exhibit P-212B (confidential), pp. 20738-20742.

<sup>4319</sup> Exhibit P-212B (confidential), p. 20742.

<sup>4320</sup> Exhibit P-212B (confidential), p. 20742.

<sup>4321</sup> Exhibit P-212B (confidential), pp. 20734, 20742.

<sup>4322</sup> Exhibit P-212B (confidential), p. 20734.

<sup>4323</sup> Exhibit P-212B (confidential), p. 20742.

<sup>4324</sup> See *Prosecutor v. Taylor*, SCSL-03-01-T-720, Decision on Public with Confidential Annexes C to E Prosecution Motion for Admission of the Prior Trial Transcripts of Witnesses TF1-021 and TF1-083 Pursuant to Rule 92quater, 5 February 2009; see also Exhibit P-287.

of 1999, between noon and 1 p.m., when a group of men in “mixed up dressings” with charcoal covering their skin entered the mosque.<sup>4325</sup> The group consisted of at least 15 men, some of whom were armed with guns while others were armed with machetes.<sup>4326</sup> The armed men stated “...We are going to kill all of you...”<sup>4327</sup> TF1-021 begged the men to accept money and leave the civilians in peace, but the men refused the money.<sup>4328</sup> TF1-021 then collected a sum of 80,000 Leones from the congregation and offered it to the men “so we [the civilians] could live”.<sup>4329</sup> The armed men then told him and the others that “[e]ven if you give us all the money that’s in your pocket, we must kill all of you”.<sup>4330</sup> The men then accepted the 80,000 leones from the witness, and began firing indiscriminately in the mosque, killing most of the people there.<sup>4331</sup>

1945. TF1-021 testified that he fell to the floor during this shooting, and that after the men stopped shooting, they stood on his stomach.<sup>4332</sup> While he was still on the ground, the men reached into his pocket and took 15,000 Leones.<sup>4333</sup>

### Findings

1946. The Trial Chamber is satisfied beyond a reasonable doubt on this evidence that members of the AFRC/RUF forces<sup>4334</sup> intentionally appropriated money from the witness. Due to the coercive circumstances that surrounded this event, the Trial Chamber finds beyond reasonable doubt that the money was taken from the witness without his consent.

#### (h) Kola Tree

1947. Paul Nabieu Conteh confirmed testimony he had given in the AFRC Trial,<sup>4335</sup> a transcript of which was admitted into evidence.<sup>4336</sup> In that trial, he testified that on 19 January 1999, he and his family left Calaba Town in order to escape hostilities involving an

<sup>4325</sup> Exhibit P-287, “TF1-021, AFRC Trial Transcript, 15 April 2005”, p. 18736.

<sup>4326</sup> Exhibit P-287, “TF1-021, AFRC Trial Transcript, 15 April 2005”, p. 18736.

<sup>4327</sup> Exhibit P-287, “TF1-021, AFRC Trial Transcript, 15 April 2005”, p. 18738.

<sup>4328</sup> Exhibit P-287, “TF1-021, AFRC Trial Transcript, 15 April 2005”, p. 18738.

<sup>4329</sup> Exhibit P-287, “TF1-021, AFRC Trial Transcript, 15 April 2005”, p. 18738.

<sup>4330</sup> Exhibit P-287, “TF1-021, AFRC Trial Transcript, 15 April 2005”, p. 18739.

<sup>4331</sup> Exhibit P-287, “TF1-021, AFRC Trial Transcript, 15 April 2005”, p. 18739.

<sup>4332</sup> Exhibit P-287, “TF1-021, AFRC Trial Transcript, 15 April 2005”, pp. 18743-18744.

<sup>4333</sup> Exhibit P-287, “TF1-021, AFRC Trial Transcript, 15 April 2005”, p. 18744.

<sup>4334</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings) *supra*.

<sup>4335</sup> Paul Nabieu Conteh, Transcript 27 October 2008, pp. 19284-19314.

exchange of fire between ECOMOG and the AFRC and RUF.<sup>4337</sup> From Calaba Town, the witness proceeded towards Allen Town, with Jui as his final destination.<sup>4338</sup> Because of ECOMOG barriers, the witness was unable to make it to Jui, so he went to Kola Tree where he stayed at an unfinished house for three days.<sup>4339</sup> While he was there, three soldiers, who the witness identified as members of the AFRC, entered the house.<sup>4340</sup> The apparent leader of these soldiers, who the witness referred to as Corporal Bastard, took the witness's wedding ring and an unspecified amount of money from his pocket.<sup>4341</sup> The other two soldiers went inside the other rooms and "started taking things".<sup>4342</sup> They then made a big bundle out of the items and left.<sup>4343</sup>

### Findings

1948. The Trial Chamber is satisfied beyond a reasonable doubt on this evidence that at Kola Tree in approximately the end of January 1999 members of the AFRC forces intentionally appropriated various items of civilian property from a house in Kola Tree, as well as Paul Nabieu Conteh's wedding ring and an unspecified amount of his money, without the owners' consent.

#### (i) Thunder Hill and Samuels Area

1949. Witness TF1-083, who is now deceased, gave evidence in the AFRC Trial and a transcript of that testimony was admitted into evidence pursuant to Rule 92quater.<sup>4344</sup> TF1-083 testified in the AFRC Trial that around 22 January 1999, two armed rebels dressed in combat uniforms entered the house at Thunder Hill where the witness and other civilians

<sup>4336</sup> Exhibit P-215, TF1-227, AFRC Trial Transcript.

<sup>4337</sup> Exhibit P-215, "TF1-227, AFRC Trial Transcript, 12 April 2005", p. 20814.

<sup>4338</sup> Exhibit P-215, "TF1-227, AFRC Trial Transcript, 12 April 2005", p. 20815.

<sup>4339</sup> Exhibit P-215, "TF1-227, AFRC Trial Transcript, 12 April 2005", pp. 20815-20816.

<sup>4340</sup> Exhibit P-215, "TF1-227, AFRC Trial Transcript, 12 April 2005", pp. 20816-20817.

<sup>4341</sup> Exhibit P-215, "TF1-227, AFRC Trial Transcript, 12 April 2005", pp. 20816-20817.

<sup>4342</sup> Exhibit P-215, "TF1-227, AFRC Trial Transcript, 12 April 2005", p. 20817.

<sup>4343</sup> Exhibit P-215, "TF1-227, AFRC Trial Transcript, 12 April 2005", p.20817.

<sup>4344</sup> See *Prosecutor v. Taylor*, SCSL-03-01-T-720, Decision on Public with Confidential Annexes C to E Prosecution Motion for Admission of the Prior Trial Transcripts of Witnesses TF1-021 and TF1-083 Pursuant to Rule 92quater, 5 February 2009; see also Exhibit P-290A.

were staying.<sup>4345</sup> Once inside, the rebels asked the civilians for money.<sup>4346</sup> The rebels then took an unspecified amount of money and left.<sup>4347</sup>

1950. TF1-083 testified that a second set of three rebels came to the same house later and “[. . .] asked for money, they asked for change. They asked for valuable things. They asked for things to wear”.<sup>4348</sup> TF1-083 and the others in the house gave the rebels money and other items.<sup>4349</sup>

1951. TF1-083 testified further that a third set of rebels arrived at the house after the second set had left. This third set of rebels also asked for money, which was handed over by the people inside the house.<sup>4350</sup> This group of rebels then instructed the witness and other civilians to leave the house because more rebels were coming who might kill them.<sup>4351</sup> The witness, along with other civilians, left Thunder Hill and headed to New Road.<sup>4352</sup> When he arrived at the Samuels area, he encountered more rebels who were wearing caps that covered most of their faces and carried guns and machetes.<sup>4353</sup> One of these rebels took the witness’s shirt and put it on. The rebels then ordered him and the other civilians to remove their clothes, and as he was removing his trousers, one of the rebels struck him on the waist with a knife and took an unspecified amount of money from his trousers.<sup>4354</sup>

### Findings

1952. The Trial Chamber finds that given the violence shown by the AFRC/RUF forces during the Freetown invasion, and given that the civilians in these incidents were confronted by armed rebels, it has been proved beyond reasonable doubt<sup>4355</sup> that members of the AFRC/RUF forces intentionally appropriated the money and other possessions taken from

<sup>4345</sup> Exhibit P-290A, “TF1-083, AFRC Trial Transcript, 8 April 2005”, pp. 18775, 18777-18778.

<sup>4346</sup> Exhibit P-290A, “TF1-083, AFRC Trial Transcript, 8 April 2005”, p. 18778.

<sup>4347</sup> Exhibit P-290A, “TF1-083, AFRC Trial Transcript, 8 April 2005”, p. 18778.

<sup>4348</sup> Exhibit P-290A, “TF1-083, AFRC Trial Transcript, 8 April 2005”, p. 18778.

<sup>4349</sup> Exhibit P-290A, “TF1-083, AFRC Trial Transcript, 8 April 2005”, p. 18778.

<sup>4350</sup> Exhibit P-290A, “TF1-083, AFRC Trial Transcript, 8 April 2005”, p. 18778.

<sup>4351</sup> Exhibit P-290A, “TF1-083, AFRC Trial Transcript, 8 April 2005”, pp. 18778-18779.

<sup>4352</sup> Exhibit P-290A, “TF1-083, AFRC Trial Transcript, 8 April 2005”, p. 18780.

<sup>4353</sup> Exhibit P-290A, “TF1-083, AFRC Trial Transcript, 8 April 2005”, p. 18780.

<sup>4354</sup> Exhibit P-290A, “TF1-083, AFRC Trial Transcript, 8 April 2005”, p. 18781.

<sup>4355</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Unlawful killing of civilians in Kissy area around January 1999 *supra*.

the civilians without their consent, and intentionally appropriated TF1-083's clothing and money without TF1-083's consent.

(j) Calaba Town

1953. TF1-026 testified that sometime after 6 January 1999 she and other captured civilians were forced to carry bags filled with things the RUF rebels had taken from the homes of civilians in Calaba Town and along the way to Waterloo.<sup>4356</sup>

Findings

1954. The Trial Chamber is satisfied beyond reasonable doubt on this evidence that members of the AFRC/RUF forces<sup>4357</sup> intentionally appropriated property from the homes of civilians without their consent in Calaba Town during the Indictment period.

(k) Tombo

1955. Ibrahim Wai testified that on 23 December 1998 he was told by civilians in the area that rebels had moved from Waterloo to attack Tombo.<sup>4358</sup> That same night "SLA/RUF soldiers" attacked his house in Tombo.<sup>4359</sup> The witness recalled that he awoke in the night and noticed that his neighbour's house was on fire.<sup>4360</sup> The witness took a bag with some belongings and tried to escape his home, but met a rebel named Mohamed at his door. Mohamed pushed him back inside and "[Mohamed] said I should gather all of my things. He took my tape and my bag and he even had the money with him - a tape recorder, my money, my bag".<sup>4361</sup>

Findings

1956. The Trial Chamber is satisfied beyond reasonable doubt that on the night of 23 December 1998 a member of the AFRC/RUF forces intentionally appropriated the witness's personal property in Tombo without his consent.

<sup>4356</sup> TF1-026, Transcript 14 February 2008, pp. 3843, 3865.

<sup>4357</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Unlawful killing of civilians in Waterloo *supra*.

<sup>4358</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18561.

<sup>4359</sup> Ibrahim Wai, Transcript 16 October 2008, pp. 18559-18561.

<sup>4360</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18561.

<sup>4361</sup> Ibrahim Wai, Transcript 16 October 2008, pp. 18561-18562.

(l) Wellington

1957. Akiatu Tholley testified that her family home was looted on two separate occasions in Wellington in January 1999.<sup>4362</sup> She recalled that on the first occasion, on 5 January 1999, “[t]hey asked my mother to give them money and my mother responded that she hadn't any money. They beat us up and they forced my mother to show them where she had the money and she did and they took the money and returned”.<sup>4363</sup> The witness testified that she did not know how much money the rebels took on that occasion.<sup>4364</sup>

1958. Tholley testified that rebels wearing black pants, black shirts and headbands returned to her home the following day.<sup>4365</sup> During this visit, the rebels “took the food that we had and they took it away”.<sup>4366</sup> She was unable to identify which specific groups were involved in these attacks, defining them only as “rebels” armed with pistols and machetes.<sup>4367</sup>

1959. Sarah Koroma, as mentioned previously in the section on physical violence, testified that on 6 January 1999 she was at her home in Wellington when rebels wearing “combat”<sup>4368</sup> arrived and she ran into the bush.<sup>4369</sup> She came out of the bush about one week later and she and her husband were captured by rebels who killed her husband and amputated her arm.<sup>4370</sup> After her arm was amputated, the witness was then captured by another set of rebels near the Brewery “around Calaba Town”.<sup>4371</sup> (Witness TF1-169, in his statement dated 11 December 2008, places the Brewery in Wellington.<sup>4372</sup>) These rebels, who were armed with a knife and gun, threw beer bottles at her, cut her, and while she lay in a ditch, they reached inside her dress and took 50,000 leones that she had sewn into her underwear.<sup>4373</sup> One of the rebels

<sup>4362</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19192-19193.

<sup>4363</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19192.

<sup>4364</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19192.

<sup>4365</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19193-19194, 19240.

<sup>4366</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19193.

<sup>4367</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19240-19241.

<sup>4368</sup> Sarah Koroma, Transcript 22 October 2008, p. 18988.

<sup>4369</sup> Sarah Koroma, Transcript 22 October 2008, pp. 18985 – 18986.

<sup>4370</sup> Sarah Koroma, Transcript 22 October 2008, pp. 18990-18991, 18994-18995.

<sup>4371</sup> Sarah Koroma, Transcript 22 October 2008, pp. 18999-18900.

<sup>4372</sup> Exhibit P-285 (confidential), “Statement, 11 December 2008”, para. 12.

<sup>4373</sup> Sarah Koroma, Transcript 22 October 2008, p. 18987.



then returned 5,000 leones to her so that she could seek medical treatment for her amputation wound.<sup>4374</sup>

### Findings

1960. The Trial Chamber finds that the foregoing evidence proves beyond a reasonable doubt that in January 1999 members of the AFRC/RUF forces<sup>4375</sup> intentionally appropriated food and money from civilians in Wellington without their consent.

#### (m) Benguema and Waterloo

1961. Witness TF1-143 testified that the mixed group of AFRC and RUF<sup>4376</sup> that he was with looted shops at Benguema “after they had buried SAJ”, which was in late December 1998,<sup>4377</sup> and that they then took the highway up to Waterloo and did the same there.<sup>4378</sup>

### Findings

1962. The Trial Chamber is satisfied beyond a reasonable doubt on the evidence of Witness TF1-143 that in approximately late December 1998 members of the AFRC/RUF forces<sup>4379</sup> intentionally appropriated property from shops in Benguema and Waterloo without the consent of the owners..

### Conclusion

The Prosecution has proved beyond a reasonable doubt that members of the AFRC/RUF forces<sup>4380</sup> committed the crime of pillage in the following places in Sierra Leone:

<sup>4374</sup> Sarah Koroma, Transcript 22 October 2008, p. 19002.

<sup>4375</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Unlawful Killings of Civilians in Wellington *supra*.

<sup>4376</sup> TF1-143, Transcript 5 May 2008, pp. 9019, 9021, 9052, 9054.

<sup>4377</sup> It is a judicially noticed fact that SAJ Musa was killed in an explosion in Benguema on 23 December 1998. *Prosecutor v. Taylor*, SCSL-04-01-T-987, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the RUF Trial Judgement Pursuant to Rule 94(B), Fact 13.

<sup>4378</sup> TF1-143, Transcript 5 May 2008, p. 9071.

<sup>4379</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Unlawful Killing of civilians in Benguema *supra*.

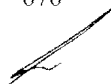
<sup>4380</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Freetown and the Western Area (between about 21 December 1998 and about 28 February 1999) *supra*.

- i. Kono District, between about 1 February 1998 and about 31 December 1998, in Koidu Town, Tombodu and Bumpe;
- ii. Bombali District, between about 1 February 1998 and about 30 April 1998, in Makeni;
- iii. Port Loko District, between about 1 February 1998 and about 30 April 1998, in Masiaka;
- iv. Freetown and the Western Area, between about 21 December 1998 and about 28 February 1999, throughout Freetown and the Western Area and specifically in State House and Berry Street, Kissy, Falcon Street, Rowe Street, Congress Road, Rogbalan Mosque, Kola Tree, Thunder Hill and Samuels Area, Calaba Town, Tombo, Wellington, Benguema and Waterloo.

106. The Trial Chamber recalls that the Prosecution has proved beyond reasonable doubt that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving among others, members of the RUF, AFRC and CDF.<sup>4381</sup> The Trial Chamber is satisfied that for all of the aforementioned acts of looting in Kono, Bombali, and Port Loko Districts and Freetown and the Western Area there was a nexus between the acts of physical violence and the armed conflict, that each of the victims was not taking an active part in the hostilities at the time of physical violence, and that the perpetrators knew this fact. Therefore, the Trial Chamber is satisfied that the aforementioned acts of looting in Kono, Bombali, and Port Loko Districts and Freetown and the Western Area constitute pillage as a war crime under Article 3 of the Statute.

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<sup>4381</sup> See Law and Findings on the General Requirements: Article 3: War Crimes, para. 573 *supra*.



## **G. Count 1 (Acts of Terrorism)**

### Allegations and Submissions

1963. The Indictment alleges that “[m]embers of the Revolutionary United Front (RUF), Armed Forces Revolutionary Council (AFRC), AFRC/RUF Junta or alliance, and/or Liberian fighters, including members and ex-members of the NPFL (Liberian fighters), assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused, burned civilian property, and committed the crimes set forth below in paragraphs 6 through 31 and charged in Counts 2 through 11, as part of a campaign to terrorize the civilian population of the Republic of Sierra Leone”.

1964. The Prosecution submits that “the ultimate objective of the Indictment Crimes was to forcibly control the territory and population and to pillage the resources of Sierra Leone, in particular diamonds. However, the primary purpose of the criminal means by which these ultimate objectives were to be achieved was terror. Terror was deliberate, organised and spread via a campaign involving the commission of a multiplicity of crimes including burning and the crimes charged in Counts 2 through 11 in the Indictment”.<sup>4382</sup>

#### 1. Primary purpose of certain acts of violence

1965. As a preliminary observation, the Trial Chamber is of the view that certain acts of violence are of such a nature that the primary purpose can only be reasonably inferred to be to spread terror among the civilian population regardless of the context in which they were committed.<sup>4383</sup>

1966. Conversely, the purpose behind an individual act of violence may not necessarily correspond with that of the campaign in which it simultaneously occurs. It follows that certain acts of violence, even when committed in the context of other acts of violence in a campaign whose primary purpose may be to terrorise the civilian population, may not have been committed in furtherance of such a campaign.<sup>4384</sup> The Trial Chamber is of the opinion

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<sup>4382</sup> Prosecution Final Trial Brief, para. 709.

<sup>4383</sup> See *Prosecutor v. Brima, Kamara and Kanu*, SCSL-04-16-T-628, Judgement (TC), 20 June 2007, para. 1446.

<sup>4384</sup> See *Prosecutor v. Brima, Kamara and Kanu*, SCSL-04-16-T-628, Judgement (TC), 20 June 2007, para. 1445.

that this is the case with regards to certain acts of violence underlying Counts 9 (Child Soldiers), 10 (Enslavement) and 11(Pillage), which will now be discussed.

(a) Enlistment, conscription and use of children under the age of 15 years to actively participate in hostilities

1967. The Trial Chamber has found that children under the age of 15 years were abducted and conscripted into the RUF and AFRC to be trained as SBUs in places such as Tonkolili,<sup>4385</sup> Kailahun,<sup>4386</sup> Kono,<sup>4387</sup> Port Loko<sup>4388</sup> and Bombali Districts.<sup>4389</sup> The Trial Chamber has also found that children under the age of 15 years were used by the RUF and AFRC for military purposes such as participating actively in hostilities by fighting at the frontlines, acting as armed bodyguards to commanders, taking part in armed food-finding missions, guarding mines, carrying loads, including arms and ammunition, and committing crimes against civilians. Such instances occurred in the districts of Kenema,<sup>4390</sup> Kono,<sup>4391</sup> Kailahun,<sup>4392</sup> Koinadugu,<sup>4393</sup> Port Loko,<sup>4394</sup> Bombali,<sup>4395</sup> and in Freetown and the Western Area.<sup>4396</sup>

1968. Such evidence, in the Trial Chamber's opinion, establishes that the purpose of the conscription and use of child soldiers by the RUF and AFRC during the conflict in Sierra Leone was primarily military in nature. Accordingly, the Trial Chamber finds that such acts were not done in furtherance of a primary purpose to terrorise the civilian population.

<sup>4385</sup> Tonkolili District: Findings *supra*.

<sup>4386</sup> Kailahun District: Children Abducted and Trained in Bunumbu, Findings *supra*.

<sup>4387</sup> Kono District: Children Trained by the AFRC and RUF at Yengema; Children Abducted and Trained by the AFRC and RUF between March and December 1998; Abduction and Training of TF1-143 in September of 1998, Findings *supra*.

<sup>4388</sup> Port Loko District: Abduction of Akiatu Tholley January to April 1999, Findings *supra*.

<sup>4389</sup> Bombali District: Children Trained at Camp Rosos July 1998; Children taken from Care Center Makeni May 2000; Abduction and Training of TF1-158 in 1998 and July 1999, Findings *supra*.

<sup>4390</sup> Kenema District: Children Used at Tongo Fields; Children Committing Crimes, Findings *supra*.

<sup>4391</sup> Kono District: Children Used to Commit Crimes February-March 1998; Children Used for Food-finding at Superman Ground; Children Used to Guard Mines at Tombudu; Children Used in Koidu; Children Used in Kono, Findings *supra*.

<sup>4392</sup> Kailahun District: Use of Children to Participate Actively in Hostilities; Children Used as Bodyguards Findings *supra*.

<sup>4393</sup> Koinadugu District: Use of Child Soldiers; Akiatu Tholley Used in Hostilities April-May 1998; TF1-143 Used in Hostilities, Findings *supra*.

<sup>4394</sup> Port Loko District: Akiatu Tholley Used to Participate in Hostilities, Findings *supra*.

<sup>4395</sup> Bombali District: Use of Children by AFRC After the ECOMOG Intervention 1998; Children as Bodyguards; Children Used in Burning and Amputations July-October 1998; Komba Sumana Used in Hostilities August to December 1998; Use of TF1-158 to Participate in Hostilities in 1998 and July 1999; Use of TF1-143 to participate in hostilities September-December 1998, Findings *supra*.

(b) Enslavement

1969. The Trial Chamber has found that wide-spread and large scale abductions of civilians were carried out by the RUF and AFRC in Kenema District,<sup>4397</sup> Kono District,<sup>4398</sup> Kailahun District<sup>4399</sup> and in Freetown and the Western Area.<sup>4400</sup> In all of those areas civilians were used as forced labour. In Kenema District, civilians were forced to work in diamond mines. In Kono District, civilians were not only forced to work in diamond mines but to carry loads, go on food-finding missions, carry out domestic chores and undergo military training. In Kailahun District, civilians were forced to carry loads, farm, fish, carry out domestic chores, go on food-finding missions, undergo military training and construct an airfield. In Freetown and the Western Area, civilians were forced to carry loads, perform domestic chores and destroy a bridge.

1970. The Trial Chamber finds that the primary purpose behind the commission of abductions and forced labour was not to spread terror among the civilian population, but rather was primarily utilitarian or military in nature. The Trial Chamber does not discount that the abduction of persons from their homes, their continued detention, and their subjection to forced labour, including forced mining and living in RUF camps, under conditions of violence may have spread terror among the civilian population. However, the Trial Chamber finds that the “side-effect” of terror is not sufficient to establish the specific intent element in relation to these crimes.

1971. As with evidence of the abduction and use of child soldiers, therefore, even where abductions and forced labour occurred simultaneously with other acts of violence otherwise examined by this Chamber with regards to the crime of acts of terrorism, the Trial Chamber is of the opinion that such acts cannot be considered to have been committed with the primary purpose of spreading terror.

<sup>4396</sup> Freetown and the Western Area: Children Committing Crimes during and after January 1999; Children Used by AFRC and RUF after January 1999; TF1-143 Used in Hostilities in January 1999, Findings *supra*.

<sup>4397</sup> Kenema District: Tongo Fields, Findings *supra*.

<sup>4398</sup> Kono District: Tombudu, Wonedu, Yengema, Koidu and other areas by Carrying Loads, Forced Military Training, Forced Labour, Domestic Chores, Food-finding, Findings *supra*.

<sup>4399</sup> Kailahun District: Buedu, Bunumbu, Luawa Chiefdom, Talia, Giema, Kailahun Town, Pendembu, Daru, and Segbwema by Carrying Loads, Domestic Chores, Carrying Arms and Ammunition, Forced Military Training, Constructing Buedu Airstrip, Mining, Farming, and Fishing, Findings *supra*.

<sup>4400</sup> Freetown and the Western Area: By Carrying Loads, Domestic Chores, Findings *supra*.





(c) Pillage

1972. The Trial Chamber has found that there were numerous instances of looting that occurred in Masiaka, Port Loko District, and Makeni, Bombali District, as part of Operation Pay Yourself.<sup>4401</sup> It has also found that in Kono District, money was looted from the Commercial Bank in Koidu Town sometime between February and April 1998, and that other items were looted from individuals in Koidu Town and Tombodu.<sup>4402</sup> Further, the Trial Chamber has found that civilian property was looted by rebels during the Freetown attack and during the retreat from Freetown in various locations including State House and several areas of Kissy.<sup>4403</sup>

1973. The declaration of an operation known as “Operation Pay Yourself” in Masiaka suggests that AFRC and RUF rebels appropriated civilian property for their own personal gain, as they were not being paid by the rebel forces. Witnesses testified that there was a strategic decision that “each soldier should take responsibility for feeding himself”.<sup>4404</sup> This is reinforced by the fact that much of what was looted during this period in Bombali and Port Loko Districts consisted of food, money and clothing.

1974. The fact that the looting in February-March 1998 in Kono District was part of “Operation Pay Yourself” suggests that AFRC and RUF rebels appropriated civilian property for their own personal gain, as they were not being paid by the rebel forces. Moreover, the instances of looting that the Trial Chamber has found to have been proved in Kono District were cases in which items were looted opportunistically. Similarly, the Trial Chamber further finds that those who looted the Commercial Bank in Koidu Town were motivated by profit.

1975. Given that many of the items that were taken during the advance and the retreat from Freetown were food, money and clothing, the Trial Chamber finds that much of this looting was undertaken in order to maintain the rebel forces during the attack and the retreat from Freetown. TF1-143, for example, testified that the rebels took drinks to sustain themselves

<sup>4401</sup> Port Loko and Bombali Districts: Findings *supra*.

<sup>4402</sup> Kono District: Findings *supra*.

<sup>4403</sup> Freetown and the Western Area: State House, Berry Street and Kissy, Findings *supra*.

<sup>4404</sup> Perry Kamara, Transcript 5 February 2008, p. 3098; TF1-375, Transcript 23 June 2008, p. 12500.

on the advance to Freetown<sup>4405</sup> and Alimamy Bobson Sesay indicated that in their advance towards Freetown, they took “logistics like rice and other things”.<sup>4406</sup> In addition, the Trial Chamber heard evidence that property such as vehicles may have been appropriated for logistical or military purposes. Alimamy Bobson Sesay testified, for example, that he and other AFRC forces commandeered vehicles from the UN House which were later used by Gullit and other commanders.<sup>4407</sup>

1976. The Trial Chamber does not discount that the widespread lootings of homes and businesses during Operation Pay Yourself in Bombali and Port Loko Districts, in Kono District, and during the attack on Freetown in which pillage was committed in the context of several other crimes, may have had the side-effect of spreading terror among the civilian population. However, the Trial Chamber finds that the “side-effect” of terror is not sufficient to establish the specific intent element in relation to these crimes.

1977. Accordingly, the Trial Chamber finds that the pillage of civilian property that occurred in these districts was not perpetrated with the primary purpose of spreading terror.

## 2. Kenema District

1978. The Trial Chamber has found in relation to the murders committed in Kenema District that the elements of the crime of terrorism have been established beyond reasonable doubt.<sup>4408</sup>

## 3. Kono District

### (a) Burning

1979. The Indictment alleges that between about 30 November 1996 and about 18 January 2002, members of RUF, AFRC, AFRC/RUF Junta or alliance and or/Liberian fighters, assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused, engaged in widespread destruction of property by burning in Kono District between about 1 February 1998 and about 31 December 1998, in

<sup>4405</sup> TF1-143, Transcript 5 May 2008, pp. 9025-9026.

<sup>4406</sup> Alimamy Bobson Sesay, Transcript 22 April 2008 pp. 8342-8343.

<sup>4407</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8291.

various locations, including Koidu, Tombudu or Tumbodu, Sewafe or Njaima Sewafe, Wenedu and Bumpe.<sup>4409</sup>

1980. The Prosecution submits that the burning of civilian houses and property “was an essential part of the strategy to make an area fearful”.<sup>4410</sup> In Kono District, it contends that

[w]hen the rebel forces retreated to Kono District following the Intervention, the strategy to be pursued against civilians in this District was made clear by [Johnny Paul Koroma]. At a meeting in Tankoro village attended by Hassan Papa Bangura, Dennis Mingo, Issa Sessay, Mike Lamin and other commanders, he declared that “Kono...should be a no go area for civilians”, and specifically directed that houses should be burned down. Between about 1 February and about 31 December 1998, this strategy underpinned the forces’ actions and operations throughout the District resulting in attacks on various towns and villages including those specifically mentioned in the Indictment [...]<sup>4411</sup>

1981. The Prosecution submits that operations in Kono District occurred pursuant to an articulated strategy of actions and operations which resulted in attacks on various towns and villages in Kono. Specifically, it submits that the attacks “pursued against civilians in this District” were ordered by Johnny Paul Koroma, who declared that Kono “should be a no go area for civilians” and that houses should be burnt down.<sup>4412</sup>

1982. Alimamy Bobson Sesay testified he attended a meeting in Tankoro village near Gandorhun in mid-March 1998<sup>4413</sup> after retreating RUF and AFRC fighters reached Koidu Town.<sup>4414</sup> The witness stated that he, Hassan Papa Bangura, Denis Mingo, Issa Sessay, Mike Lamin and others were present at the meeting.<sup>4415</sup> Alimamy Bobson Sesay testified that,

[I]n that meeting Johnny Paul [Koroma] said now that we have seen the people in Koidu Town, that is Kono, they don’t like the junta and that they will go to places and bring the Kamajors to base in Koidu and launch attacks on the junta, he said now he declares that Kono should serve as a strong base for the junta forces and it should be a no go area for civilians. And that as he was leaving we shouldn’t encourage civilians and that, if we encouraged them, the civilians will find a way to get them again to come back to town and start fighting against us. So he said we should declare Kono a no go zone for civilians, and then he said we should get some able bodied civilians who will assist us and they will serve as recruits and that we should make sure that we burn down houses in Kono so that people will not be able to base there. He said that now he was leaving and he was going to Liberia to meet former President Taylor to see how they could arrange to get logistics to serve as

<sup>4408</sup> Counts 2 and 3 (Unlawful Killings): Alleged unlawful killings in Kenema District (25 May 1997 to about 31 March 1998) *supra*.

<sup>4409</sup> Indictment, paras 6, 7.

<sup>4410</sup> Prosecution Final Trial Brief, para. 724.

<sup>4411</sup> Prosecution Final Trial Brief, para. 725.

<sup>4412</sup> Prosecution Final Trial Brief, para. 725.

<sup>4413</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7952.

<sup>4414</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7949-7950.

<sup>4415</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7950.



support for us and then he will send them to Kono, because he said since Kono was a [diamondiferous] area...<sup>4416</sup> He said that if we allow the civilians to come and base in those houses again they will find ways to fight against us. So, he said we should not allow that to happen.<sup>4417</sup>

1983. Alimamy Bobson Sesay further testified that in March/April 1998, there was a continuing attack against areas in Kono that involved the burning of houses.<sup>4418</sup> During this period, there was no “enemy threat”.<sup>4419</sup>

1984. In addition to the evidence of Alimamy Bobson Sesay, the Trial Chamber has considered the evidence of witnesses TF1-371 and Issa Sesay, as according to Alimamy Bobson Sesay, they were also present at this meeting

1985. Witness TF1-371 does not mention the occurrence of such a meeting. Rather, he testifies that a meeting took place in Masiaka to reorganise the command.<sup>4420</sup> After TF1-371 left Masiaka, he travelled to Makeni and then through Magburaka, Masingbi, Njaima Sewafe, and Koidu en route to Kailahun District.<sup>4421</sup> The only order to burn houses that he heard was given by Morris Kallon in Koidu Town (as discussed below).<sup>4422</sup>

1986. Issa Sesay testified for the Defence that Johnny Paul Koroma gave instructions to withdraw to Kono at a meeting held in his village, Magbonkineh. Morris Kallon was the only one of the RUF not present at the meeting because he was not in Makeni. Other senior commanders were present, including the witness, Mike Lamin, Isaac Mongor, Superman, Eldred Collins, Peter Vandi, SAJ Musa, Charles Conteh, Brigadier Mani, SFY Koromo, General Bropleh and Boise Palmer of the AFRC. Johnny Paul Koroma told those present that he had spoken with Bockarie and he then instructed Superman to mobilise the RUF to move to Kono.<sup>4423</sup>

1987. In Exhibit P-078, Amnesty International reported that,

In the days immediately after their removal from power by ECOMOG, AFRC and RUF forces indiscriminately killed unarmed civilians, looted and burned houses, both in Freetown and other towns. As the rebel forces were

<sup>4416</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7950-7951.

<sup>4417</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7951.

<sup>4418</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7984.

<sup>4419</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7984.

<sup>4420</sup> TF1-371, Transcript 28 January 2008, p. 2351 (CS).

<sup>4421</sup> TF1-371, Transcript 28 January 2008, pp. 2353-2354, 2356-2357 (CS).

<sup>4422</sup> TF1-371, Transcript 28 January 2008, pp. 2359-2560 (CS); Transcript 30 January 2008, pp. 2625-2626 (CS).

<sup>4423</sup> Issa Sesay, Transcript 8 July 2010, pp. 43991-43994.

pursued eastwards by ECOMOG forces through towns such as Bo in Southern Province, Kenema and Koidu in Eastern Province and Makeni in Northern Province during February, March and April 1998, they were responsible for widespread killings, torture and ill-treatment including rape and other forms of sexual assault, and abduction. Villages and towns were burnt to the ground, destroying thousands of homes. Koidu, a major town in the diamond-rich Kono District, was almost totally destroyed by AFRC and RUF forces and villages between Njaiama-Sewafe and Koidu were repeatedly attacked.<sup>4424</sup>

1988. This evidence of burning in Kono District corroborates the following evidence of burning in specific places within that district.

(i) Koidu

1989. The Prosecution submits that as AFRC/RUF fighters retreated to Koidu Town after the Intervention, fighters burned and looted houses for approximately two days. Houses were often burned with people still inside and some of the houses targeted belonged to Kamajors or Kamajor supporters.<sup>4425</sup>

1990. The Trial Chamber has considered the evidence of TF1-516, TF1-371, Isaac Mongor, Dennis Koker, Gibril Sesay, Perry M. Kamara, TF1-375, Sia Kamara, Exhibit P-201, Gibril Sesay, Foday Lansana, TF1-567 and Issa Sesay in relation to burning in Koidu Town.

1991. Witness TF1-516 testified that after Superman recaptured Kono in 1998,<sup>4426</sup> he heard from a friend who went to Koidu Town that Morris Kallon offered promotions to his bodyguards to burn houses in Koidu.<sup>4427</sup> This resulted in burning of many houses, including the witness's former house on Dabundeh Street in Koidu Town.<sup>4428</sup>

1992. TF1-371 was in Koidu Town for a couple of days when RUF and AFRC fighters passed through after the capture of Koidu Town following the Intervention.<sup>4429</sup> He testified that he saw Morris Kallon burning houses in the villages in the outskirts of Koidu Town.<sup>4430</sup> The witness had heard that Kallon had burned people inside the houses.<sup>4431</sup> He confronted

<sup>4424</sup> Exhibit P-078, "Sierra Leone - 1998 - A Year of Atrocities Against Civilians, Amnesty International Report", pp. 1-2, 7, 11.

<sup>4425</sup> Prosecution Final Trial Brief, para. 726.

<sup>4426</sup> TF1-516, Transcript 9 April 2008, pp. 7129-7130.

<sup>4427</sup> TF1-516, Transcript 9 April 2008, p. 7130.

<sup>4428</sup> TF1-516, Transcript 9 April 2008, pp. 7130-7131.

<sup>4429</sup> TF1-371, Transcript 28 January 2008, p. 2359 (CS).

<sup>4430</sup> TF1-371, Transcript 28 January 2008, pp. 2359-2560 (CS); Transcript 30 January 2008, pp. 2625-2626 (CS).

<sup>4431</sup> TF1-371, Transcript 28 January 2008, pp. 2359-2360 (CS).

Kallon with this information, and Kallon stated that he had burned Tamboros, those in the civil militia from the north.<sup>4432</sup>

1993. Isaac Mongor testified that during the advance on Koidu Town, fighters were trying to contain ECOMOG while they were advancing.<sup>4433</sup> When Mongor reached Koidu Town, buildings had already been burnt or were burning down.<sup>4434</sup> Mongor testified that he spoke with Morris Kallon, who told him that he had received orders to burn down buildings in Koidu Town from Sam Bockarie.<sup>4435</sup> Morris Kallon then told RUF “boys” to burn down the houses and that if they did, that they would be promoted.<sup>4436</sup> Mongor stated that some people were burnt together with the houses and that he saw the remains of some people who had died in the fires.<sup>4437</sup>

1994. Dennis Koker testified that he spent approximately one week in Kono District following the ECOMOG Intervention.<sup>4438</sup> He testified that during the attack on Koidu, over 100 houses were burnt.<sup>4439</sup> When the juntas and RUF fighters arrived in Kono, they started burning houses on the orders of Sam Bockarie as part of “Operation No Living Thing”.<sup>4440</sup> Koker heard about the order from Eldred Collins and he personally observed junta and RUF fighters burning houses.<sup>4441</sup> Koker testified that the houses were owned by civilians and stated that they were burnt so that no soldier would be able to stay in Kono District and that when government forces and ECOMOG came to Kono, they would not be able to stay there.<sup>4442</sup> Koker further explained that fighters were shooting civilians, capturing civilians and looting property.<sup>4443</sup>

1995. Gibril Sesay testified that after the ECOMOG Intervention, rebels arrived in Koidu Town.<sup>4444</sup> The witness stated that when the rebels arrived, they began looting and raping

<sup>4432</sup> TF1-371, Transcript 28 January 2008, pp. 2359-2360 (CS).

<sup>4433</sup> Isaac Mongor, Transcript 31 March 2008, pp. 6217-6218.

<sup>4434</sup> Isaac Mongor, Transcript 31 March 2008, pp. 6217-6218.

<sup>4435</sup> Isaac Mongor, Transcript 31 March 2008, p. 6128.

<sup>4436</sup> Isaac Mongor, Transcript 31 March 2008, pp. 6128-6219.

<sup>4437</sup> Isaac Mongor, Transcript 31 March 2008, pp. 6218-6219.

<sup>4438</sup> Dennis Koker, Transcript 14 January 2008, p. 1246.

<sup>4439</sup> Dennis Koker, Transcript 14 January 2008, pp. 1245-1246.

<sup>4440</sup> Dennis Koker, Transcript 14 January 2008, pp. 1241-1242.

<sup>4441</sup> Dennis Koker, Transcript 14 January 2008, p. 1242.

<sup>4442</sup> Dennis Koker, Transcript 14 January 2008, p. 1243.

<sup>4443</sup> Dennis Koker, Transcript 14 January 2008, p. 1243.

<sup>4444</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19383-19384.

civilians.<sup>4445</sup> Unlike other witnesses, Gibril Sesay stated that the Kamajors came to Koidu Town and chased the rebels out of the town and that the Kamajors stayed in Kono for two to three weeks,<sup>4446</sup> during which period they killed and ate people who were accused of sympathising with the RUF.<sup>4447</sup>

1996. Gibril Sesay further testified that two to three weeks after the arrival of ECOMOG, he heard gunshots coming from the Koikuma area.<sup>4448</sup> Kamajors and civilians fled, including the witness and his children.<sup>4449</sup> He did not flee far and returned to Koidu to make a “scene check”.<sup>4450</sup> He observed that both the Junta and the RUF had returned to Koidu Town and were burning houses.<sup>4451</sup> He was able to see Captain T and his men setting houses on fire.<sup>4452</sup> He later learned that the overall commander of the attack on Koidu Town was Akim Sesay.<sup>4453</sup> The witness stated that civilians spent approximately three days in Koidu when the RUF announced that they did not want civilians around Koidu Town and that they would turn Koidu into a farm.<sup>4454</sup> The witness fled Koidu Town for Wenedu, explaining “at that time human beings were not feeling good and I was not feeling good because we could not imagine those juntas and rebels coming to just destroy [...]. They only went to destroy people, so I did not feel good about it – about them at all”.<sup>4455</sup>

1997. Perry Kamara, who participated in the burning of Koidu Town, stated that Koidu Town was burnt because they wanted to make the area fearful, did not want to lose it and did not want ECOMOG forces to base there,<sup>4456</sup> and that while at the parade ground, Morris Kallon told the fighters to make the Kono area fearful by burning the houses in the area.<sup>4457</sup>

<sup>4445</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19383-19384.

<sup>4446</sup> Gibril Sesay, Transcript 28 October 2008, p. 19384.

<sup>4447</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19384-19386.

<sup>4448</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19386-19389

<sup>4449</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19386-19389

<sup>4450</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19386-19389

<sup>4451</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19386-19389

<sup>4452</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19386-19389

<sup>4453</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19386-19389

<sup>4454</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19386-19389.

<sup>4455</sup> Gibril Sesay, Transcript 28 October 2008, p. 19390.

<sup>4456</sup> Perry Kamara, Transcript 5 February 2008, p. 3109.

<sup>4457</sup> Perry Kamara, Transcript 5 February 2008, pp. 3150-3151.

1998. TF1-375 testified that during the attack, the forces took over Koidu Town and then started looting.<sup>4458</sup> He stated that some of the commanders captured girls and made them into their wives.<sup>4459</sup> Other fighters burned houses.<sup>4460</sup> He did not know how many houses were burned.<sup>4461</sup> He explained that one of the reasons particular houses were chosen was because they were houses in which it was believed the Kamajors were based.<sup>4462</sup> Another reason was that people living in the houses supported the Kamajors.<sup>4463</sup> The witness testified that he burned houses.<sup>4464</sup>

1999. Sia Kamara confirmed testimony she had given in the RUF Trial<sup>4465</sup> and a transcript of that testimony was admitted into evidence.<sup>4466</sup> In the RUF Trial, she testified that while she was in the bush, she saw civilians with bundles on their heads.<sup>4467</sup> She stated that the civilians told her that Kamajors had entered Koidu and had transformed themselves into soldiers and started burning houses.<sup>4468</sup> Because the witness describes Johnny Paul Koroma's convoy passing through the area, it is clear that the conversation she described occurred during the retreat from Freetown in February 1998.<sup>4469</sup>

2000. Foday Lansana testified that when he arrived in Koidu, the junta and RUF were in control of the town.<sup>4470</sup> The witness stated that Superman was the overall commander and that Isaac Mongor, Boston Flomo, aka Rambo, Bai Bureh Kamara, Peter Vandj, Savage and Bomblast were also in Koidu.<sup>4471</sup> Lansana testified that he stayed in Koidu with Superman

<sup>4458</sup> TF1-375, Transcript 23 June 2008, pp. 12504-12505.

<sup>4459</sup> TF1-375, Transcript 23 June 2008, pp. 12504-12505.

<sup>4460</sup> TF1-375, Transcript 23 June 2008, pp. 12504-12505.

<sup>4461</sup> TF1-375, Transcript 23 June 2008, p. 12505.

<sup>4462</sup> TF1-375, Transcript 23 June 2008, p. 12505.

<sup>4463</sup> TF1-375, Transcript 23 June 2008, p. 12505.

<sup>4464</sup> TF1-375, Transcript 23 June 2008, p. 12505.

<sup>4465</sup> Sia Kamara, Transcript 15 October 2008, p. 18433.

<sup>4466</sup> Exhibit P-201, "Sia Kamara, RUF Transcript, 1 February 2005".

<sup>4467</sup> Exhibit P-201, "Sia Kamara, RUF Transcript, 1 February 2005", pp. 4-5.

<sup>4468</sup> Exhibit P-201, "Sia Kamara, RUF Transcript, 1 February 2005", pp. 5-6.

<sup>4469</sup> Exhibit P-201, "Sia Kamara, RUF Transcript, 1 February 2005", pp. 8-9. See also Decision on the Prosecution Motion for Judicial Notice, Fact AD.

<sup>4470</sup> Foday Lansana, Transcript 21 February 2008, p. 4504.

<sup>4471</sup> Foday Lansana, Transcript 21 February 2008, p. 4504.

until ECOMOG pushed them out.<sup>4472</sup> He said that “Koidu was burnt down while we were still at the front line”.<sup>4473</sup>

2001. Lansana testified that when they received information that ECOMOG was advancing, Morris Kallon went to Superman’s house and burnt it down. Kallon also gave instructions “that they should set Koidu ablaze”.<sup>4474</sup> The witness explained that Kallon gave the instructions because he was informed that Superman’s vehicle “was hit” and did not know where Superman was.<sup>4475</sup>

2002. Witness TF1-567 testified that he was informed by soldiers coming from Kono District to Balahun that SLAs had burned down Koidu Town so that it could be captured easily.<sup>4476</sup>

2003. Issa Sesay testified for the Defence that ECOMOG drove out the AFRC/RUF from Koidu Town in early May 1998.<sup>4477</sup> During their retreat from Kono, the AFRC and RUF took part in the burning of Kono. Advancing ECOMOG troops and the Kamajors also “were sending bombs into Kono and the Alpha Jets also[were] bombing Kono”. Sesay heard that Superman complained to Bockarie that the fighters were not going to the front line to fight and so Bockarie told him to burn down their houses.<sup>4478</sup> In cross-examination, the witness agreed that as ECOMOG were approaching Kono, Bockarie ordered that everything in Koidu Town was to be burnt, houses, cars, everything.<sup>4479</sup> “So the burning of Koidu Town, RUF took part, the AFRC took part, and even the ECOMOG, the advancing ECOMOG, also were dropping bombs in Kono and Koidu Town, so that also causes fire, so that was how Koidu Town was burnt”.<sup>4480</sup> The witness said that he left Koidu Town before it had been burnt.<sup>4481</sup>

<sup>4472</sup> Foday Lansana, Transcript 21 February 2008, p. 4504.

<sup>4473</sup> Foday Lansana, Transcript 21 February 2008, p. 4505.

<sup>4474</sup> Foday Lansana, Transcript 21 February 2008, pp. 4504-4505.

<sup>4475</sup> Foday Lansana, Transcript 21 February 2008, pp. 4504-4505.

<sup>4476</sup> TF1-567, Transcript 2 July 2008, pp. 12897-12898.

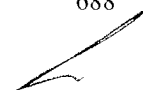
<sup>4477</sup> Issa Sesay, Transcript 13 August 2010, p. 46211

<sup>4478</sup> Issa Sesay, Transcript 5 August 2010, p. 45563

<sup>4479</sup> Issa Sesay, Transcript 13 August 2010, p. 46211.

<sup>4480</sup> Issa Sesay, Transcript 13 August 2010, pp. 46211-12

<sup>4481</sup> Issa Sesay, Transcript 13 August 2010, p. 46212





## Findings

2004. While there is some evidence that the buildings burnt in late February/March and late April/May 1998 in Koidu were suspected of being the houses of Kamajors, Tamboros or, in the case of burnings in May 1998, that the buildings were used by the RUF, the evidence of the number of properties burnt and the articulated strategy behind the burnings establishes beyond reasonable doubt that, overall, the acts of burning were intentionally directed against civilians or their properties.

2005. There is also some evidence that the purpose of burning was to gain military advantage by depriving enemy forces of the use of the buildings. However, the Trial Chamber finds that the evidence of the large-scale nature of the burnings of buildings, some of which were occupied by persons at the time, and of the stated objective of making the area “fearful”, proves beyond reasonable doubt that the burnings were committed with the primary purpose of spreading terror amongst the civilian population.

### (ii) Tombodu

2006. The Prosecution alleges that after Koidu Town was captured by AFRC/RUF fighters, the town was used as a base from which other attacks could be launched. In one attack on Tombodu, houses were burnt. After Tombodu had been secured, battalion commander Savage commenced a reign of terror in which people were burnt in their houses. In April 1998, approximately 53 civilians including suckling mothers and children were burnt to death in a house in Tombodu.<sup>4482</sup> The destruction on Tombodu during the rebel occupation was devastating.<sup>4483</sup>

2007. TF1-375 testified that after the capture of Koidu Town in February/March 1998, attacks were launched in other places, such as Mortema, Bumpe and Tombodu.<sup>4484</sup> Before fighters went on the Mortema attack, led by Bai Bureh, they were told that “they should go and make the area fearful”.<sup>4485</sup> TF1-375 testified that when the RUF used the term “fearful”

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<sup>4482</sup> Prosecution Final Trial Brief, para. 729.

<sup>4483</sup> Prosecution Final Trial Brief, para. 730.

<sup>4484</sup> TF1-375, Transcript 23 June 2008, pp. 12509-12511.

<sup>4485</sup> TF1-375, Transcript 23 June 2008, p. 12510.

it meant “to kill civilians and to burn houses and to instil fear into the ECOMOG, or any other opposing troop”.<sup>4486</sup>

2008. Alimamy Bobson Sesay testified that he, Hassan Papa Bangura and others from the headquarters in Kono District would attack locations as far as Yomandu to make sure that civilians actually left the area.<sup>4487</sup> He stated that he and Hassan Papa Bangura and others moved to Tombodu where Savage was located, and that “[w]herever civilians were we attacked that place. That is what we did and we burnt most of the areas in Tombodu, Yomandu”.<sup>4488</sup> The witness participated in an attack on Tombodu.<sup>4489</sup>

2009. Alimamy Bobson Sesay also testified that in a subsequent attack<sup>4490</sup> on Tombodu, when Savage was based there as battalion commander, Savage sent a message that 77 to 78 civilians had been captured.<sup>4491</sup> Alimamy Bobson Sesay, Bomb Blast and others went to Tombodu to see those civilians.<sup>4492</sup> The witness stated that when he arrived in Tombodu, Savage took about 15 civilians and put them into a house and burnt them inside the house.<sup>4493</sup> The other civilians had their arms amputated or were decapitated.<sup>4494</sup> Alimamy Bobson Sesay stated that Savage later showed Superman a pit where the civilians had been “cremated”.<sup>4495</sup>

2010. Sahr Charles confirmed testimony he had given in the RUF Trial<sup>4496</sup> and a transcript of that testimony was admitted into evidence.<sup>4497</sup> In the RUF Trial he testified that on a hill in Tombodu, there was a house with the inscription “Captain Savage” and underneath, it was written “6,000 people more will die”.<sup>4498</sup> Charles further testified that he saw a house on Yusufu Road where there were skulls and bones in each of the rooms<sup>4499</sup>. Rebels told him

<sup>4486</sup> TF1-375, Transcript 23 June 2008, pp. 12509-12512.

<sup>4487</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7982-7983.

<sup>4488</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7982-7983.

<sup>4489</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7983.

<sup>4490</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7994-7995.

<sup>4491</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7994.

<sup>4492</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 7994.

<sup>4493</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7994, 7996-7997.

<sup>4494</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7994, 7996-7997.

<sup>4495</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7999-8001.

<sup>4496</sup> Sahr Charles, Transcript 15 October 2008, pp. 18361-18426.

<sup>4497</sup> Exhibit P-199A, “Sahr Charles, RUF Transcript 12 January 2005”.

<sup>4498</sup> Exhibit P-199A, “Sahr Charles, RUF Transcript 12 January 2005”, p. 18916.

<sup>4499</sup> Exhibit P-199A, “Sahr Charles, RUF Transcript 12 January 2005”, p. 18916.



that it was Savage and Staff Alhaji who locked “all of those people into that house and set it on fire”.<sup>4500</sup>

2011. Sahr Charles also testified that when he left Tombodu in March 1998, the census indicated that there were 360 houses in the town.<sup>4501</sup> When he returned to Tombodu in February 1999, he counted 21 houses which were still intact.<sup>4502</sup> All of the others had been burnt down.<sup>4503</sup>

2012. Sahr Bindi testified that during the dry season at the end of 1998,<sup>4504</sup> he was captured and taken to Tombodu.<sup>4505</sup> Bindi testified that he was put in a cell where he stayed until evening, when the door was opened.<sup>4506</sup> The witness stated that he could see fire and that many houses were burning in Tombodu.<sup>4507</sup> He stated that the RUF set the houses on fire because they were staying in Tombodu.<sup>4508</sup>

2013. Ibrahim Fofana and Mustapha Mansaray (whose testimonies were discussed in relation to unlawful killings in Tombodu<sup>4509</sup>) testified that a house with 53 persons inside was sprinkled with gasoline and was burnt down.<sup>4510</sup> Staff Alhaji was the commander of the soldiers who burnt down the house.<sup>4511</sup>

2014. Foday Lansana testified that in 1998, Superman received a complaint that Savage had killed a large number of civilians in a five-room house in Tombodu. Later Superman, Isaac Mongor, Peter Vandi and the witness went to Tombodu to observe the area where civilians had been killed and they found that he had burnt them all into ashes.<sup>4512</sup>

<sup>4500</sup> Exhibit P-199A, “Sahr Charles, RUF Transcript 12 January 2005”, p. 18916.

<sup>4501</sup> Exhibit P-199A, “Sahr Charles, RUF Transcript 12 January 2005”, pp. 18912-18913.

<sup>4502</sup> Exhibit P-199A, “Sahr Charles, RUF Transcript, 12 January 2005”, p. 18913.

<sup>4503</sup> Exhibit P-199A, “Sahr Charles, RUF Transcript, 12 January 2005”, pp. 18912-18913.

<sup>4504</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18460-18461.

<sup>4505</sup> Sahr Bindi, Transcript 16 October 2008, pp. 18479-18487.

<sup>4506</sup> Sahr Bindi, Transcript 16 October 2008, pp. 12500-12502.

<sup>4507</sup> Sahr Bindi, Transcript 16 October 2008, pp. 12500-12502.

<sup>4508</sup> Sahr Bindi, Transcript 16 October 2008, pp. 12500-12502.

<sup>4509</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Third Massacre of over 53 Civilians in Tombodu in April 1998 *supra*.

<sup>4510</sup> Ibrahim Fofana, Transcript 28 October 2008, pp. 19338-19340; Mustapha Mansaray, Transcript 30 October 2008, pp. 19608- 19610.

<sup>4511</sup> Ibrahim Fofana, Transcript 28 October 2008, pp. 19338-19339; Mustapha Mansaray, Transcript 30 October 2008, pp. 19601-19602.

<sup>4512</sup> TF1-275, Transcript 21 February 2008, p. 4512.

2015. Samuel Komba confirmed testimony he had given in the ARFC Trial<sup>4513</sup> and a transcript of that testimony was admitted into evidence.<sup>4514</sup> In the AFRC trial he testified that after March 1998<sup>4515</sup> he was captured and taken to Tombodu.<sup>4516</sup> He stated that soldiers, upon the orders of Savage, took a group of 14 captured persons, including himself, placed mattresses upon them and set the mattresses on fire.<sup>4517</sup> He stated that the reason given for the punishment was that he and the others were people who killed soldiers.<sup>4518</sup>

### Findings

2016. Based upon the foregoing evidence, the Trial Chamber finds that the Prosecution has proved beyond a reasonable doubt that civilian houses were burnt by members of the AFRC/RUF forces in Tombodu in February/March 1998. The Trial Chamber further finds that the evidence of TF1-375 and Alimamy Bobson Sesay proves beyond a reasonable doubt that the perpetrators wilfully made civilian persons and their property the object of the attacks and that the burnings were committed with the primary purpose of spreading terror, in that the objective of the attacks was to make the area “fearful” so as to cause civilians to leave the area.

#### (iii) Sewafe

2017. The Prosecution submits that “Sewafe or Njaima Sewafe [sic] was one of the villages which the retreating AFRC/RUF forces attacked after the Intervention. Despite the absence of any enemy forces, civilian houses in the village were burned on the orders of JPK” [Johnny Paul Koroma].<sup>4519</sup>

2018. Perry Kamara testified that AFRC, RUF and STF fighters “burnt down” houses in some of the villages on their way to Koidu Town.<sup>4520</sup> Kamara stated that Sewafe was one of the villages affected.<sup>4521</sup>

<sup>4513</sup> Samuel Komba, Transcript 13 October 2008, pp. 18145-18186.

<sup>4514</sup> Exhibit P-189, “TF1-072, AFRC Transcript 1 July 2005”.

<sup>4515</sup> Exhibit P-189, “TF1-072, AFRC Transcript 1 July 2005”, pp. 18436, 18441.

<sup>4516</sup> Exhibit P-189, “TF1-072, AFRC Transcript 1 July 2005”, pp. 18442-18446.

<sup>4517</sup> Exhibit P-189, “TF1-072, AFRC Transcript 1 July 2005”, pp. 18447-18451.

<sup>4518</sup> Exhibit P-189, “TF1-072, AFRC Transcript 1 July 2005”, p. 18448.

<sup>4519</sup> Prosecution Final Trial Brief, para.731.

<sup>4520</sup> Perry Kamara, Transcript 5 February 2008, pp. 3100-3101.

2019. Alimamy Bobson Sesay testified that around early March 1998 he went to Sewafe with the long convoy of retreating AFRC and RUF fighters after the ECOMOG Intervention. The witness stated that when the group arrived, he, Superman and Hassan Papa Bangura captured the “ground” and did not encounter any “enemy forces”. When Johnny Paul Koroma and the rest of the convoy arrived, Koroma ordered the village to be burned down, as Sewafe was reported to be a Kamajor stronghold and the houses should be burned in their absence. Civilian houses were then burned.<sup>4522</sup>

### Findings

2020. Based on the evidence of Alimamy Bobson Sesay and Perry Kamara, the Trial Chamber is satisfied beyond a reasonable doubt that houses were burnt in Sewafe by AFRC, RUF and STF fighters on the orders of Johnny Paul Koroma, that the fighters wilfully made civilian homes the object of their attack, and that the primary purpose of the burning was to terrorise the civilian population by demonstrating the repercussions of collaborating with the enemies of the RUF and AFRC.

#### (iv) Wenedu (a.k.a. Wonedu)

2021. The Prosecution submits that just after April 1998, Wenedu, “aka Wonedu aka Wonedu” was a village in which civilians “were under captivity” and being terrorised by rapes and mutilations. SBUs burned houses, acting on the orders of Captain KS Banya, an AFRC commander.<sup>4523</sup>

2022. Gibril Sesay testified that when he arrived in Wenedu around April 1998 he saw houses burnt down and rotting corpses.<sup>4524</sup>

2023. Alex Tamba Teh testified that while he was in Wenedu village after April 1998 he saw five houses being burnt by SBUs on the orders of Captain Banya, an AFRC commander, to “light candles” which the witness “later knew that it meant for them to go and burn down houses”.<sup>4525</sup>

<sup>4521</sup> Perry Kamara, Transcript 5 February 2008, pp. 3100-3101.

<sup>4522</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7944-7945.

<sup>4523</sup> Prosecution Final Trial Brief, para. 732.

<sup>4524</sup> Gibril Sesay, Transcript 28 October 2008, pp. 19398-19399.

<sup>4525</sup> Alex Tamba Teh, Transcript 8 January 2008, pp. 683, 722-723.

## Findings

2024. Based on the first-hand evidence of Alex Tamba Teh, the Trial Chamber finds that it has been proved beyond reasonable doubt that at least five houses were burnt in Wenedu village after April 1998 on the orders of an AFRC commander, and that civilians or their property were wilfully made the objects of such violence.

2025. Unlike other places in Kono District in which the burning of civilian property by the AFRC/RUF forces occurred, in the case of Wenedu there was no evidence in which the purpose of the burning was explicitly stated. However, the nature, manner and timing of the wanton burning of the houses in Wenedu followed a pattern of similar burnings by AFRC/RUF forces in other towns in Kono District which had the primary purpose of spreading terror among the civilian population. In the Trial Chambers view, all of the circumstances lead to the inescapable inference that the burnings in Wenedu were part of the same campaign to terrorize the civilian population. The Trial Chamber is accordingly satisfied beyond a reasonable doubt that primary purpose of the burning of the houses in Wenedu was to spread terror among the civilian population.

### (v) Bumpe

2026. The Prosecution alleges that Bumpe was burned by retreating forces on their way to Koidu.<sup>4526</sup> The Prosecution further alleges that Bumpe was attacked again in March/April 1998 by AFRC/RUF forces in order 'to move civilians away from the entire area' and that civilians were specifically targeted by fighters because "it was believed they would pass information to the enemy". The town was almost completely burnt down. In some cases, civilians were locked in houses and burned alive.<sup>4527</sup>

2027. Perry Kamara testified that when the SLA/RUF fighters were preparing for the Bumpe mission in 1998, Morris Kallon ordered them to make the area fearful by burning houses, and so when the fighters moved to Bumpe they burnt houses and killed civilians.<sup>4528</sup>

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<sup>4526</sup> Prosecution Final Trial Brief, para. 733.

<sup>4527</sup> Prosecution Final Trial Brief, para. 733.

<sup>4528</sup> Perry Kamara, Transcript 6 February 2008, pp. 3150-3152.



2028. Alimamy Bobson Sesay testified that from March-June 1998, the SLA/RUF moved to various areas including Bumpe town, where they locked civilians in houses, set them on fire and burnt them down completely, resulting in the deaths of the civilians.<sup>4529</sup>

2029. TF1-375 testified that around March 1998, during the attack on Bumpe, the RUF/AFRC fighters, including the witness, burnt civilian homes resulting in deaths of many civilians.<sup>4530</sup>

### Findings

2030. Based on the foregoing evidence, the Trial Chamber finds beyond reasonable doubt that civilian houses in Bumpe were burnt by members of the RUF/AFRC, that the perpetrators wilfully made persons and their property the object of the burnings, and that the burnings were committed with the primary purpose of spreading terror amongst the civilian population.

#### (b) Unlawful Killings

2031. The Trial Chamber has found in relation to a number of murders which were perpetrated in various pleaded locations in Kono District that the elements of the crime of acts of terrorism have been established beyond reasonable doubt.<sup>4531</sup>

#### (c) Sexual Violence

2032. The Trial Chamber has found proved beyond reasonable doubt that Finda Gbamanja was raped in Koidu Town by a rebel named Peppe in February 1998; that Finda Gbamanja was raped by Sergeant Foday in Koidu Town and at Superman Ground in 1998; that TF1-189 was raped in Koidu Town by her AFRC and RUF captors between March and April 1998, that AFRC commanders, including Alimamy Bobson Sesay, raped an unknown number of women and girls in Tombodu between March and June 1998; that Sia Lappia was raped by Staff Alhaji in Tombodu in approximately April 1998; that Rebecca and an

<sup>4529</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 7985-7987.

<sup>4530</sup> TF1-375, Transcript 23 June 2008, pp. 12504-12505

<sup>4531</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kono District (Between about 1 February 1998 and 31 December 1998) *supra*.

unknown number of women were raped at Wonedu by men under the command of Rocky in 1998; that an unknown number of women were raped in Superman Ground by RUF, AFRC and STF fighters in or about April 1998; and that an unknown number of women and girls were raped at PC Ground by RUF, AFRC and STF fighters including Isaac Mongor in or about April 1998.<sup>4532</sup>

2033. Further, the Trial Chamber has found proved beyond reasonable doubt that an unknown number of women were used as sex slaves by RUF and AFRC fighters in Koidu Town in February 1998; that an unknown number of women were used as sex slaves by RUF and AFRC fighters in Koidu Town in March to June 1998; that an unknown number of women were used as sex slaves by RUF, AFRC and STF fighters at Superman Ground and PC Ground in around April 1998; that TF1-189 was used as a sex slave by members of the RUF in Koidu Town from 12 March 1998 to August 1998; that Finda Gbamanja was used as a sex slave by a member of the RUF in Koidu Town from approximately March/April 1998; that Finda Gbamanja was used as a sex slave by rebels loyal to Superman at Superman Ground from approximately April to October 1998.<sup>4533</sup> The Trial Chamber has also found that all of these instances constitute outrages upon personal dignity.<sup>4534</sup>

2034. It is well established that rape, sexual slavery, forced marriages, and outrages on personal dignity, when committed against a civilian population with the specific intent to terrorise, amount to an act of terror.<sup>4535</sup> Expert witness Beth Vann stated in her report that sexual violence was used as a tactic by the AFRC/RUF to “send a message” to the enemy.<sup>4536</sup> Exhibit P-330, a Human Rights Watch report, states that the “rebel forces have used sexual violence as a weapon to terrorize, humiliate and punish, and to force the civilian population into submission”.<sup>4537</sup> Experts who worked with victims of sexual violence during the conflict in Sierra Leone reported that the victims suffered from sexually transmitted diseases, exhibited signs of post-traumatic stress disorder, and were often

<sup>4532</sup> Kono District: Count 4 (Rape); Conclusions *supra*.

<sup>4533</sup> Kono District: Count 5 (Sexual Slavery); Conclusions *supra*.

<sup>4534</sup> Kono District: Count 6 (Outrages upon Personal Dignity); Findings *supra*.

<sup>4535</sup> See RUF Trial Judgement, paras 1346-1352.

<sup>4536</sup> Exhibit P-073, “Expert Report, Conflict Related Sexual Violence in Sierra Leone”, p. 7.

<sup>4537</sup> Exhibit P-330, “Human Rights Watch Report, Sierra Leone - We'll Kill You if You Cry - Sexual Violence in the Sierra Leone Conflict, Vol. 15, No. 1 (A), January 2003”, p. 35. See also P-331, Amnesty International Report, Sierra Leone - Rape and Other Forms of Sexual Violence Against Girls and Women, 29 June 2000”, p. 2.

socially isolated, stigmatized and rejected by their families.<sup>4538</sup> Such sexual violence was therefore deliberately aimed at destroying the traditional family nucleus, thus undermining the cultural values and relationships which held society together.<sup>4539</sup>

2035. In her expert report, in which she interviewed refugees from Kono and Kailahun District, Beth Vann indicated that all of the interviewees described witnessing at least one public rape.<sup>4540</sup> There was evidence that Sia Lappia was forced at gunpoint to take off her clothes in public and was then raped in front of a group of civilians, including her own child.<sup>4541</sup> Not only were victims publicly undressed and violated, but some were subjected to perverse methods of sexual violence. For example, after Sia Kamara was raped, one rebel inserted a stick into her vagina.<sup>4542</sup>

2036. The Trial Chamber finds that committing crimes of sexual violence in public was a deliberate tactic on the part of the perpetrators to spread terror. Such crimes were part of a campaign of rape and sexual slavery committed by members of the AFRC/RUF against the women of Kono District not merely as a means of sexual gratification, but in order to spread terror among the civilian population.

2037. The Trial Chamber therefore finds that it has been proved beyond reasonable doubt that members of the AFRC/RUF forces wilfully made the girls and women of Kono District the object of acts of sexual violence with the primary purpose of spreading terror among the civilian population.

(d) Physical Violence

(i) Tombodu

2038. The Trial Chamber has found that 15 civilians had their hands amputated and/or were mutilated by Savage, Guitar Boy and Staff Alhaji in March or April 1998, that six persons, including witnesses Ibrahim Fofana and Mustapha Mansaray, had their hands

<sup>4538</sup> Exhibit P-073, "Expert Report, Conflict Related Sexual Violence in Sierra Leone", p. 17; Exhibit P-240B (Confidential), p. 20587.

<sup>4539</sup> Exhibit P-330, "Human Rights Watch Report, Sierra Leone - We'll Kill You if You Cry - Sexual Violence in the Sierra Leone Conflict, Vol. 15, No. 1 (A), January 2003", p. 4. See also RUF Trial Judgement, para. 1349.

<sup>4540</sup> Exhibit P-073, "Expert Report, Conflict Related Sexual Violence in Sierra Leone", p. 8.

<sup>4541</sup> Kono District: Count 4 (Rape); Tombodu, Findings *supra*.

<sup>4542</sup> Kono District: Count 5 (Rape); Rape of Sia Kamara, Findings *supra*.

amputated by Staff Alhaji or Rambo in April 1998, and that Samuel Komba's right hand was mutilated in Tombodu by rebels after March 1998.<sup>4543</sup>

2039. The amputations and mutilations practised by the RUF were notorious, and served as a permanent, visible and grotesque reminder to all civilians of the consequences of resisting the AFRC or RUF or of supporting Kabbah or ECOMOG.

2040. Moreover, Alimamy Bobson Sesay, whose evidence the Trial Chamber has accepted in relation to these incidents, testified that the civilians whose hands were amputated by Savage, Guitar Boy and Staff Alhaji were targeted because they were thought by Savage to be ECOMOG supporters, and that after their hands had been amputated, they were urged to seek relief from ECOMOG troops.<sup>4544</sup> These amputations occurred in the context of the commission of widespread burnings and other crimes. The Trial Chamber therefore finds that it has been proved beyond reasonable doubt that the primary purpose of these amputations and/or mutilations was to spread terror among the civilian population by demonstrating the repercussions of collaborating or being perceived to collaborate with ECOMOG.

2041. The Trial Chamber further finds that the amputations of Fofana's and Mansaray's hands and the unsuccessful amputation of Komba's hand were also perpetrated with the primary purpose of spreading terror among the civilian population.

(ii) Kayima

2042. The Trial Chamber has found that 18 captured persons, including the witness Sorieh Kondeh, had their bodies carved with the letters "RUF" and/or "AFRC" by AFRC fighters in Kayima in mid-1998.<sup>4545</sup>

2043. The carvings practiced by the RUF were notorious, and served as a permanent, visible and grotesque reminder to all civilians of the consequences of resisting or escaping from the AFRC or RUF or of supporting Kabbah or ECOMOG. The Trial Chamber is therefore satisfied beyond reasonable doubt that the AFRC fighters who carved the words

<sup>4543</sup> Kono District: Counts 7 and 8 (Physical Violence); Tombodu, Findings *supra*.

<sup>4544</sup> Kono District: Count 7 and 8 (Physical Violence); Tombodu, Findings *supra*.

<sup>4545</sup> Kono District: Count 7 and 8 (Physical Violence); Kayima, Findings *supra*.



“AFRC” or “RUF” into the bodies of 18 captured persons were acting with the primary purpose of spreading terror.

(iii) Wonedu

2044. The Trial Chamber has found that an unknown number of civilians had the letters “RUF” and/or “AFRC” carved on their bodies by RUF fighters in Wonedu after April 1998, and that Alex Tamba Teh was physically injured in a serious and permanent manner by AFRC Commander Banya, who used the butt of his gun to knock out his teeth.<sup>4546</sup>

2045. Such disfigurements practised by the RUF were notorious, and served as a permanent, visible and grotesque reminder to all civilians of the consequences of resisting the AFRC or RUF or of supporting Kabbah or ECOMOG. In addition, Tamba Teh, whose evidence the Trial Chamber has accepted in relation to this incident, testified that the rebels “said that people shouldn’t escape and go to ECOMOG. In fact they shouldn’t escape and go, so with that carving if you go to the side of ECOMOG they will kill you, so you never had anywhere else to go”.<sup>4547</sup> The Trial Chamber is satisfied beyond reasonable doubt that the primary purpose of these disfigurements was to terrorise the civilian population by demonstrating the repercussions of escaping from the AFRC or RUF, or of collaborating or being perceived to collaborate with ECOMOG.

2046. However, with respect to the injuries caused to Alex Tamba Teh, the Trial Chamber finds that this act was not perpetrated with the primary purpose of terrorizing the civilian population, but was rather a spontaneous punishment inflicted upon him by AFRC Commander Banya.

Conclusion

2047. The foregoing findings by the Trial Chamber establish that the Prosecution has proved beyond a reasonable doubt that members of the AFRC/RUF forces in Kono District wilfully made civilian persons or their property the object of acts of violence in the forms of burning of civilian property (in Koidu, Tombodu, Sewafe, Wonedu and Bumpe), unlawful killings, sexual violence and physical violence (in Tombodu, Kayima and Wonedu), committed with the primary purpose of spreading terror among the civilian population.

2048. The Trial Chamber has already found that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving, among others, members of the RUF and AFRC.<sup>4548</sup> Further, the Trial Chamber is satisfied beyond reasonable doubt that crimes discussed in the above findings were directly linked to that armed conflict and that the victims were civilians not directly taking part in hostilities. The Trial Chamber therefore finds that the elements of the crime of acts of terrorism (Count 1) as a serious violation of article 3 common to the Geneva Conventions and of Additional Protocol II (Count 1) have been proved beyond reasonable doubt.

#### 4. Kailahun District

##### (a) Unlawful Killings

2049. The Trial Chamber has found in relation to the unlawful killings perpetrated in Kailahun District that the elements of the crime of acts of terrorism have been established beyond reasonable doubt.<sup>4549</sup>

##### (b) Sexual Violence

2050. The Trial Chamber has found that it has been proved beyond reasonable doubt that an unknown number of women and girls captured in Kenema District were used by the AFRC and RUF as sex slaves after February 1998 in Buedu and Kailahun Town; that an unknown number of women and girls were used as sex slaves by RUF members in Buedu and that TF1-189 was used as a sex slave by a member of the RUF in Kailahun Town from August to September 1999.<sup>4550</sup> The Trial Chamber also recalls that it has found that each of these instances constitutes an outrage upon personal dignity.<sup>4551</sup>

<sup>4546</sup> Kono District: Counts 7 and 8 (Physical Violence); Wondedu Area, Findings *supra*.

<sup>4547</sup> Kono District: Counts 7 and 8 (Physical Violence); Wondedu Area, Findings *supra*.

<sup>4548</sup> See Law and Findings on the General Requirements: Article 3: War Crimes, para. 573 *supra*.

<sup>4549</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Kailahun District (between about 1 February 1998 and about 30 June 1998) *supra*.

<sup>4550</sup> Kailahun District: Count 5 (Sexual Slavery); Kailahun District after February 1998; TF1-189 Used as a Sexual Slave by the RUF in Kailahun-August 1998 to September 1998, Findings *supra*.

<sup>4551</sup> Kailahun District: Count 6 (Outrages Upon Personal Dignity); Findings *supra*.

2051. The Trial Chamber has found that in Kailahun District the crime of sexual slavery was both widespread and systematic. There was evidence that girls as young as 7-15 years were used as sex slaves in Kailahun District,<sup>4552</sup> and that victims of sexual slavery were also humiliated and degraded. For example, witness Dennis Koker testified that in Buedu, CO Kallon brought a woman who had been subjected to sexual slavery to his office saying that she had disrespected him. He had then stripped her to her underwear and beaten her.<sup>4553</sup> As in Kono District, Trial Chamber is further satisfied from this evidence that the public nature of these crimes of sexual violence was a deliberate tactic on the part of the perpetrators to instil fear among civilians.

2052. On the basis of the evidence relating to sexual slavery in Kailahun District, the Trial Chamber finds that the widespread and systematic use of women as sex slaves instilled fear and a sense of insecurity among the civilian population, and is therefore satisfied beyond reasonable doubt that members of the AFRC/RUF wilfully made the women of Kailahun District the object of acts of sexual violence with the primary purpose of spreading terror among the civilian population.

(c) Physical Violence

2053. The Trial Chamber has found that the evidence of physical violence perpetrated in Kailahun District is relevant to proof of the chapeau requirements only.<sup>4554</sup>

Conclusion

2054. The foregoing findings by the Trial Chamber establish that the Prosecution had proved beyond reasonable doubt that members of the AFRC/RUF forces wilfully made civilian persons the object of acts of violence in the form of unlawful killings and sexual violence in Kailahun District, committed with the primary purpose of spreading terror among the civilian population.

<sup>4552</sup> A 1998 Human Rights Report on Sierra Leone stated that the practice of “kidnapping youngsters and women” continued. Women were forced to act as sexual slaves. In particular seven girls aged between 7-15 years were abducted in March 1998 from the Ben Hirsh childcare centre in Kenema. Exhibit P-366, “Sierra Leone Country Report on Human Rights Practices for 1998, US Department of State, Bureau of Democracy, Human Rights, and Labor, 26 February 1999, p. 3, ERN 25072.

<sup>4553</sup> Kailahun District: Count 5 (Sexual Slavery); Findings *supra*; Dennis Koker, Transcript 15 January 2008, pp. 1273-1275.

<sup>4554</sup> Kailahun District: Counts 7 and 8 (Physical Violence); November 1996-January 2002, Findings *supra*.

2055. The Trial Chamber has already found that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving, among others, members of the RUF and AFRC.<sup>4555</sup> Further, the Trial Chamber is satisfied beyond reasonable doubt that crimes discussed in the above findings were directly linked to that armed conflict and that the victims were civilians not directly taking part in hostilities. The Trial Chamber therefore finds that the elements of the crime of acts of terrorism (Count 1) as a serious violation of article 3 common to the Geneva Conventions and of Additional Protocol II (Count 1) have been proved reasonable doubt.

## 5. Freetown and the Western Area

### (a) Burning

2056. The Indictment alleges that “members of RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters, assisted and encouraged by, acting in concert with, under the direction and/or control of, and/or subordinate to the Accused, engaged in widespread destruction of civilian property by burning”<sup>4556</sup> “as part of a campaign to terrorize the civilian population of the Republic of Sierra Leone”.<sup>4557</sup> In particular, the Indictment alleges that such acts occurred “between about 21 December 1998 and about 28 February 1999, in locations throughout Freetown, including Kissy and eastern Freetown and the Fourah Bay, Upgun, State House, Calaba Town, Kingtom and Pademba Road areas of the city, and Hastings, Goderich, Kent, Grafton, Wellington, Tumbo, Waterloo and Benguema in the Western Area”.<sup>4558</sup>

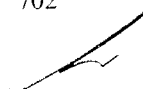
2057. In relation to acts of terrorism alleged to have taken place in Freetown and the Western Area, the Trial Chamber has considered the evidence of witnesses Alimamy Bobson Sesay, Alice Pyne, TF1-375, Foday Lansana, Isaac Mongor, TF1-143, TF1-026, TF1-028, Patrick Sheriff, Akiatu Tholley, Ibrahim Wai, Perry M. Kamara, James Kpungbu, TF1-083, Dauda Aruna Fornie, Samuel Radder John, Alusine Conteh, Mohammed Sampson Bah, TF1-358, Alpha Jalloh, Mohamed Sesay, Abu Bakarr Mansaray, TF1-029, TF1-150,

<sup>4555</sup> See Law and Findings on the General Requirements: Article 3: War Crimes, para. 573 *supra*.

<sup>4556</sup> Indictment, para. 6.

<sup>4557</sup> Indictment, para. 5.

<sup>4558</sup> Indictment, para. 8.





Osman Jalloh and Paul Nabieu Conteh in addition to Exhibits P-328, P-341B, P-356B and P-357B and Confidential Exhibits P-284 and P-285.

2058. TF1-375 testified that after the death of SAJ Musa, Gullit's forces advanced to Freetown. The witness knew about this movement because he heard it on the RUF radio while he was in Masiaka. At that time Superman was at Gberi Junction and sent a car to inform the group in Masiaka that the forces had attacked Hastings and were ready to enter Freetown, so the witness's group should rush to take over Waterloo "because they left Waterloo empty".<sup>4559</sup>

2059. After TF1-375's group passed through Waterloo, they advanced to Yams Farm, which is located on top of a hill. TF1-375 testified that from there, he was able to see clearly what was happening in Freetown. The witness saw the fighting, cars passing by, fire flaming and houses burning.<sup>4560</sup>

2060. On 7 January 1999, Alice Pyne heard on the BBC radio that rebels had entered Freetown and captured State House.<sup>4561</sup> Later that day, Sam Bockarie sent an order to Superman in Lunsar and RUF Rambo in Makeni to join the troops that had entered Freetown.<sup>4562</sup> In the afternoon on 8 January 1999, a group of 200 fighters, including commanders Superman, Foday Lansana and Gugumeh, left Lunsar. Pyne testified that they went through Gberi Junction, Masiaka, Waterloo and were stopped at Hastings the next morning by the ECOMOG forces there. The group retreated back to Yams Farm, which is located immediately after Hastings towards the direction of Waterloo.<sup>4563</sup>

2061. Alice Pyne testified that she was operating the radio set at Yams Farm and heard communications between Sam Bockarie and Gullit. Gullit reported to Bockarie that ECOMOG had pushed his troops out of State House. Bockarie then told Gullit that if ECOMOG forced them out of Freetown, "they should burn the fucking place and that they

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<sup>4559</sup> TF1-375, Transcript 24 June 2008, pp. 12604-12605.

<sup>4560</sup> TF1-375, Transcript 24 June 2008, pp. 12606-12607.

<sup>4561</sup> Alice Pyne, Transcript 19 June 2008, p. 12274.

<sup>4562</sup> Alice Pyne, Transcript 19 June 2008, p. 12277.

<sup>4563</sup> Alice Pyne, Transcript 19 June 2008, pp. 12278-12279.

should not spare anything”.<sup>4564</sup> The witness testified that this communication occurred one day after they reached Yams Farm.<sup>4565</sup>

2062. Foday Lansana testified that throughout the Freetown attack Gullit and Sam Bockarie were in constant communication. The witness knew about these communications because he “used to monitor the net between Sam Bockarie and Gullit and other commanders that had communication sets”.<sup>4566</sup>

2063. One particular communication that Foday Lansana recalled was when Gullit reported to Bockarie that the troops were experiencing serious threats and pressure from ECOMOG in Freetown. Bockarie ordered Gullit and other commanders in Freetown to “make themselves fearful” so that ECOMOG would not overtake the troops’ positions in Freetown. Foday Lansana testified that Bockarie specifically ordered, “Gullit, if it causes you to kill all the civilians, burn all the houses where you are, just so that you will not leave Freetown, you should go ahead and make sure that you maintain where you were. You should chase whosoever would want to chase you. You know that Freetown is surrounded with water. You should chase them into the water. Burn any house. You should kill and make yourselves fearful. Amputate arms. The civilians, let them go to the enemy. They will know that we are on something serious”.<sup>4567</sup>

2064. When the rebels entered Freetown on 6 January, Isaac Mongor was around the Joru axis. Mongor testified that he was constantly monitoring the radio in order to know what was happening in Freetown.<sup>4568</sup> The witness himself heard Gullit communicating with Sam Bockarie about the mounting pressure from ECOMOG troops. In response, Bockarie ordered that if the troops could not withstand the pressure, “they should start carrying out some destruction, they should set fire on the Nigerian embassy and other areas”.<sup>4569</sup>

2065. Perry Kamara, a member of the RUF, stated that when the rebels entered Freetown the situation of the civilians was “pathetic” and they were suffering “raping, hard labour,

<sup>4564</sup> Alice Pyne, Transcript 19 June 2008, pp. 12280-12282.

<sup>4565</sup> Alice Pyne, Transcript 19 June 2008, p. 12282.

<sup>4566</sup> Foday Lansana, Transcript 22 February 2008, p. 4560.

<sup>4567</sup> Foday Lansana, Transcript 22 February 2008, p. 4561.

<sup>4568</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5822-5824.

<sup>4569</sup> Isaac Mongor, Transcript 11 March 2008, p. 5825.

execution, amputation, burning of the property”.<sup>4570</sup> “During this time the RUF fighters, AFRC, including the STF, were burning houses, amputating, looting, killing, raping, setting road blocks, no transportation, no movement. Most of the civilians were indoors”.<sup>4571</sup>

2066. Perry Kamara said that when the military situation changed his troops received a message from Sam Bockarie saying that they should make the area more fearful than before.<sup>4572</sup> “[He] said if we did that the international body would intervene and ECOMOG would stop and would be there and maybe they start calling for peace talks. That was what he stated in his message”.<sup>4573</sup> However, they had received other messages from Bockarie to make the area fearful before this. “Well, what I knew if before we entered Freetown if we had a message that we should make an area fearful it was to destroy, kill, amputate, destroy bridges, set road blocks. And in that message he talked about some areas as well and it was not just one message”.<sup>4574</sup>

### Findings

2067. The Trial Chamber accepts the evidence of all of these witnesses as proof beyond reasonable doubt that members of the RUF, AFRC, AFRC/RUF Junta burned civilian property in Freetown and the Western Area, wilfully made civilians or their property the object of such acts, and that the primary purpose of such acts was to spread terror among the civilian population.

2068. The Prosecution also adduced the following evidence of incidences of burning at specific places within Freetown and the Western Area.

#### (i) Waterloo

2069. The Prosecution submits that rebels, including some who spoke Liberian English, attacked Waterloo for the first time around 22 December 1998 during their advance towards Freetown. Waterloo was burnt for a second time during the rebels’ retreat.<sup>4575</sup>

<sup>4570</sup> Perry Kamara, Transcript 6 February 2008, p. 3231.

<sup>4571</sup> Perry Kamara, Transcript 6 February 2008, p. 3232.

<sup>4572</sup> Perry Kamara, Transcript 6 February 2008, p. 3234.

<sup>4573</sup> Perry Kamara, Transcript 6 February 2008, p. 3236.

<sup>4574</sup> Perry Kamara, Transcript, 6 February 2008, p. 3235.

<sup>4575</sup> Prosecution Final Trial Brief, para. 738.

2070. The Trial Chamber has considered the evidence of witnesses TF1-143, TF1-028, Patrick Sheriff and Akiatu Tholley in addition to Exhibit P-341B.

2071. Witness TF1-143 was a small boy who was abducted by an RUF commander named Kabila in September 1998,<sup>4576</sup> and was taken to SAJ Musa's group, which was a mix of AFRC and RUF fighters.<sup>4577</sup> The witness was with SAJ Musa's group and the Red Lion group as they approached Freetown from Colonel Eddie Town.<sup>4578</sup> After SAJ Musa's death, the group went to Waterloo Junction and took the main highway to Freetown. TF1-143 testified that along the way, the group would burn houses.<sup>4579</sup>

2072. TF1-028 testified that while she was in Eddie Town, also known as Tufayim,<sup>4580</sup> the junta commanders present were Colonel Eddie, Five-Five, Gullit, Woyoh, FAT and Leather Boot. Two junta boys came and announced that Superman was sending reinforcements from Kurubonla.<sup>4581</sup> The witness testified that the reinforcements sent by Superman were led by Mohamed Bajehjeh, numbered about 100, were RUF and wore red headbands.<sup>4582</sup> This group was known as the Red Lion group.<sup>4583</sup> SAJ Musa's group arrived in Eddie Town after Bajehjeh's troops.<sup>4584</sup>

2073. TF1-028 testified that the junta, RUF and civilians all left Eddie Town to travel to Freetown via Port Loko Road, Four Mile and Waterloo.<sup>4585</sup> The witness stated that at Waterloo the RUF and junta were burning houses and killing people.<sup>4586</sup>

2074. The BBC Focus on Africa program reported that ECOMOG had confirmed that around 3 a.m. on 22 December 1998 rebels started attacking Waterloo and Lumpa, which is "an extension" of Waterloo. According to Abubakar Sesay, a forest guard for Waterloo district, rebels had arrived at Lumpa and Waterloo two nights before and had been housed by rebel collaborators. On 22 December 1998, the rebels opened fire. Abubakar Sesay stated

<sup>4576</sup> TF1-143, Transcript 5 May 2008, pp. 8975-8979, 8993.

<sup>4577</sup> TF1-143, Transcript 5 May 2008, pp. 8985, 9019, 9021, 9052, 9054.

<sup>4578</sup> TF1-143, Transcript 5 May 2008, p. 9019.

<sup>4579</sup> TF1-143, Transcript 5 May 2008, pp. 9025-9026.

<sup>4580</sup> TF1-028, Transcript 7 May 2008, p. 9203.

<sup>4581</sup> TF1-028, Transcript 7 May 2008, p. 9205.

<sup>4582</sup> TF1-028, Transcript 7 May 2008, pp. 9215-9216.

<sup>4583</sup> TF1-028, Transcript 7 May 2008, p. 9218.

<sup>4584</sup> TF1-028, Transcript 7 May 2008, p. 9221.

<sup>4585</sup> TF1-028, Transcript 7 May 2008, p. 9223.

<sup>4586</sup> TF1-028, Transcript 7 May 2008, p. 9224.



that there were only about 50 rebels, not all armed, and they burned some houses and killed civilians.<sup>4587</sup>

2075. Patrick Sheriff testified that on 17 December 1998, he heard gunshots in Lumpa, where he was living. The witness hid in the bush, and when he returned to his house two days later the witness heard armed men shouting that they were rebels. Sheriff also heard the armed men say that they were in Lumpa and Waterloo to burn down all the thatch houses.<sup>4588</sup> The rebels were speaking “in different languages, mostly the Liberian language. It was a mixed form of English”.<sup>4589</sup> That night the rebels started burning houses.<sup>4590</sup>

2076. The witness again ran and hid in the bush along with other civilians and stayed there for five days.<sup>4591</sup> When he came out of the bush he was met by a rebel “dressed in a short trousers, a black top, polo” who spoke in Liberian English.<sup>4592</sup> This rebel took him to the rebel group where he saw a large number of rebels<sup>4593</sup> dressed in mixed colours and some did not have shirts on.<sup>4594</sup> The leader of the group spoke with a Liberian accent and said that they had come from Gbarnga in Liberia.<sup>4595</sup> Some of the rebels had “RUF” tattooed on their arms and the witness identified them as being RUF “from the inscription that was on their arms, that was what indicated to me that they were RUF and it was tattoo. The real rebels would always have that mark”.<sup>4596</sup> The witness said that the rebels “would not be afraid of identifying themselves. They said that, ‘we are RUF, we are RUF’ and they were people that were proud of their name”.<sup>4597</sup>

<sup>4587</sup> Exhibit P-341B, “Transcript – BBC Focus on Africa, Clip from Track 1 – D0000523, 22 December 1998”, p. 23590.

<sup>4588</sup> Patrick Sheriff, Transcript 1 October 2008, pp. 17766-17767.

<sup>4589</sup> Patrick Sheriff, Transcript 1 October 2008, p. 17767.

<sup>4590</sup> Patrick Sheriff, Transcript 1 October 2008, p. 17768. Although the witness testified that the burning occurred two days after 17 December 1998, the Trial Chamber is satisfied that context of the events places them on 22 December 1998. See Exhibit P-308, “UN Security Council, Special Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1999/20, 7 January 1999”, para. 4; Exhibit P-340B, “Transcript – BBC Focus on Africa, Clip from Track 1 – D0000524, 22 December 1998”, p. 23589; Exhibit P-341B, “Transcript – BBC Focus on Africa, Clip from Track 1 – D0000523, 22 December 1998, ”pp. 23590-23591.

<sup>4591</sup> Patrick Sheriff, Transcript 1 October 2008, p. 17768.

<sup>4592</sup> Patrick Sheriff, Transcript 1 October 2008, p. 17771.

<sup>4593</sup> Patrick Sheriff, Transcript 1 October 2008, p. 17774.

<sup>4594</sup> Patrick Sheriff, Transcript 1 October 2008, p. 17775.

<sup>4595</sup> Patrick Sheriff, Transcript 1 October 2008, p. 17790.

<sup>4596</sup> Patrick Sheriff, Transcript 1 October 2008, p. 17829

<sup>4597</sup> Patrick Sheriff, Transcript 1 October 2008, p. 17830.

2077. Patrick Sheriff testified that he knew the rebels burned down 150 houses in Lumpa during this time because he and other civilians had counted, but they did not count the number of burned houses in Waterloo.<sup>4598</sup> He further testified that on 10 January 1999, rebels burned houses in Lumpa and Waterloo for the second time.<sup>4599</sup> At the time the witness was in Malambay, located 25-30 minutes from Lumpa,<sup>4600</sup> and could see the blazes in the Lumpa and Waterloo area. The next day the witness heard from others that many houses in Lumpa and Waterloo had burned.<sup>4601</sup>

2078. Akiatu Tholley testified that she was at her home in Wellington on 5 January 1999<sup>4602</sup> when she “heard people shouting that the rebels were coming, on their way they were burning down houses and that they were amputating people”.<sup>4603</sup> The rebels threatened to set her house on fire if her family did not come outside.<sup>4604</sup> Before her mother could open the door the rebels broke down the door and “amputated” a child aged around three to four years. When she went outside she saw them “burning down houses and killing”.<sup>4605</sup> The witness described these rebels as speaking Krio and wearing black T-shirts, black trousers<sup>4606</sup> and headbands.<sup>4607</sup> The witness later spoke to a small boy – only 6 years old – who was with the rebels and who had been captured by the AFRC in Kono.<sup>4608</sup> The boy told her that the rebels were a mixed group of RUF and former SLA.<sup>4609</sup>

2079. The witness stated that the rebels took her from her home in Wellington to Waterloo.<sup>4610</sup> On the way to Allen Town, she saw rebels “killing people, burning down houses, amputating people and looting people’s property”.<sup>4611</sup> In Allen Town, the witness

<sup>4598</sup> Patrick Sheriff, Transcript 1 October 2008, pp. 17769-17770.

<sup>4599</sup> Patrick Sheriff, Transcript 3 October 2008, p. 17801.

<sup>4600</sup> Patrick Sheriff, Transcript 3 October 2008, p. 17806.

<sup>4601</sup> Patrick Sheriff, Transcript 3 October 2008, p. 17802.

<sup>4602</sup> Although the witness testified that this incident occurred on 5 January 1999, Tholley’s subsequent movement with her captors from Wellington to Allen Town to Waterloo to Masiaka indicates that this occurred as the rebels withdrew from Freetown through Wellington later in January. Although mistaken as to the date, the Trial Chamber nevertheless accepts her evidence of the incidents she described.

<sup>4603</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19173.

<sup>4604</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19174.

<sup>4605</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19175.

<sup>4606</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19174.

<sup>4607</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19194.

<sup>4608</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19195, 19244.

<sup>4609</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19245.

<sup>4610</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19196.

<sup>4611</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19178, 19179.

saw the rebels raping small girls, “not even adult”.<sup>4612</sup> The girls were beaten-up and raped and those that resisted were killed with bayonets.<sup>4613</sup> It was here that the witness herself was violently raped.<sup>4614</sup> As she approached Waterloo the witness saw the rebels burning down houses, amputating people and looting more property.<sup>4615</sup> A nursing mother was forced by the rebels to bury her baby alive.<sup>4616</sup>

2080. Akiatu Tholley stated that when she arrived at Waterloo she saw houses on fire and rebels killing and amputating civilians.<sup>4617</sup> She said that when they reached Waterloo the group was “mixed”, but that she had heard from the rebels that Five-Five “was the overall boss, that he was the leader of the group”.<sup>4618</sup> In Waterloo, she was still with Captain James, the man who had captured her.<sup>4619</sup> She said that Captain James told her that he was with Ulimo, had fought in Liberia, and was also STF.<sup>4620</sup>

### Findings

2081. The Trial Chamber is satisfied beyond reasonable doubt by the foregoing evidence that members of the AFRC/RUF forces<sup>4621</sup> burned civilian property in Waterloo and wilfully made civilians or their property the object of such acts. Moreover, the similar circumstances of the two separate instances of the burning of civilian property in Waterloo on around 22 December 1998 and in January 1999 respectively lead to the inescapable inference that they were part of the same campaign to terrorise the civilian population. The Trial Chamber is accordingly satisfied beyond reasonable doubt that the primary purpose of the burning of civilian property in Waterloo in December 1998 and January 1999 was to spread terror among the civilian population.

### (ii) Tumbo

<sup>4612</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19182.

<sup>4613</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19182, 19183.

<sup>4614</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19183.

<sup>4615</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19186.

<sup>4616</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19187.

<sup>4617</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19196.

<sup>4618</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19196-19198.

<sup>4619</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19198.

<sup>4620</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19236, 19237.

<sup>4621</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Freetown and the Western Area (between about 21 December 1998 and about 28 February 1999), Findings *supra*.

2082. The Prosecution submits that on 23 December 1998 around 3 a.m., RUF rebels and SLA soldiers arrived at Tumbo, also known as Tombo, and started burning houses and killing.<sup>4622</sup>

2083. Ibrahim Wai testified that on 23 December 1998, he was in Tombo, where he had lived for 17 years. The SLA/RUF rebels entered and attacked around 3a.m. and started burning houses and killing.<sup>4623</sup> Wai had been sleeping but woke up and saw his neighbour's house burning. The witness gathered his money bag and attempted to leave his house, but was met at the door and forced back inside by the very man who led the attack, his friend Mohamed,<sup>4624</sup> who was also known as Captain Blood.<sup>4625</sup> Mohamed told the witness to pack all his things and go with them and if he attempted to escape he would be shot. The witness said that there were many RUF and SLA.<sup>4626</sup>

2084. Wai went to Hospital Junction in Tombo with Mohamed, who threatened to shoot him if he turned back. Wai created a diversion and was able to escape to the bush where he stayed that night.<sup>4627</sup> The next morning the witness returned to the town with other civilians who had also fled to the forest. He observed burnt houses and corpses. In particular, Wai testified that the houses of Pa Pratt, Foday Breeze, Alhaji Tuah and Alimamy Kargbo had burned down.<sup>4628</sup> In total, the witness observed six houses that were burned down.<sup>4629</sup>

2085. Confidential Exhibit P-284 is a statement by Witness TF1-169 that on 6 January 1999 he was at his home in Freetown when he was awakened by heavy firing and saw deep smoke all over the city, especially in the east of Freetown. He was told by telephone that rebels had entered Freetown; "they had joined forces and were maiming people". The witness and his relatives had to stay in the house. "The rebels were also burning everything down. The rebels had said on radio that they would kill and burn everything down, and they

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<sup>4622</sup> Prosecution Final Trial Brief, para. 739.

<sup>4623</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18560. In cross-examination, Wai reiterated that by "rebel" he meant mixed SLA and RUF. Although Wai categorized SLA and RUF "as the same people", he testified that he could distinguish between them by their attire. Ibrahim Wai, Transcript 17 October 2008, p. 18615.

<sup>4624</sup> Ibrahim Wai, Transcript 16 October 2008, pp. 18561, 18562.

<sup>4625</sup> Ibrahim Wai, Transcript 17 October 2008, pp. 18608-18609.

<sup>4626</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18562.

<sup>4627</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18563.

<sup>4628</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18565.

<sup>4629</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18567.

were doing that".<sup>4630</sup> He later learned that the rebels were using storm-water tunnels to hide in and to "sneak out at night and start killing people, shooting, setting buildings ablaze".<sup>4631</sup>

2086. After the rebels were pushed out of central Freetown, the witness became part of a task force tasked with inspecting all public facilities burned down by the rebels. As part of this task force, TF1-169 travelled throughout Freetown and the Western Area and observed damage and destruction of civilian property as well as of government property.<sup>4632</sup> TF1-169 stated that he saw a few civilian homes and vehicles burnt and damaged at Grafton, Hastings, Waterloo, Goderich, Kent, Tombo, and Benguema but could not say the amount of such damage because his assignment was to investigate the destruction of government property.<sup>4633</sup>

### Findings

2087. Based on the foregoing evidence, the Trial Chamber is satisfied beyond reasonable doubt that members of the AFRC/RUF forces<sup>4634</sup> burned civilian property in Tumbo and wilfully made civilians or their property the object of those acts. Moreover, the nature, manner and timing of the burning of houses in Tumbo followed a pattern of similar burnings by AFRC/RUF forces in other parts of Freetown and the Western Area which had the primary purpose of spreading terror among the civilian population. Accordingly, the Trial Chamber is also satisfied beyond reasonable doubt that the primary purpose of the burnings in Tumbo was to spread terror among the civilian population.

#### (iii) Kissy and Fourah Bay in Eastern Freetown

2088. The Prosecution alleges that the AFRC/RUF forces burned civilian property in Kissy during their advance to Freetown in the early hours of 6 January 1999, during the second

<sup>4630</sup> Exhibit P-284 (Confidential), paras 5, 6.

<sup>4631</sup> Exhibit P-284 (Confidential), para 7.

<sup>4632</sup> Exhibit P-284 (Confidential), paras 9-10.

<sup>4633</sup> Exhibit P-284 (Confidential), , para. 11.

<sup>4634</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Freetown and the Western Area (between about 21 December 1998 and about 28 February 1999), Findings *supra*.

week of January 1999 and during the retreat.<sup>4635</sup> The Prosecution also alleges that Fourah Bay was attacked during the rebels' withdrawal from Freetown.<sup>4636</sup>

2089. The Trial Chamber has considered the evidence of witnesses Alimamy Bobson Sesay, Ibrahim Wai, Perry M. Kamara, James Kpumgbu, TF1-083, Dauda Aruna Fornie, Samuel Radder John, Alusine Conteh, Mohammed Sampson Bah, TF1-358, Alpha Jalloh, Mohamed Sesay and Abu Bakarr Mansaray, in addition to Exhibits P-328, P-356B and P-357B and Confidential Exhibit P-285 (Interview Notes of TF1-169).

2090. Mohammed Sampson Bah gave evidence confirming testimony he had given in the AFRC Case<sup>4637</sup>. In the AFRC Case he testified that in January 1999, he observed rebels in Kissy beating people, burning houses and stealing people's property.<sup>4638</sup> These rebels were dressed in military trousers and military dress. He personally witnessed rebels sprinkling petrol on houses and burning them.<sup>4639</sup> He stated that a rebel named Akim threatened that he was going to teach the Kissy people a lesson by turning Kissy into a desert. The rebels then started burning the houses. The witness's own house was set ablaze and he jumped through the window to escape the flames.<sup>4640</sup>

2091. James Kpumgbu testified that he lived in Kissy near the mental hospital when the rebels came to the area on 6 January 1999.<sup>4641</sup> Kpumgbu testified that on that day, he was on Thompson Street on his way to the Kissy Mental Home in search of his parents who had gone there earlier to hide from the rebels.<sup>4642</sup> On his way to the mental home the witness passed by his house on Thompson Street and saw that it had been burnt down. He met his landlord, who told him the rebels burned the house down.<sup>4643</sup> At the mental home he was taken away by four rebels dressed in black T-shirts, black jeans, black boots and three of

<sup>4635</sup> Prosecution Final Trial Brief, paras 740-742.

<sup>4636</sup> Prosecution Final Trial Brief, para. 745.

<sup>4637</sup> Mohammed Sampson Bah, Transcript 22, 23 October 2008, pp. 19031-19112.

<sup>4638</sup> Exhibit P-207, "TF1-084, AFRC Transcript 6 April 2005", pp. 20594-20595.

<sup>4639</sup> Exhibit P-207, "TF1-084, AFRC Transcript 6 April 2005", p. 20595.

<sup>4640</sup> Exhibit P-207, "TF1-084, AFRC Transcript 6 April 2005", p. 20596.

<sup>4641</sup> James Kpumgbu, Transcript 13 October 2008, p. 18116. Although the witness testified that it was 1990, the Trial Chamber is satisfied that the context of the events places them in 1999.

<sup>4642</sup> James Kpumgbu, Transcript 13 October 2008, p. 18117.

<sup>4643</sup> James Kpumgbu, Transcript 13 October 2008, p. 18119.

them wore red headbands.<sup>4644</sup> The rebels later amputated his right arm and attempted to amputate his left arm.<sup>4645</sup>

2092. TF1-358 testified that around 8 January 1999, a hospital in Freetown was overwhelmed with patients who were brought in on ECOMOG vehicles and also in push carts.<sup>4646</sup> The witness was “indirectly” informed by ECOMOG as they brought victims to the hospital’s triage point that these cases were coming in from Freetown and “its immediate environs”, and later cases came from Kissy, Wellington and “the outskirts of Freetown”.<sup>4647</sup> One of the causes of the burn cases brought to TF1-358’s institution was “fleeing from torched homes”.<sup>4648</sup> The witness heard that younger people were able to escape the burning homes, but “the older folks got burnt completely in the flames more especially from the Kissy end of town”.<sup>4649</sup> TF1-358 testified specifically about one case in which a young woman in Kissy had extensive burns to her upper and lower limbs from escaping the upper flat in a torched building. The woman’s grandmother was left upstairs and died in the fire.<sup>4650</sup>

2093. Ibrahim Wai testified that in the early morning hours of 6 January 1999, he exited his house on Falcon Street in Kissy and observed “blazing fires” and “civilians coming with bundles on their heads”.<sup>4651</sup> Thereafter the witness left with his brother to go to PWD where they met many other people who were also fleeing. The witness and his brother were turned away by ECOMOG, but managed to cross the barrier and proceed to Berry Street.<sup>4652</sup>

2094. Wai testified that, after five days, he returned to Kissy alone.<sup>4653</sup> He observed the rebels burning motor tyres at Kissy Crazy Yard around Falcon Street. The rebels also forced civilians to sing that they wanted peace.<sup>4654</sup> Wai was staying at his sister’s house when a

<sup>4644</sup> James Kpumgbu, Transcript 13 October 2008, p. 18121.

<sup>4645</sup> James Kpumgbu, Transcript 13 October 2008, pp. 18122, 18123.

<sup>4646</sup> TF1-358, Transcript, 19 November 2008, pp. 20633, 20636. The Trial Chamber notes Exhibit P-251, a photograph depicting an elderly woman being conveyed in a pushcart. Exhibit P-251, “Photograph – 00034497”, January 1999; TF1-358, Transcript 20 November 2008, pp. 20727-20728.

<sup>4647</sup> TF1-358, Transcript 19 November 2008, pp. 20638-20639.

<sup>4648</sup> TF1-358, Transcript 19 November 2008, p. 20645.

<sup>4649</sup> TF1-358, Transcript 19 November 2008, p. 20645.

<sup>4650</sup> TF1-358, Transcript 19 November 2008, pp. 20645-20646.

<sup>4651</sup> Ibrahim Wai, Transcript 16 October 2008, pp. 18569-18570.

<sup>4652</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18571.

<sup>4653</sup> Ibrahim Wai, Transcript 16 October 2008, p. 18572.

<sup>4654</sup> Ibrahim Wai, Transcript 17 October 2008, pp. 18580-18581.

neighbour came to tell him and the others that ECOMOG was coming and they “did not want to see any civilians outside”.<sup>4655</sup> Wai testified that “[i]t was not long after that the rebels came”.<sup>4656</sup>

2095. Wai testified that two rebels came to the door of the house where he and other civilians were hiding. Wai described one rebel as wearing a “Sierra Leone military uniform” carrying a machete, and the other as wearing “a combat shirt and civilian trousers” and carrying a gun.<sup>4657</sup> The rebels told the witness and his brother-in-law’s younger brother that if it had been ECOMOG that had come they would have come outside singing and clapping for them, but because it was they (the rebels) who had come they did not want to open the door. The rebels then threatened to set the house on fire if they did not open the door.<sup>4658</sup> One of the rebels, Captain Blood - referred to as the “boss” by the others<sup>4659</sup> - entered the house and demanded 400,000 Leones from the witness. The witness responded that he did not have that sum of money but offered Captain Blood the video or television or anything else.<sup>4660</sup>

2096. Wai testified that his brother-in-law’s younger brother’s two hands were amputated by Captain Blood inside the same house.<sup>4661</sup> Wai said that while he was outside he heard his brother-in-law’s younger brother screaming and crying from inside the house.<sup>4662</sup> He did not see his brother-in-law’s younger brother come out of the house after that. The house was later set on fire with his brother-in-law’s younger brother still inside, and he died in the burning house.<sup>4663</sup> Their house was the first to be set on fire, and the whole area was burned down.<sup>4664</sup>

2097. The witness Alpha Jalloh confirmed testimony he had given in the AFRC Case.<sup>4665</sup> In the AFRC Case, he testified that he was living on Younge Street near Kissy Road when

<sup>4655</sup> Ibrahim Wai, Transcript 17 October 2008, pp.18582-18583.

<sup>4656</sup> Ibrahim Wai, Transcript 17 October 2008, p.18583.

<sup>4657</sup> Ibrahim Wai, Transcript 17 October 2008, p.18584.

<sup>4658</sup> Ibrahim Wai, Transcript 17 October 2008, p.18585.

<sup>4659</sup> Ibrahim Wai, Transcript 17 October 2008, p.18592-18593.

<sup>4660</sup> Ibrahim Wai, Transcript 17 October 2008, p.18585-18586.

<sup>4661</sup> Ibrahim Wai, Transcript 17 October 2008, p.18594.

<sup>4662</sup> Ibrahim Wai, Transcript 17 October 2008, p.18594-18595.

<sup>4663</sup> Ibrahim Wai, Transcript 17 October 2008, p.18596-18597.

<sup>4664</sup> Ibrahim Wai, Transcript 17 October 2008, p.18596.

<sup>4665</sup> See Alpha Jalloh, Transcript 23 October 2008, pp. 19123 – 19148.



rebels attacked on 6 January 1999.<sup>4666</sup> After one week, rebels came to his house looking for a woman who worked at the bank. However, they were unable to find her and then used petrol to set the house on fire. The witness' brother broke a window and the family jumped out by the garage. They stood by the garage and watched as the house completely burned down to the ground.<sup>4667</sup>

2098. Alpha Jalloh testified that he did not see the rebels who burned down his house, but he described some of the rebels in the area during the week before his house was burned down as wearing combat fatigues and some as wearing civilian clothes,<sup>4668</sup> or as wearing "soldier combats" and American mufflers.<sup>4669</sup> On cross-examination, he confirmed that he had heard that Captain Blood was the rebel commander of the area. The witness also reaffirmed that he had seen many of the rebels in Freetown before January 1999 and that most of them were former members of the Sierra Leone Army.<sup>4670</sup> The witness agreed that the majority of the rebels spoke Krio, but he said that some spoke the Liberian language.<sup>4671</sup> He stated that some wore combat uniforms and some wore black T-shirts, most wore headbands resembling the American flag, but some wore white headbands. The rebels had civilians among them who also wore white headbands, so that it was difficult to tell the difference between a rebel and a civilian.<sup>4672</sup> The witness also stated that some of the rebels were Liberians.<sup>4673</sup>

2099. Alusine Conteh testified that on 8 January 1999 "those who came from the bush, the combatants" started harassing civilians in Kissy and told civilians to tie a white piece of cloth on their door if they did not want to be punished. They also burned tyres on the street while singing that they wanted peace. The witness said that some of the combatants wore military uniforms while others did not; some were armed and others were not.<sup>4674</sup> Some days later a group came to stay at the witness's hut led by a man called "Tommy". He wore "a pair of jeans trousers and a pair of jeans jacket". Others in the group wore civilian clothes,

<sup>4666</sup> Exhibit P-210, "TF1-098, AFRC Transcript 5 April 2005", p. 20681.

<sup>4667</sup> Exhibit P-210, "TF1-098, AFRC Transcript 5 April 2005", p. 20686.

<sup>4668</sup> Exhibit P-210, "TF1-098, AFRC Transcript 5 April 2005", pp. 20683, 20685.

<sup>4669</sup> Exhibit P-210, "TF1-098, AFRC Transcript 5 April 2005", p. 20686.

<sup>4670</sup> Alpha Jalloh, Transcript 23 October 2008, p. 19131.

<sup>4671</sup> Alpha Jalloh, Transcript 23 October 2008, pp. 19132 -19134.

<sup>4672</sup> Alpha Jalloh, Transcript 23 October 2008, pp.19132- 19133.

<sup>4673</sup> Alpha Jalloh, Transcript 23 October 2008, p. 19135.

<sup>4674</sup> Alusine Conteh, Transcript 30 January 2009, p. 23995.





and there were women and boys among them. They called each other “junta”. The group stayed for around 3 days.<sup>4675</sup> The witness believed that this group were RUF because they were not wearing uniforms. Also, some spoke with a Liberian accent, but the witness could not tell whether this was because they came from the border area in Kailahun.<sup>4676</sup>

2100. Around two to three weeks after 6 January 1999,<sup>4677</sup> Alusine Conteh saw a fire blazing around Crazy Yard by the Methodist church around 7 p.m. He also saw that a neighbour’s house was on fire as well as the house of a Mr Lahai. Conteh and his family hid in the bathroom, which is separate from the house.<sup>4678</sup> Houses in the area and the neighbours’ houses were burning, so around midnight the witness sprinkled water on his hut, which was constructed from tarpaulin, to prevent it from burning, and then returned to the bathroom.<sup>4679</sup> Conteh then heard two men arguing over whether they should burn the house or not. One of the men called another man named Fire Force to burn the house. Fire Force took pieces of cloth, sprinkled kerosene or petrol and used matches to set them on fire. Alusine Conteh snuck out of the bathroom and used water to put out the fire. Because their first attempt failed, the men returned and set the witness’s mattress on fire. The witness and his family escaped to the empty compound in the back of the house and hid in the banana trees as they watched the house burn down completely.<sup>4680</sup>

2101. Because this occurred at night, Alusine Conteh was unable to see the men who set his house on fire. The witness testified that they spoke in Krio.<sup>4681</sup> Conteh further testified that four of his neighbours’ houses were burned and many more throughout Kissy. The witness also did not see any of the people who burned the other houses in his neighbourhood.<sup>4682</sup>

2102. Alusine Conteh testified that while he was hiding in the banana trees, he saw some men passing by Blackhall Road. One of the men was an “SLA” named Livingston, who was

<sup>4675</sup> Alusine Conteh, Transcript 30 January 2009, pp. 23998- 24001.

<sup>4676</sup> Alusine Conteh, Transcript 30 January 2009, p. 24044.

<sup>4677</sup> Alusine Conteh, Transcript 30 January 2009, p. 24018.

<sup>4678</sup> Alusine Conteh, Transcript 30 January 2009, pp. 24005, 24010.

<sup>4679</sup> Alusine Conteh, Transcript 30 January 2009, p. 24006.

<sup>4680</sup> Alusine Conteh, Transcript 30 January 2009, pp. 24006-24009.

<sup>4681</sup> Alusine Conteh, Transcript 30 January 2009, p. 24010.

<sup>4682</sup> Alusine Conteh, Transcript 30 January 2009, p. 24011.

Conteh's neighbour.<sup>4683</sup> The witness heard them discussing whether they should burn the house of Livingston's father. Livingston told them to burn it. The men set the house on fire and the witness could hear voices from the house crying, "Oh my children, oh my children". Livingston then told the people in the house, "Let Tejan Kabbah give you dollars".<sup>4684</sup>

2103. Witness TF1-083, who is now deceased, gave evidence in the AFRC Trial and a transcript of that testimony was admitted into evidence pursuant to Rule 92*quater*.<sup>4685</sup> TF1-083 testified in the AFRC Trial that he was living in Kissy when "rebels" dressed in combat came on 6 January 1999. TF1-083 testified that his understanding of "rebel" was someone who "took my property by violence without me giving it to him".<sup>4686</sup> The witness said that on the morning of 6 January 1999, the rebels burned all the vehicles at Grassfield.<sup>4687</sup>

2104. Ten days after the rebels had arrived in Kissy, the witness heard from others that a pharmacy in their area had burned down. After hearing this, the witness was afraid to leave his house. However, three rebels kicked at his door, entered the house and asked for money. Frightened, TF1-083 fled his house.<sup>4688</sup> Outside, the witness saw a pharmacy in flames and all the houses along the lane on fire. Although he did not know exactly who set the buildings on fire, TF1-083 believed it to be the rebels "because they were tense".<sup>4689</sup>

2105. Alimamy Bobson Sesay testified that after the attack on Fourah Bay in the third week of January 1999, the group set up a defensive in Upgun because ECOMOG had advanced to Mountain Cut.<sup>4690</sup> According to the witness, the commanders present in Upgun included Med Bajehjeh, Junior Lion, Foday Bah Marah, Basky, Bomb Blast, Gullit, Five-Five, O-Five and Rambo Red Goat.<sup>4691</sup> As the ECOMOG forces attacked at Upgun, the

<sup>4683</sup> Alusine Conteh, Transcript 30 January 2009, p. 24012.

<sup>4684</sup> Alusine Conteh, Transcript 30 January 2009, p. 24013.

<sup>4685</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-720, Decision on Public with Confidential Annexes C to E Prosecution Motion for Admission of the Prior Trial Transcripts of Witnesses TF1-021 and TF1-083 Pursuant to Rule 92*quater*, 5 February 2009.

<sup>4686</sup> Exhibit P-290A, "TF1-083, AFRC Transcript 8 April 2005", p. 18766.

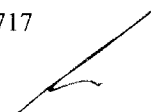
<sup>4687</sup> Exhibit P-290A, "TF1-083, AFRC Transcript 8 April 2005", p. 18767.

<sup>4688</sup> Exhibit P-290A, "TF1-083, AFRC Transcript 8 April 2005", p. 18768.

<sup>4689</sup> Exhibit P-290A, "TF1-083, AFRC Transcript 8 April 2005", p. 18769.

<sup>4690</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8334.

<sup>4691</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8335-8336.





rebels withdrew to PWD Junction. Gullit ordered that they should start capturing civilians and ordered the advance team to start burning from PWD.<sup>4692</sup>

2106. Alimamy Bobson Sesay was part of the fighting force that was left behind at PWD Junction which consisted of RUF, STF and former NPFL with commanders O-Five, Keforkeh and Med Bajehjeh.<sup>4693</sup> As the group was retreating from PWD to Shell Old Road, they captured civilians and set houses on fire, some of which still had people inside. Alimamy Bobson Sesay testified that the group retreated via Fisher Lane and the Saroulla area.<sup>4694</sup>

2107. Alimamy Bobson Sesay testified that while in the hills around Kissy Mental Home, Gullit and the group observed the civilians in Kissy dancing and welcoming the Guinean soldiers and ECOMOG forces. Taking this as a sign of betrayal, Gullit then ordered a group, including the witness, to move towards Ferry Junction and to amputate and kill civilians and burn all the remaining houses. Gullit appointed another squad, which included Changa Bulanga's group, to do the same in Low-Cost Housing area.<sup>4695</sup>

2108. The fighting force that was dispatched to Ferry Junction numbered more than 100<sup>4696</sup> and included Med Bajehjeh and SLA Rambo (also known as Rambo Red Goat and Idrissa Kamara).<sup>4697</sup> The group left Crazy Yard and moved toward Kissy market where they attacked civilians and went as far as Ferry Junction. On the retreat back to Crazy Yard from Ferry Junction, the group burned houses.<sup>4698</sup> Alimamy Bobson Sesay testified that he was present when Rambo Red Goat, Med Bajehjeh and Changa Bulanga reported to Gullit back at Crazy Yard. Changa Bulanga reported that his group had amputated and killed people and burned houses, completing their mission in Low-Cost Housing area.<sup>4699</sup>

2109. Alimamy Bobson Sesay testified that since ECOMOG was present at Shell Old Road and New Road, Gullit said that the fighting force should attack the ECOMOG position and clear the highway to advance to Allen Town. From Crazy Yard, the fighting force used Shell

<sup>4692</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8340.

<sup>4693</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8340-8341.

<sup>4694</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8344.

<sup>4695</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8352-8354.

<sup>4696</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8360.

<sup>4697</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8355-8357.

<sup>4698</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8359-8360.

<sup>4699</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8360-8361.

Old Road to pass through Kissy Police Station, Porty Market area, Brewery, Calaba Town and then to Allen Town, where they set up base.<sup>4700</sup> On their way to Allen Town, the fighting force burned houses, took civilians from their houses and executed those civilians who were unfit.<sup>4701</sup>

2110. Perry Kamara described the situation of civilians in Freetown during the attack as “pathetic”. He testified that the civilians in Freetown suffered “raping, hard labour, execution, amputation, burning of property...[and] when the ECOMOG had power over us again all those atrocities that I had mentioned became more rampant”.<sup>4702</sup> The RUF, AFRC and STF were committing these atrocities, and the eastern part of Freetown was hit the hardest.<sup>4703</sup>

2111. Perry Kamara testified that during the Freetown attack, the rebels were in constant contact with Sam Bockarie via radio. Every morning, afternoon and evening they would send situation reports to Bockarie. In response to reports that ECOMOG forces were threatening the rebels’ position, Bockarie ordered: “Make that area fearful. Go and destroy Kissy Terminal. Go and set up road blocks”.<sup>4704</sup> Kissy Terminal was an oil refinery and the witness stated that he was there himself, saw the fire and “made sure that the order was implemented”.<sup>4705</sup>

2112. Dauda Aruna Fornie also testified about the frequent communication between Gullit and Bockarie during the Freetown operation. Fornie claimed that an hour did not pass by without there being some sort of communication.<sup>4706</sup> In one such communication Bockarie “passed a direct instruction that if it was possible, if they had the chance, they should set [the oil refinery] on fire. That is Gullit and others should set it on fire”.<sup>4707</sup>

2113. Samuel Radder John confirmed evidence he had given in the AFRC Trial and a transcript of his evidence in that trial was admitted into evidence.<sup>4708</sup> In the AFRC Trial he

<sup>4700</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8368-8369.

<sup>4701</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8369-8370.

<sup>4702</sup> Perry Kamara, Transcript 6 February 2008, p. 3231.

<sup>4703</sup> Perry Kamara, Transcript 6 February 2008, pp. 3232-3233.

<sup>4704</sup> Perry Kamara, Transcript 6 February 2008, pp. 3231-3232.

<sup>4705</sup> Perry Kamara, Transcript 6 February 2008, p. 3235.

<sup>4706</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21589.

<sup>4707</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21592-21593.

<sup>4708</sup> Samuel Radder John, Transcript 23 October 2008, pp. 19151-19169.





testified that on 18 January 1999, a group of junta and RUF came to Good Shepherd Hospital because they heard that the hospital was treating ECOMOG soldiers and Kamajors.<sup>4709</sup> The civilians were beaten to “deal with” them for keeping soldiers at the hospital.<sup>4710</sup> The “junta guys” came back to the hospital and threatened that if they saw anyone at the hospital later that night, they would kill the patients and burn down the hospital.<sup>4711</sup> Thus, the witness went home to get his son, daughter and other relatives, and together they went to the hills to hide. After two days, the witness went back to his house on Congress Road to collect food, but met three rebels there. Two rebels wore plain tops with military bottoms and the other was dressed in full military gear. One of the rebels carried a gun. The rebels took the witness’s food and money, set the curtains on fire, locked the witness in the house and left the keys on the veranda. The witness was able to quell the flames with water and managed to jump off onto the balcony to retrieve the keys from the veranda.<sup>4712</sup>

2114. On 6 January 1999, Mohamed Sesay was living in Falcon Street near Kissy Shell company.<sup>4713</sup> Sesay testified that one evening later in January 1999 he was sitting in the parlour of his home by himself when two rebels arrived. He observed from an open window as one of the rebels, who was carrying a five-gallon jerry can, sprinkled fuel on the house and the other lit a match and set the house on fire. One of the rooms was burned down and the fire had spread to the other rooms when the witness ran out of the house and escaped to Pa Bobodin’s house, where he spent the night.<sup>4714</sup> The next morning, the witness and other civilians who were hiding at Pa Bobodin’s moved to the house of Mr Abass, which had been partially burned.<sup>4715</sup> The witness testified that the rebels had burned many houses in the area, including Falcon and Taylor Streets, Saroulla and Alpha Morlai.<sup>4716</sup>

2115. Abu Bakarr Mansaray confirmed testimony he had given in the AFRC Trial and a transcript of such testimony was admitted into evidence.<sup>4717</sup> In the AFRC Trial he testified

<sup>4709</sup> Exhibit P-212B (confidential), p. 20734.

<sup>4710</sup> Exhibit P-212B (confidential), p. 20735.

<sup>4711</sup> Exhibit P-212B (confidential), p. 20741.

<sup>4712</sup> Exhibit P-212B (confidential), pp. 20742-20743.

<sup>4713</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3899.

<sup>4714</sup> Mohamed Sesay, Transcript 14 February 2008, pp. 3914-3915.

<sup>4715</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3916.

<sup>4716</sup> Mohamed Sesay, Transcript 14 February 2008, p. 3917.

<sup>4717</sup> Abu Bakarr Mansaray, Transcript 29 October 2008, pp. 19515 – 19568.

that when Gullit and his troops were fleeing State House as ECOMOG approached, two rebels gave him a bomb that he was forced to carry as far as Calaba Town.<sup>4718</sup> The witness said that as they moved towards Calaba Town the rebels were burning people's houses and looting properties at various locations along the way, including along Kissy Road.<sup>4719</sup>

2116. The BBC Focus on Africa program reported "quite horrifying levels of carnage" in Kissy. People fleeing Kissy told reporters that the rebels had been burning buildings and that "along the two main arteries, there's practically no buildings intact".<sup>4720</sup> BBC correspondent Winston Ojukutu-Macaulay travelled to Kissy with ECOMOG forces. When they reached Kissy they were told that the rebels were further down the road, burning houses and amputating hands. The correspondent reported that "Kissy is a deserted town. Virtually all the residents of Kissy have moved out of Kissy".<sup>4721</sup> He stated that the rebels had retreated to the hills and began to launch attacks from the hills. He also stated that "[t]he rebels have reverted to their terror campaign of amputating civilians".<sup>4722</sup> As they approached Blackhall Road, Ojukutu-Macaulay could see thick smoke and reported that the rebels were burning houses on their retreat as they moved to Wellington and Calaba Town.<sup>4723</sup>

2117. Human Rights Watch reported that during the retreat from Freetown, rebels "set entire city blocks and suburban streets on fire". Housing authorities calculated that over 65 percent of the residential buildings in Kissy burned down.<sup>4724</sup>

2118. The interview notes of TF1-169, which were admitted into evidence pursuant to Rule 92bis<sup>4725</sup> as Exhibit 285, state that numerous properties, including private homes, vehicles, shops, business centres and government buildings, were burned down in Kissy. TF1-169

<sup>4718</sup> Exhibit P-222, "TF1-024, AFRC Transcript 7 March 2005", p. 20435.

<sup>4719</sup> Exhibit P-222, "TF1-024, AFRC Transcript 7 March 2005", p. 20436, 20437.

<sup>4720</sup> Exhibit P-355B, "Transcript - BBC Focus on Africa, Clip from Track 1 - D0000542, 18 January 1999", p. 23626.

<sup>4721</sup> Exhibit P-356B, "Transcript - BBC Focus on Africa, Clip from Track 2 - D000507, 22 January 1999", p. 23627.

<sup>4722</sup> Exhibit P-356B, "Transcript - BBC Focus on Africa, Clip from Track 2 - D000507, 22 January 1999", p. 23628.

<sup>4723</sup> Exhibit P-357B, "Transcript - BBC Focus on Africa, Clip from Track 1 - D0000508, 23 January 1999", p. 23629.

<sup>4724</sup> Exhibit P-328, "Human Rights Watch Report, Sierra Leone - Getting Away with Murder, Mutilation, Rape, New Testimony from Sierra Leone, July 1999, Vol. 11 No. 3(A), Part I", p. 23002.

<sup>4725</sup> *Prosecutor v. Taylor*, SCSL-03-1-T-715, Order Pursuant to Confidential Prosecution Notice Under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Freetown & Western Area - TF1-169, dated 29 January 2009.

estimated that 30-40 percent of the private properties and businesses were destroyed. All vehicles that were parked along the road were destroyed, but TF1-169 was unable to provide a numerical approximation.<sup>4726</sup>

2119. Alimamy Bobson Sesay testified that in the third week of January, as the rebels withdrew from the ECOMOG attack on State House,<sup>4727</sup> Gullit, Five-Five and Bazy met with the witness's group at Savage Square. They informed the fighters that one SLA soldier had been killed in Fourah Bay, and that the civilians were challenging the rebels. Thus, Gullit said that they should go down to Fourah Bay.<sup>4728</sup> Subsequently, a group comprised of RUF, SLA, STF, RDF and Red Lion Battalion members in addition to Gullit, Five-Five, Bazy and the witness attacked Fourah Bay. The group forced civilians out of their houses and killed them. Some civilians stayed inside their homes and died as the houses burned down. Alimamy Bobson Sesay testified that on these types of missions, the rebels would not allow anyone to escape. The rebels would stay until the houses completely burned to the ground before moving on.<sup>4729</sup>

2120. In Confidential Exhibit P-285, TF1-169 reported that, after Kissy, Fourah Bay experienced the worst destruction in terms of burning. There were a number of second-hand vehicle shops in Fourah Bay that displayed their vehicles along the road in front of the stores. TF1-169 estimated that 90 percent of the vehicles parked along the road were burned, totalling in the hundreds. TF1-169 was unable to approximate the number of homes that were burned in Fourah Bay.<sup>4730</sup>

### Findings

2121. The evidence establishes beyond a reasonable doubt that members of the AFRC/RUF forces burned civilian properties in Kissy and Fourah Bay, that they wilfully made persons or their property the object of such acts, and that such acts were committed with the primary purpose of spreading terror among the civilian population.

#### (iv) State House and Pademba Road

<sup>4726</sup> Exhibit P-285 (Confidential), p. 23992, para. 21.

<sup>4727</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8328, 8331.

<sup>4728</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8332-8333.

<sup>4729</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8333-8334.

<sup>4730</sup> Exhibit P-285 (Confidential), p. 23992, para. 22.



2122. The Prosecution submits that after State House was captured early on 6 January 1999, the rebels advanced towards the central prison on Pademba Road, en route burning down the CID Headquarters located near State House. Burning and looting was also observed in this area around 8 January 1999. The Prosecution also submits that when it became clear that the AFRC/RUF force “had lost the battle” Gullit ordered the burning of the Vice-President’s office at Tower Hill and “people’s houses down each roadside from State House along Parliament Road up to Berry Street toward College”.<sup>4731</sup> Further, many homes and vehicles on Pademba Road and surrounding streets were also burned by the rebels.<sup>4732</sup>

2123. The Trial Chamber has considered the evidence of witnesses Alimamy Bobson Sesay, Abu Bakarr Mansaray, TF1-358 and Confidential Exhibit P-285 (Interview notes of TF1-169).

2124. Alimamy Bobson Sesay testified that at approximately 6 a.m. on 6 January 1999, the rebels attacked State House. One group, including the witness, came from Tower Hill while the other group advanced from Cotton Tree to capture State House.<sup>4733</sup> Gullit ordered them to open the central prison, so a group of rebels, including Bazzy, advanced towards Pademba Road. En route, they burned down the Criminal Investigation Department Headquarters belonging to the Sierra Leone Police.<sup>4734</sup>

2125. Alimamy Bobson Sesay said that in the third week of January 1999, RUF and SLA forces recaptured State House.<sup>4735</sup> At that time, Sam Bockarie announced on the international media that he was not ready for any peace or ceasefire that the government wanted to establish and that he was giving orders to his commander Gullit to start burning strategic locations and capturing civilians in Freetown.<sup>4736</sup> After the radio broadcast, the witness heard Bockarie call Gullit on the radio set confirming such orders, “so that there would be no government and there will be nobody for the government to rule”.<sup>4737</sup>

<sup>4731</sup> Prosecution Final Trial Brief, para. 746.

<sup>4732</sup> Prosecution Final Trial Brief, para. 747.

<sup>4733</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8279-8280.

<sup>4734</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8280.

<sup>4735</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8327, 8328.

<sup>4736</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8328-8329.

<sup>4737</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8329-8330.

2126. Alimamy Bobson Sesay stated that after receiving the orders from Bockarie, Gullit ordered his senior commanders to start distributing fuel to the troops in Freetown. At that time, ECOMOG re-attacked State House, so the rebels began to withdraw. As they retreated, the rebels burned houses. The retreating troops consisted of Rambo's group, the Red Lion Battalion and RDF Battalion.<sup>4738</sup> The witness was with the advance team during the withdrawal.<sup>4739</sup>

2127. Abu Bakarr Mansaray confirmed evidence he had given in the AFRC Trial<sup>4740</sup> that ECOMOG was at the Cotton Tree, approaching State House, and the rebels were fleeing because "they had lost the battle".<sup>4741</sup> The civilians were forced to leave State House along with the rebels. As the witness left State House, he saw Gullit in a white Toyota Hilux van ordering his boys to burn down State House and the Vice President's office.<sup>4742</sup> Two rebels gave the witness a bomb to carry, which he carried to Calaba Town.<sup>4743</sup> The witness, along with Gullit, who was ahead, and other rebels and civilians, "moved through Parliament Road, right up to Berry Street towards College" on their way to Calaba Town.<sup>4744</sup> Along the way, the rebels were burning houses down each roadside and also burned the Vice President's office at Tower Hill.<sup>4745</sup>

2128. Witness TF1-358 testified that at a hospital in the western part of Freetown, one building was burned down and another building was completely looted and vandalised. Although TF1-358 did not witness the burning first-hand, the people in the surrounding area claimed that the rebels did the damage in January 1999 after the government made an announcement that all wounded should go to another hospital.<sup>4746</sup>

2129. In interview notes admitted into evidence pursuant to Rule 92bis<sup>4747</sup> as Exhibit P-285, TF1-169 estimated that 60 percent of private homes and business buildings on

<sup>4738</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8330-8331.

<sup>4739</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8332.

<sup>4740</sup> See Abu Bakarr Mansaray, Transcript 29 October 2008, pp. 19515-19568.

<sup>4741</sup> Exhibit P-222, "TF1-024, AFRC Transcript, 7 March 2005", p. 20435.

<sup>4742</sup> Exhibit P-222, "TF1-024, AFRC Transcript, 7 March 2005", pp. 20434-20435.

<sup>4743</sup> Exhibit P-222, "TF1-024, AFRC Transcript, 7 March 2005", p. 20435.

<sup>4744</sup> Exhibit P-222, "TF1-024, AFRC Transcript, 7 March 2005", p. 20436.

<sup>4745</sup> Exhibit P-222, "TF1-024, AFRC Transcript, 7 March 2005", p. 20436.

<sup>4746</sup> TF1-358, Transcript 20 November 2008, p. 20729; Transcript 19 November 2008, pp. 20633-20634; Exhibit P-252, "Photograph 00034509".

<sup>4747</sup> *Prosecutor v. Taylor*, SCSL-03-1-T-715, Order Pursuant to Confidential Prosecution Notice Under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Freetown & Western Area – TF1-169, dated 29





Pademba Road were destroyed and that private vehicles were also burned during the Freetown attack.<sup>4748</sup>

2130. On 18 January 1999 the BBC Focus on Africa program reported that the “whole of Pademba Road practically...has been burned to the ground”.<sup>4749</sup>

### Findings

2131. The Trial Chamber is satisfied beyond reasonable doubt on the evidence that in January 1999 members of the AFRC/RUF forces burned civilian property in Freetown, including State House and Pademba Road, and that they wilfully made persons and their property the object of the burnings, the primary purpose of which was to spread terror amongst the civilian population.

#### (v) Kingtom

2132. The Prosecution alleges that around the second week of January 1999 houses were burned, often with civilians still inside, during an attack on Kingtom led by Bazy to repel ECOMOG forces. The Prosecution further alleges that civilians were deliberately targeted because Gullit accused the civilians of calling on ECOMOG forces to come and set up base in Kingtom.<sup>4750</sup>

2133. The Trial Chamber has considered the evidence of witness Alimamy Bobson Sesay and Confidential Exhibit P-285 (interview notes of TF1-169).

2134. Alimamy Bobson Sesay testified that in the second week of January, while based at State House, Gullit received information from people living in the area that ECOMOG forces were in Kingtom. Gullit ordered Basky<sup>4751</sup> and other commanders to go and repel the ECOMOG forces in Kingtom. The witness was part of the group of more than 150 fighters

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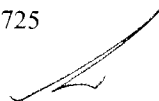
January 2009.

<sup>4748</sup> Exhibit P-285 (Confidential), p. 23993, para. 25.

<sup>4749</sup> Exhibit P-355B, “Transcript - BBC Focus on Africa, Clip from Track 1 - D0000542, 18 January 1999”, p. 23626.

<sup>4750</sup> Prosecution Final Trial Brief, para. 748.

<sup>4751</sup> According to the witness, Lieutenant Colonel Basky aka Saidu Kambolai was the head of the 5<sup>th</sup> Battalion, which was organised by Gullit. Contrary to what the Prosecution submits, Basky is not Ibrahim Bazy Kamara aka “Bazy”. See Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8224-8225.





that went to Kingtom.<sup>4752</sup> This group was made up of SLA, RUF, STF and former fighters of the NPFL.<sup>4753</sup>

2135. In addition to attacking the ECOMOG forces in Kingtom, the group killed civilians because Gullit told them that the civilians in Kingtom called ECOMOG to come and set up base there.<sup>4754</sup> The group also set houses on fire in Kingtom. Some of the houses were locked and had people inside them. Regardless, the rebels set the houses on fire and made sure that nobody inside was able to escape. The witness testified that the people inside the burning homes died in the fires because the rebels did not move from there until the operation was completed.<sup>4755</sup>

2136. In Confidential Exhibit P-285, TF1-169 estimated that 5-10 percent of the residences in Kingtom were burned.<sup>4756</sup>

### Findings

2137. The Trial Chamber is satisfied beyond reasonable doubt on the evidence that in January 1999 members of the AFRC/RUF forces<sup>4757</sup> burned civilian property in Kingtom and that they wilfully made persons or their property the object of the burnings.

2138. Although there is some evidence to suggest that the purpose of the attack on Kingtom was to repel ECOMOG forces, the Trial Chamber finds that the evidence of the burning of homes, some of which had people locked inside, and the evidence that one of the stated objectives was to punish civilians for supporting ECOMOG, establishes beyond reasonable doubt that the burnings were committed with the primary purpose of spreading terror among the civilian population.

### (vi) Uppun

<sup>4752</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8294-8295.

<sup>4753</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8298.

<sup>4754</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8295.

<sup>4755</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8296.

<sup>4756</sup> Exhibit P-285 (Confidential), pp. 23992-23993 para. 24.

<sup>4757</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Freetown and the Western Area (between about 21 December 1998 and about 28 February 1999) *supra*.





2139. The Prosecution submits that private houses in Uppun were burned and that it can be inferred that the burnings were committed by the AFRC/RUF forces during the invasion of Eastern Freetown. Such an inference can be drawn because the AFRC/RUF advanced through Uppun on entry into Freetown, rebels were present in the area during the invasion, and widespread burning was part of the forces' *modus operandi* during the attack.<sup>4758</sup>

### Findings

2140. The only evidence of civilian property being burned in Uppun is Exhibit P-285 (the interview notes of TF1-169), which simply records that "few private houses were burned in the Uppun area but the number of government buildings burnt down was about 10".<sup>4759</sup>

2141. The paucity of the available evidence does not permit the Trial Chamber to draw the inference submitted by the Prosecution. Such evidence is not capable of proving beyond reasonable doubt that the burning of civilian property in Uppun was perpetrated by AFRC/RUF forces, nor that the burning was committed with the primary purpose of spreading terror among the civilian population.

2142. Therefore, the Trial Chamber is not satisfied that the elements of the crime of acts of terrorism in relation to burning in Uppun have been established.

### (vii) Wellington

2143. The Prosecution submits that on the advance to Freetown troops issued threats to burn down houses as they passed through Wellington. The Prosecution further submits that on the retreat some forces used a route from Crazy Yard to Porty Market area and then on to Calaba Town, burning along the way.<sup>4760</sup>

2144. The Trial Chamber has considered the evidence of witnesses Alimamy Bobson Sesay, Akiatu Tholley, TF1-026, TF1-029 and Confidential Exhibit P-285.

2145. Akiatu Tholley testified that she was at her home in Wellington on 5 January 1999<sup>4761</sup> when she "heard people shouting that the rebels were coming, on their way they

<sup>4758</sup> Prosecution Final Trial Brief, para. 749.

<sup>4759</sup> Exhibit P-285 (confidential), para. 23.

<sup>4760</sup> Prosecution Final Trial Brief, para. 750.

<sup>4761</sup> Although the witness testified that this incident occurred on 5 January 1999, Tholley's subsequent movement

were burning down houses and that they were amputating people”.<sup>4762</sup> The rebels threatened to set her house on fire if her family did not come outside.<sup>4763</sup> Before her mother could open the door the rebels broke down the door and “amputated” a child aged around three to four years. When she went outside she saw them “burning down houses and killing”.<sup>4764</sup> The witness described these rebels as speaking Krio and wearing black T-shirts, black trousers<sup>4765</sup> and headbands.<sup>4766</sup> The witness later spoke to a small boy – only 6 years old – who was with the rebels and who had been captured by the AFRC in Kono.<sup>4767</sup> The boy told her that the rebels were a mixed group of RUF and former SLA.<sup>4768</sup> The witness stated that the rebels took her from her home in Wellington to Waterloo.<sup>4769</sup> On the way to Allen Town, she saw rebels “killing people, burning down houses, amputating people and looting people’s property”.<sup>4770</sup>

2146. Alimamy Bobson Sesay testified that during the retreat, the fighting force used Shell Old Road to go from Crazy Yard to Kissy Police Station, Porty Market area,<sup>4771</sup> Brewery, Calaba Town and then to Allen Town, where they set up base.<sup>4772</sup> Alimamy Bobson Sesay testified that on their way to Allen Town, the fighting force burned houses, took civilians from their houses and executed those civilians who were unfit.<sup>4773</sup>

2147. TF1-026 testified that she was in her home in Wellington on 6 January 1999<sup>4774</sup> when nine RUF rebels entered with guns, began firing their weapons and shot her sister,

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with her captors from Wellington to Allen Town to Waterloo to Masiaka indicates that this occurred as the rebels withdrew from Freetown through Wellington later in January. Although mistaken as to the date, the Trial Chamber nevertheless accepts her evidence of the incidents she described.

<sup>4762</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19173.

<sup>4763</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19174.

<sup>4764</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19175.

<sup>4765</sup> Akiatu Tholley, Transcript 23 October 2008, p. 19174.

<sup>4766</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19194.

<sup>4767</sup> Akiatu Tholley, Transcript 27 October 2008, pp. 19195, 19244.

<sup>4768</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19245.

<sup>4769</sup> Akiatu Tholley, Transcript 27 October 2008, p. 19196.

<sup>4770</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19178, 19179.

<sup>4771</sup> According to TF1-169, Porty Market area is located in Wellington. Exhibit P-285 (Confidential), para. 11.

<sup>4772</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8368-8369.

<sup>4773</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8369-8370.

<sup>4774</sup> Although the witness testified that this incident occurred on 6 January 1999, TF1-026’s subsequent movement with her captors from Wellington to Calaba Town to Waterloo to Makeni indicates that this occurred as the rebels withdrew from Freetown through Wellington later in January. Although the witness is mistaken about the date, the Trial Chamber accepts her evidence of the incidents she described.

killing her.<sup>4775</sup> The rebels then forcefully took the witness from her home. On their way out of the village, the rebels burned many houses and amputated people.<sup>4776</sup> TF1-026 told of one specific instance in which Mr Wilson, a crippled teacher, died inside a burning house that had been set on fire by the RUF rebels.<sup>4777</sup> TF1-026 was with the rebels during the time that they were burning houses and amputating civilians. The witness testified that the rebels told her she should be there to witness these acts because if she attempted to escape, they would do the same to her.<sup>4778</sup>

2148. TF1-029 confirmed testimony she had given in the RUF Trial<sup>4779</sup> and the transcript of that testimony was admitted into evidence<sup>4780</sup>. In the RUF Trial she testified that she was in the industrial area of Wellington when she was captured with 50 other civilians on 22 January 1999 by the RUF and SLA, including Major Arif who was an SLA soldier.<sup>4781</sup> On the way from Wellington to Calaba Town, the witness saw “the mixed group, the SLA and the RUF” burning houses and killing people.<sup>4782</sup>

2149. In Confidential Exhibit P-285 (the interview notes of TF1-169), an estimated 20 percent of the buildings in Wellington were burned down.<sup>4783</sup>

### Findings

2150. The evidence establishes beyond reasonable doubt that in January 1999 members of the AFRC/RUF forces<sup>4784</sup> burned civilian property in Wellington, that the perpetrators wilfully made persons or their property the object of the burnings and that the burnings were committed with the primary purpose of spreading terror amongst the civilian population.

### (viii) Calaba Town

<sup>4775</sup> TF1-026, Transcript 14 February 2008, pp. 3843-3844.

<sup>4776</sup> TF1-026, Transcript 14 February 2008, pp. 3844-3845.

<sup>4777</sup> TF1-026, Transcript 14 February 2008, p. 3846.

<sup>4778</sup> TF1-026, Transcript 14 February 2008, p. 3846.

<sup>4779</sup> TF1-029, Transcript 22 October 2008, p. 18972.

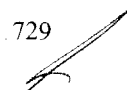
<sup>4780</sup> Exhibit P-206, “TF1-029, RUF Transcript, 28 November 2005”.

<sup>4781</sup> Exhibit P-206, “TF1-029, RUF Transcript, 28 November 2005”, pp. 19415-19417.

<sup>4782</sup> Exhibit P-206, “TF1-029, RUF Transcript, 28 November 2005”, p. 19418.

<sup>4783</sup> Exhibit P-285 (Confidential), para. 27.

<sup>4784</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Freetown and the Western Area (between about 21 December 1998 and about 28 February 1999) *supra*.





2151. The Prosecution submits that around the third week of January 1999 Gullit, while based temporarily in Allen Town, ordered a team to go as far as Calaba Town to burn down houses so that Freetown would become ungovernable.<sup>4785</sup>

2152. The Trial Chamber has considered the evidence of Alimamy Bobson Sesay, TF1-150, Osman Jalloh and Paul Nabieu Conteh, Exhibit P-328 and Confidential Exhibit P-285.

2153. Alimamy Bobson Sesay testified that during the retreat to Allen Town from Crazy Yard, Gullit's group encountered Nigerian troops at Brewery, so they pushed through to Allen Town without stopping in Calaba Town.<sup>4786</sup> Gullit decided to take the captured civilians to the jungle to reorganise and strategize how to go back and attack the ECOMOG forces. Gullit, Five-Five, O-Five, Bazzy and others were in the group that retreated to the jungle.<sup>4787</sup>

2154. Alimamy Bobson Sesay testified that Gullit ordered Hassan Papa Bangura (also known as Bomb Blast) to organise a team to go as far as Calaba Town to investigate the situation and "ensure that anywhere civilians were and houses were they should burn down the area and that they should ensure that Freetown becomes ungovernable".<sup>4788</sup> The team that went to Calaba Town numbered more than 200 and included the witness, Bomb Blast, Med Bajehjeh and Rambo Red Goat. This fighting team was comprised of RUF, SLA, STF and former NPFL.<sup>4789</sup>

2155. At Calaba Town, the team killed civilians and burned down houses.<sup>4790</sup> Alimamy Bobson Sesay testified that if people inside the houses attempted to run out they were shot, so the civilians stayed inside and burned with the houses. After this operation in Calaba Town, the team returned to Allen Town and found out that the jungle team had already advanced. Hassan Papa Bangura decided that the team should stay in Allen Town until further instruction from Gullit, so they stayed in Allen Town for two days.<sup>4791</sup>

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<sup>4785</sup> Prosecution Final Trial Brief, para. 751.

<sup>4786</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8370.

<sup>4787</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8371.

<sup>4788</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8371.

<sup>4789</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8371-8372.

<sup>4790</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8372.

<sup>4791</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8373.



2156. Confidential Exhibit P-285 (TF1-169's interview notes) asserts that mostly private homes, vehicles and stores were burned down in Calaba Town. Approximately 30-40 percent of the homes and 15-20 percent of the businesses in Calaba Town were destroyed.<sup>4792</sup>

2157. TF1-150 testified that approximately 90 percent of the buildings in Calaba Town were destroyed. To his knowledge, there was no ECOMOG bombing in Calaba Town.<sup>4793</sup>

2158. Osman Jalloh testified that in late January 1999, a rebel<sup>4794</sup> wearing civilian clothing<sup>4795</sup> threatened the witness and other civilians hiding in a tin shack that if they continued to say they had no money, he would burn them all.<sup>4796</sup> Because the civilians told him that they had no money, the man took straw out of a mattress, set it on fire and locked the witness and others inside the tin shack.<sup>4797</sup> The room began to fill with smoke, and the civilians started to sneeze and shout for help since they believed they would die. After five minutes, the man let the civilians out. Since they did not have any money, the man asked them what else they could give him to prevent them "from being burnt".<sup>4798</sup> One of the civilians in the house with the witness gave the man 86 bags of rice.<sup>4799</sup> The man then gave a signal and was immediately joined by over 100 rebels wearing civilian clothes and carrying guns.<sup>4800</sup> These rebels carried the bags of rice away.<sup>4801</sup>

2159. Witness Paul Nabieu Conteh confirmed testimony he had given in the AFRC Trial, a transcript of which was admitted into evidence.<sup>4802</sup> In the AFRC Trial he testified that on 19 January 1999 he was in Calaba Town with his wife, daughter, brother-in-law and wife's nephew. The witness testified that because they could see the "atrocities" coming towards Calaba Town, he told his wife to leave immediately. The witness saw the exchange of

<sup>4792</sup> Confidential Exhibit P-285, p. 23994, para. 28.

<sup>4793</sup> TF1-150, Transcript 18 February 2008, p. 4069.

<sup>4794</sup> Osman Jalloh, Transcript 1 October 2008, p. 17685.

<sup>4795</sup> Osman Jalloh, Transcript 1 October 2008, p. 17690.

<sup>4796</sup> Osman Jalloh, Transcript 1 October 2008, pp. 17690-17691.

<sup>4797</sup> Osman Jalloh, Transcript 1 October 2008, pp. 17690-17691.

<sup>4798</sup> Osman Jalloh, Transcript 1 October 2008, pp. 17691-17692.

<sup>4799</sup> Osman Jalloh, Transcript 1 October 2008, p. 17693.

<sup>4800</sup> Osman Jalloh, Transcript 1 October 2008, p. 17693-17694.

<sup>4801</sup> Osman Jalloh, Transcript 1 October 2008, p. 17693-17694.

<sup>4802</sup> See Paul Nabieu Conteh, Transcript 27 October 2008, pp. 19284-19314.





bullets between ECOMOG and the rebels, the RUF and AFRC, and the burning of houses.<sup>4803</sup>

2160. In Exhibit P-328, Human Rights Watch reported that housing authorities calculated that some 80 percent of the residential buildings in Calaba Town had been burned down.<sup>4804</sup>

### Findings

2161. The Trial Chamber is satisfied beyond reasonable doubt on the evidence that in January 1999 members of the AFRC/RUF forces burned down civilian houses in Calaba Town, that the perpetrators wilfully made persons or their property the object of the burnings and that the burnings were committed with the primary purpose of spreading terror amongst the civilian population.

#### (ix) Hastings, Grafton and Benguema

2162. The Prosecution, citing Confidential Exhibit P-284 (Witness Statement of TF1-169), points out that it was observed that civilian houses and vehicles were burned in Hastings, Grafton and Benguema following the Freetown invasion. The Prosecution submits that an inference can be drawn that AFRC/RUF forces burned the civilian property at these locations as burning was widespread during the invasion; these forces advanced and retreated through Hastings and Benguema, while Grafton was part of the route taken on the retreat; and it was part of the force's *modus operandi* to burn towns and villages it passed through.<sup>4805</sup>

### Findings

2163. Confidential Exhibit P-284 records that during TF1-169's inspection he saw that a few civilian houses and vehicles were burned and damaged in Grafton, Hastings, Waterloo, Goderich, Kent, Tombo and Benguema. However, TF1-169 was concerned with government

<sup>4803</sup> Exhibit P-215, "TF1-227, AFRC Transcript 8 April 2005", p. 20814.

<sup>4804</sup> Exhibit P-328, "Human Rights Watch Report, Sierra Leone – Getting Away with Murder, Mutilation, Rape, New Testimony from Sierra Leone, July 1999, Vol. 11 No. 3(A), Part I", p. 23002.

<sup>4805</sup> Prosecution Final Trial Brief, para. 752.

property and so could not say the amount of the damage as he did not pay attention to privately owned property.<sup>4806</sup>

2164. There is no other evidence of civilian property being burned in Hastings, Grafton and Benguema.

2165. The paucity of the available evidence does not permit the Trial Chamber to draw the inference submitted by the Prosecution. Such evidence is not capable of proving beyond a reasonable doubt that the burning of civilian property in Grafton, Hastings and Benguema was perpetrated by AFRC/RUF forces, nor that the burning was committed with the primary purpose of spreading terror among the civilian population.

2166. Therefore, the Trial Chamber is not satisfied that the elements of the crime of acts of terrorism in relation to burning in Hastings, Grafton and Benguema have been established.

(x) Goderich and Kent

2167. The Prosecution has made no specific submissions regarding Goderich and Kent, although these locations were pleaded in the Indictment.

Findings

2168. The only evidence of burning in these areas is in Confidential Exhibit P-284, in which TF1-169 records that during his inspection he saw that a few houses and vehicles were burned and damaged in Grafton, Hastings, Waterloo, Goderich, Kent, Tombo, and Benguema. However, TF1-169 was concerned with government property and so could not say the amount of the damage as he did not pay attention to privately owned property.<sup>4807</sup>

2169. The paucity of the available evidence is not capable of proving beyond a reasonable doubt that the burning of civilian property in Goderich and Kent was perpetrated by AFRC/RUF forces, nor that the burning was committed with the primary purpose of spreading terror among the civilian population.

2170. Therefore, the Trial Chamber is not satisfied that the elements of the crime of acts of terrorism in relation to burning in Goderich and Kent have been established.

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<sup>4806</sup> Exhibit P-284 (Confidential), para. 11.

(b) Unlawful Killings

2171. The Trial Chamber has found in relation to the unlawful killings perpetrated in Freetown and the Western Area that the elements of the crime of acts of terrorism have been established beyond reasonable doubt.<sup>4808</sup>

(c) Sexual Violence

2172. The Trial Chamber has found proved beyond reasonable doubt that: men and boys under the command of Gullit raped an unknown number of women and girls in the grounds of the State House over three nights in January 1999;<sup>4809</sup> AFRC and RUF commanders and fighters raped an unknown number of girls inside State House during the Freetown attack of January 1999; Alimamy Bobson Sesay, a commander in the AFRC, captured and raped a young girl in Freetown during the 1999 attack; RUF fighters raped an unknown number of girls on Blackhall Road during the Freetown attack on January 1999; rebels, some under the command of Captain Blood, raped an unknown number of girls in Kissy on or about 22 January 1999.<sup>4810</sup>

2173. The Trial Chamber has also found proved beyond reasonable doubt that: an unknown number of women and girls were used as sexual slaves by AFRC fighters in Benguema until approximately March 1999; TF1-029 was used as a sex slave by Major Arif, an ex-SLA/AFRC soldier, in Wellington, Calaba Town and Benguema from late January to March 1999; Akiatu Tholley was used as a sex slave by an STF fighter named James from approximately late January through early April 1999; TF1-023 was used as a sex slave by a member of the AFRC in Calaba Town, Benguema and Four Mile from late January through March 1999.<sup>4811</sup> The Trial Chamber has also found that all of these instances constitute outrages upon personal dignity.<sup>4812</sup>

<sup>4807</sup> Exhibit P-284 (Confidential), para. 11.

<sup>4808</sup> Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings); Alleged unlawful killings in Freetown and the Western Area (between about 21 December 1998 and about 28 February 1999) *supra*.

<sup>4809</sup> Freetown and the Western Area: Count 4 (Rape); Conclusions *supra*.

<sup>4810</sup> Freetown and the Western Area: Count 4 (Rape); Conclusions *supra*.

<sup>4811</sup> Freetown and the Western Area: Count 5 (Sexual Slavery); Conclusions *supra*.

<sup>4812</sup> Freetown and the Western Area: Count 6 (Outrages upon Personal Dignity); Findings *supra*.

2174. The evidence establishes that the commission of acts of rape and sexual slavery in Freetown and the Western Area by the rebel forces were widespread and systematic, both during the attack on Freetown and during the retreat. In particular, the Trial Chamber has found that there was a recognized system of ownership and hierarchy among captured women in the rebel forces in Freetown and the Western Area, as illustrated by TF1-023 being accorded special treatment as a commander's wife.<sup>4813</sup>

2175. There was evidence to prove beyond reasonable doubt that girls were raped publicly outside State House, that they were raped publicly on Blackhall Road in the presence of other civilians, including TF1-028 who tried to stop them, and that girls were raped publicly in Kissy.<sup>4814</sup> Many of the victims of these rapes were girls as young as 13.<sup>4815</sup> Victims were also humiliated and degraded, as they were often undressed prior to having intercourse, and in some cases, were subjected to perverse methods of sexual violence. For example, Tholley, who at that time had not yet had her menses, testified that a commander called James "damaged her in the vagina" when she refused to have sex with him.<sup>4816</sup> The Trial Chamber is satisfied from this evidence that the public nature of these crimes of sexual violence was a deliberate tactic on the part of the perpetrators to instil fear among civilians.

2176. Given the geographical and temporal proximity of these crimes to each other, and to the burnings, killings and amputations that occurred in Freetown and the Western Area during the advance towards Freetown, the attack and the retreat, the Trial Chamber finds that the rebels regularly used rape and sexual slavery to spread terror among the civilian population of Freetown and the Western Area.

2177. The Trial Chamber therefore finds that it has been proved beyond reasonable doubt that members of the AFRC/RUF forces wilfully made the girls and women of Freetown and the Western Area the object of acts of sexual violence with the primary purpose of spreading terror among the civilian population.

(d) Physical Violence

(i) Freetown

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<sup>4813</sup> Exhibit P-205A, "AFRC Trial Transcript 9 March 2005, TF1-023", pp. 56-58.

<sup>4814</sup> Freetown and the Western Area, Count 4 (Rape); Rape of Captured Girls in January 1999, Findings *supra*.

<sup>4815</sup> Ibrahim Wai, Transcript 17 October 2007, p. 18597.

2178. The Trial Chamber has found proved beyond reasonable doubt that two civilians had their hands amputated, one civilian had his hands and tongue amputated, and one civilian had both her eyes mutilated by rebels in Freetown in January 1999.<sup>4817</sup>

2179. The amputations and carvings practiced by the AFRC and RUF were notorious, and served as a permanent, visible and grotesque reminder to all civilians of the consequences of resisting the AFRC or RUF or of supporting Kabbah or ECOMOG. The gruesome nature of these particular amputations and mutilations included the amputation of tongues, and a woman whose eyes were pulled out so that they protruded from their sockets.<sup>4818</sup> TF1-158 testified that he had treated patients who had been attacked and amputated or mutilated by the rebels, and that when they were being attacked, “their immediate families were positioned such that ... they will be in full view of what they were doing, especially for those who suffered amputations and rape”.<sup>4819</sup> The Trial Chamber is satisfied on this evidence that these amputations and mutilations were perpetrated with the primary intention of spreading terror.

2180. The Trial Chamber has also found that Abu Bakarr Mansaray was beaten and physically harmed in a permanent manner by rebels outside State House on 8 January 1999.<sup>4820</sup> However, the evidence is not sufficient to establish the intent of the perpetrators, and the Trial Chamber is thus not able to conclude that they acted with the primary purpose of spreading terror.

(ii) Kissy, including Kissy Mental Hospital

2181. The Trial Chamber has found proved beyond reasonable doubt that: a Nigerian man called Ike had his ear amputated and was wounded on his thigh in Kissy on 18 January 1999;<sup>4821</sup> three persons, including witness James Kpumgbu, had their hands amputated or

<sup>4816</sup> Akiatu Tholley, Transcript 23 October 2008, pp. 19184-19185.

<sup>4817</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Freetown, including the Northern and Eastern areas of the city, Findings *supra*.

<sup>4818</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Freetown, including the Northern and Eastern areas of the city, Findings *supra*.

<sup>4819</sup> TF1-358, Transcript 19 November 2008, p. 20656.

<sup>4820</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Freetown, including the Northern and Eastern areas of the city, Findings *supra*.

<sup>4821</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Beating of Civilians Outside Good Shepard Hospital, Findings *supra*.

mutilated near Kissy Mental Home by rebels on 6 January 1999;<sup>4822</sup> two civilians had their hands amputated by TF1-143 and another boy in Kissy Market in January 1999;<sup>4823</sup> Ibrahim Wai was physically harmed and his hand was amputated by Captain Blood in January 1999;<sup>4824</sup> the brother of the brother-in-law of Ibrahim Wai had his hand amputated in Kissy in January 1999;<sup>4825</sup> Mohamed Sampson Bah's hand was amputated in Kissy by rebels led by Tafaiko in January 1999;<sup>4826</sup> Mohamed Sesay's arms were amputated on 19 January 1999;<sup>4827</sup> Alusine Conteh and Boi Barrie's hands were amputated on 20 January 1999;<sup>4828</sup> Witness TF1-083, Pa Sorie and Musa had their hands amputated by rebels on 21 January 1999;<sup>4829</sup> three 13-year-old girls had their arms amputated by rebels around 20-22 January 1999;<sup>4830</sup> three civilians had their hands amputated by Changa Bulanga at Shell Old Road in Kissy in January 1999.<sup>4831</sup>

2182. In several of these cases, the rebels told their victims that they should show these amputations to Kabbah, or ask him for new hands. Kpumgbu, for example, testified that the rebel who amputated his hands then said that Kpumgbu "should go and tell Tejan Kabbah that they were fighting for power".<sup>4832</sup> Wai also testified that Captain Blood told him that he should go to Pa Kabbah,<sup>4833</sup> because "Pa Kabbah had brought so many hands for us, for those whose hands are...off, they should go to him".<sup>4834</sup> The rebel who amputated Boi Barrie's arms told him "go and tell Tejan Kabbah, no more politics no more votes", and that

<sup>4822</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Amputation of James Kpumgbu and others at Kissy Mental Hospital, Findings *supra*.

<sup>4823</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Amputations of two men's hands in Kissy Market, Findings *supra*.

<sup>4824</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Beating and Amputation of Ibrahim Wai, Findings *supra*.

<sup>4825</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Beating and Amputation of Ibrahim Wai, Findings *supra*.

<sup>4826</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Amputation of Mohammed Sampson Bah hand at Kissy, Findings *supra*.

<sup>4827</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Amputation of Mohamed Sesay's arms in Kissy, Findings *supra*.

<sup>4828</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Amputations of Barrie and Alusine Conteh's hands at Parsonage and Leaden Streets in Kissy, Findings *supra*.

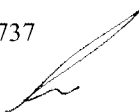
<sup>4829</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Amputation of TF1-083, Pa Sorie and Musa in Samuels Area in Kissy, Findings *supra*.

<sup>4830</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Other Amputations in Kissy, Findings *supra*.

<sup>4831</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Amputations by Changa Bulanga in Low Cost Area and Shell Old Road Area, Findings *supra*.

<sup>4832</sup> James Kpumgbu, 13 October 2008, pp. 18123-18124.

<sup>4833</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Fourah Bay, Findings *supra*.





rebels told Alusine Conteh, who had both hands amputated, that he should tell Kabbah that he was a messenger.<sup>4835</sup> Similar statements were made in relation to the amputations of TF1-083, Pa Sorie, and Musa, where the rebels told them they should go to Kabbah to get new hands. Several of these amputations were performed by child soldiers, who were often incapable of performing the amputations successfully, leaving victims with mangled hands, or needing older rebels to finish the amputations, such as in the case of the Mohamed Sesay.<sup>4836</sup>

2183. These amputations occurred in the context of widespread burning, rape and killing, and in situations where rebels had been ordered to target civilians who they believed were Kamajors or supporters of ECOMOG. In the case of the amputations performed by Changa Bulanga at Old Shell Road, this operation was ordered by Gullit in order to punish civilians who he believed had welcomed ECOMOG to Freetown. These incidents also occurred in a context where witnesses observed bunches of human hands that had been tied together and buried in the dirt at Kissy Road.

2184. The Trial Chamber is accordingly satisfied beyond reasonable doubt that the amputations that occurred in Kissy from 6 January to 22 January 1999 were perpetrated by members of the AFRC/RUF forces, who wilfully made civilians the object of the physical violence with the primary purpose of spreading terror among the civilian population.

(iii) Fourah Bay

2185. The Trial Chamber has found proved beyond reasonable doubt that seven civilians, including witness Alpha Jalloh, had their hands amputated at Fourah Bay by members of the SLA around 18 January 1999, and that an unknown number of civilians had their hands amputated by Major Mines and Kabila at Fourah Bay.<sup>4837</sup>

2186. After the civilians had been amputated, the rebels told the amputees that they could go to Pah Kabbah to get more hands.<sup>4838</sup> The amputations also served as a message to Kabbah and ECOMOG of the atrocities of which the rebels were capable. These

<sup>4834</sup> Ibrahim Wai, Transcript 17 October 2008, p.18594.

<sup>4835</sup> Alusine Conteh, Transcript 30 January 2009, p. 24028.

<sup>4836</sup> Mohammed Sesay, Transcript 14 February 2008, p. 3926.

<sup>4837</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Fourah Bay, Findings *supra*.

<sup>4838</sup> Exhibit P-210, TF1-098 AFRC Trascript 5 April 2005, p. 20189.







amputations also took place in the context of widespread burning, rape and killing in Freetown.

2187. The Trial Chamber is accordingly satisfied beyond reasonable doubt that the amputations that occurred in Kissy from 6 January to 22 January 1999 were perpetrated by members of the AFRC/RUF forces who wilfully made civilians the object of the physical violence with the primary purpose of spreading terror among the civilian population.

(iv) Uppun

2188. The Trial Chamber has found proved beyond reasonable doubt that three captured civilians had their hands amputated by Five-Five in Uppun in January 1999. One civilian was given a “short-sleeve” amputation and the others “long-sleeve” amputations.<sup>4839</sup> For the reasons articulated above in relation to the other areas, and given that this amputation was performed by Five-Five as a “demonstration”, the Trial Chamber is satisfied that these amputations were perpetrated by members of the AFRC/RUF forces, who wilfully made civilians the object of the physical violence with the primary purpose of spreading terror.

(v) Wellington

2189. The Trial Chamber has found proved beyond reasonable doubt that Sarah Koroma’s left hand was amputated and her right hand mutilated in Wellington on 6 January 1999; that seven civilians had their hands amputated in Wellington on 6 January 1999; that the hand of a child between 3 to 4 years old was amputated in Wellington in January 1999 and that Akiatu Tholley was beaten and physically harmed in a serious manner in Wellington in late January 1999.<sup>4840</sup>

2190. The rebels who amputated Koroma’s arm told her to go tell Kabbah that the rebels wanted peace.<sup>4841</sup> The rebels also amputated the arm of a 3 to 4 year old child. Based on this evidence, given the widespread burning, rape and killing that occurred during both the rebels’ advance into Freetown in early January and their retreat in late January, and for the reasons articulated above in relation to the other areas, the Trial Chamber is satisfied that these amputations were perpetrated by members of the AFRC/RUF forces who wilfully

<sup>4839</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Uppun, Findings *supra*.

<sup>4840</sup> Freetown and the Western Area: Counts 7 and 8 (Physical Violence); Wellington, Findings *supra*.

<sup>4841</sup> Sarah Koroma, Transcript 22 October 2008, pp. 18995-18997.

made civilians the object of the physical violence with the primary purpose of spreading terror.

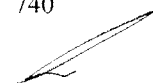
### Conclusion

2191. The foregoing findings by the Trial Chamber establish that the Prosecution has proved beyond a reasonable doubt that members of the AFRC/RUF forces in Freetown and the Western Area wilfully made civilian persons or their property the object of acts of violence in the forms of burning of civilian property (in Freetown and the Western Area, Waterloo, Tumbo, Kissy, Fourah Bay, State House, Pademba Road, Kingtom, Wellington and Calaba Town), unlawful killings, sexual violence and physical violence (in Freetown, Kissy, Fourah Bay, Upgun and Wellington), committed with the primary purpose of spreading terror among the civilian population.

2192. The Trial Chamber has already found that there was an armed conflict in Sierra Leone at all times relevant to the Indictment, involving, among others, members of the RUF and AFRC.<sup>4842</sup> Further, the Trial Chamber is satisfied beyond reasonable doubt that crimes discussed in the above findings were directly linked to that armed conflict and that the victims were civilians not directly taking part in hostilities. The Trial Chamber therefore finds that the elements of the crime of acts of terrorism (Count 1) as a serious violation of article 3 common to the Geneva Conventions and of Additional Protocol II (Count 1) have been proved reasonable doubt.

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<sup>4842</sup> See Law and Findings on the General Requirements: Article 3: War Crimes, para. 573 *supra*.



## VIII. FACTUAL FINDINGS ON THE ROLE OF THE ACCUSED

### A. Pre-Indictment Period (1988 to 1996)

2193. The Trial Chamber has considered evidence prior to the Indictment period only for the purposes of clarifying the context, or establishing by inference the elements of criminal conduct.

2194. The Prosecution alleges that, prior to the commencement of the armed conflict in Sierra Leone, during meetings in Libya, Burkina Faso and Liberia, the Accused together with Foday Sankoh and Dr Manneh established a common plan to terrorize the civilian population of Sierra Leone in order to forcibly control the population and territory of Sierra Leone and to pillage its resources, in particular diamonds. This common plan involved the commission of the crimes alleged in the Indictment including terrorizing the civilian population, widespread and continuing killings, rapes, beatings and mutilations, looting and burning of civilian property, and enslavement of the civilian population, including using children as fighters.<sup>4843</sup>

2195. The Defence denies the allegation that the Accused's plan was to target the civilian population and submits that this would be illogical and counter-productive since it would cause the civilian population to become alienated from the cause. The Defence concedes that military alliances were made but maintains that these alliances were purely political or military and were not underlined by any criminal intent. The Defence submits that the Prosecution evidence is imprecise and insufficient to support a conviction.<sup>4844</sup>

#### 1. Alleged meeting in Libya around 1989

##### Submissions of the parties

<sup>4843</sup> Indictment, paras 5, 33; Amended Case Summary paras 42-43; Prosecution Pre-Trial Brief paras 6-11; Transcript 4 June 2007 (Prosecution Opening Statement) pp. 3-7; Prosecution Closing Arguments, Transcript 8 February 2011, p. 49150; Prosecution Final Trial Brief paras 51-53, 572-582; See also Trial Chamber II, Decision on Urgent Defence Motion Regarding a Fatal Defect in the Prosecution's Second Amended Indictment Relating to the Pleading of JCE, 27 February 2009; Appeals Chamber, Decision on Defence Notice of Appeal and Submissions Regarding the Majority Decision Concerning The Pleading of JCE in the Second Amended Indictment, 1 May 2009.

<sup>4844</sup> Defence Final Trial Brief paras 305, 381, 733-774.

2196. The Prosecution submits that soon after their arrival in Libya in around 1989, the Accused, Sankoh, Dr Manneh and others agreed on a common plan to launch a campaign of terror in order to forcibly control the population and territory of Sierra Leone and to pillage its resources, in particular diamonds. Witnesses TF1-371, Suwandi Camara, Moses Blah and Isaac Mongor, and exhibits P-031 and P-277 provided relevant evidence.<sup>4845</sup>

2197. The Defence contends that the Prosecution failed to lead any direct evidence regarding the meeting in Libya where the Accused and Foday Sankoh planned to terrorize the Sierra Leonean civilian population. The Defence further submits that the Accused never had contact with Sankoh in Libya since the latter was not a leader of the Sierra Leonean group and the Accused only had contact with their leader, Ali Kabbah, during training at the Mathaba, where the leaders of revolutionary groups received political and military training. The Defence relies on the testimonies of the Accused, Witness DCT-125, Yanks Smythe and Issa Sesay.<sup>4846</sup>

## Evidence

### Prosecution Witness Suwandi Camara

2198. Witness Suwandi Camara, an SSS member<sup>4847</sup> and a Gambian national, was recruited as an 'intelligence man' into the Gambian Revolutionary group called SOFA (Special Operational Force for Africa) led by Dr Manneh (Kukoi Samba Sanyang) at a centre for revolutionary groups called the Mathaba in Tripoli, Libya at the end of 1989.<sup>4848</sup> During a visit to Dr Manneh at the Mathaba in the beginning of 1990, Suwandi Camara saw Charles Taylor greeting Dr Manneh, who informed him that Taylor was the leader of a Liberian revolutionary group who had started a war in Liberia and that Taylor and his group were in Libya in order to receive training and weapons from Libyan authorities. Suwandi Camara saw Taylor again a few weeks later.<sup>4849</sup>

<sup>4845</sup> Prosecution Final Trial Brief, paras 51-53, 574; See also Prosecution opening Statement, dated 4 June 2007, p. 282.

<sup>4846</sup> Defence Final Trial Brief, paras 306, 381, 733-756.

<sup>4847</sup> Suwandi Camara, Transcript 8 February 2008, pp. 3458-3459, 3472, 3477-3479; Transcript 11 February 2008, pp. 3523, 3525.

<sup>4848</sup> Suwandi Camara, Transcript 7 February 2008, pp. 3418-3422.

<sup>4849</sup> Suwandi Camara, Transcript 8 February 2008, pp. 3436-3439.

2199. During his visits to Dr Manneh at the Mathaba, Suwandi Camara also met Foday Sankoh. Dr Manneh told the witness that Sankoh, the coordinator of the Sierra-Leoneans in Libya, was acting as the leader of the Sierra Leonean group in Libya, since its leader Ali Kabbah had left Libya with the money given by the Libyan authorities to his group to support their fight. Camara stated that he did not see Taylor and Sankoh together.<sup>4850</sup>

Prosecution Witness TF1-371

2200. Witness TF1-371, an RUF member,<sup>4851</sup> learned from Foday Sankoh that Sankoh, along with the second commander of the RUF, Rashid Mansaray, and third commander Mohamed Tarawalli, was trained as a 'Special Force Commando' in Benghazi, Libya. Sankoh further told him that, during this training in Benghazi, he met Charles Taylor, although Taylor was not there for most of the training.<sup>4852</sup>

Prosecution Witness Moses Blah

2201. Witness Moses Blah, an adjutant general within Taylor's group at the time,<sup>4853</sup> attended training in the Tajura camp in Tripoli, Libya. According to Blah, Foday Sankoh, the head of the Sierra Leonean group, used to pay courtesy calls to Taylor in the camp and called him "Chief". During his stay in Libya, Taylor regularly visited the Tajura camp.<sup>4854</sup>

2202. Moses Blah testified that Ali Kabbah, as a leader, did not stay with the Sierra Leonean group but rather stayed at the Mathaba. Blah testified that Sankoh was considered to be the leader of the Sierra Leonean group only later, after he represented it during peace talks in Togo.<sup>4855</sup>

Prosecution Witness Isaac Mongor

2203. Witness Isaac Mongor, a Liberian training instructor at Camp Naama who later became a senior official within the RUF,<sup>4856</sup> testified that while at Camp Naama, Foday Sankoh told him that his brother Charles Taylor was training Sankoh's men for him, and that

<sup>4850</sup> Suwandi Camara, Transcript 7 February 2008, pp. 3428-3432, 3439.

<sup>4851</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>4852</sup> TF1-371, Transcript 25 January 2008, pp. 2211-2212 (CS).

<sup>4853</sup> Moses Blah, Transcript 15 May 2008, pp. 9943-9945.

<sup>4854</sup> Moses Blah, Transcript 14 May 2008, pp. 9802-9815.

<sup>4855</sup> Moses Blah, Transcript 19 May 2008, pp. 10145-10146.

<sup>4856</sup> See for example: Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March

Sankoh had known the Accused for a long time. Foday Sankoh also told him that they had all gone to Libya for training.<sup>4857</sup>

Prosecution Witness TF1-168

2204. Witness TF1-168, an RUF member,<sup>4858</sup> testified that he learned about military training of Sierra Leoneans in Libya while he was at Camp Naama. He said that Foday Sankoh said that he had trained there with Rashid Mansaray, Mohamed Tarawalli and Abu Kanu.<sup>4859</sup>

Expert Witness Stephen Ellis/Prosecution Exhibit P-031

2205. Exhibit P-031 is a report written by Prosecution expert witness Stephen Ellis, senior researcher at the African Studies Centre in the University of Leiden.<sup>4860</sup> In his report, which is based on interviews, UN reports, and documents in the Liberian archives, Ellis states that the relationship between the Accused and the RUF can be traced back to 1988 at the military training camps in Libya where the Accused met future Sierra Leonean revolutionary leader Foday Sankoh and they became acquainted with each other.<sup>4861</sup>

2206. Stephen Ellis's court testimony was a reiteration of the statements contained in his report regarding Taylor's meetings in Libyan training camps with future leaders of the conflict in Sierra Leone, including Foday Sankoh, at the end of the 1980s.<sup>4862</sup>

Prosecution Confidential Exhibit P-277

2207. In Confidential Exhibit P-277<sup>4863</sup> it is reported that Foday Sankoh conceived of the idea of an armed struggle against the APC Government in Sierra Leone while in prison in 1978. Between 1986-1988, some Sierra Leonean students such as Ali Kabbah, Abu Kanu, Rashid Mansaray and Cleo Hanciles went to Libya in order to study Colonel Ghadaffi's theories and to receive military training.

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2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>4857</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5667-5668.

<sup>4858</sup> TF1-168, Transcript 22 January 2009, pp. 23275-23282 (CS).

<sup>4859</sup> TF1-168, Transcript 26 January 2009, p. 23585 (CS).

<sup>4860</sup> Stephen Ellis, Transcript 16 January 2008, pp. 1402-1405.

<sup>4861</sup> Exhibit P-031, "Charles Taylor and the War in Sierra Leone, Report of Stephen Ellis, 5 December 2006", ERN 26610; Stephen Ellis, Transcript 16 January 2008, pp. 1427-1428.

<sup>4862</sup> Stephen Ellis, Transcript 16 January 2008, pp. 1402-1409, 1428-1430; Transcript 18 January 2008, pp. 1530-

2208. When Foday Sankoh arrived in Libya in the middle of the 1980's, he found the group of Sierra Leoneans there led by Ali Kabbah.<sup>4864</sup> According to the report, despite the fact that Foday Sankoh had no group, he was recognised by Libyans as the rebel leader. However, he was isolated by most of his fellow compatriots in the training camp and turned to Charles Taylor and his group, who were training to launch a guerrilla war in Liberia. When Taylor and his men departed from Libya, Foday Sankoh followed them with the assurance that Libya would help him later for his own revolutionary campaign in Sierra Leone.<sup>4865</sup>

#### Prosecution Exhibits P-416A and P-416B

2209. Exhibit P-416A is an undated BBC clip of Mary Harper's interview of Charles Taylor. Exhibit P-416B is an OTP unofficial transcript of this interview. In this interview Taylor says that he has been friends with Sankoh for many years, before the revolution.<sup>4866</sup>

#### The Accused

2210. The Accused strongly denied having met Foday Sankoh in Libya and stated that he had no contact with him before August 1991. He denied also having ever met Suwandi Camara and explained that the alleged meeting, as described by Camara, could not have taken place since only leaders of the revolutionary groups were allowed to go to the Mathaba.<sup>4867</sup>

2211. At the Mathaba in Tripoli, the Accused said he only had contacts with group leaders such as Kukoi Samba Sanyang a.k.a. Dr Manneh, the leader of the Gambian group, or Ali Kabbah, the leader of the Sierra Leonean group. The other members of revolutionary groups,

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1536.

<sup>4863</sup> P-277, (confidential), pp. 18097-18185.

<sup>4864</sup> P-277, (confidential), p. 18109.

<sup>4865</sup> P-277, (confidential), p. 18110.

<sup>4866</sup> P-416 B, "Unofficial Transcript – BBC Clip – Mary Harper interview of Charles Taylor", p. 2.

<sup>4867</sup>, Transcript 9 September 2009, pp. 28450, 28459, 28460; Transcript 11 January 2010, pp. 33152-33159. The Trial Chamber notes that at some points of his cross-examination, the Accused denies having ever met Foday Sankoh (see Charles Ghankay Taylor, Transcript 11 January 2010, pp. 33156: 'I have never met Sankoh in my entire life').

such as Camara or Foday Sankoh, were based in Tajura training camps, approximately 30 miles from Tripoli. Taylor said he had absolutely no contact with them.<sup>4868</sup>

2212. With regard to his interview with Mary Harper, the Accused gave a confused explanation of his statement that he had been friends with Foday Sankoh for many years before the Revolution, saying:

I had never known Foday Sankoh. I said to her, it is known by everyone, that I had known Foday Sankoh before the revolution, which was totally incorrect because I had not known him. And I'm saying to her that everyone knows, and this is what is out there because this is 1998, I'm already President, I said it is known by everyone that I knew Foday Sankoh, when in fact I did not.<sup>4869</sup>

#### Defence Witness DCT-125

2213. Witness DCT-125 was at the Mathaba in Libya in the late 1980s.<sup>4870</sup> Witness DCT-125 was aware of the presence of Sierra Leoneans in Libya's training camps but only knew their leader, Ali Kabbah, and his assistant, Cleo Hanciles. Witness DCT-125 testified that he met Foday Sankoh for the first time in Gbarnga, Liberia when he went to visit Charles Taylor at the Executive Mansion.<sup>4871</sup>

2214. DCT-125 asserted that Taylor did not meet Foday Sankoh at the Mathaba as Sankoh did not participate in events there. He also denied that meetings between Dr Manneh, Sankoh and Taylor took place in Libya in December 1989, and denied that Dr Manneh ever met Foday Sankoh in Camp Tajura, saying that before 1990 Dr Manneh did not know who Sankoh was.<sup>4872</sup>

2215. DCT-125 denied that Camara was introduced to Taylor in the Mathaba in Libya or to Foday Sankoh. The witness believed that at the beginning of 1990 Taylor was not in Libya and said that during that time period, no one knew the name RUF. He stated further that Foday Sankoh never was the interim leader of the Sierra Leonean Pan-African Revolutionary Movement.<sup>4873</sup>

<sup>4868</sup> Charles Ghankay Taylor, Transcript 15 July 2009, p. 24568; Transcript 9 September 2009, pp. 28450, 28459, 28460; Transcript 27 October 2009 p. 30389; Transcript 11 January 2010, pp. 33152-33159.

<sup>4869</sup> Charles Ghankay Taylor, Transcript 11 January 2010, pp. 33153-33158, 33160.

<sup>4870</sup> DCT-125, Transcript, 3 March 2010, p. 36631 (PS).

<sup>4871</sup> D-411A, "La Mathaba Mondiale, Deuxieme Congres Mondial, 1987", p. 41; DCT-125, Transcript 4 March 2010, pp. 36697-36698.

<sup>4872</sup> DCT-125, Transcript 9 March 2010, pp. 36769-36773.

<sup>4873</sup> DCT-125, Transcript 9 March 2010, pp. 36842-36848 (PS).



Defence Witness Yanks Smythe

2216. Witness Yanks Smythe, a.k.a. Butterfly, a Gambian and Assistant Director of Operations for the SSS,<sup>4874</sup> was trained in military intelligence and communication at Camp Tajura, in Libya in 1987, and he became Charles Taylor's radio operator in 1990. Smythe stated that the Libyan authorities provided training to several revolutionary groups such as Gambians led by Dr Manneh, Liberians led by Charles Taylor, Sierra Leoneans led by Ali Kabbah, and Sumatrans.<sup>4875</sup>

2217. Smythe testified that Libyan authorities also supported revolutionary movements by hosting their leaders in a place called the Mathaba. Smythe, who was not the leader, trained with the other men at the Tajura Camp. However, between 1986 and 1988, he attended the annual meetings at the Mathaba which were attended by around 500 people from all over the world. Smythe testified that Dr Manneh, Charles Taylor and Ali Kabbah attended the 1987 annual meeting. However the witness did not see Taylor during the annual meetings in 1986 and 1988. He said Foday Sankoh, who was an ordinary member of the Sierra Leonean group, was not at the Mathaba and did not attend any of these annual meetings and that Taylor never visited Camp Tajura.<sup>4876</sup> This testimony contradicted his pre-trial statement in which he stated that Taylor was in and out of Tajura as early as 1987.<sup>4877</sup>

Defence Witness Issa Sesay

2218. Witness Issa Sesay, a senior RUF commander,<sup>4878</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>4879</sup> testified that Ali Kabbah was the leader of the Sierra Leoneans in Libya until he was caught embezzling money Gaddafi had given him for the welfare of RUF recruits. Kabbah went to America when the Sierra Leonean troops returned to Liberia. Sankoh then called himself "the organiser" of the revolution until the 90-day ultimatum when he became the "leader" of the RUF.<sup>4880</sup> While at Naama, Sankoh

<sup>4874</sup> Yanks Smythe, Transcript 23 February 2010, pp. 35730, 35747; Transcript 24 February 2010, pp. 35866-35869; Transcript 25 February 2010, pp. 36003, 36014, 36019, 36023, 36031; 26 February 2010, pp. 36199, 36202, 36206, 36208.

<sup>4875</sup> Yanks Smythe, Transcript 22 February 2010 pp. 35570-35588, 35598.

<sup>4876</sup> Yanks Smythe, Transcript 22 February 2010 pp. 35579, 35586, 35588-35603.

<sup>4877</sup> D-114B, "Copy of Witness Statement of DCT-179, Yanks Smyth/Yakube Samateh", p. 2 (Charles Taylor was in and out of Tajura as early as 1987).

<sup>4878</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>4879</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>4880</sup> Issa Sesay, Transcript 17 August 2010, pp. 46424-46428. In March 1991, shortly before the RUF invasion of

told Sesay that Taylor was his friend and that he had met him for the first time in Libya but Sesay did not hear anything else regarding their alleged relationship.<sup>4881</sup>

### Deliberations

2219. The evidence unequivocally establishes that between 1986 and 1989, revolutionary movements including the Gambian group SOFA led by Dr Manneh, the Liberian NPFL group led by the Accused and the Sierra Leonean Pan-African Revolutionary Movement who became later RUF led by Ali Kabbah, received training in Libya in a military camp named Tajura.<sup>4882</sup> The evidence also establishes that, during this period, leaders of the revolutionary groups including the Accused, Dr Manneh and Ali Kabbah were lodged and trained by Libyan authorities at a place called the Mathaba, located in Tripoli.<sup>4883</sup> It is also undisputed that Foday Sankoh was in Libya with the Sierra Leonean group and received training.<sup>4884</sup>

2220. The issue before the Trial Chamber is whether, during this training in Libya, the Accused met Foday Sankoh and Dr Manneh and formulated with them a common plan to gain and maintain political power and physical control over the territories of Liberia and Sierra Leone, terrorizing the civilian population in the process.

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Sierra Leone, Sankoh gave an interview to BBC in which he gave the then President of Sierra Leone, Joseph Momoh, a 90-day ultimatum to step down (See Issa Sesay, Transcript 5 July 2010, pp. 43597, 43633).

<sup>4881</sup> Issa Sesay, Transcript 29 July 2010, pp. 44953-44954 (PS). (Q. During the time you were in Camp Naama, did you hear any discussion from anyone regarding Foday Sankoh having met and developed a relationship with Charles Taylor in Libya? A. No. I did not hear that from anybody).

<sup>4882</sup> Defence Final Trial Brief para. 303; Suwandi Camara, Transcript 7 February 2008, pp. 3419-3427; TF1-371, Transcript 25 January 2008, pp. 2211-2212 (CS); TF1-168, Transcript 26 January 2009, p. 23585 (CS); Moses Blah, Transcript 14 May 2008, pp. 9802-9803; P-031, "Charles Taylor and the War in Sierra Leone, Report of Stephen Ellis, 5 December 2006", p. 26610; Stephen Ellis, Transcript 16 January 2008, pp. 1427-1428; Transcript 16 January 2008, pp. 1428-1430; Transcript 18 January 2008, pp. 1530-1536; P-277 (Confidential), p. 18109; Yanks Smythe, Transcript 22 February 2010 pp. 35570-35588, 35598, 35605-35609.

<sup>4883</sup> Defence Final Trial Brief, para. 302; Suwandi Camara, Transcript 7 February 2008, p. 3420 ('Mahtaba is a place that is the leader [sic] of the revolutionary party in Libya at that time and anybody who is a terrorist that is their main office. That is their main office'. [...] 'Mahtaba is a place just like a hotel. It is a lodge where important people and people of the revolutionary [sic] and their leaders do host'); Moses Blah, Transcript 19 May 2008 p. 10145 ('I remember Ali Kabbah. [...] He was in the camp, the next time he was at Mataba he had more experience with Mataba'); Yanks Smythe, Transcript 22 February 2010, pp. 35589-35590 ('Mataba had a guesthouse where they could lodge leaders of revolutionary movements. Ali Kabbah, Taylor and Kukoi Samba Sanyang a.k.a. Dr Manneh were at some points at the Mathaba); Transcript 22 February 2010 pp. 35579, 35586, 35588-35603 (Libyan authorities supported revolutionary movements by hosting their leaders in a place called the Mathaba).

<sup>4884</sup> Prosecution Final Trial Brief, para. 51; Defence Final Trial Brief, paras 745, 752.

2221. At the outset, the Trial Chamber notes that the parties dispute the status of Foday Sankoh.<sup>4885</sup> The Prosecution evidence suggests that Sankoh was acting as the leader of the Sierra Leonean group and that, as such, he met the Accused at the Mathaba in Tripoli. In contrast, the Defence contends that Ali Kabbah was the sole leader of the Sierra Leonean group and that Sankoh, as an ordinary member of the group, was not allowed to go to the Mathaba and therefore could not have met the Accused.

2222. It is undisputed that, before 1990, the official leader of the Sierra Leonean group was Ali Kabbah.<sup>4886</sup> However, Suwandi Camara and Moses Blah, both of whom the Trial Chamber finds to be generally credible witnesses, said that Foday Sankoh was acting as the leader of the Sierra Leonean group in Libya after Kabbah left. This view is shared by the authors of Confidential Exhibit P-277, which states that Sankoh was recognised by Libyans as the leader of the Sierra-Leonean group.<sup>4887</sup>

2223. The Trial Chamber notes that this evidence relies solely on hearsay, which is contested. Camara stated that he heard that Sankoh was the leader of the Sierra Leonean group from Dr Manneh. However, Witness DCT-125, who was in a better position to know and whom the Trial Chamber finds generally credible, denied that Dr Manneh ever presented Sankoh as leader of the Sierra Leonean group. More importantly, Witness DCT-125 denied that Camara was introduced to the Accused or Sankoh and stated that Dr Manneh met Sankoh for the first time in Liberia, after he left Libya.

2224. Similarly, Moses Blah described Sankoh as “the head of the Sierra Leonean group” but was unclear regarding the reasons supporting this statement.<sup>4888</sup> The authors of Confidential Exhibit P-277, state that Sankoh’s wish to be recognized as leader of the group was not successful. However, despite this split between Sankoh and the young men of the group, Sankoh gained acceptance and recognition from the Libyans and was considered by

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<sup>4885</sup> Prosecution evidence suggests that Sankoh was the real leader of the Sierra Leonean group and that, as such, he had meetings with Charles Taylor (Prosecution Final Trial Brief, paras 51-52). In contrast, the Defence submits that Sankoh was an ordinary soldier who was not allowed to enter in the Mathaba (Defence Final Trial Brief, paras 741-742, 746-747).

<sup>4886</sup> Suwandi Camara, Transcript 7 February 2008, p. 3431 (‘Sierra Leoneans they also have a group in Libya [...] But what my leader told me, who is Kukoi Samba Sanyang, that is Foday Sankoh is a person who is -who was acting as a leader, but he was not the leader. The right leader was Ali Kabbah’), p. 3432 (‘This Ali Kabbah he was the leader of the Sierra Leonean group in Libya’); Yanks Smythe, Transcript 22 February 2010, p. 35579, (‘The leader of the Sierra Leoneans was Ali Kabbah’). See also Exhibit P-277 (Confidential), p. 18110.

<sup>4887</sup> Exhibit P-277 (Confidential), p. 18110.

<sup>4888</sup> Moses Blah, Transcript 14 May 2008, p. 9812 (Foday Sankoh was the leader of the Sierra Leonean group

them to be the leader of the Sierra-Leonean group. The Trial Chamber notes the lack of reference for this statement and finds it of limited probative value.

2225. In contrast, evidence suggests that at this time Ali Kabbah was the real leader of the Sierra Leonean group, and that Sankoh, despite his wish, was not considered to be a leader.<sup>4889</sup> Moses Blah explained that he did not take Sankoh seriously since Sankoh was preparing tea for him.<sup>4890</sup> Yanks Smythe also described Sankoh as an ordinary member of the group and stated that he was not at the Mathaba.<sup>4891</sup> This corroborates the Accused's and Witness DCT-125's testimony, according to which Sankoh was not a leader and did not go to the Mathaba. In the light of the foregoing, the evidence is insufficient to establish that Sankoh was the leader of the Sierra-Leonean group.

2226. Regardless of his status as leader, the evidence that Foday Sankoh even met the Accused in Libya is contested. Moses Blah testified that Sankoh used to pay courtesy calls to the Accused but did not provide further information regarding his source of information. The report of expert Stephen Ellis, Exhibit P-031, and Confidential Exhibit P-277 state that the Accused met Sankoh while in Libya but without any reference to their source of information. Isaac Mongor testified that while at Camp Naama, Sankoh told him that he had known the Accused for a long time and that they had all gone to Libya for training.<sup>4892</sup> TF1-371 also testified that Sankoh told him that he had met Taylor during the training in Libya.<sup>4893</sup> The Trial Chamber recalls its findings that both Isaac Mongor and TF1-371 are generally credible witnesses.<sup>4894</sup>

2227. Suwandi Camara stated that he had never seen Taylor and Sankoh together,<sup>4895</sup> which does not preclude the possibility that they met. In an interview with the BBC, the

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according to them); Transcript 19 May 2008, pp. 10145-10146.

<sup>4889</sup> Suwandi Camara, Transcript 7 February 2008, p. 3431 ('Sierra Leoneans they also have a group in Libya [...] But what my leader told me, who is Kukoi Samba Sanyang, that is Foday Sankoh is a person who is -who was acting as a leader, but he was not the leader. The right leader was Ali Kabbah').

<sup>4890</sup> Moses Blah, Transcript 14 May 2008, p. 9812 ('Q. What was your impression of him? A. We didn't take him serious, no, because he was in the tea shack making tea for me at the time, because I was adjutant, so I didn't take him serious. I didn't take him serious').

<sup>4891</sup> Yanks Smythe, Transcript 22 February 2010, pp. 35579, 35586, 35588-35603.

<sup>4892</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5667-5668.

<sup>4893</sup> TF1-371, Transcript 25 January 2008, pp. 2211-2212 (CS).

<sup>4894</sup> Credibility Assessment, Isaac Mongor, paras 269-274; Credibility Assessment, TF1-371, paras 220-226.

<sup>4895</sup> Suwandi Camara, Transcript 8 February 2008, p. 3439 ('Q. Mr Witness, you testified that you saw Charles Taylor in Libya, you testified that you saw Foday Sankoh in Libya. Did you see them separately? A. Yes, I saw them separately. I did not see them together').

Accused stated that he had been friends with Sankoh for many years before the revolution<sup>4896</sup>, which he denied in cross-examination, testifying that he met Sankoh for the first time in August 1991.<sup>4897</sup> The Trial Chamber has heard other evidence indicating that the Accused met Sankoh prior to August 1991 and finds the testimony of the Accused in this respect to be lacking in credibility.<sup>4898</sup>

2228. Based on this evidence, although the exact circumstances of their meeting are not specified, the Trial Chamber is convinced that the Accused met Sankoh while they were both in Libya. However, there is no evidence that Sankoh, the Accused and Dr Manneh all met together in Libya.

2229. More significantly, the Trial Chamber notes that no evidence was adduced regarding the content of any alleged meeting if such meetings did take place. Nothing in the Prosecution's evidence establishes that the Accused, Sankoh and Dr Manneh agreed in Libya on a common plan to terrorize the civilian population to gain control of Liberia and Sierra-Leone.

#### Findings

2230. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that between 1986 and 1989, revolutionary movements and their leaders received training in Libya. The Trial Chamber further finds that the Prosecution has proved beyond reasonable doubt that at some point, between 1986 and 1989, the Accused, Foday Sankoh and Dr Manneh were in Libya, and that the Accused met Sankoh in Libya during this time.

2231. The Trial Chamber finds that the Prosecution failed to prove beyond a reasonable doubt that during this time period, the Accused, Sankoh and Dr Manneh met together and

<sup>4896</sup> Exhibit P-416B, "Unofficial Transcript – BBC Clip – Mary Harper interview of Charles Taylor", p. 2.

<sup>4897</sup> Charles Ghankay Taylor, Transcript 11 January 2010, pp. 33153-33158, 33160.

<sup>4898</sup> See for example, Arms and Ammunition: Allegations that the Accused Facilitated Supplies of Materiel, Burkina Faso; TF1-371, Transcript 24 January 2008 p. 2201 (CS) (Sankoh told TF1-371 that he had been in Liberia fighting along with Taylor's 1<sup>st</sup> battalion and that he was one of Taylor's military advisors); TF1-168, Transcript 21 January 2009, pp. 23135-23139 (CS) (Witness TF1-168 testified that when he saw Sankoh in 1990, Sankoh had a badge identifying himself as "adviser on national and international affairs" and the red beret of the NPFL Special Forces); See also Exhibit P-054, "NPFL command structure circa 1990-1991 as indicated by Witness TF1-371", ERN 100162 (describing Sankoh as Taylor's military advisor); Exhibit P-277 (Confidential), pp. 18110-18111 (In 1989, Sankoh became Taylor's adviser on national and international affairs. In addition to his advisor role, Sankoh fought alongside with the NPFL fighters in Liberia).

established a common plan to terrorize the Sierra Leonean population and to forcibly control the population and territory of Sierra Leone and to pillage its resources.

2. Alleged meeting between the Accused, Sankoh and Dr Manneh in Burkina Faso

Submissions of the Parties

2232. The Prosecution alleges that before the invasion of Liberia, at a meeting in Ouagadougou, Burkina Faso, Sankoh and Dr Manneh agreed to assist the Accused in waging war in Liberia and the Accused agreed to assist Dr Manneh and Sankoh in return. Thereafter Sankoh and others from his group, as well as Dr Manneh and members of his group, fought for or assisted the Accused in Liberia.<sup>4899</sup>

2233. The Defence submits that the Prosecution evidence regarding an alleged meeting in Ouagadougou between the Accused, Manneh and Sankoh lacks clarity and reliability and relies solely on hearsay evidence. Furthermore, the evidence fails to establish that the alleged plan involved the commission of any crime charged in the Indictment.<sup>4900</sup>

Evidence

Prosecution Witness Suwandi Camara

2234. Suwandi Camara, a Gambian national member of the SOFA, testified that after their training in Libya, the Liberian group led by Taylor, the Sierra Leonean group led by Sankoh and the Gambian group led by Dr Manneh went to Ouagadougou, Burkina Faso where they established a base for their attacks against Liberia. Dr Manneh informed the witness that during a meeting held in Ouagadougou, Taylor, Sankoh and Dr Manneh agreed to help each other in their respective wars.<sup>4901</sup> As a result, Camara and numerous other Gambians of Dr Manneh's group were sent to Liberia in order to fight along with Taylor's army.<sup>4902</sup>

Prosecution Witness TF1-362

<sup>4899</sup> Prosecution Final Trial Brief, para. 52.

<sup>4900</sup> Defence Final Trial Brief, paras 386, 757-758, 763, 767.

<sup>4901</sup> Suwandi Camara, Transcript 8 February 2008, pp. 3439-3447.

<sup>4902</sup> Suwandi Camara, Transcript 8 February 2008, pp. 3450-3454.

2235. Witness TF1-362, a Liberian RUF member, testified that Foday Sankoh’s wife, Fatou Brown, told her that Sankoh informed her that he would assist Charles Taylor with his war in Liberia and that, in exchange, Charles Taylor would then assist him in taking the war to Sierra Leone.<sup>4903</sup>

Prosecution Witness TF1-371

2236. Witness TF1-371, a senior member of the RUF,<sup>4904</sup> learnt from Foday Sankoh that, after Libya, Sankoh and his special forces came along with Liberians to Burkina Faso in order to be trained.<sup>4905</sup>

2237. Witness TF1-371 further testified that while in Liberia in 1990, he met Foday Sankoh at a hospital and Sankoh told him that he had been in Liberia fighting along with Taylor’s 1<sup>st</sup> battalion and that he was one of Taylor’s military advisors.<sup>4906</sup>

Prosecution Witness TF1-168

2238. Witness TF1-168, an RUF member,<sup>4907</sup> testified that in October 1990, while he was in detention in Harbel, Liberia, Foday Sankoh visited him and his 16 Sierra Leonean co-detainees. Witness TF1-168 testified that Sankoh had a badge identifying himself as “adviser on national and international affairs” and the red beret of the NPFL Special Forces, meaning the NPFL forces trained in Libya.<sup>4908</sup>

Prosecution Witness Moses Blah

2239. Witness Moses Blah, an adjutant general within Taylor’s group,<sup>4909</sup> testified that the NPFL left Libya by groups of 20 or 30 men in order to go to Burkina Faso. Blah was among the last groups which left Libya. When the NPFL groups left Tajura camp in Libya, the Sierra Leonean group remained there.<sup>4910</sup> Before leaving, Taylor requested Blah not to

<sup>4903</sup> TF1-362, Transcript 27 February 2008, pp. 4803-4806 (CS).

<sup>4904</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>4905</sup> TF1-371, Transcript 25 January 2008, pp. 2211-2212 (CS).

<sup>4906</sup> TF1-371, Transcript 24 January 2008, p. 2201 (CS).

<sup>4907</sup> TF1-168, Transcript 22 January 2009, pp. 23275-23282 (CS).

<sup>4908</sup> TF1-168, Transcript 21 January 2009, pp. 23135-23139 (CS).

<sup>4909</sup> Moses Blah, Transcript 15 May 2008, pp. 9943-9945.

<sup>4910</sup> Moses Blah, Transcript 19 May 2008, pp. 10145-10146.

discuss their departure or their destination with any other groups as it was supposed to be a secret between the two of them.<sup>4911</sup>

Prosecution Witness Jabaty Jaward

2240. Witness Jabaty Jaward, a clerk for Issa Sesay and Sam Bockarie, Bockarie's storekeeper<sup>4912</sup> testified that in August 1991, he heard from Kaifa Wai that the NPFL and RUF had common goals, which meant that Sankoh and Taylor would spread the revolution in Sierra Leone, Liberia and other countries such as Guinea.<sup>4913</sup>

The Accused

2241. The Accused testified that, in the second quarter and in the middle of 1989, after completing military training in Libya, the Liberian trainees who were split in three groups moved to Burkina Faso where they stayed until October 1989.<sup>4914</sup> The Libyan Government and the Government of Burkina Faso supported Taylor and his men during their stay in Ouagadougou.<sup>4915</sup>

2242. The Accused denied that Sierra Leoneans, including Sankoh, were ever with his men in Burkina Faso. He stated that, at that time, there was absolutely no contact between the Liberian movement and the Sierra Leonean one.<sup>4916</sup>

Defence Witness DCT-125

2243. Witness DCT-125, an official of the Gambian group,<sup>4917</sup> testified that he left Libya in 1987 to go to Burkina Faso where Taylor was based, consistent with a plan established in Libya.<sup>4918</sup> Witness DCT-125 stated that Dr Manneh and his group were provided with

<sup>4911</sup> Moses Blah, Transcript 14 May 2008, pp. 9815-9822; Transcript 15 May 2008, pp. 9947-9948.

<sup>4912</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13306, 13332; Transcript 10 July 2008, p. 13383.

<sup>4913</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13260-13262.

<sup>4914</sup> Charles Ghankay Taylor, Transcript 15 July 2009, pp. 24569-24571; Transcript 16 July 2009, pp. 24592-24594, 24602.

<sup>4915</sup> Charles Ghankay Taylor, Transcript 16 July 2009, pp. 24597-24598.

<sup>4916</sup> Charles Ghankay Taylor, Transcript 16 July 2009, pp. 24595-24596; Transcript 23 September 2009, p. 29443.

<sup>4917</sup> DCT-125, Transcript 3 March 2010, p. 36631 (PS).

<sup>4918</sup> DCT-125, Transcript 9 March 2010, pp. 36850-36853 (PS).



housing by the Burkinabe authorities. As revolutionary Pan-Africanist leaders, Taylor and Dr Manneh remained in contact and met frequently in order to discuss politics.<sup>4919</sup>

2244. Witness DCT-125 denied that Dr Manneh was in Burkina Faso to fashion a conspiracy with Taylor to carry out acts of terrorism in West Africa.<sup>4920</sup> He further denied that Sierra Leoneans were present and stated that, at that time, Dr Manneh did not know Foday Sankoh, nor had the RUF been created.<sup>4921</sup>

2245. According to the witness, Charles Taylor never informed Dr Manneh about his plans to invade Liberia. Dr Manneh first learned of the Liberian revolution over the BBC radio.<sup>4922</sup>

#### Defence Witness Yanks Smythe

2246. Witness Yanks Smythe, a Gambian and later Assistant Director of Operations for the SSS,<sup>4923</sup> testified that he left Libya in November 1989 and went to Ouagadougou, Burkina Faso. Other Gambian trainees from Camp Tajura were already there. Their leader, Dr Manneh, arrived in Ouagadougou a few days after Smythe. The whole Gambian group, including Dr Manneh, resided together in a house provided by Blaise Compaoré, President of Burkina Faso.<sup>4924</sup>

2247. Smythe heard that the Liberians had been to Burkina Faso but when he reached there, they had already left for Côte d'Ivoire or Guinea in order to prepare their revolution.<sup>4925</sup> Mr Taylor was in and out of Ouagadougou at the time and had a residence near the Gambians' residence (around 0.5 to 2 km away), most likely provided by the Government of Burkina Faso.<sup>4926</sup> Smythe was unaware whether Foday Sankoh or Ali Kabbah or any other Sierra Leonean came to Burkina Faso.<sup>4927</sup>

<sup>4919</sup> DCT-125, Transcript 4 March 2010, pp. 36693-36695.

<sup>4920</sup> DCT-125, Transcript 4 March 2010, pp. 36695-36696.

<sup>4921</sup> DCT-125, Transcript 9 March 2010, p. 36884 (PS).

<sup>4922</sup> DCT-125, Transcript 9 March 2010, p. 36774.

<sup>4923</sup> Yanks Smythe, Transcript 23 February 2010, pp. 35730, 35747; Transcript 24 February 2010, pp. 35866-35869; Transcript 25 February 2010, pp. 36003, 36014, 36019, 36023, 36031; Transcript 26 February 2010, pp. 36199, 36202, 36206, 36208.

<sup>4924</sup> Yanks Smythe, Transcript 22 February 2010, pp. 35619-35620.

<sup>4925</sup> Yanks Smythe, Transcript 22 February 2010, pp. 35616-35617.

<sup>4926</sup> Yanks Smythe, Transcript 22 February 2010, pp. 35620-35621.

<sup>4927</sup> Yanks Smythe, Transcript 22 February 2010, pp. 35618-35620.

Prosecution Exhibit P-054

2248. Exhibit P-054 is a chart drawn by Prosecution Witness TF1-371, an RUF commander, representing the NPFL Command Structure circa 1990 - 1991. In this chart Foday Sankoh and Dr Manneh are described as military advisors of Charles Taylor.<sup>4928</sup>

Confidential Prosecution Exhibit P-277

2249. In Confidential Exhibit P-277, the authors state that during the invasion of Liberia, Sankoh became Taylor's advisor on national and international affairs and fought alongside the NPFL fighters in Liberia.<sup>4929</sup>

Defence Exhibit D-114 B

2250. Exhibit D-114B, is a witness statement of Yanks Smythe to the Defence. In his prior statement, Yanks Smythe said that he joined Dr Manneh's group called SOFA in 1988 and started working with him. Dr Manneh asked the witness to meet up with "the boys" in Burkina Faso and "get them ready". This implied to Smythe that he should "prepare them ideologically" and teach them ideology. Smythe left Tripoli in November 1989 and went to Burkina Faso. He stated that Dr Manneh used to come to Burkina and had a villa at "Ouga". Charles Taylor also had a residence in "Ouga" between 1987 and 1989 during the time of his revolution, but the witness cannot remember where Foday Sankoh stayed. It was possible that the three might have overlapped in "Ouga" but Foday Sankoh did not have any high status at this time. When asked why the three groups were based in Burkina, the witness opined that the climate was conducive for revolutionary activity. According to the witness, from Burkina it was planned that NPFL would attack Liberia from different angles in different countries. Yanks Smythe said that he never saw Foday Sankoh in Burkina Faso but that he learnt that he was there. The witness was not aware that Charles Taylor ever asked the Gambians to assist the NPFL.<sup>4930</sup>

<sup>4928</sup> Exhibit P-054, "NPFL Command Structure circa 1990 /1991 as indicated by TF1-371", ERN 100162.

<sup>4929</sup> Exhibit P-277 (Confidential), pp. 18110-18111.

<sup>4930</sup> Exhibit D-114B, "Copy of Witness Statement of DCT-179, Yanks Smythe/Yakube Samateh", paras 23-30.

## Deliberations

2251. It is undisputed that after their training in Libya, in the second quarter and the middle of 1989, the NPFL moved in small groups to Burkina Faso.<sup>4931</sup> The evidence also establishes that, soon after the Liberian group arrived, Dr Manneh and his men left Libya and went to Burkina Faso.<sup>4932</sup>

2252. The Prosecution alleges that Foday Sankoh and his men also went to Burkina Faso.<sup>4933</sup> There, Sankoh and Dr Manneh agreed to assist the Accused in waging war in Liberia and the Accused agreed to assist Dr Manneh and Sankoh in return.<sup>4934</sup> The Defence denies that Sankoh was present in Ouagadougou and that the Accused, Dr Manneh and Sankoh met there.

2253. In support of its allegation, the Prosecution relies on the hearsay evidence of witnesses Suwandi Camara and TF1-371 that Foday Sankoh went to Burkina Faso. Camara heard from Dr Manneh that the Sierra Leonean group led by Sankoh joined the Gambian and the Liberian groups in Ouagadougou, Burkina Faso where they established a base for their attacks against Liberia. There the Accused, Sankoh and Dr Manneh had a meeting where they agreed to help each other in their respective revolutions.<sup>4935</sup> The Trial Chamber recalls its findings that Camara and TF1-371 are credible witnesses.<sup>4936</sup> However, DCT-125, a higher level Gambian official who would have been in a better position to know, and whom the Trial Chamber has also found to be generally credible,<sup>4937</sup> denied that Dr Manneh ever told Camara that the Sierra Leonean group were in Ouagadougou. He stated that the Sierra Leoneans did not go to Burkina Faso.

<sup>4931</sup> Suwandi Camara, Transcript 8 February 2008, pp. 3439-3447; TF1-371, Transcript 25 January 2008, pp. 2211-2212 (CS); Moses Blah, Transcript 19 May 2008, pp. 10145-10146; Charles Ghankay Taylor, Transcript 15 July 2009, pp. 24569-24571; Transcript 16 July 2009, pp. 24592-24594, 24602. See also Defence Final Trial Brief, para. 761.

<sup>4932</sup> Suwandi Camara, Transcript 8 February 2008, pp. 3439-3447; DCT-125, Transcript 9 March 2010, pp. 36850-36853 (PS); Yanks Smythe, Transcript 22 February 2010 pp. 35619-35620.

<sup>4933</sup> Suwandi Camara, Transcript 8 February 2008, pp. 3439-3447; TF1-371, Transcript 25 January 2008, pp. 2211-2212 (CS).

<sup>4934</sup> Prosecution Final Trial Brief, para. 52.

<sup>4935</sup> TF1-548, Transcript 8 February 2008, pp. 3439-3447.

<sup>4936</sup> Credibility Assessment, Suwandi Camara, Pre-Indictment period (1988-1996), para. 2222; Credibility Assessment, TF1-371, paras 220-226.

<sup>4937</sup> Credibility Assessment, DCT-125, Pre-Indictment period (1988-1996), para. 2223.

2254. TF1-371 heard from Sankoh that he and his special forces went with Liberians to Burkina Faso in order to be trained.<sup>4938</sup> This evidence is inconsistent with the evidence of two Gambians, Defence witnesses DCT-125 and Smythe, who were in Ouagadougou and denied the presence there of any Sierra Leonean, including Foday Sankoh, at that time.<sup>4939</sup> Prosecution witness Moses Blah testified that the Sierra Leonean group remained in Libya.<sup>4940</sup>

2255. The Trial Chamber notes that all of the evidence that Foday Sankoh was in Burkina Faso is hearsay, and that in addition to the Defence witnesses, a Prosecution witness, Moses Blah, has testified that the Sierra Leoneans and Sankoh were not in Burkina Faso with the Accused and Dr Manneh.

2256. Furthermore, the Trial Chamber notes that the evidence does not include any mention of the alleged common plan to terrorise the civilian population. TF1-362 heard from Sankoh's wife, Fatou Brown, that her husband informed her that he would assist Taylor with his war in Liberia and that, in exchange, Taylor would then assist him in taking the war to Sierra Leone.<sup>4941</sup> This testimony is third-hand evidence and lacks detail with respect to the content of the alleged agreement.

2257. Turning to the question of whether or not Sankoh actually helped the Accused fight in Liberia, Witness TF1-371 testified that Sankoh introduced himself as one Taylor's military advisors.<sup>4942</sup> Witness TF1-168 also testified that in October 1990, he saw Sankoh with a badge identifying himself as "adviser on national and international affairs" and the red beret of the NPFL Special Forces, meaning the NPFL forces trained in Libya.<sup>4943</sup> While the Trial Chamber has found that the Accused met Sankoh prior to 1991,<sup>4944</sup> this evidence adduced by the Prosecution merely indicates that Sankoh introduced himself as a military advisor to the Accused and had a badge to this effect. It is insufficient to establish the agreement alleged by the Prosecution.

<sup>4938</sup> TF1-371, Transcript 25 January 2008, pp. 2211-2212 (CS).

<sup>4939</sup> DCT-125, Transcript 4 March 2010, pp. 36693-36695; Yanks Smythe, Transcript 22 February 2010, pp. 35618-35619.

<sup>4940</sup> Moses Blah, Transcript 19 May 2008 pp. 10145-10146.

<sup>4941</sup> TF1-362, Transcript 27 February 2008 pp. 4803-4806 (CS).

<sup>4942</sup> TF1-371, Transcript 24 January 2008, p. 2201; See also Exhibit P-054, "NPFL Command Structure circa 1990 /1991 as indicated by TF1-371", ERN 100162.

<sup>4943</sup> TF1-168, Transcript 21 January 2009, pp. 23135-23139.

<sup>4944</sup> See Pre-Indictment Period: Alleged Meeting in Libya around 1989.

2258. In light of the foregoing, the Trial Chamber finds that there is insufficient evidence to establish beyond reasonable doubt that there was a meeting in Ouagadougou between the Accused, Sankoh and Manneh. Accordingly, there is insufficient evidence to establish that while in Ouagadougou, Sankoh and Dr Manneh agreed to assist the Accused in waging war in Liberia and that the Accused agreed to assist Dr Manneh and Sankoh in return.

### Findings

2259. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in 1989, after their training in Libya, the Accused and his Liberian revolutionary group and Dr Manneh and his Gambian revolutionary group went to Burkina Faso.

2260. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that during this time period, Foday Sankoh was also in Burkina Faso and that the Accused, Sankoh and Dr Manneh met and agreed to support each other in their respective wars.

### 3. Camp Naama

#### Submissions of the Parties

2261. The Prosecution alleges that the Accused provided Sankoh and the RUF with a training base at Camp Naama which was used for training both the NPFL and the RUF. The NPFL was stationed on one side of the camp while the RUF was stationed on the other side. The Accused was taking precautions to limit knowledge of his association with the forces that were being trained to attack Sierra Leone.<sup>4945</sup> The Prosecution further submits that Sierra Leonean and Liberian trainees at these bases had no separate chain of command; they were all treated as one body under the command of the Accused.<sup>4946</sup>

2262. The Defence contends that the Accused had no knowledge of the recruitment and training of RUF recruits at Camp Naama. It further submits that this was allowed by certain senior NPFL officers whom Sankoh met in Libya, particularly Anthony Mekunagbe, who acted without the Accused's approval. In any event, the training of a rebel force is not per se

<sup>4945</sup> Prosecution Final Trial Brief, paras 66-75.

<sup>4946</sup> Prosecution Pre Trial Brief, paras 23, 50-51, 58-59, 66, 80; Prosecution Opening Statement, Transcript 4 June 2007 p. 284; Prosecution Final Trial Brief, paras 29-30, 65-75.

a criminal act and the Prosecution failed to adduce any evidence regarding the Accused's mens rea.<sup>4947</sup>

## Evidence

### Prosecution Witness Isaac Mongor

2263. Witness Isaac Mongor, a Sierra Leonean trader, testified that he was captured by NPFL rebels in Nimba County, Liberia around Christmas 1989 and trained by force to become an NPFL fighter. As such, Mongor became an NPFL soldier and one of Taylor's bodyguards in 1990 and fought alongside him in Liberia.<sup>4948</sup>

2264. Mongor testified that in 1990 Taylor ordered the arrest of Sierra Leoneans and Nigerians in Liberia. Some of the detainees were killed while the others were transferred to Camp Naama base, a training camp belonging to the NPFL, to become RUF recruits. Mongor transported the Sierra Leonean detainees to Camp Naama in a Toyota truck provided by Taylor. Subsequently, in about March or April, 1990 Taylor assigned Mongor to help Foday Sankoh in training these new RUF recruits.<sup>4949</sup>

2265. Mongor was the first instructor to arrive at Camp Naama. Six months later, other trainers joined him at Camp Naama including Mohamed Tarawalli, Mike Lamin, Sam Dripo, Rashid Mansaray and a man named "Gongano". Foday Sankoh would also occasionally give training. Mongor testified that both Sierra Leoneans and Liberians, who varied in age, were trained at Camp Naama: Small Boys Units, WAC (the women's unit) as well as adult men were trained there. The training included physical and ideological training as well as weapons training. Some of the soldiers he trained included Issa Sesay, Morris Kallon and Sam Bockarie.<sup>4950</sup>

2266. Foday Sankoh told the recruits at Camp Naama that they were being trained to fight and free the people from the corrupt system in Sierra Leone. Sankoh further explained that he was a poor man, but that his brother, Charles Taylor, would help him to take over the country. Taylor never visited Camp Naama but provided the RUF recruits with food and

<sup>4947</sup> Defence Final Trial Brief, paras 391-397, 801; Defence Closing Arguments, Transcript 9 March 2011, pp. 49409-49410; *See also* Defence Final Trial Brief paras 406-409

<sup>4948</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5648-5655, 5664.

<sup>4949</sup> Isaac Mongor, Transcript. 10 March 2008, pp. 5660-5663; Transcript 1 April 2008, pp. 6311, 6320-6323.

medicine. In private, Sankoh told Mongor that it was Taylor who was training his men for him, and that he depended on Taylor to do everything. Sankoh added that he had known Taylor for a long time, since Libya, and when Sankoh was detained in Ghana, Taylor had fought hard for him to be released.<sup>4951</sup>

Prosecution Witness TF1-371

2267. Witness TF1-371, an RUF member,<sup>4952</sup> testified that he was forced to join the NPFL when they attacked the township he was living in, in May 1990. Witness TF1-371 was also forced to participate in the attacks of the NPFL and was wounded during the attack on Monrovia. While in Fibi Hospital, Witness TF1-371 met Sankoh, an RUF leader, who explained to him that he was a former military advisor of Taylor and was carrying on his own operation, that is, the training of his own recruits in Camp Naama. Sankoh invited Witness TF1-371 to join him at Camp Naama, and in September 1990, after he recovered, Witness TF1-371 decided to go to Camp Naama. There he met Foday Sankoh and was introduced to his deputy, Rashid Mansaray and some Liberian training instructors, including Isaac Mongor and Red Devil. He said the Liberian training instructors were all NPFL fighters.<sup>4953</sup> Mike Lamin taught ideology from a basic document about the philosophy of the movement and the socio-economic situation of the country. Sankoh also distributed brochures on basic Geneva Convention regulations on how to treat civilians and respect them during the conflict. Other training at the base included the use of arms, basic guerrilla training and how to raid villages where enemy troops were suspected to be located. Males and females of 13 years and older received the same training.<sup>4954</sup>

2268. TF1-371 testified that he never heard any direct order to indiscriminately kill civilians, or a direct order to amputate or mutilate civilians. It was not the policy at the formation of the RUF in 1991 to terrorise civilians.<sup>4955</sup> The witness also said that he was not aware of any instructions to rape, burn or loot as this was not part of RUF ideology.<sup>4956</sup>

<sup>4950</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5662-5667.

<sup>4951</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5665-5668; Transcript 1 April 2008 pp. 6322-6325.

<sup>4952</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>4953</sup> TF1-371, Transcript 24 January 2008, p. 2202 (CS).

<sup>4954</sup> TF1-371, Transcript 24 January 2008, pp. 2185-2206 (CS).

<sup>4955</sup> TF1-371, Transcript 30 January 2008, pp. 2633-2634 (CS).

<sup>4956</sup> TF1-371, Transcript 30 January 2008, pp. 2652-2655 (CS).

2269. TF1-371 stayed at Camp Naama from September 1990 until February 1991.<sup>4957</sup> He testified that most of the trainees at Camp Naama came from NPFL detention facilities at Kakata and Buchanan. Foday Sankoh was able to remove people from these detention facilities by way of a Directive from Taylor. Witness TF1-371 personally followed Sankoh to Kakata, where Sankoh was able to get some Sierra Leonean detainees released from the police station using that directive. Witness TF1-371 further testified that the clothing, food, fuel and training supplies were procured by Foday Sankoh from the Accused at his mansion in Gbarnga.<sup>4958</sup> People who were trained at Camp Naama included Witness TF1-168, Sam Bockarie, Issa Sesay, Morris Kallon, and Lawrence Womandia.<sup>4959</sup>

Prosecution Witness TF1-168

2270. Witness TF1-168 was arrested in Harbel, Liberia, by NPFL soldiers in September 1990 because he was a national of a country that contributed troops to ECOMOG which was fighting the NPFL. After two weeks of detention, in October 1990, Foday Sankoh visited the 16 Sierra Leonean detainees and asked them not to blame the NPFL for their treatment saying that it was the Sierra Leone Government that was to blame. The detainees asked Sankoh to take them to a secure place. Sankoh said he could not accommodate them all but promised to return. Witness TF1-168 testified that Sankoh had a badge identifying himself as Adviser on national and international affairs and wore the red beret of the NPFL Special Forces, meaning the NPFL forces trained in Libya.<sup>4960</sup>

2271. The next day, Sankoh returned and took the detainees from Harbel to Camp Naama in Bong County. Along the way there were NPFL-controlled checkpoints; the witness noted a checkpoint at 15 Gate, and later near Kakata. At each checkpoint the bus passed easily when Sankoh spoke to the guards.<sup>4961</sup> Sankoh finally took Witness TF1-168 and the other Sierra Leoneans to the training camp named Camp Naama. There, Witness TF1-168 received military and ideology training.<sup>4962</sup>

<sup>4957</sup> TF1-371, Transcript 24 January 2008, pp. 2203-2204 (CS).

<sup>4958</sup> TF1-371, Transcript 24 January 2008, pp. 2204-2205 (CS).

<sup>4959</sup> TF1-371, Transcript 24 January 2008, pp. 2206-2207 (CS).

<sup>4960</sup> TF1-168, Transcript 21 January 2009, pp. 23135-23139 (CS).

<sup>4961</sup> TF1-168, Transcript 21 January 2009, pp. 23139-23141 (CS).

<sup>4962</sup> TF1-168, Transcript 21 January 2009, pp. 23128-23129, 23132-23134, 23139-23141 (CS).



2272. TF1-168 testified that the instructors in Camp Naama were both Sierra Leonean and Liberian. Sierra Leonean instructors included Rashid Mansaray, Mohamed Tarawalli, and Mike Lamin. Liberian instructors included Isaac Mongor, Gonkanu, Bropleh and Sam Draper (a.k.a. "PI"), who was the principal instructor. The Liberian instructors were NPFL fighters.<sup>4963</sup>

2273. TF1-168 testified that he was taught that the RUF would use guerrilla tactics to overthrow the then government of Sierra Leone, headed by Joseph Saidu Momoh. However, Witness TF1-168 stated that he received instruction to give good treatment to civilians in order to make them support the revolution.<sup>4964</sup>

2274. TF1-168 testified that between 130 and 150 trainees - men, women and children - took the initial training up to December 1990. Sankoh said that the new recruits were not sufficiently trained in guerrilla tactics and asked Taylor to supplement the RUF with some old, experienced NPFL fighters who would stay with the trainees for three months, and then they would all proceed to Sierra Leone.<sup>4965</sup> Around March 1991, the number of RUF recruits was around 205, composed of Liberians and Sierra Leoneans.<sup>4966</sup>

2275. Sankoh told the recruits that the RUF was acting on the will of Taylor and that Taylor was providing the training base, food for recruits and other forms of materials and assistance to reinforce the Sierra Leonean recruits at Camp Naama.<sup>4967</sup> However, Sankoh told the recruits that if asked they should say they had been trained at Sokoto Base in Nigeria in order to disassociate efforts in Sierra Leone with Liberia.<sup>4968</sup>

2276. Witness TF1-168 remained at Camp Naama until March 1991 when he was sent on a reconnaissance mission with eight other men to Sierra Leone. A few days later, the RUF attacked Sierra Leone.<sup>4969</sup>

#### Prosecution Witness TF1-367

<sup>4963</sup> TF1-168, Transcript 21 January 2009, pp. 23153-23156 (CS).

<sup>4964</sup> TF1-168, Transcript 21 January 2009 p. 23182 (CS); Transcript 23 January 2009, pp. 23395-23396 (CS).

<sup>4965</sup> TF1-168, Transcript 21 January 2009, pp. 23145-23148 (CS).

<sup>4966</sup> TF1-168, Transcript 21 January 2009, pp. 23145-23153 (CS).

<sup>4967</sup> TF1-168, Transcript 21 January 2009, pp. 23151 (CS).

<sup>4968</sup> TF1-168, Transcript 21 January 2009, pp. 23142-23144 (CS).

<sup>4969</sup> TF1-168, Transcript 21 January 2009, p. 23161-23166 (CS).

2277. Witness TF1-367, an RUF member,<sup>4970</sup> stated that in 1990, Sierra Leoneans were molested and detained by the NPFL for being of the same nationality as the army which fought the NPFL in Liberia. Witness TF1-367 said that another compatriot named Jarffer Massaquoi, who was Sankoh's bodyguard, told him that Sierra Leoneans who were detained by NPFL could be released by Sankoh if they agreed to train and fight along with the RUF.<sup>4971</sup>

2278. TF1-367 was also advised by his compatriot, Witness TF1-371, to join the RUF in order to avoid being arrested by the NPFL. Witness TF1-367 agreed and he and Witness TF1-371 decided to meet Foday Sankoh, the leader of RUF. Sankoh told them his plan to attack Sierra Leone was modelled on what Taylor did for Liberia. He invited them to follow him to his camp in order to be trained.<sup>4972</sup>

2279. TF1-367 accepted Sankoh's offer and went to a training camp named Camp Naama in Liberia where he spent three months undergoing physical and ideological training. Those who were brought to Camp Naama by Foday Sankoh were trained by Liberian and Sierra Leonean instructors.<sup>4973</sup> The witness named Isaac Mongor and PI as two of the Liberian instructors, both of whom were NPFL fighters.<sup>4974</sup> The witness said that the Liberian instructors had already trained under the NPFL, so were taken by Sankoh to train the RUF, backed by Sierra Leoneans, such as Rashid Mansaray and Mohamed Tarawalli.<sup>4975</sup> TF1-367 added that all the RUF commanders were trained at Camp Naama.<sup>4976</sup>

2280. TF1-367 heard from Sankoh that his war would be fully supported by Charles Taylor, who provided food and clothes for the RUF at Camp Naama.<sup>4977</sup>

#### Prosecution Witness TF1-362

2281. Witness TF1-362, a Liberian and later an RUF member,<sup>4978</sup> was recruited into the RUF in 1990 by Fatou Brown, Sankoh's first wife, who informed her that Sankoh, supported

<sup>4970</sup> TF1-367, Transcript 20 August 2008, p. 14158.

<sup>4971</sup> TF1-367, Transcript 20 August 2008, pp. 14088-14089 .

<sup>4972</sup> TF1-367, Transcript 20 August 2008, pp. 14087, 14089-14091 .

<sup>4973</sup> TF1-367, Transcript 20 August 2008, p. 14095 .

<sup>4974</sup> TF1-367, Transcript 20 August 2008, p. 14096 .

<sup>4975</sup> TF1-367, Transcript 20 August 2008, pp. 14094-14097.

<sup>4976</sup> TF1-367, Transcript 20 August 2008, pp. 14090-14095.

<sup>4977</sup> TF1-367, Transcript 20 August 2008, p. 14099.

by Taylor, would start a war in Sierra Leone. Witness TF1-362 joined the RUF voluntarily and was taken to Camp Naama in Bong County, Liberia where she trained and cooked for the recruits. Witness TF1-362 testified that at Camp Naama, both NPFL and RUF fighters received military training.<sup>4979</sup> Recruits that she met included Issa Sesay, Sam Bockarie, Morris Kallon, Augustine Gbao and Mike Lamin. Sierra Leonean trainers at the camp included Rashid Mansaray, Patrick Lamin and Mohamed Tarawalli and Liberian trainers included Isaac Mongor, Patrick Dripo, Gonkanu and Town Devil.<sup>4980</sup>

2282. Witness TF1-362 testified that the recruits were separated into several units; Small Boys Units (SBUs), Small Girls Units (SGUs), WACs, and "Adults". The youngest of the SBUs and SGUs were 8 years old. In addition to being trained as fighters, SBUs also worked as bodyguards to NPFL commanders. WACs were women trained to fight. Women captured by the NPFL and the RUF were also forced into marriage and to have sex with them. Following her training, Witness TF1-362 was assigned to be one of Foday Sankoh's bodyguards.<sup>4981</sup>

#### The Accused

2283. The Accused testified that in July 1990, the NPFL forces had conquered most of Liberia and surrounded Monrovia.<sup>4982</sup> By February of 1991, Gbarnga was identified as the headquarters for the National Patriotic Reconstruction Assembly government and preparations were on-going for the Accused's move there. His forces were still surrounding Monrovia. The Accused testified that he was busy trying to set up a government while dealing with internal politics and security threats from ECOMOG. Therefore he did not have any time to deal with RUF issues or to help in the organisation of the RUF as alleged by the Prosecution. When in March 1991 the RUF attacked Sierra Leone, he was as shocked and surprised as anyone. He did not understand the allegations of Momoh and of the international community linking the NPFL with the RUF invasion of Sierra Leone.<sup>4983</sup>

<sup>4978</sup> TF1-362, Transcript 27 February 2008, pp. 4826-4827 (CS).

<sup>4979</sup> TF1-362, Transcript 27 February 2008, pp. 4806-4808 (CS).

<sup>4980</sup> TF1-362, Transcript 27 February 2008, pp. 4801-4808 (CS). Regarding the conditions of her recruitment into RUF see also: TF1-362, Transcript 28 February 2008, pp. 4943-4946 (CS).

<sup>4981</sup> TF1-362, Transcript 27 February 2008, pp. 4808-4814, 4822, 4826, 4901 (CS).

<sup>4982</sup> Charles Ghankay Taylor, Transcript 16 July 2009, pp. 24659-24690.

<sup>4983</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24743-24750; 24764-24771; 24793-24794.

2284. The Accused testified that Camp Naama was a pre-existing military base, located in Bong County, approximately 30 miles outside of Gbarnga. It was the largest military base in Liberia, which hosted the artillery battalion and the engineering battalion of the AFL each of more than a thousand men. Camp Naama first came under control of the NPFL in approximately August/September 1990. The NPFL set up Camp Naama as a military training base. The Accused did not recall who was in charge of training at Camp Naama, but the commander of that region until the Accused arrived at Gbarnga was a member of his Special Forces named Anthony Mekunagbe. The Accused thought that Mekunagbe would have set up a training facility at Naama.<sup>4984</sup>

2285. The Accused suggested that it is unrealistic to think that he could have sent one man, Isaac Mongor, who was not even a member of his Special Forces, to train an entire invading force. Mongor, if he trained, never came back to report anything to him. Moreover, he had no interest in supporting the RUF to invade Sierra Leone.<sup>4985</sup>

2286. Regarding the structure of NPFL, the Accused testified that from August/September 1990 until February/March 1991 the NPFL was decentralised in structure with himself as the leader. He asserted that it was standard operating procedure to set up bases and train people and therefore, no one came to ask him before setting up a base. The NPFL would capture an area, set up a base, get volunteers, train, then move and leave the civilians alone.<sup>4986</sup>

2287. The Accused further stated that he was not aware that Foday Sankoh was recruiting among Sierra Leoneans in Liberia and transporting them in trucks to Camp Naama where they were trained. He testified that he knew nothing of Sierra Leoneans training at Naama. He did not visit Camp Naama until after he moved to Gbarnga in mid-1991. The Accused testified that he met Sankoh for the first time in August 1991 at Gbarnga when he took the decision to contact the RUF in order to coordinate the fight against their common enemy, ULIMO.<sup>4987</sup>

#### Defence Witness Issa Sesay

<sup>4984</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24756-24757.

<sup>4985</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24751-24754; 24763-24764; 24784-24786.

<sup>4986</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24759-24761.

<sup>4987</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24755-24759, 24761-24763, 24794-24797.

2288. Witness Issa Sesay, a Sierra Leonean trainee at Camp Naama, received training in political ideology, courtesy and discipline, as well as physical and military training.<sup>4988</sup> Sesay testified that children were also trained at Camp Naama, most of them because they had family members at the camp. According to Sesay, the children were not engaged in active military training, but took part in the ideology classes.<sup>4989</sup>

2289. Sesay stated that the training instructors at Camp Naama included Rashid Mansaray, Mohamed Tarawalli and Mike Lamin. Isaac Mongor, Gonkanu and PI were also trainers but came later.<sup>4990</sup>

2290. Sesay testified that while at Camp Naama, Sankoh criticized Isaac Mongor for teaching the trainees that once they captured a town they should divide the civilians into two groups and kill one group in order to obtain the loyalty of the other group.<sup>4991</sup> Sesay stated that the NPFL was in Camp Naama, but was not in that part of the camp known as Crab Hole, which was occupied solely by the RUF. He denied that Taylor supported the training at the camp in any way and said that Mongor, who arrived in late December 1990 or January 1991, never told him that he had been sent by Taylor.<sup>4992</sup>

#### Defence Witness Martin George

2291. Witness Martin George joined Foday Sankoh's RUF in early 1991 and was brought by Sankoh to the training camp at Naama.<sup>4993</sup> George testified that Camp Naama was divided in two parts, one called Crab Hole or Sokoto, occupied by Sierra Leoneans, while the other part was occupied by Liberians. Liberians were not allowed to enter the Sierra Leonean part of the camp.<sup>4994</sup>

<sup>4988</sup> Issa Sesay, Transcript 5 July 2010, p. 43600.

<sup>4989</sup> Issa Sesay, Transcript 5 July 2010, p. 43626.

<sup>4990</sup> Issa Sesay, Transcript 5 July 2010, p. 43600.

<sup>4991</sup> Issa Sesay, Transcript 5 July 2010, p. 43601. This was not put to Isaac Mongor in cross examination.

<sup>4992</sup> Issa Sesay, Transcript 16 August 2010, pp. 46396-46397, 46412-46417; Transcript 4 August 2010, pp. 45366-45367.

<sup>4993</sup> Martin George, Transcript 21 April 2010, pp. 39615-39619 (Other recruits included Issa Sesay, John Vincent, SK Solokhan, Monica Pearson, Joseph Brown, Theophilus Pearson, Fatou Gbembo, Musa Gbembo, Florence Kallon, Isaac Mongor, Alfred Brown, Boston Flomo, Nabiu Bongo, Jonathan Parker (a.k.a. Base Marine), Jonathan Kposowa, Morris Kallon, Augustine Gbao, Lawrence Womandia, Ben Bia, Mama Iye, Lewis Punky, Matthew Barbue, Richard Cooper, Robertson Dowee, Abdul Rahman Bangura, Youssoufa Sillah and Harris Ogebe).

<sup>4994</sup> Martin George, Transcript 21 April 2010, pp. 39600-39603.

2292. George stated that originally there were about 500 recruits at Crab Hole, but some people left because the training was too hard.<sup>4995</sup> Recruits received training in guerrilla tactics and radio communications. Recruits had no weapons but trained with sticks. Mike Lamin, a Sierra Leonean instructor, taught all the recruits how to take care of civilians during missions.<sup>4996</sup>

2293. George stated that he never heard of Sierra Leoneans in prison in Liberia and never heard of anyone being recruited from prisons. The Sierra Leoneans he met told him that they were simply working in Liberia when they were recruited.<sup>4997</sup>

#### Defence Witness John Vincent

2294. Witness John Vincent, an NPFL recruit and later a Liberian Vanguard commander,<sup>4998</sup> was approached on 8 September 1990 by John Kargbo, who told him that Foday Sankoh (a.k.a. Pa Morlai) was recruiting for the RUF in order to start a revolution in Sierra Leone. Vincent decided to join the RUF and was taken to a training base called Crab Hole located at Camp Naama from September 1990 to March 1991 together with Liberians and Sierra Leoneans. Crab Hole was an area about the size of 2 or 3 football fields, in Bong County, about 5 minutes walking distance from the main training area of Camp Naama. The trainees were aged between 10 to 35 years old. Vincent testified that Sankoh lived at Crab Hole, but had also a base in Firestone and he would go back and forth in order to find new recruits for whom he had negotiated the release from jail in Liberia.<sup>4999</sup>

2295. At Crab Hole, Vincent underwent guerrilla training under CO Rashid Mansaray and Mohamed Tarawalli, a Sierra Leonean trained in Israel, and ideology training with Mike Lamin. The ideology class taught the trainees to take good care of civilians and to attack only military installations. At Crab Hole, Vincent also met Isaac Mongor, a former NPFL

<sup>4995</sup> Martin George, Transcript 21 April 2010, p. 39604.

<sup>4996</sup> Martin George, Transcript 21 April 2010, p. 39610-39614 (Mohammed Tarawalli, aka Zino, taught guerrilla tactics; Rashid Mansaray taught halaka, barbed wire and jumping while Foday Sankoh taught the recruits radio communications); pp. 39629-39638.

<sup>4997</sup> Martin George, 27 April 2010, pp. 40030-40038.

<sup>4998</sup> John Vincent, Transcript 26 March 2010, pp. 38107, 38114-38116, 38118, 38137, 38145; 30 March 2010, pp. 38226, 38239; 31 March 2010, p. 38390, 38408, 38460, 38461.

<sup>4999</sup> John Vincent, Transcript 25 March 2010, pp. 37984-37989, 37999-38002 (When he arrived in September 1990 Vincent estimated that 150 men were training at Crab Hole). He testified that, on 22 March 1991, when the RUF left Crab Hole to attack Sierra Leone there were 328 people at Crab Hole including 252 Liberians, 75 Sierra Leoneans and one Ivorian (John Vincent, Transcript 25 March 2010, pp. 38008-38011).

member who was introduced to the new recruits as an example to follow. However, Mongor did not train anyone at Crab Hole.<sup>5000</sup>

2296. During his stay, Vincent never saw Taylor visiting Crab Hole nor did he hear about him.<sup>5001</sup> Moreover, no NPFL member was allowed into the RUF area at Crab Hole which was located behind a bush downhill of Camp Naama and could not be seen from Camp Naama itself, where the NPFL trained. Vincent stated that Sankoh asked RUF members to refer to Crab Hole as Sokoto so that other people would believe they were being trained in Nigeria. There was neither radio communication equipment nor telephones at Crab Hole.<sup>5002</sup>

2297. Vincent did not know who was the commander of the NPFL in Camp Naama but testified that the first night he arrived at Camp Naama, Sankoh was arrested by NPFL Special Forces and questioned about other training in Camp Naama. Sankoh was released three hours later, after the intervention of his friend Anthony Mekunagbe, one of the commanders of the NPFL Special Forces.<sup>5003</sup>

#### Defence Witness DCT-292

2298. Witness DCT-292, a Sierra Leonean, was arrested and detained by the NPFL and released on the orders of Sankoh in November 1990.<sup>5004</sup> DCT-292 and his co-detainees were transported by Sankoh to Crab Hole in Camp Naama on 12 November 1990. A week later, Sankoh told them that they would be trained in order to fight for Sierra Leone and to release its citizens from inhumane activities. The detainees received military and commando training as well as ideology training. Rashid Mansaray, Mohamed Tarawalli, Isaac Mongor, Gonkanu, and two men named respectively Sylvester and One Man One were instructors in military and physical trainings while Philip Palmer and Mike Lamin taught ideology. Ideology training included lessons on how to treat civilians and prisoners. During the training, RUF trainees were not allowed to have any contact with people outside of Crab Hole and would have been killed if they had tried to escape.<sup>5005</sup>

<sup>5000</sup> John Vincent, Transcript 25 March 2010, pp. 37994-37999, 38007-38008.

<sup>5001</sup> John Vincent, Transcript 25 March 2010, pp. 37995-37998.

<sup>5002</sup> John Vincent, Transcript 25 March 2010, pp. 379991-37994.

<sup>5003</sup> John Vincent, Transcript 25 March 2010, pp. 38003-38005.

<sup>5004</sup> DCT-292, Transcript 1 June 2010, pp. 41697-41698.

<sup>5005</sup> DCT-292, Transcript 1 June 2010, pp. 41698-41718; 41723-41724.





2299. The witness testified that Liberian trainers at Camp Naama were Sylvester,<sup>5006</sup> Gonkanu, One Man One and Isaac Mongor.<sup>5007</sup> One Man One was one of the principal trainers at Camp Naama<sup>5008</sup> and the witness knew that when One Man One was at Camp Naama he was an NPFL fighter.<sup>5009</sup>

Defence Witness Isatu Kallon

2300. Witness Isatu Kallon, a Sierra Leonean trader in Harbel, Liberia, testified that after ECOMOG bombarded Liberia in 1990, the NPFL began harassing the Sierra Leonean civilians because they believed Sierra Leone had contributed to ECOMOG. Kallon and her family were arrested by the NPFL but were released after protests by other market women. After her release, Kallon met Sankoh who told the people at Harbel that he had been sent to help the Sierra Leoneans who were being harassed. Kallon testified that Sankoh also assisted in the release of other Sierra Leoneans outside of Harbel. She does not know if Sankoh was part of the NPFL at this time. Sankoh did not use force to secure the release of the prisoners, but merely pleaded with the NPFL.<sup>5010</sup>

2301. After her release, Kallon helped Sankoh in freeing the Sierra Leoneans detained by NPFL. Thus she helped Philip Palmer to be released from prison and provided him with lodging and food. Sankoh then visited Kallon every week. In the second week, he held a meeting at the witness's house attended by more than 100 Sierra Leoneans, during which Sankoh promised to do something about the harassment of Sierra Leoneans. However, he explained to the attendees that they should blame the Sierra Leonean government for failing to protect them from the harassment, not the NPFL fighters. Kallon was not able to follow the meeting in detail since she was in the kitchen cooking food for the attendees.<sup>5011</sup>

2302. After the meeting, Philip Palmer and "George", two educated Sierra Leoneans, wrote down the names of the men who volunteered to follow Sankoh. The volunteers left in a truck owned by Anthony Mekunagbe, one of Taylor's commanders. When Philip Palmer returned, he informed Kallon that the volunteers were taken to a place called Sokoto, in Naama.

<sup>5006</sup> DCT-292, Transcript 1 June 2010, p.41710; Transcript 2 June 2010, p. 41866.

<sup>5007</sup> DCT-292, Transcript 1 June 2010, pp. 41710-41711; Transcript 2 June 2010, pp. 41866, 41867.

<sup>5008</sup> DCT-292, Transcript 3 June 2010, p. 42032.

<sup>5009</sup> DCT-292, Transcript 3 June 2010, p. 42033.

<sup>5010</sup> Isatu Kallon, Transcript 16 June 2010, pp. 42633-42660.

<sup>5011</sup> Isatu Kallon, Transcript 16 June 2010, pp. 42661-42669.



Sankoh was not present when the men were loaded onto the truck. Kallon testified that Philip Palmer never mentioned the name Taylor in her conversations with him.<sup>5012</sup>

2303. Later in 1990, Sankoh came back to Kallon's house and asked her for cassava, palm oil, soap and potatoes. Sankoh explained that he did not know the people around Camp Naama, and that was why he went to Harbel for his supplies. Kallon agreed to buy the supplies requested and gave them to Sankoh and Philip Palmer, who took them to Camp Naama. Kallon stated that she contributed supplies to Sankoh two or three times a month but did not know if other people did the same.<sup>5013</sup>

2304. Kallon testified that she visited Camp Naama on two occasions during which she brought foods and prepared soup for the trainees. She testified that she did not see any NPFL fighters, only Sierra Leoneans including Sankoh, Tarawalli and Philip Palmer. According to her, NPFL soldiers were trained in another part of Camp Naama.<sup>5014</sup> Kallon further testified that, while she was in Harbel, she heard an NPFL soldier named Isaac Mongor saying that he had gone to Naama to assist Tarawalli.<sup>5015</sup>

#### Defence Witness Sam Kolley

2305. Witness Sam Kolley, a Liberian, was a student when he was captured by the NPFL at Gbarnga in late 1990 and was taken to Crab Hole in Camp Naama where he received military training and ideology training for 5-6 months. Thus, although he was a Liberian, Kolley became, by virtue of the training, a member of the RUF. Kolley did not have the choice to train, because even if he did not want to train he would have been killed if he had refused.<sup>5016</sup>

2306. The commanders at Crab Hole were Mohamed Tarawalli who was in charge of physical training, Mike Lamin who was in charge of ideology, and Rashid Mansaray, who sometimes assisted Lamin in the ideology training. Ideology training included advice on how to treat civilians and prisoners but not on how to terrorize them. Terrorism was not the

<sup>5012</sup> Isatu Kallon, Transcript 16 June 2010, pp. 42670-42677.

<sup>5013</sup> Isatu Kallon, Transcript 16 June 2010, pp. 42680-42689; Transcript 17 June 2010, pp. 42734-42735.

<sup>5014</sup> Isatu Kallon, Transcript 16 June 2010, pp. 42691-42707.

<sup>5015</sup> Isatu Kallon, Transcript 16 June 2010, pp. 42704-42706.

<sup>5016</sup> Sam Kolley, Transcript 1 November 2010, pp. 48368-48369.

ideology of the RUF. Foday Sankoh also participated in the training of Sierra Leoneans within the RUF.<sup>5017</sup>

2307. Several Liberians were also conducting the training at Crab Hole. Kolleh stated that there was Isaac Mongor and also Gonkanu, who was a “volunteer trainer”. Gonkanu was not a commander but would come in the morning in order to do physical training and then leave the camp.<sup>5018</sup> Another Liberian trainer was PI, who was an NPFL man.<sup>5019</sup>

2308. Kolleh testified that at one time, Anthony Mekunagbe, an NPFL general, came to Crab Hole and confronted Sankoh about training people to go to Sierra Leone. Sankoh was detained for a few hours after trying to deny this. When Sankoh was released he hurriedly ordered the trainees to leave, and the RUF trainees, composed of 183 Sierra Leoneans and Liberians, left Camp Naama in order to invade Sierra Leone.<sup>5020</sup>

#### Defence Witness DCT-025

2309. Witness DCT-025, a Sierra Leonean, decided, around 20 August 1990, to join Foday Sankoh and the RUF because he had friends who were already recruits.<sup>5021</sup> DCT-025 was brought together with 6 other recruits in a truck to Crab Hole or Sokoto, an RUF base within Camp Naama. DCT-025 testified that Camp Naama was a big military base but that he, as a RUF recruit, was restricted to the area down the hill where the RUF trained.<sup>5022</sup>

2310. DCT-025 estimated that there were about 300 people at Crab Hole. There were many Sierra Leoneans and some Liberians, men and women but no children. DCT-025 was unaware of any SBU unit at Camp Naama.<sup>5023</sup>

2311. DCT-025 testified that there were four Sierra Leonean training commanders at Camp Naama: Mohamed Tarawalli and Mike Lamin were in charge of training in guerrilla warfare; Rashid and Foday Sankoh were in charge of training in ideology and Rashid was

<sup>5017</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48368-48376.

<sup>5018</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48371-48372.

<sup>5019</sup> Sam Kolleh, Transcript 4 November 2010, pp. 48670, 48671.

<sup>5020</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48371-48377.

<sup>5021</sup> DCT-025, Transcript 12 March 2010, pp. 37226-37231.

<sup>5022</sup> DCT-025, Transcript 12 March 2010, pp. 37232-37237.

<sup>5023</sup> DCT-025, Transcript 12 March 2010, p. 37237-37246. DCT-025 recalled that about 15 women were at Camp Naama including Memunatu Sesay, Monica, Krio Mammy, Narpam, Rebecca. Among the men present at Camp Naama, DCT-025 mentioned Sam Kolleh, Issa Sesay, Morris Kallon, Augustine Gbao, Jonathan Kposowa

also responsible for physical training. DCT-025 was never told why he was training, but he knew he was being trained as military personnel. He was not armed during the training and used sticks to practice. Ideological training included care of civilians, women and children.<sup>5024</sup>

2312. DCT-025 testified that Mammy Iye, Pa Kallon and Sankoh brought food for the trainees in pick-ups and that was the only food provision they had. Sankoh told the trainees to use the name Sokoto to disguise the name Crab Hole because their stay there had to remain secret. DCT-025 left Camp Naama on 20 March 1991 for Koindu. During his training DCT-025 never left Camp Naama because it was highly restricted and he could not leave.<sup>5025</sup>

Defence Witness Edward Zaymay

2313. Witness Edward Zaymay, an NPFL commander,<sup>5026</sup> testified that around April 1990, Anthony Mekunagbe and Timothy Mulibah sold some captured arms destined for Taylor in Gbarnga to the RUF.<sup>5027</sup> Zemay received information from Mekunagbe that Taylor had brought in new arms and that all the captured arms were to be sent to Gbarnga. Zemay dispatched a consignment of these captured arms to Gbarnga but the arms did not reach Gbarnga because Mekunagbe sold them to his “friends in Sierra Leone”.<sup>5028</sup>

2314. Mekunagbe told Zemay that he sold weapons to a person named “CO Super”. Zemay testified that, when he met “CO Super”, Menkunagbe introduced him as his “friend in Sierra Leone” and suggested that they had a deal to have friendly forces in Sierra Leone to fight runaway AFL soldiers in exile in Freetown who had organized themselves as ULIMO.<sup>5029</sup>

2315. Mekunagbe also told the witness that the supplies that Timothy Mulibah brought to the base constituted the proceeds from the arms sale to the RUF that the witness sent to

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and Isaac Mongor.

<sup>5024</sup> DCT-025, Transcript 12 March 2010, pp. 37246-37251.

<sup>5025</sup> DCT-025, Transcript 12 March 2010, pp. 37248-37251.

<sup>5026</sup> Teman Edward Zaymay, Transcript 7 May 2010, p. 40681; Transcript 11 May 2010, pp. 40742, 40745, 40762, 40770; Transcript 12 May 2010, pp. 40855, 40863-40865; Transcript 18 May 2010, pp. 41048, 41066, 41071-41072.

<sup>5027</sup> Edward Zaymay, Transcript 11 May 2010, p. 40746.

<sup>5028</sup> Edward Zaymay, Transcript 11 May 2010, pp. 40746, 40748-40749.

<sup>5029</sup> Edward Zaymay, Transcript 11 May 2010, pp. 40746-40748.

Gbarnga. These included 150 bags of rice, three barrels of pig's feet, other foodstuffs and three motorbikes.<sup>5030</sup>

2316. Edward Zemay testified that around February-March 1992, Mekunagbe and Mulibah were arrested.<sup>5031</sup> Taylor informed him that Menkunagbe and Mulibah were arrested because he discovered that they sold his weapons. Menkunagbe's Special Forces colleagues, including Yegbeh Degbon and Oliver Varney, were also arrested for conniving with ULIMO.<sup>5032</sup>

#### Confidential Exhibit P-277

2317. In Confidential Exhibit P-277 it is alleged, inter alia, that Isaac Mongor taught terror tactics to the RUF recruits by telling them that they should kill half of the civilians of any village they captured and "tabay" (meaning tying both hands on the back of the body) the rest.<sup>5033</sup>

#### Deliberations

2318. The Prosecution alleges that the Accused provided Sankoh and the RUF with a training base at Camp Naama, which was used for training both the NPFL and the RUF. The Accused also provided the RUF recruits in Camp Naama with food and medicine, and he provided the RUF with instructors who taught RUF recruits to use terror tactics against civilians.<sup>5034</sup> The Defence denies that the Accused had any knowledge of the recruitment and training of RUF recruits at Camp Naama.<sup>5035</sup>

2319. Undisputed circumstances emerge from the record. The evidence unequivocally demonstrates that, by August or September 1990, the NPFL, led by the Accused, had conquered most of Liberia and taken control of the largest military base in Liberia, Camp

<sup>5030</sup> Edward Zaymay, Transcript 11 May 2010, pp. 40749-40751.

<sup>5031</sup> Edward Zaymay, Transcript 11 May 2010, p. 40751.

<sup>5032</sup> Edward Zaymay, Transcript 11 May 2010, pp. 40751-40752.

<sup>5033</sup> Exhibit P-277 (confidential), pp. 85-86, ERN 18184-18185.

<sup>5034</sup> Prosecution Final Trial Brief, paras 66-75; Isaac Mongor, Transcript 10 March 2008, pp. 5660-5663; Transcript 1 April 2008, pp. 6311, 6320-6321.

<sup>5035</sup> Defence Final Trial Brief, paras 63-75.

Naama, located in Bong County.<sup>5036</sup> Quickly thereafter, the NPFL set up a training base at Camp Naama for NPFL soldiers.<sup>5037</sup>

2320. The evidence further establishes that, in the course of 1990, Sierra Leoneans civilians were molested, arrested and detained by NPFL soldiers in retaliation for the ECOMOG bombings.<sup>5038</sup> Foday Sankoh, the RUF leader, secured the release of some of the Sierra Leonean detainees and brought them to Crab Hole, an RUF base located in Camp Naama, in

<sup>5036</sup> Prosecution Final Trial Brief para. 66 (“By June, July 1990, the NPFL captured Gbarnga [...] according to the Accused, by August or September, nearby Camp Naama was in the hands of the NPFL as well”); Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24755-24759.

<sup>5037</sup> Prosecution Final Trial Brief, para. 66 (“Taylor immediately opened a training base there”); Isaac Mongor, Transcript 10 March 2008, p. 5663 (“The NPFL had a base in Camp Naama and used to train their men there. It was a former AFL military base”); Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24755-24759, 24761-24763 (“After its capture in 1990, Camp Naama was immediately set up as a NPFL training base”); Martin George, Transcript 21 April 2010, pp. 39600-39603 (“Camp Naama was divided into two parts, one called Crab Hole or Sokoto which was occupied by Sierra Leonean, while the other part was occupied by Liberians”).

<sup>5038</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5660-5663; Transcript 1 April 2008, pp. 6311, 6320-6321 (Taylor ordered to arrest the Sierra Leoneans); TF1-371, Transcript 24 January 2008 p. 2198 (CS) (there were reprisal killings of West African nationals by NPFL soldiers because of ECOMOG attacks; West African nationals of ECOMOG countries were also put in detention camps); Transcript, 24 January 2008, pp. 2204-2205 (CS) (Witness TF1-371 testified that most of the trainees at Camp Naama were migrants from NPFL detention facilities at Kakata and Buchanan); TF1-168, Transcript 21 January 2009, pp. 23153-23154 (CS) (Witness TF1-168 was arrested in Harbel, Liberia, by NPFL soldiers in September 1990 because he was a national of one the ECOMOG countries which was fighting NPFL); TF1-367, Transcript 20 August 2008, pp. 14088-14089 (in 1990, Sierra Leoneans were molested and detained by NPFL for being of the same nationality as the army which fought NPFL in Liberia); DCT-292, Transcript 1 June 2010, pp. 41697-41698 (DCT-292, a Sierra Leonean, was arrested and detained by NPFL and released on the orders of Sankoh in November 1990); Isatu Kallon, Transcript 16 June 2010, pp. 42633-42642 (Isatu Kallon, a Sierra Leonean trader in Harbel, Liberia, testified that after ECOMOG bombarded Liberia, the NPFL began harassing the Sierra Leonean civilians in Harbel who they believed had assisted ECOMOG. Kallon and her family were arrested but released after protests of other market women). See also Exhibit P-277 (Confidential), pp. 18111-18112 (“When Major Taylor’s hopes were dashed from seizing power, because of the ECOMOG interventions; he decided to punish all nationals of the nations that contributed troops to ECOMOG. He therefore ordered his soldiers to arrest all nationals of nations contributing troops to ECOMOG and detain them in NPFL held areas. Major Taylor declared that for every Liberian killed by the Alfa Jet bombers, and ECOMOG ground troops, one national of each troop-contributing nation must be killed”).

order to be trained.<sup>5039</sup> Crab Hole was located within Camp Naama, but in a different part of the camp than the NPFL base.<sup>5040</sup>

2321. Some Sierra Leoneans and Liberians also decided to join the RUF voluntarily and received training at Crab Hole.<sup>5041</sup> The training at Crab Hole was comprised of military and ideology training.<sup>5042</sup> The instructors and trainees were both Sierra Leoneans and

<sup>5039</sup> TF1-371, Transcript, 24 January 2008, pp. 2204-2205 (CS) (Sankoh was able to remove the migrants from the NPFL detention facilities by way of a Directive from Taylor. TF1-371 personally followed Sankoh to Kakata, where Sankoh was able to get some Sierra Leonean detainees from the police station by using Taylor's directive); TF1-168, Transcript 21 January 2009, pp. 23128-23129, 23132-23134 (CS) (after two weeks of detention, in October 1990, Sankoh came and released TF1-168 together with 16 other Sierra Leonean co-detainees and took them by force to Camp Naama for training); TF1-367, Transcript 20 August 2008, pp. 14088-14089 (Sankoh's bodyguard Jarffer Massaquoi told TF1-367 that Sierra Leoneans who were detained by NPFL could be released by Sankoh if they agreed to train and fight along with RUF); DCT-292, Transcript 1 June 2010, pp. 41697-41700 (DCT-292 was arrested and detained by the NPFL and released on the orders of Sankoh in November 1990. He and his co-detainees were transported by Sankoh to Crab Hole in Camp Naama on 12 November 1990); Isatu Kallon, Transcript 16 June 2010, pp. 42633-42660 (Isatu Kallon testified that Sankoh did not use force to release of the Sierra Leoneans prisoners, but merely pleaded with the NPFL soldiers).

<sup>5040</sup> Prosecution Final Trial Brief, paras 30 ('a portion of the base and barracks were reserved for the RUF'), 66 ('the NPFL were stationed on one side of the camp whilst the RUF were stationed on the other'); Defence Final Trial Brief, para. 392 ('Although the NPFL and RUF trained at Camp Naama at the same time, there is clear and abundant evidence that within Camp Naama, the RUF recruits were kept separate from the NPFL combatants); Isaac Mongor, Transcript 1 April 2008, p. 6323 (Q. 'Were there two training bases there [in Camp Naama]: One for RUF and one for NPFL? A. Yes. Q. Two separate training bases? A. Yes. Q. For two separate organisations? A. Yes').

<sup>5041</sup> TF1-362, Transcript 27 February 2008, pp. 4801-4808 (CS) (Witness TF1-362 joined the RUF voluntarily); John Vincent, Transcript 25 March 2010, pp. 37984-37989, 37999-38002 (Vincent was approached on 8 September 1990 by John Kargbo who told him that Foday Sankoh aka Pa Morlai was recruiting for the RUF in order to start a revolution in Sierra Leone. Vincent decided to join the RUF); DCT-025, Transcript 12 March 2010, pp. 37226-37231 (DCT-025, a Sierra Leonean, decided, around 20 August 1990, to join Foday Sankoh and the RUF because he had friends who were already recruits); Martin George, Transcript 21 April 2010, pp. 39615-39619 (Martin George, joined Foday Sankoh's RUF in early 1991 as he was going to be the only young person left back in his village).

<sup>5042</sup> Prosecution Final Trial Brief, para. 71 ('the recruits at Camp Naama received physical training, military training and training in ideology'); Defence Final Trial Brief, paras 399-400 ('The training at Camp Naama included all forms of training related to guerrilla warfare, like arms training [...] and also ideological training); Isaac Mongor, Transcript 10 March 2008, pp. 5662-5667 (Mongor provided military training; Sankoh provided ideological training); TF1-371, Transcript 24 January 2008, pp. 2200-2206 (CS) (Sankoh instructed Mike Lamin to teach recruits ideology and military training in combat as well as warfare); TF1-168, Transcript 21 January 2009, pp. 23153-23156; Transcript 23 January 2009, pp. 23395-23396 (CS) (TF1-168 received military and ideological training from Sierra Leonean and Liberian instructors); TF1-367, Transcript 20 August 2008, pp. 14090-14095 (TF1-367 underwent military/physical and ideological training for three months); Issa Sesay, Transcript 5 July 2010, pp. 43600-43601 (Sesay received 'physical training, political ideology, courtesy and discipline'); Martin George, Transcript 21 April 2010, pp. 39610-39614 (Mohammed Tarawalli taught guerrilla tactics; Rashid Mansaray taught halaka, barbed wire and jumping while Foday Sankoh taught the recruits radio communications), pp. 39629-39638 (George testified about the various kinds of military training the recruits were taught and also ideological training for missions); John Vincent, Transcript 25 March 2010, pp. 37994-37999, 38007-38008 (Vincent testified that at Crab Hole, recruits were trained in guerrilla warfare, parading, political ideology and arms training. He was taught to distinguish between military and civilian targets); DCT-292, Transcript 1 June 2010, pp. 41698-41718 (DCT-292 received military and commando training along with ideological training and treatment of civilians); Sam Kolley, Transcript 1 November 2010, pp. 48368-48376 (Kolley was trained in physical exercise and ideology at Crab Hole; This training did not include terrorism or killing of civilians); DCT-025, Transcript 12 March 2010, pp. 37246-37251 (DCT-025 testified that he received

Liberians.<sup>5043</sup> The main instructors at Crab Hole were Mohamed Tarawalli, Rashid Mansaray, Mike Lamin, Isaac Mongor, PI and Gonkanu, as well as Foday Sankoh himself.<sup>5044</sup> The RUF trained at Crab Hole until March 1991 when it attacked Sierra Leone.<sup>5045</sup>

2322. With much of the evidence undisputed, the Trial Chamber is left to determine whether the Accused was involved in or aware of the recruitment and training of RUF

military training).

<sup>5043</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5665-5667 (Mongor testified that trainees and instructors were both Sierra Leoneans and Liberians); TF1-371, Transcript 24 January 2008, pp. 2200-2207 (CS) (TF1-371 was introduced to Liberian instructors called Isaac Mongor and another named Red Devil. The witness said that the trainees were mostly Sierra Leonean migrants that were in Liberia as well as Liberians and NPFL Liberian fighters); TF1-168, Transcript 21 January 2009, pp. 23147- 23149, 23153- 23156 (CS) (TF1-168 testified to having both Sierra Leonean, TF1-371, Rashid Mansaray, Mohamed Tarawalli, and Liberian, Gonkanu, Sam Draper, instructors); TF1-367, Transcript 20 August 2008, pp. 14095-14097 (TF1-367 was trained by two groups of trainers one being Sierra Leoneans (TF1-371, Mohamed Tarawalli and Rashid Mansaray) and the other Liberians (Isaac Mongor and PI) The witness also testified that fellow co-trainees who were Sierra Leoneans and Liberians who later assumed positions of commanders in the RUF); TF1-362, Transcript 27 February 2008, pp. 4806-4808 (CS) (TF1-362, a Liberian, testified that her trainers at Camp Naama were both Sierra Leoneans (Rashid Mansaray, Mohamed Tarawalli and Patrick Lamin) and Liberians (Isaac Mongor, Patrick Dripo and Gonkanu)); Martin George, Transcript 21 April 2010, p. 39603 (George was trained by Sierra Leoneans and mentioned the names of fellow Sierra Leonean recruits); Sam Kolley, Transcript 1 November 2010, pp. 48371-48377 (Kolley was trained by both Sierra Leonean and Liberian trainers. Kolley's fellow trainees were also both Sierra Leoneans and Liberians); DCT-025, Transcript 12 March 2010, pp. 37246-37248 (DCT-025 testified that the group he trained with was a mixture of Sierra Leoneans and Liberians. DCT-025 was trained by four Sierra Leoneans and knew the Liberian instructor Isaac Mongor).

<sup>5044</sup> Isaac Mongor, Transcript 10 March 2008, p. 5665 (Mongor testified about the presence of Mohammed Tarawalli, TF1-371, Rashid Mansaray, Gongano, Sam Dripo and Foday Sankoh); TF1-371, Transcript 24 January 2008, pp. 2200-2202 (CS) (TF1-371 testified about the presence of Rashid Mansaray and Isaac Mongor as instructors); TF1-168, Transcript 21 January 2009, pp. 23153-23156 (CS) (The witness testified that there were had both Sierra Leonean and Liberian instructors Rashid Mansaray, Mohamed Tarawalli, Mike Lamin, Gonkanu, and Sam Draper); TF1-362, Transcript 27 February 2008, pp. 4807-4808 (CS) (The witness testified to being trained by Isaac Mongor, Patrick Dripo, and also meeting other instructors such as Gonkanu, Foday Sankoh, Rashid Mansaray was the instructor who taught her ideology, Mohamed Tarawalli taught her group guerrilla warfare. Patrick Lamin taught them guerrilla tactics and sometimes infantry); Issa Sesay, Transcript 5 July 2010, p. 43600 (The witness testified to being trained by Rashid Mansaray, Special Forces, Mohamed Tarawalli, Mike Lamin. The others instructors were Gonkanu and Isaac Mongor); John Vincent, Transcript 25 March 2010, pp. 37995-37999 (The witness testified to being trained by Rashid Mansaray, Mike Lamin and Mohamed Tarawalli); DCT-292, Transcript 1 June 2010, pp. 41709-41712; Transcript 2 June 2010, pp. 41866-41867; Transcript 3 June 2010, pp. 42032-42033 ((The witness testified being taught by Rashid Mansaray (ambush), Mohamed Tarawalli (how to escape for survival), Isaac Mongor, Gonkanu, Sylvester and Philip Palmer)); One Man One was one of the principal trainers; Isatu Kallon, Transcript 16 June 2010, pp. 42691-42707 (The witness testified that she saw Rashid Mansaray, Mohamed Tarawalli and Philip Palmer as instructors within the camp.); Sam Kolley, Transcript 1 November 2010, pp. 48371-48373 ((The witness testified to the presence of Gonkanu as a volunteer trainer, while Rashid Mansaray, Mohamed Tarawalli (physical exercise) and Mike Lamin (ideology) were commanders and trainers.)); DCT-025, Transcript 12 March 2010 pp. 37246-37251 (The witness mentioned four training instructors Mohamed Tarawalli, Mike Lamin, Rashid Mansaray and the fourth was Pa Morlai).

<sup>5045</sup> Prosecution Final Trial Brief, paras 29, 77-79, 82, 625, 1226 (The evidence is undisputed that the training at Naama lasted until the invasion of Sierra Leone in late March 1991); Defence Final Trial Brief paras 404, 411-412; See also TF1-168, Transcript 21 January 2009, pp. 23161-23166 (CS); Isatu Kallon, Transcript 16 June 2010, pp. 42724-42742; Sam Kolley, Transcript 1 November 2010, pp. 48373-48377; DCT-025, Transcript 12 March 2010 pp. 37249-37251.

recruits and whether terror methods were taught at Camp Naama by instructors sent by the Accused.

2323. Isaac Mongor is the sole witness providing first hand evidence of the Accused's direct involvement in sending NPFL trainers to do RUF training at Camp Naama. Mongor testified that in about March or April 1990 Taylor assigned him to help Sankoh in training the new RUF recruits at Camp Naama.<sup>5046</sup> The Trial Chamber recalls its finding that Isaac Mongor is a generally credible witness.<sup>5047</sup> Nonetheless, several issues regarding his testimony specifically on Camp Naama were raised by the Defence,<sup>5048</sup> which the Trial Chamber will address in this context.

2324. Mongor testified that he was captured by the NPFL before Christmas 1989 and subsequently became an NPFL soldier. The Defence submits that this account is impossible since the Liberian war had not even started.<sup>5049</sup> The Trial Chamber notes that Mongor's testimony that he was abducted around Christmas 1989, in Nimba County close to the border between Liberia and Côte d'Ivoire,<sup>5050</sup> is consistent with the evidence adduced by both parties regarding the history of the Liberian Conflict. Indeed, Taylor himself testified that at the end of December 1989, he ordered an NPFL group led by Prince Johnson to capture Gbutuo and advance to Tiaplay.<sup>5051</sup> NPFL troops advanced "westward" to Tappita, Sanniquellie then Buchanan within Nimba County.<sup>5052</sup> Other evidence demonstrates that fights were taking place at the border between Liberia and Côte d'Ivoire around Christmas 1989.<sup>5053</sup>

2325. The Defence further submits that Mongor's story regarding his capture by the NPFL was "riddled with inconsistencies". However, this blanket allegation is not linked to any particular inconsistency or any specific reference to the transcripts.<sup>5054</sup> A careful analysis of

<sup>5046</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5660-5663; Transcript 1 April 2008, pp. 6311, 6320-6321.

<sup>5047</sup> Credibility Assessment, Isaac Mongor, paras 269-274.

<sup>5048</sup> Defence Final Trial Brief, paras 1555-1556.

<sup>5049</sup> Defence Final Trial Brief para. 1555(2).

<sup>5050</sup> Isaac Mongor, Transcript 1 April 2008, pp. 6274-6278.

<sup>5051</sup> Charles Ghankay Taylor, Transcript 16 July 2009, pp. 24607-24608, 24610-24615.

<sup>5052</sup> Charles Ghankay Taylor, Transcript 16 July 2009, pp. 24613-24615.

<sup>5053</sup> See e.g., the accounts of the invasion of Liberia by NPFL soldiers from Côte d'Ivoire around Christmas 1989; Edward Zaymay, Transcript 7 May 2010, pp. 40652-40683; Edward Mineh, Transcript 29 April 2010, pp. 40317-40318, 40326-40328. See also Annie Yeney, Transcript 3 June 2010, pp. 42070-42071; DCT-179, Transcript 22 February 2010, pp. 35623-35624.

<sup>5054</sup> Defence Final Trial Brief, para. 1555(2).



Mongor's account of his capture does not reveal any major inconsistency regarding this event.<sup>5055</sup> To the contrary, despite a lengthy cross-examination, Mongor was consistent on his account regarding his abduction by NPFL soldiers around Christmas 1989 in Nimba County and his subsequent involvement in the NPFL.<sup>5056</sup>

2326. The Defence also contends that, in his prior statement to the Prosecution, Mongor said that he was recruited into the RUF by Sankoh and not by Taylor, as he testified in Court.<sup>5057</sup> Confronted with this inconsistency and questioned extensively on this point, Mongor maintained that he had been recruited by the Accused and "handed over" to Foday Sankoh to help him train the RUF men, and that subsequently Sankoh told him that he should join the RUF.<sup>5058</sup> Similarly, Mongor's prior statement to the Prosecution indicated that Mongor was introduced to Sankoh by John Kargbo. However, in Court Mongor explained that he had met Sankoh before but that Kargbo had brought Mongor closer to Sankoh.<sup>5059</sup> The Trial Chamber is satisfied by these explanations.

2327. In assessing Mongor's evidence, the Trial Chamber has considered the evidence, including from Issa Sesay and several other Defence witnesses, that a number of NPFL soldiers provided training at Crab Hole including Mike Lamin, Rashid Mansaray, PI, Gonkanu, Red Devil and Sylvester.<sup>5060</sup> Defence Witness DCT-292 also mentioned One Man One as one of the NPFL instructors at Crab Hole.<sup>5061</sup>

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<sup>5055</sup> The Trial Chamber has noted that Mongor's previous statement to the Prosecution indicated "During the early stage of the war in Liberia, he became associated with the NPFL" and that "Mongor joined the NPFL in 1989 at the start of the revolution". However, the Trial Chamber also notes that the same statement explained that Mongor was "[c]aptured by NPFL in early part of 1989 in Nimba County while operating business". Mongor explained that he was captured by the NPFL but that the consequence of this capture was that he became associated with it and therefore joined it. The Trial Chamber is satisfied by these explanations and does not find that these minor differences, in the wording of a document not written by the witness himself affect the credibility of Isaac Mongor (Isaac Mongor, Transcript 1 April 2008, pp. 6325-6334).

<sup>5056</sup> Isaac Mongor, Transcript 1 April 2008, pp. 6274-6311.

<sup>5057</sup> Defence Final Trial Brief, para. 1555.

<sup>5058</sup> Isaac Mongor, Transcript 1 April 2008, pp. 6337-6341.

<sup>5059</sup> Isaac Mongor, Transcript 1 April 2008, pp. 6342-6343.

<sup>5060</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5662-5667; TF1-168, Transcript 21 January 2009, pp. 23153-23156; TF1-367, Transcript 20 August 2008, pp. 14090-14095; TF1-362, Transcript 27 February 2008, pp. 4801-4808 (CS); Sesay, Transcript 5 July 2010, p. 43600; Vincent, Transcript 25 March 2010, pp. 37994-37999, 38007-38008, Transcript 26 March 2010 pp. 38087-38088, Transcript 30 March 2010 pp. 38315-38324; DCT-292, Transcript 1 June 2010, pp. 41709-41718 ; 41723-41724; Kolleh, Transcript 1 November 2010, pp. 48368-48376; DCT-025, Transcript 12 March 2010, pp. 37246-37251.

<sup>5061</sup> DCT-292, Transcript 1 June 2010, p. 41711 ("Q. Any other names of any other people that you were involved with who were trainers at Naama? A. There were some other people but these people were brought directly by this same Pa Morlai who came with other two men. They brought them in and they said, "This is One



Js .



2328. The Trial Chamber notes that Witness TF1-371 testified that he independently joined the RUF and not that he was sent by Taylor.<sup>5062</sup> Several other witnesses, including Defence Witness Vincent, a former NPFL soldier, testified that they also joined the RUF independently.<sup>5063</sup> Nonetheless, the fact that TF1-371 and others joined the RUF independently does not exclude the possibility that others, including Mongor, trained the RUF with the knowledge and the consent of the Accused. Moreover, in the Trial Chamber's view, NPFL soldiers such as TF1-371 and John Vincent, who had been abducted into the NPFL and joined the RUF, could not have done so without the Accused's agreement.<sup>5064</sup> TF1-168's evidence also supports this view. Indeed, TF1-168, whom the Trial Chamber considers to be a generally credible witness, testified that Taylor provided Sankoh with experienced NPFL soldiers, who were trained beforehand and had experienced war, who would stay with the trainees for three months because the new recruits were not sufficiently trained in guerrilla tactics.<sup>5065</sup>

2329. The Defence submits that the fact that Mongor remained with the RUF after operation Top Final contradicts Mongor's assertion that he was sent by Taylor.<sup>5066</sup> Mongor testified that he was sent by Taylor and Sankoh then asked him to stay with the RUF. In the Trial Chamber's view the fact that Mongor remained with the RUF after Camp Naama does not exclude the possibility that he was initially sent by Taylor in order to train the RUF. The Trial Chamber recalls that Mongor was abducted by the NPFL.<sup>5067</sup> In the Trial Chamber's view, this could explain why Mongor remained in the RUF after Camp Naama and is not inconsistent with Mongor's assertion that he was sent to Camp Naama by Taylor. The Trial

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Man One. His name should not be disclosed". In fact, he didn't disclose any name. He said, "This is One Man One and he's a brother and he's going to be here to monitor your affairs". And they brought another one also. Q. Pause there. He's going to monitor your affairs. What did that mean? A. Okay, he is going to be with you as a commander of the base. That was he was on the compound of the soldiers. Q. Right. Did he train you in anything? A. Only one of those people. He taught us the same ambush. That was One Man One".)

<sup>5062</sup> TF1-371, Transcript 24 January 2008, pp. 2185-2206 (CS).

<sup>5063</sup> John Vincent, Transcript 25 March 2010, pp. 37984-37989, 37999-38002 (John Vincent, an NPFL recruit, was approached on 8 September 1990 by John Kargbo, who told him that Foday Sankoh was recruiting for the RUF in order to start a revolution in Sierra Leone. Vincent decided to join the RUF and was taken to a training base called Crab Hole located at Camp Naama from September 1990 to March 1991 together with Liberians and Sierra Leoneans); Sam Kolley, Transcript 1 November 2010, pp. 48368-48369.

<sup>5064</sup> See also in support of this finding the fact that NPFL recruits were forced to train at Crab Hole; See for example Sam Kolley, Transcript 1 November 2010, pp. 48368-48369 (Sam Kolley, a Liberian, was captured by the NPFL at Gbarnga in late 1990 and taken to Crab Hole where he received military training and ideology training for 5-6 months; Transcript 1 November 2010, pp. 48368-48369; See also Martin George, Transcript 21 April 2010, pp. 39615-39619.

<sup>5065</sup> TF1-168, Transcript 21 January 2009, pp. 23145-23153 (CS).

<sup>5066</sup> Defence Final Trial Brief, para. 1555.

Chamber notes that Defence Witness DCT-292 mentioned One Man One among the NPFL trainers in Camp Naama.<sup>5068</sup>

2330. The Trial Chamber has also considered the evidence of numerous witnesses both for the Prosecution and the Defence, who testified that in 1990 Sierra Leoneans arrested by NPFL troops were released after Sankoh's intervention and brought directly by Sankoh to Crab Hole in order to be trained. TF1-371 testified that most of the trainees came from these detention facilities and that Sankoh was able to release them by way of a Directive from Taylor.<sup>5069</sup> The Trial Chamber has also considered the fact that Sankoh and the RUF recruits were able to travel and pass check-points throughout NPFL controlled territory,<sup>5070</sup> and the credible testimony of Defence witness Isatu Kallon that following one recruitment, a truck owned by Anthony Mekunagbe, one of Taylor's commanders, was brought to transport the recruits. Taylor's mansion in Gbarnga was close to Camp Naama.<sup>5071</sup> For these reasons, in

<sup>5067</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5648-5649, 5664 (Mongor was abducted by NPFL soldiers).

<sup>5068</sup> DCT-292, Transcript 1 June 2010, pp. 41698-41718, 41723-41724.

<sup>5069</sup> TF1-371, Transcript 24 January 2008, p. 2205 ("Q. Did you learn how Foday Sankoh was able to take people out of NPFL detention facilities? A. He showed me a directive which was given to him by the - from - he told me, I mean, it was the instruction from Mr Taylor and he was using a directive to get the - I mean some of them in the detention facilities. I personally followed him to Kakata and he used that directive to get some Sierra Leoneans that were detained at Kakata police station and he brought them on the base").

<sup>5070</sup> TF1-168, Transcript 21 January 2009, pp. 23139-23141 (When Sankoh took the detainees from Harbel to Camp Naama in Bong County, along the way there were NPFL-controlled checkpoints; TF1-168 noted a checkpoint at 15 Gate, and later near Kakata. At each checkpoint the bus passed easily when Sankoh spoke to the guards); Issa Sesay, Transcript 16 August 2010, pp. 46401-46402 (the area of Camp Naama was controlled by NPFL. Sesay could not remember how many checkpoints he passed when he went to Camp Naama but remembered there was one in Naama village); Yanks Smythe, Transcript 1 March 2010, pp. 36399-36400 (In 1990, in NPFL controlled areas, the NPFL had checkpoints which were also called gates; the people manning the checkpoints were NPFL soldiers above 18); DCT-190, Transcript 10 June 2010, p. 42468-42472 (testified about checkpoints in Madina, Sanganama, Singe and Tiene in 1990); John Vincent, Transcript 26 March 2010, pp. 38117-38118 (Vincent was stationed at an NPFL checkpoint in September 1990); DCT-292, Transcript 2 June 2010, pp. 41847-41849 (On the way to Gbarnga, DCT-292 passed a number of checkpoints, in Totota, Gbatala, Swakoko, Phebe and Gbarnga where the truck his intercepted by the NPFL. When the truck approached each checkpoint, Sankoh, who was travelling in a small green jeep, would communicate with the personnel at the checkpoints); Transcript 2 June 2010, p. 41853 (From Gbarnga to Camp Naama, DCT-292 passed a checkpoint, Belefana, where Sankoh and his convoy were intercepted); *See also* Martin George, Transcript 26 April 2010, pp. 39959-39961 (When George left Camp Naama in March 1991 to go in mission in Sierra Leone he met NPFL soldiers on the way who asked them questions about their destination. However, George testified that there were no checkpoints along the way; he passed in free zones); DCT-125, Transcript 10 March 2010, pp. 36939-36941 (DCT-125 explains that whilst he was in Liberia he passed many checkpoints that had been mounted for security reasons from Loguato and all the way up to Buchanan; The checkpoints were small command post that blocked the road); *But see in contrast* DCT-025, Transcript 18 March 2010, pp. 37484-37487 (DCT-025 passed through Bong County, which was an NPFL controlled area at the time, but he was not stopped along the way by any checkpoints or security personnel at checkpoints).

<sup>5071</sup> Foday Lansana, Transcript 25 February 2008, p. 4641 ("Q. Now you are aware, are you not, that Camp Naama is in the vicinity of Gbarnga, yes? A. Yes"); Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24756, 24758: Naama was located about 30 miles from Gbarnga); DCT-025, Transcript 18 March 2010, pp. 37484-37487 (Gbarnga is about a 45 mins-1 hour drive to Camp Naama on a dusty road).

the Trial Chamber's view, the recruitment by Sankoh of NPFL soldiers, the release of hundreds Sierra Leoneans prisoners from NPFL jails and their transport to Camp Naama could not have happened without the Accused's approval.

2331. Furthermore, the Trial Chamber notes that TF1-371, TF1-168, TF1-367 and TF1-362 corroborate Mongor's testimony that, while at Camp Naama, Foday Sankoh said that he was receiving support from Charles Taylor. This support included inter alia the use of Crab Hole in Camp Naama as a training base, as well as provision of food and medicine.<sup>5072</sup> Several Defence Witnesses testified that they never heard about the Accused's involvement in the RUF training at Crab Hole.<sup>5073</sup> However, the Trial Chamber notes that the fact that several witnesses did not hear about his involvement does not negate the possibility that he was involved. It is not disputed that the Accused never went to Camp Naama before the invasion of Sierra Leone by RUF in March 1991.<sup>5074</sup> Thus, he could have supported the RUF at Camp Naama without the witnesses' knowledge.

2332. The Trial Chamber considers that it would have been impossible for the several hundred RUF recruits at Camp Naama to survive without NPFL's support. It accepts Kallon's evidence that she provided Sankoh with goods twice a month.<sup>5075</sup> Isatu and Daniel Kallon's support to the RUF troops in Crab Hole is confirmed by other evidence.<sup>5076</sup> However, in the Trial Chamber's view such small quantity would have been largely insufficient in order to feed all the recruits during their training.<sup>5077</sup> Moreover, Isaac

<sup>5072</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5661-5663, 5666-5668; TF1-168, Transcript 21 January 2009, pp. 23148-51; TF1-371 Transcript 24 January 2008, pp. 2203-2209 (CS); Transcript, 29 January 2008, pp. 2509-2510 (CS); TF1-367, Transcript 20 August 2008, pp. 14098-14099; TF1-567, Transcript 2 July 2008, pp. 12838-12845, 12858; *See also* Charles Ghankay Taylor, Transcript 10 September 2009, pp. 28590-28593.

<sup>5073</sup> Issa Sesay, Transcript 16 August 2010, pp. 46396-46397, 46412-46417 (Sesay denied that Taylor supported the training at the camp in any way); John Vincent, Transcript 25 March 2010, pp. 37995-37998 (During his stay, Vincent never saw Taylor visiting Crab Hole nor did he hear about him).

<sup>5074</sup> Isaac Mongor, 1 April 2008, p. 6343 (Taylor has never been to Camp Naama while Mongor was there); Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24755-24763, 24794-24797 (Taylor did not visit Camp Naama until after he moved to Gbarnga in mid-1991, after the RUF attack against Sierra Leone); John Vincent, Transcript 25 March 2010, pp. 37995-37998 (During his stay, Vincent never saw Taylor visiting Crab Hole nor did he hear about him).

<sup>5075</sup> Isatu Kallon, Transcript 16 June 2010, pp. 42680-42689 ; Transcript 17 June 2010, pp. 42734-42735.

<sup>5076</sup> Issa Sesay, Transcript 5 July 2010, pp. 43621-43622; DCT-292, Transcript 1 June 2010 pp. 41717-41718; *See also* Exhibit P-277 (Confidential), p. 82.

<sup>5077</sup> TF1-168, Transcript 21 January 2009, pp. 23145-23153 (between 130 and 150 trainees - men, women and children - took the initial training up to December 1990. Around March 1991, the number of RUF recruits was around 205); Martin George, Transcript 21 April 2010, p. 39604 (There were originally about 500 recruits at Crab Hole); DCT-025, Transcript 12 March 2010 pp. 37237-37246 (DCT-025 estimated that there were about 300 people at Crab Hole).





Mongor, TF1-371, TF1-168, and TF1-367 all testified that the Accused provided the base with food for recruits and other forms of assistance. TF1-371 further testified that the supplies were procured by Foday Sankoh from the Accused at his mansion in Gbarnga. Mongor testified that Sankoh told him that he depended on Taylor for everything.

2333. Under these circumstances, and in the midst of a war in Liberia, Taylor's assertion that he had no knowledge of RUF training at his main training camp is not credible.<sup>5078</sup> In the light of the foregoing, the only reasonable conclusion that can be drawn from the evidence in its entirety is that Taylor provided Sankoh with a training base, with NPFL instructors, and with food and other supplies, and that he approved the recruitment by RUF of NPFL soldiers and Sierra Leonean prisoners.

2334. With regard to the alleged training of terror methods in Crab Hole by NPFL instructors, Confidential Exhibit P-277 contends that Isaac Mongor taught terror tactics to the RUF recruits by telling them that they should kill half of the civilians of any village they would capture and "tabay" (meaning tying both hands on the back of the body) the rest.<sup>5079</sup> This allegation is corroborated by Defence witness Issa Sesay, who testified that while at Camp Naama, Sankoh criticized Isaac Mongor for teaching the trainees that once they captured a town they should divide the civilians into two groups and kill one of the groups in order to obtain the loyalty of the other group.<sup>5080</sup> However, substantial evidence was adduced by both Prosecution and Defence witnesses stating that ideology training received by RUF recruits in Camp Naama included basic Geneva Convention regulations on the treatment of civilians.<sup>5081</sup> While the evidence suggests that Isaac Mongor may have

<sup>5078</sup> Defence Final Trial Brief, para. 800.

<sup>5079</sup> Exhibit P-277 (Confidential), pp. 85-86.

<sup>5080</sup> Issa Sesay, Transcript 5 July 2010, p. 43601. These allegations were not put to Mongor in cross examination

<sup>5081</sup> TF1-371, Transcript 24 January 2008, pp. 2203-2204 (CS) (Sankoh asked Mike Lamin to teach ideology and provided him with brochures on basic Geneva Convention regulations on how to treat civilians and respect them during the conflict); TF1-168, Transcript 21 January 2009, pp. 23181-23182 (During the invasion of Sierra Leone civilians were "not treated fine. They were not treated nicely, as opposed to our basic ideology that we were taught at the base. In fact, it was surprising to me to see things happening that way"); TF1-168, Transcript 23 January 2009, pp. 23395-23396 (TF1-168 received instruction to give good treatment to civilians in order to make them support the revolution); Martin George, Transcript 21 April 2010, pp. 39612-39614 (George testified that Mike Lamin, a Sierra Leonean instructor, taught all the recruits how to take care of civilians during missions); John Vincent, Transcript 25 March 2010, pp. 37998-37999 (the ideology class taught the trainees to take good care of civilians and to attack only military installations); DCT-292, Transcript 1 June 2010, pp. 41708-41709, 41714 (The ideology training in Camp Naama included: ensuring that a person who surrenders is unharmed and handed them over to the nearest senior officer for screening; a prohibition against raping; the correct treatment of captured civilians - soldiers needed to gather the civilians in one place and guard them. Another element of the ideology was that whenever a town is captured, any material captured, including arms, ammunition, clothing, and food had to be kept under the supervision of the commander. These materials then

advocated the use of terror tactics, it has not been established that he did so following the Accused's orders. The Trial Chamber also notes that several other witnesses described Mongor as merely a physical training instructor. In the light of the foregoing, the Trial Chamber finds the evidence on record insufficient to establish beyond reasonable doubt that as a matter of policy training instructors sent by the Accused taught terror methods to RUF recruits at Camp Naama.

2335. In making this finding, the Trial Chamber has considered the allegation that, before the invasion of Sierra Leone, the Accused said publicly on the radio, that "Sierra Leone would taste the bitterness of war". The Accused testified that "no human being on this planet" heard these words.<sup>5082</sup> However, overwhelming evidence both from Prosecution and Defence witnesses demonstrates that, contrary to the Accused's assertion, he made this statement publicly.<sup>5083</sup> In the Trial Chamber's view, this statement establishes that the

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had to be shared among the civilians and the fighters); Sam Kolley, Transcript 1 November 2010, p. 48374 (Ideology training included advice on how to treat civilians and prisoners but not on how to terrorize them. According to Kolley, terrorism was not the ideology of the RUF); DCT-025, Transcript 12 March 2010, pp. 37248-37250 (ideological training included care of civilians, women and children); See also TF1-371, Transcript 30 January 2008, pp. 2633-2634 (CS) (TF1-371 never heard any direct order to indiscriminately kill civilians, or a direct order to amputate or mutilate civilians. It was not the policy at the formation of the RUF in 1991 to terrorise civilians); But see in contrast Issa Sesay, Transcript 5 July 2010, p. 43601 (Sesay testified that while at Camp Naama, Sankoh criticized Isaac Mongor for teaching the trainees that once they captured a town they should divide the civilians into two groups and kill one of them in order to obtain the loyalty of the other group).

<sup>5082</sup> Charles Ghankay Taylor, Transcript 20 July 2009, p. 24736 ("Now that I would really call a recitation, because I'm sure the Prosecution had all the time in this world to find this so-called BBC interview where I said that they had this recitation before this Court every day that Taylor say that they would taste the bitterness of war and I still hope they can go and find it, okay? I warned, I talked, I jawboned on the radio that Momoh should stop this, we are friends, he should not let this happen, to warn them. But all this nonsense about Taylor saying, there is no human being on this planet that heard in these words that Sierra Leone would taste the bitterness of war. It's a fabrication. But I spoke on the BBC and I threatened that if Momoh did not stop I mean he and I would have a problem, because we were old friends and so I just thought to mention this at this particular time. But it was mostly through radio interviews").

<sup>5083</sup> Foday Lansana, Transcript 20 February 2008, pp. 4333-4334 ("At exactly 5.06 while listening to the BBC Mr Charles Taylor was being interviewed by Mr Robin White. I heard him say to the world that if Sierra Leone or ECOMOG doesnot stop using Sierra Leone or the Alpha jet from destroying his people in Liberia Sierra Leone will also feel the bitterness of war"); Isaac Mongor, Transcript 10 March 2008, pp. 5661-5662 ("I want you to know that at the time we were fighting in Liberia, Mr Taylor used to talk over the BBC and at that time he did say to the Sierra Leonean people that one day they will experience the bitterness of war"); Transcript 1 April 2008, pp. 6311-6312 ("...he would not want people to know that he was preparing people to go and fight in Sierra Leone because he had said over the BBC that Sierra Leone will feel the bitterness of war. He had gone over the air and said that and he would not want people to know that he was preparing people to go and fight there"); Mustapha Mansaray, Transcript 30 October 2008, p. 19629 (Why I was willing to come and testify? It was for one reason: Because there was a man they used to call Charles Taylor. At the time there was war in Liberia he said that that war that had come to Liberia, we would taste the bitterness of that one in Sierra Leone. Everybody heard that in the radio. So if indeed the war came to Sierra Leone, and I am like this, this is my own portion of the bitterness that I tasted. Both of my hands were amputated"); Alimamy Bobson Sesay, Transcript 16 April 2008, p. 7851 ("Well, in 1991 just after I had sat my O-levels I heard an announcement when the ECOMOG had their base in Sierra Leone and this announcement was over the international media. The former NPFL leader, Charles Taylor, went over the air and said that Sierra Leone will taste the bitterness of war");

Accused was aware that a war in Sierra Leone would cause suffering to the civilian population. Nonetheless, it does not establish that NPFL instructors in Crab Hole sent by the Accused taught terror methods to RUF recruits.

2336. The evidence indicates clearly that RUF and NPFL trained in two different parts of Camp Naama.<sup>5084</sup> In the Trial Chamber's view this evidence is inconsistent with a unified command structure. Moreover, the evidence on the RUF command structure in Camp Naama provided by Witness TF1-168 described Foday Sankoh as the commander in chief without mention of the Accused.<sup>5085</sup> Witness TF1-367, who trained in Crab Hole, also testified that Foday Sankoh was the only one whom the RUF recruits in Crab Hole knew as the leader of RUF.<sup>5086</sup> No other evidence in the record supports the submission of the Prosecution that the RUF and NPFL trained at Camp Naama had the same chain of command.

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Albert Saidu, Transcript 3 June 2008, p. 10867 ("Well, we heard that Charles Taylor and his rebels were fighting in Liberia. Then at one time we heard over the radio that he was saying that they were using Sierra Leone as an ECOMOG base to launch attacks in Liberia, so Sierra Leone will face the bitterness of war one day"); Stephen Ellis, Transcript 16 January 2008, p. 1463 ("There was a broadcast which, if memory serves me well, was on 4 November 1990, a radio broadcast where Mr Taylor threatened Sierra Leoneans that they would, as he put, taste the bitterness of war and that phrase, I must say, is recalled to this day by many Sierra Leoneans, I've often heard people say that to me and it's referred to explicitly in the TRC report") and 18 January 2008, p. 1553 ("And as I wrote in my report which has been submitted as a document to this Court there is clear evidence that that war was being prepared from November onwards when Mr Taylor had threatened that Sierra Leone would taste the bitterness of war"); Dennis Koker, Transcript 16 January 2008, p. 1379 ("Well, I am telling you that I am not telling lies, just tell the news did say Sierra Leone would taste the bitterness of war. It was over the BBC. At that time I had not joined the military and, indeed, the war reached there"); Alex Teh, Transcript 8 January 2008, p. 738 ("That was when I heard live source when Charles Ghankay Taylor said that, 'President Momoh, if you allow Sierra Leone to serve as ECOMOG base in 90 days Sierra Leone would taste the bitterness of war.'"); Osman Jalloh, Transcript 1 October 2008, p. 17733 ("Yes. On the radio I heard that we will taste the bitterness of war in Sierra Leone... It was Pa Charles Taylor who said so"). See also Exhibit P-031, ERN 26610 ("It was in the same month that Charles Taylor publicly threatened in a radio broadcast that Sierra Leone would 'taste the bitterness of war'"); DCT-068, Transcript, 11 March 2010, p. 37082 ("Q: Sir, have you heard about Charles Taylor making a radio broadcast, before the launch of the war in Sierra Leone that brought so much destruction, threatening Sierra Leone because of its involvement in ECOMOG? A: Yes, I heard it over the radio. Q: And you heard many people talk about that broadcast and Charles Taylor threatening to bring the bitterness of war to Sierra Leone, didn't you? A: I heard it over the radio"); Issa Sesay, Transcript, 17 August 2010, p. 46454 ("Q: Mr Sesay, you've talked about hearing about Foday Sankoh's 90-day ultimatum over the BBC. Did you also hear Charles Taylor before that threaten Sierra Leone that it would taste the bitterness of war if it continued to support ECOMOG in Liberia? A: Yes, I heard that one); DCT-292, Transcript, 2 June 2010, p. 41897 (the witness heard from others that Charles Taylor made that statement, but did not hear it himself.).

<sup>5084</sup> Prosecution Pre Trial Brief, paras 23, 50-51, 58-59, 66, 80; Prosecution Opening Statement, Transcript 4 June 2007 p. 284; Prosecution Closing Brief, paras 29-30, 65-75; Defence Final Trial Brief para. 392; See also Mongor, Transcript 1 April 2008, p. 6323; 10 March 2008, p. 5663; TF1-168, Transcript 21 January 2009, p. 23144; Vincent, Transcript 25 March 2010, pp. 37992-37993.

<sup>5085</sup> TF1-168, Transcript 21 January 2009 pp. 23160-23161.

<sup>5086</sup> TF1-367, Transcript August 2008 p. 14101.

## Findings

2337. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that from August 1990 until March 1991, the Accused provided the RUF with the training camp of Crab Hole, instructors, recruits and material support, including food and other supplies.

2338. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that as a matter of policy NPFL instructors in Crab Hole taught terror methods to RUF recruits.

2339. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that Liberian and Sierra Leonean trainees at Camp Naama had no separate chain of command and were treated as one body under the command of the Accused.

### 4. The Invasion of Sierra Leone

#### Submissions of the Parties

2340. The Prosecution alleges that in March 1991 in Voinjama, Lofa County, Liberia the Accused, Foday Sankoh and Dr Manneh together with NPFL and RUF commanders held a meeting during which they planned and organised the invasion of Sierra Leone, according to the strategy and tactic hatched in Libya and Burkina Faso.<sup>5087</sup> The Prosecution further contends that NPFL commanders and fighters sent by the Accused and obeying his orders, were the primary participants in the invasion into Sierra Leone in March 1991 and during the early stages of the conflict in Sierra Leone until they were withdrawn in about June 1992. NPFL soldiers were in command of all the operations during the invasion.<sup>5088</sup>

2341. The Defence concedes that the invasion force included NPFL troops and that the majority of RUF recruits were Liberians. However, the Defence submits that these men were not sent by the Accused. The Defence denies that the Accused was involved in planning the

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<sup>5087</sup> Prosecution Final Trial Brief, paras 77, 80; See also Prosecution Closing Arguments, Transcript 9 March 2011, pp. 49343-49346.

<sup>5088</sup> Prosecution Final Trial Brief, paras 29-30, 78-84, 206.



invasion of Sierra Leone and submits that he never went to Voinjama prior to the invasion of Sierra Leone.<sup>5089</sup>

### Evidence

#### Prosecution Witness TF1-371

2342. Witness TF1-371, a training instructor at Camp Naama, testified that at the end of February 1991, he went to Sierra Leone for a reconnaissance operation in order to verify that the road that would be used to attack Daru Barracks in Sierra Leone was safe. Six other men, including RUF commander Mohamed Tarawalli, also went on the trip.

2343. On their way back to Camp Naama, TF1-371 and the other men met Sankoh and Taylor in a convoy en route to Voinjama. Sankoh invited them into his car and drove them to Voinjama to discuss with them the operational plans for the invasion of Sierra Leone on 23 March 1991. Witness TF1-371 spent his time at Voinjama in the house of an NPFL member, Defence Witness DCT-025.<sup>5090</sup>

2344. The next morning, at around 9.00am, TF1-371 attended a meeting at Anthony Mekunagbe's house. Charles Taylor, Dr Manneh and senior officers and members of the Special Forces and others participated in the meeting.<sup>5091</sup> During the meeting Taylor and Sankoh discussed different plans to attack Sierra Leone. According to TF1-371, Taylor dominated the meeting and took the decision to attack Sierra Leone on 23 March 1991 on two fronts, Pujehun and Kailahun Districts, contrary to Sankoh's project to attack first Daru Barracks.<sup>5092</sup>

#### Prosecution Witness Isaac Mongor

2345. Witness Isaac Mongor was an NPFL training instructor in physical exercise at Camp Naama in early 1991. He testified that Foday Sankoh used to tell the recruits in the training camp that Sierra Leone was corrupt and that the recruits were being trained to go and free

<sup>5089</sup> Defence Final Trial Brief, paras 410-423, 774-778, 806-816, 1351-1353.

<sup>5090</sup> TF1-371, Transcript 25 January 2008, pp. 2212-2214.

<sup>5091</sup> TF1-371, Transcript 25 January 2008, pp. 2218-2220 (The Witness mentioned the names of Anthony Mekunagbe, Sam Larto, Sam Tuah, Charles Timber as attending the meeting).

<sup>5092</sup> TF1-371, Transcript 25 January 2008, pp. 2213-2218.

the people from this system. Sankoh described himself as a poor man but stated that 'his brother', Charles Taylor, would take over the country.<sup>5093</sup>

2346. After their training in Camp Naama, Mongor and his men went to Voinjama in Lofa County. There, Mongor met Charles Taylor and his Special Forces, NPFL soldiers. Mongor was invited into the house of General Dopoe Menkarzon (a.k.a. General Pepe) with Charles Taylor and Foday Sankoh. General Francis Mewon, a member of the Special Forces, Ibrahim Bah and a Gambian named Lamin also attended the meeting. During the meeting, Taylor thanked Mongor for having trained his men and assigned him to the mission to fight in Sierra Leone and take over power.<sup>5094</sup>

#### Prosecution Witness TF1-168

2347. Witness TF1-168, a RUF member,<sup>5095</sup> testified that in March 1991, Foday Sankoh ordered him and eight other men to travel from Camp Naama to Sierra Leone on reconnaissance missions. The eight men were divided in two groups of four: TF1-168 and TF1-371 belonged to the first group, while the second group was led by Mohamed Tarawalli. The mandate of TF1-168's group was to gauge the people's reaction to the ultimatum given by the RUF, and to assess the military strength of the APC government. After the first night in Baiwala, this group split; TF1-371 and John Sei went to Daru while TF1-168 continued toward Kenema and Freetown.<sup>5096</sup> That morning, as he was leaving Baiwala, TF1-168 heard gunfire and understood that the war had started.

2348. Two months later, when the RUF controlled the area where he was staying, TF1-168 complained to Sankoh that by attacking before they could come back from the mission Sankoh had endangered their lives. Sankoh apologised and explained that the attack on Sierra Leone was not supposed to take place so early but a fire exchange between NPFL soldiers and Sierra Leonean border guards in Bomaru regarding a debt for looted goods provided a good opportunity for the RUF to invade Sierra Leone.

#### The Accused

<sup>5093</sup> Isaac Mongor, Transcript 10 March 2008, p. 5667.

<sup>5094</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5667-5673; Transcript 4 April 2008, pp. 6668-6674.

<sup>5095</sup> TF1-168, Transcript 22 January 2009, pp. 23275-23282 (CS).

<sup>5096</sup> TF1-168, Transcript 21 January 2009, pp. 23161-23166.

2349. The Accused denied having planned any attack on Sierra Leone. He stated that he was not present at the meeting in Voinjama and did not discuss any strategies or plans with Foday Sankoh regarding the attack on Sierra Leone.<sup>5097</sup> The Accused further denied being the guiding force behind the plan to attack Sierra Leone. He stated that Sankoh did not need his help.<sup>5098</sup> The Accused further testified that the first and only time he went to Voinjama was at end of the last quarter of 1991.<sup>5099</sup>

2350. The Accused testified that he was surprised and very disturbed to hear of the invasion in Sierra Leone. He heard it through his NPFL Information Officer who would bring a summary of important news to him every day in Harbel, through the programme Focus on Africa on the BBC. The Accused decided to close the border immediately and called President of Sierra Leone, Momoh.<sup>5100</sup> Momoh told the Accused that people with NPFL ID cards were involved and told him that he was convinced that the Accused was involved in the invasion. The Accused testified that the entire international community was convinced that he was behind the invasion but it was a lie.<sup>5101</sup>

2351. The Accused testified that, in August 1991, he took the decision to contact the RUF to see if they could put together a “programme” to help him protect his border and to fight the common enemy, ULIMO. He contacted Sankoh through members of his Special Forces and asked him to come to Gbarnga. The Accused believed he sent Dopoe Menkarzon to convey this message. Sankoh was happy to meet with him, Taylor.<sup>5102</sup>

2352. After August 1991, the Accused worked with Foday Sankoh’s RUF in order to fight against ULIMO. He provided manpower, arms and ammunition, a guest house for Foday Sankoh and radio room in Gbarnga. The Accused had little to share as he was fighting a war himself. However, he did, on occasion, share with him limited quantities of materiel. There were no arms coming in from the outside. The Accused was dealing with whatever he was

<sup>5097</sup> Charles Ghankay Taylor, Transcript 9 September 2009, pp. 28450- 28460.

<sup>5098</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29742-29475; Transcript 27 October 2009, pp. 30390-30393.

<sup>5099</sup> Charles Ghankay Taylor, Transcript 22 July 2009, p. 24998; Transcript 27 October 2009 pp. 30392-30394

<sup>5100</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24765-24770.

<sup>5101</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24764-24769.

<sup>5102</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24794-24796.

able to capture from the AFL.<sup>5103</sup> The Accused testified that this minimal assistance lasted until May 1992 when he stopped any kind cooperation with the RUF.<sup>5104</sup>

Defence Witness DCT-125

2353. Witness DCT-125, a Gambian official, testified that Dr Manneh was not present during the alleged meeting at Voinjama in March 1991 where Taylor, Sankoh and Dr Manneh allegedly planned the invasion of Sierra Leone. DCT-125 denied that Dr Manneh had ever been to Voinjama. He also stated that Dr Manneh did not know several of the other alleged participants in the meetings.<sup>5105</sup>

2354. According to DCT-125, Dr Manneh learnt about the conflict in Sierra Leone through the BBC Focus on Africa and met Sankoh for the very first time in late 1991 or the beginning of 1992, when the conflict in Sierra Leone had already started.<sup>5106</sup>

Defence Witness DCT-025

2355. Witness DCT-025, an RUF recruit,<sup>5107</sup> was referred to in TF1-371's testimony as having provided him lodging in Voinjama the night before TF1-371 allegedly participated in the meeting with Taylor and Sankoh.<sup>5108</sup> DCT-025 denied having lodged TF1-371 and testified that he did not have any house or family in Voinjama. Moreover, he testified that he had never stayed in Voinjama and only passed through once on his way to Koindu in 1991.<sup>5109</sup>

2356. DCT-025 testified that, before the invasion of Sierra Leone in March 1991, no one left Camp Naama. Thus, TF1-371 and Mohamed Tarawalli did not leave Camp Naama in February 1991. DCT-025 left Camp Naama on 20 March 1991 when the RUF decided to attack Sierra Leone.<sup>5110</sup>

<sup>5103</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24806-24808, 24809-24812; Transcript 20 July 2009, pp. 24825-24827.

<sup>5104</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24825-24827.

<sup>5105</sup> DCT-125, Transcript 9 March 2010, pp. 36814-36822.

<sup>5106</sup> DCT-125, Transcript 9 March 2010, pp. 36794-36798.

<sup>5107</sup> DCT-025, Transcript 12 March 2010, pp. 37219, 37273 (PS).

<sup>5108</sup> TF1-371, Transcript 25 January 2008, pp. 2212-2214 (CS).

<sup>5109</sup> DCT-025, Transcript 17 March 2010, pp. 37388-37390 (PS), 37443-37445.

<sup>5110</sup> DCT-025, Transcript 12 March 2010, pp. 37252-37255; Transcript 17 March 2010, pp. 37388-37390 (PS), 37414-37416, 37443-37445; Transcript 18 March 2010, p. 37546.

Defence Witness DCT-292

2357. Witness DCT-292, an RUF recruit,<sup>5111</sup> testified that in March 1991 Foday Sankoh came from Gbarnga and told the recruits that a friend informed him that a group of Liberians had already crossed the border into Sierra Leone and were engaging in bartering. DCT-292 testified that this news prompted Sankoh to initiate the RUF invasion because Sankoh did not want the SLA soldiers on the border to run away. DCT-292 understood Sankoh's reaction as a way to get ammunition as RUF troops had no arms and ammunition to start the war.<sup>5112</sup>

2358. DCT-292 testified that Sankoh called his commanders – Rashid Mansaray, Isaac Mongor, Sylvester, and Mohamed Tarawalli – to discuss the strategy for the invasion. Mansaray asked Sankoh how they would fight a war without ammunition. Sankoh told him that the RUF struggle was purely self-reliant and that the commandos should be capable of finding their own arms.<sup>5113</sup>

2359. DCT-292 stated that the first incursion into Sierra Leone on 23 March 1991 was divided into two groups. The first group targeted Kailahun, and was headed by John Kargbo. The second group targeted Pujehun, and included Rashid Mansaray and Mike Lamin. The first group was then separated into two, as it was decided that it was better to attack Kailahun from two fronts – from Koindu and from Bomaru. Mohamed Tarawalli told the group under Kargbo that they should target Bomaru and attack simultaneously. These groups took Kailahun district.<sup>5114</sup>

Defence Witness Yanks Smythe

2360. Witness Yanks Smythe, a Gambian, was Taylor's bodyguard and radio operator from 1990 until 1995. Smythe testified that the first time he accompanied Taylor to Voinjama in Lofa County was in October 1991, after the RUF attacked Sierra Leone.<sup>5115</sup> According to

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<sup>5111</sup> DCT-292, Transcript 31 May 2010, pp. 41673-41674 (PS).

<sup>5112</sup> DCT-292, Transcript 1 June 2010, pp. 41718-41721.

<sup>5113</sup> DCT-292, Transcript 1 June 2010, pp. 41721-41722.

<sup>5114</sup> DCT-292, Transcript 1 June 2010, pp. 41722-41723, 41725.

<sup>5115</sup> Yanks Smythe, Transcript 25 February 2010, pp. 36100-36119.

Smythe there had been no communication between Taylor and Sankoh before the RUF attacked Sierra Leone.<sup>5116</sup>

2361. Smythe further testified that in March 1991, Dr Manneh was in Buchanan since Taylor had asked him to stay there to help organize the civil administration. Smythe stated that Dr Manneh and Taylor played no part in the invasion of Sierra Leone.<sup>5117</sup>

#### Defence Witness Issa Sesay

2362. Witness Issa Sesay testified that, while in Camp Naama, he never heard any discussion suggesting that Taylor and Sankoh developed a relationship. Sesay testified that he sent TF1-371 and Mohamed Tarawalli on a reconnaissance mission into Sierra Leone before the invasion but that they came back to Camp Naama before the convoy left for Voinjama in Lofa County. They returned to Camp Naama in March 1991 and two days later, the RUF invaded Sierra Leone.<sup>5118</sup> Sesay stated that at no time did either man tell him about attending a meeting in Voinjama to discuss the invasion of Sierra Leone with Taylor. More generally, Sesay never heard any discussion about Taylor overruling Sankoh's plans for the invasion of Sierra Leone nor did Sankoh ever complain about Taylor for doing so.<sup>5119</sup>

#### Deliberations

2363. The Trial Chamber will first assess the evidence regarding the alleged meeting in Voinjama before assessing the evidence regarding the invasion of Sierra Leone on 23 March 1991.

#### (a) Meeting in Voinjama

2364. The Trial Chamber heard significant evidence showing that, in late February 1991, Foday Sankoh issued an ultimatum to President of Sierra Leone, Joseph Momoh to resign from the Presidency within 90 days or else face a revolt.<sup>5120</sup> Furthermore, it is undisputed

<sup>5116</sup> Yanks Smythe, Transcript 22 February 2010, p. 35674.

<sup>5117</sup> Yanks Smythe, Transcript 22 February 2010, pp. 35680-35681.

<sup>5118</sup> Issa Sesay, Transcript 5 July 2010, pp. 43611, 43624.

<sup>5119</sup> Issa Sesay, Transcript 29 July 2010, pp. 44956-44969 (PS).

<sup>5120</sup> Fayia Musa, Transcript 13 April 2010, pp. 38861-38862; Martin George, Transcript 22 April 2010, pp. 39642, 39645-39646; Isatu Kallon, Transcript 16 June 2010, p. 42714; Issa Sesay, Transcript 5 July 2010, pp. 43597, 43633; TF1-168, Transcript 23 January 2009, pp. 23423-23425; DCT-068, Transcript 11 March 2010, pp. 37067-37069; DCT-292, Transcript 2 June 2010, p. 41896.



that, on 23 March 1991, before the expiration of Sankoh's ultimatum, troops composed of NPFL and RUF soldiers invaded Sierra Leone.<sup>5121</sup>

2365. In this context, the Prosecution, relying on Witness TF1-371, alleges that before the attack was launched on Sierra Leone, the Accused, Foday Sankoh, some of the Accused's subordinate NPFL commanders, including those who would enter Sierra Leone as part of the invading force, and some RUF personnel held a meeting in Voinjama, Lofa County. During that meeting, the plan for the attack was decided. The Accused was in charge of the meeting, at which he was domineering.<sup>5122</sup>

2366. The Trial Chamber notes that Isaac Mongor and TF1-371 provided relevant evidence regarding an alleged meeting with the Accused in Voinjama. The Trial Chamber recalls its findings that Mongor and TF1-371 are generally credible witnesses.<sup>5123</sup>

2367. The Trial Chamber notes that Witness TF1-371 and Isaac Mongor's testimonies corroborate each other in placing the Accused at a meeting in Voinjama in March 1991.<sup>5124</sup> Nonetheless, these testimonies differ significantly in their details. Witness TF1-371 placed the alleged meeting around 9 a.m. on the morning while Isaac Mongor placed it at night.<sup>5125</sup> Except for the Accused and Sankoh, the names of the persons attending the meetings are entirely different.<sup>5126</sup> While Witness TF1-371 testified that during the meeting Taylor, Sankoh and Dr Manneh discussed different plans in order to attack Sierra Leone, Isaac Mongor did not mention discussion of any such plans. He testified that the Accused assigned him to the mission to fight in Sierra Leone.<sup>5127</sup> Witness TF1-371 placed the

<sup>5121</sup> *Prosecutor v Taylor*, SCSL-03-1-T, Decision on Judicial Notice, 7 December 2007, Annex A, Facts C and N.

<sup>5122</sup> Prosecution Final Trial Brief, para. 77.

<sup>5123</sup> Credibility Assessment TF1-371 paras. 220-226; Credibility Assessment, Isaac Mongor, paras. 269-274.

<sup>5124</sup> TF1-371, Transcript 25 January 2008, pp. 2213-2218; Mongor, Transcript 10 March 2008, pp. 5667-5673; Transcript 4 April 2008, pp. 6668-6674.

<sup>5125</sup> TF1-371, Transcript 25 January 2008, p. 2213 ('When I arrived at Voinjama I went to spend the night with one of the commanders, and in the morning by 9 o'clock some security personnel came to fetch me from where I was that I was wanted by Mr Sankoh in a meeting'). *See in contrast*, Isaac Mongor, Transcript 10 March 2008, p. 5670 ('Yes, when we got to Voinjama I had told you that we got there at night. [...] Then I was able to talk to Mr Taylor that night').

<sup>5126</sup> TF1-371, Transcript 25 January 2008, pp. 2218-2220 (CS) (TF1-371 mentioned Taylor, Sankoh, Anthony Mekunagbe, Sam Larto, Sam Tuah, Charles Timber as attending the meeting); Isaac Mongor, Transcript 10 March 2008, pp. 5667-5673; Transcript 4 April 2008, pp. 6668-6674. (Mongor mentioned Taylor, Sankoh, General Francis Mewon, a member of the Special Forces, Ibrahim Bah and a Gambian named Lamin among those who attended the meeting).

<sup>5127</sup> The Trial Chamber observes that during his testimony in Court, Mongor stated that Taylor thanked him personally for the job he has done in training his men (Isaac Mongor, Transcript 4 April 2008, p. 6668).

alleged meeting at the home of Anthony Mekunagbe while Isaac Mongor placed the meeting at the home of General Dopoe Menkarzon (a.k.a. General Pepe), although other witnesses have referred to Anthony Mekunagbe as “General Dry Pepe”.<sup>5128</sup> The details are so different as to suggest that the witnesses may have been testifying about two different meetings but the evidence does not establish that there were two meetings.<sup>5129</sup> In any event, the Trial Chamber notes that there were many inconsistencies in the testimony of these witnesses.

2368. Additionally, TF1-371 testified that the meeting in Voinjama took place after he came back from the reconnaissance mission in Sierra Leone. TF1-168, who was in TF1-371’s group during this mission testified that, just after the group split, he heard gunfire and understood that the RUF attacked Sierra Leone.<sup>5130</sup> The Trial Chamber recalls its finding that TF1-168 is also generally credible.<sup>5131</sup> However, Witness TF1-168’s testimony is inconsistent with TF1-371’s account that he came back from the reconnaissance mission before the start of the invasion. The Trial Chamber notes that TF1-371’s sequence of the events is corroborated by Issa Sesay. Indeed, Sesay testified that TF1-371 returned from the mission two days before the RUF invaded Sierra Leone.<sup>5132</sup> However, Sesay testified that TF1-371 returned to Camp Naama and not directly to Voinjama as alleged by TF1-371. Furthermore, Issa Sesay, who was close to TF1-371 and to Mohamed Tarawalli, testified that he had never heard about this alleged meeting.<sup>5133</sup> The Trial Chamber recalls its finding that the testimony of Issa Sesay must be treated with caution.<sup>5134</sup> Nevertheless, in the Trial

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However, in the additional information on the proofing notes dated 3 and 8 February 2008, Mongor explained that Taylor did not talk specifically to him during that meeting but addressed all the commanders who were present. Confronted with this discrepancy, Mongor explained that Taylor spoke to him personally during a first meeting and addressed his greetings to all the commanders during a second one (Isaac Mongor, Transcript 4 April 2008, pp. 6668-6674). In both accounts, Mongor did not mention any discussion regarding the invasion of Sierra Leone.

<sup>5128</sup> See for example Foday Lansana, Transcript 25 February 2008, p. 4656; Dauda Aruna Fornie, Transcript 1 December 2008, p. 21330, Transcript 2 December 2008 p. 21413; Charles Ghankay Taylor, Transcript 16 September 2009, p. 29125; Isatu Kallon, Transcript 16 June 2010, p. 42670.

<sup>5129</sup> The Trial Chamber notes that the Prosecution brief does not suggest that there were two meetings (Prosecution Final Trial Brief, paras 77, 80). The Prosecution, quoting Mongor, submits that ‘the morning after a meeting with Taylor in Voinjama in which Taylor made the final decision as to how the attack would unfold Isaac Mongor and his men were sent to Foya where they were armed’. There is no mention of a second meeting and the characterization in the brief of Taylor’s role in this meeting is not derived from Mongor’s testimony but apparently from TF1-371’s testimony. The Prosecution seems therefore to consider that Mongor and TF1-371 were testifying as to the same meeting.

<sup>5130</sup> TF1-168, Transcript 21 January 2009, pp. 23161-23166 (CS).

<sup>5131</sup> Credibility Assessment, TF1-168, Pre-Indictment period (1988-1996), para. 2328.

<sup>5132</sup> Issa Sesay, Transcript 5 July 2010, pp. 43611, 43624.

<sup>5133</sup> Issa Sesay, Transcript 29 July 2010, pp. 44956-44969 (PS).

<sup>5134</sup> Credibility Assessment, Issa Sesay, paras 359-372.



Chamber's view these discrepancies within the Prosecution evidence cast doubt on the reliability of the evidence regarding the alleged meeting.

2369. The Accused denied having been in Voinjama in March 1991 and having planned the attack on Sierra Leone. DCT-125 denied that Dr Manneh was in Voinjama and planned this attack. This evidence is corroborated by the testimony of other witnesses. DCT-292 testified that the planning of the invasion of Sierra Leone by Sankoh and his commanders including Rashid Mansaray, Isaac Mongor, Sylvester, Mohamed Tarawalli took place in Camp Naama and not in Voinjama as alleged by TF1-371.<sup>5135</sup>

2370. Yanks Smythe, who was with the Accused in March 1991, testified that Taylor was not in Voinjama. He also testified that in March 1991, Dr Manneh was in Buchanan. Smythe testified that the first time he accompanied Taylor to Voinjama in Lofa County was in October 1991, after the RUF attacked Sierra Leone.<sup>5136</sup> The Trial Chamber notes, however, that in a prior statement dated 26 February 2010, Smythe admitted having been in Voinjama in March 1991. Confronted with this contradiction, Smythe explained that he changed his version because he thought about it and realized he had made a mistake.<sup>5137</sup> The Trial Chamber is not convinced by this explanation and does not therefore accept Smythe's evidence in this regard.

2371. DCT-025, who allegedly lodged TF1-371 the night before he attended the meeting, directly contradicted TF1-371's testimony.<sup>5138</sup> DCT-025 denied he had a house in Voinjama and that he had hosted TF1-371. In the Trial Chamber's view this casts further doubts regarding TF1-371's account of events.<sup>5139</sup>

2372. Finally, the Trial Chamber notes that TF1-367 testified that when he arrived at Crab Hole training camp, in 1990, months before the invasion of Sierra Leone, Sankoh told him that he would enter Sierra Leone from two fronts "one in the Kailahun District and, two, in Pujehun District".<sup>5140</sup> Thus, according to TF1-367, whom the Trial Chamber has found to be

<sup>5135</sup> DCT-292, Transcript 1 June 2010, pp. 41718-41721.

<sup>5136</sup> Yanks Smythe, Transcript 25 February 2010, pp. 36100-36119.

<sup>5137</sup> Yanks Smythe, Transcript 2 March 2010, pp. 36506-36510.

<sup>5138</sup> DCT-025, Transcript 17 March 2010, pp. 37388-37390 (PS), 37443-37445.

<sup>5139</sup> The Trial Chamber further notes that Witness TF1-371 described DCT-025 as a NPFL fighter while DCT-025 testified that he was a RUF recruit. TF1-371's ignorance about DCT-025 belonging to the RUF raises further doubt with respect to his account of the night he spent at DCT-025's house.

<sup>5140</sup> TF1-367, Transcript 20 August 2008, pp. 14098-14099.

generally credible,<sup>5141</sup> Sankoh had already designed the plan for invading Sierra Leone on two fronts, long before the alleged meeting in Voinjama.

2373. In light of the inconsistencies noted above, even among Prosecution witnesses, the Trial Chamber is unable to accept TF1-371's testimony without doubt. There is no evidence other than the testimony of TF1-371 that the Accused participated in a meeting in March 1991 in Voinjama with Foday Sankoh and Dr Manneh that planned and organised the invasion of Sierra-Leone.

(b) Invasion of Sierra Leone on 23 March 1991

2374. The Prosecution alleges that NPFL commanders and fighters sent by the Accused and obeying his orders, were in command of all the operations during the invasion into Sierra Leone in March 1991 until they were withdrawn in about June 1992.<sup>5142</sup>

2375. While the Defence concedes that the invasion force included NPFL troops and that the majority of RUF recruits were Liberians,<sup>5143</sup> the Accused testified that he did not know that NPFL soldiers participated in the invasion of Sierra Leone. He stated that he was shocked, as anyone, to hear that there was an attack on Sierra Leone.<sup>5144</sup> The Accused added that he discovered Mekunagbe and Varney's involvement during investigations on Varney and Mekunagbe from his first conversation with Sankoh in June 1991.<sup>5145</sup> Following further investigations, Varney, Mekunagbe and One Man One were arrested for a plot against him around June 1992. Mekunagbe died in detention while Oliver Varney was convicted and executed.<sup>5146</sup>

2376. In the Trial Chamber's view, while this evidence suggests that NPFL Commanders Anthony Mekunagbe and Oliver Varney carried on certain activities without the Accused's

<sup>5141</sup> Credibility Assessment, TF1-367, Pre-Indictment period (1988-1996), para. 2446.

<sup>5142</sup> Prosecution Final Trial Brief paras 29-30, 78-84, 206.

<sup>5143</sup> Defence Final Trial Brief, paras 415-423, 774-778, 806-816, 1351-1353.

<sup>5144</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24747-24750, 24764-24769.

<sup>5145</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28936-28938; Transcript 25 November 2009, pp. 32369-32370.

<sup>5146</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28936-28938, 28966; Transcript 16 September 2009, pp. 29129-29131; Transcript 4 November 2009, pp. 31103-31105; Transcript 2 December 2009, pp. 32961-32968; Transcript 3 December 2009, pp. 33005-33007; Edward Mineh, Transcript 29 April 2010, pp. 40348-40353, 40361-40363; Transcript 3 May 2010, pp. 40417-40419; Transcript 4 May 2010, pp. 40513-40516; See also Moses Blah, Transcript 19 May 2008, p. 10178.

knowledge and consent, it does not cast a doubt on the overwhelming evidence of the Accused's knowledge of and involvement in the invasion of Sierra Leone.

2377. At the outset, the Trial Chamber recalls that it has found that, prior to the invasion of Sierra Leone, Taylor made a public statement on the radio that "Sierra Leone would taste the bitterness of war".<sup>5147</sup>

2378. The evidence unequivocally establishes that NPFL soldiers constituted the large majority of the invasion force on Sierra Leone.<sup>5148</sup> The evidence also shows that the RUF troops who invaded Sierra Leone were composed of Liberians and Sierra Leoneans trained

<sup>5147</sup> See *supra* para. 2335.

<sup>5148</sup> Stephen Ellis, Transcript 17 January 2008, p. 1493; Transcript 18 January 2008, p. 1553 (according to the report of the Sierra Leoneans TRC, the war in Sierra Leone was largely as a result of the NPFL forces. Also, according to the TRC report, in the first three years of the conflict activities were described to the outside world as RUF activities when in fact to a substantial extent they were the activities of Liberian fighters of the NPFL operating inside Sierra Leone in alliance with a small number of RUF fighters); TF1-371, Transcript 25 January 2008, pp. 2219-2221 (CS) (thousands of NPFL fighters were involved in the attacks in Sierra Leone on 23 March 1991), p. 2224 (CS) (NPFL soldiers Joe Tuah, Duopo Menkerzon and Joseph Brown participated in the Kailahun attack in March 1991), p. 2225 (CS) (Nathaniel was a NPFL fighter who also participated in the invasion of Sierra Leone in Pujehun district), p. 2227 (CS) (TF1-371 fought in Pujehun district under the direct command of One Man One, the deputy commander to Oliver Varney); Isaac Mongor, Transcript 10 March 2008, p. 5676 (The witness participated to the invasion of Sierra Leone. He testified that NPFL generals and NPFL fighters participated in the invasion of Sierra Leone); TF1-367, Transcript 20 August 2008, pp. 14099-14100 (The witness stated that he was at the base when the NPFL first launched the attack on Koindu, Sierra Leone.); TF1-168, Transcript, 21 January 2009, p. 23180 (CS) (The witness stated that it was a group largely of NPFL fighters who attacked Pujehun districts.); Transcript 21 January 2009, pp. 23170 (CS) (TF1-168 was in RUF junior commandos who entered into Sierra Leone on the Pujehun side; they reported to a NPFL Commander named One Man One who was under the Command of Oliver Varney, Commander of the NPFL 6<sup>th</sup> Battalion); Joseph Marzah, Transcript 12 March 2008, pp. 5865-5867 (The witness testified that he led NPFL forces to attack Sierra Leone.); DCT-292, Transcript 1 June 2010, pp. 41732, 41735 (The witness testified that there were Liberian nationals at the Koindu attack and himself was part of NPFL.); TF1-338, Transcript 1 September 2008, p. 15109 (During the invasion of Sierra Leone the overall commander was Dopoe Menkarzon. He had had various NPFL commanders including Sam Tuah, James Caway and Christopher Varmoh and Mon Ami from Gambia.); TF1-567, Transcript 2 July 2008, p. 12826; (The witness testified the names of commanders and soldiers in the NPFL group inter alia Dopoe Menkarzon, Francis Mewon, Jah Glory and One Man One); TF1-567, Transcript 2 July 2008, pp. 12829-12830 (General Samuel Tuah controlled the movement at that time and he was an NPFL. NPFL commanders were in command of the front at this time. There were many NPFL soldiers in Sierra Leone at that time. There were many Sierra Leonean RUF in the attack); Mustapha Mansaray, Transcript 4 March 2008, p. 5258 (General One Man One was an NPFL fighter, but when the RUF entered into Sierra Leone in 1991 he was the overall commander for the RUF movement in the Pujehun District); Moses Blah, Transcript 14 May 2008, p. 9859 ("At the initial stage there was a small group of Liberian soldiers moving. They were a little bit more than the RUF"); Alice Pyne, Transcript 17 June 2008, pp. 12048-12055 (Alice Pyne testified that she was abducted together with 100 able bodied civilians (boys, girls, women and men) by NPFL Liberian fighters. The NPFL fighters dressed in civilian clothes who searched for arms and ammunition from civilian houses, looted civilian money and forced the abducted civilians to train in a training camp were commanded by a NPFL soldier named CO Dugba and his deputy Pele Boy); Foday Lansana, Transcript 20 February 2008, pp. 4341-4343 (There were two groups who invaded Sierra Leone. One was headed by Mohamed Tarawalli of the RUF, Revolutionary United Front of Sierra Leone, and the other group, the National Patriotic Front of Liberia, was headed by Sam Tuah. They were fighting side by side); Charles Ghankay Taylor, Transcript 15 September 2009, p. 28936-28938 (During the investigation on NPFL Commanders Oliver Varney and Anthony Mekunagbe, at the end of 1991, Taylor discovered that they participated in the invasion of Sierra



in Camp Naama, Liberia, before the invasion.<sup>5149</sup> The Trial Chamber recalls its findings that the Accused provided the RUF with the training camp of Crab Hole, instructors, recruits and material support, including food and other supplies.<sup>5150</sup>

2379. The NPFL/RUF troops invading Sierra Leone were led by NPFL Commanders including Sam Tuah,<sup>5151</sup> Anthony Mekunagbe,<sup>5152</sup> Oliver Varney,<sup>5153</sup> One Man One,<sup>5154</sup> and

Leone).

<sup>5149</sup> TF1-371, Transcript 25 January 2008, pp. 2219-2221, 2235 (CS) (The RUF fighters were novice and new recruits from the Camp Naama training base involved in the attack on 23<sup>rd</sup> March 1991 in Sierra Leone); DCT-292, Transcript, 1 June 2010, pp. 41732, 41735; (DCT-292 was part of the attack on Koidu town with other RUF fighters who were trained at Camp Naama); Isaac Mongor, Transcript 10 March 2008, pp. 5674-5676 (Mongor was part of RUF newly trained recruits fighters who participated the Sierra Leone attack); TF1-567, Transcript, 2 July 2008, p. 12826 (Junior RUF recruits like Philip Palmer, Sam Bockarie trained in Camp Naama participated in the attack of Sierra Leone); DCT-146, Transcript 1 April 2010, pp. 38602-38604 (The RUF members who invaded Sierra Leone were Sierra Leoneans and Liberians who had fought under Taylor's command in Liberia and were trained in RUF training camp at Camp Naama).

<sup>5150</sup> Pre-Indictment Period (1988-1996): Camp Naama.

<sup>5151</sup> TF1-371, Transcript 25 January 2008 p. 2220 (CS) (The Strike Force Unit, composed of 90 men, was involved in the invasion of Sierra Leone and Sam Tuah was their leader), p. 2222 (CS) (Sam Tuah was in command of the attack on Bomaru); TF1-567, Transcript 2 July 2008, pp. 12829-12830 (General Samuel Tuah controlled the movement at that time and he was an NPFL.); Foday Lansana, Transcript 20 February 2008, pp. 4341-4343 (There were two groups who invaded Sierra Leone. One was headed by Mohamed Tarawalli of the RUF, Revolutionary United Front of Sierra Leone, and the other group, the National Patriotic Front of Liberia, was headed by Sam Tuah. They were fighting side by side); TF1-338, Transcript 1 September 2008, p. 15109 (During the invasion of Sierra Leone the overall commander was Dopoe Menkarzon. He had had various NPFL commanders including Sam Tuah, James Caway and Christopher Varmoh.); Charles Ghankay Taylor, 16 September 2009, p. 29061 (Charles Timba was one of the NPFL commanders that worked along with Sam Tuah in Sierra Leone). See also Exhibit P-054, "NPFL command structure circa 1990-1991 as indicated by TF1-371" (describing that Sam Tuah as Commander of the Strike Force Unit under the direct command of Michael Peager and eventually Charles Taylor); Exhibit P-055, "NPFL command structure after the invasion of Sierra Leone on March 1991, as indicated by TF1-371" (indicating that Sam Tuah was commander of the strike force under the direct command of Sam Larto and eventually Charles Taylor); TF1-567, Transcript 2 July 2008, pp. 12826-12827 (TF1-567 testified that while he was training at the Pendembu training base from May 1991 to 1992, he saw Foday Sankoh and the Liberian Special Forces Francis Mewon and Dopoe Menkarzon who came to replace NPFL commander Samuel Tuah).

<sup>5152</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28936-28938 (during the investigation on NPFL Commanders Oliver Varney and Anthony Mekunagbe, at the end of 1991, Taylor discovered that they participated in the invasion of Sierra Leone); See also TF1-371, Transcript 25 January 2008, p. 2220 (CS) (The 2nd and 6th Battalions participated in the invasion of Sierra Leone); Exhibit P-054, "NPFL command structure in 1990-1991 as indicated by TF1-371" (describing Anthony Mekanagbe as 2nd Battalion Commander (based in Voinjama) under the direct command of Sam Larto and eventually Charles Taylor); TF1-338, Transcript 1 September 2008, pp. 15106-15107 (In 1992, Anthony Mekanagbe, Charles Timber, Oliver Varney, Dopoe, Menkarzon, Francis Mewon used to visit Foday Sankoh in Kailahun).

<sup>5153</sup> TF1-371, Transcript 25 January 2008, p. 2222 (CS) (Oliver Varney was in charge of the operation on Pujehun District; he was reporting to Sam Larto and then the report filter on to Charles Taylor who was by that time residing in Gbange); TF1-168, Transcript 21 January 2009, p. 23170 (CS) (TF1-168 was in RUF junior commandos who entered into Sierra Leone on the Pujehun side; They reported to a NPFL Commander named One Man One who was under the Command of Oliver Varney, Commander of the NPFL 6<sup>th</sup> Battalion); Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28936-28938 (during the investigation on NPFL Commanders Oliver Varney and Anthony Mekanagbe, at the end of 1991, Taylor discovered that they participated in the invasion of Sierra Leone). See also TF1-371, Transcript 25 January 2008 p. 2220 (CS) (The 2nd and 6th Battalions participated in the invasion of Sierra Leone); DCT-228, Transcript 19 May 2010, p. 41184 (Oliver Varney was the commander of the 6<sup>th</sup> Battalion, NPFL); Exhibit P-054, "NPFL command

Charles Timber.<sup>5155</sup> The chart drawn by TF1-371, admitted as Exhibit P-055, indicates an integrated command structure, although the Trial Chamber notes that in this chart, while RUF commanders are shown to be reporting to NPFL commanders for the purpose of military command, Foday Sankoh, the leader of the RUF, has no reporting line to the Accused.<sup>5156</sup> Given this level of involvement and this command structure, in the Trial Chamber's view, it is impossible that such an important event, an attack involving two major battalions of the Accused's army, against a neighbouring country, could have happened without the knowledge and consent of the Accused.

2380. In making this finding, the Trial Chamber recalls the testimony of the Accused that he was informed immediately of this invasion by his Information Officer in Harbel and by

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structure in 1990-1991 as indicated by TF1-371" (describing Oliver Varney as commander of the NPFL 6th Battalion based in Bomi Hills under the direct command of Sam Larto and eventually Charles Taylor); Exhibit P-055, "NPFL command structure after the invasion of Sierra Leone on March 1991, as indicated by TF1-371" (indicating that Oliver Varney was commander of the NPFL 6th Battalion under the direct command of Sam Larto and eventually Charles Taylor); TF1-338, Transcript 1 September 2008, pp. 15106-15107 (In 1992, Anthony Mekunagbe, Charles Timber, Oliver Varney, Dopoe, Menkarzon, Francis Mewon used to visit Foday Sankoh in Kailahun).

<sup>5154</sup> TF1-371, Transcript 25 January 2008, p. 2222 (CS) (Oliver Varney, together with his Deputy Charles Timber, were in charge of the operation on Pujehun District; One Man One was their ground commander on the field during the attack); TF1-168, Transcript 21 January 2009, p. 23170 (CS) (TF1-168 was an RUF junior commandos who entered into Sierra Leone on the Pujehun side; They reported to a NPFL Commander named One Man One who was under the Command of Oliver Varney, Commander of the NPFL 6<sup>th</sup> Battalion); See also TF1-371, Transcript 25 January 2008, p. 2220 (CS) (The 2nd and 6th Battalions participated in the invasion of Sierra Leone ); Exhibit P-054, "NPFL command structure in 1990-1991 as indicated by TF1-371" (describing One Man One as Deputy Commander of Oliver Varney in the 6th Battalion based in Bomi Hills). In Exhibit P-054 Witness TF1-371 described Charles Timber, Rashid Mansaray, Mike Lamin, Nataniel, Sam Bockarie, Philip Palmer and Lion as members of the 6th Battalion under the direct command of One Man One; Exhibit P-055, "NPFL command structure after the invasion of Sierra Leone on March 1991 as indicated by TF1-371" (describing One Man One as Deputy Commander of Oliver Varney within the NPFL 6th Battalion based in Bomi Hills). In Exhibit P-055 TF1-371 also described Mike Lamin as RUF 1st Battalion Commander under the direct command of Rashid Mansary, Deputy Leader of One Man One; TF1-567, Transcript 2 July 2008, p. 12851 (In 1992, One Man One introduced himself as the commander of Tubmanburg); Mustapha Mansaray, Transcript 4 March 2008, p. 5258 (General One Man One was an NPFL fighter, but when the RUF entered into Sierra Leone in 1991 he was the overall commander for the RUF movement in the Pujehun District); Dauda Aruna Fornie, Transcript 1 December 2008, p. 21307 (One Man One was the battalion commander for the 6th Battalion of the NPFL in 1992); Augustine Mallah, Transcript 12 November 2008, p. 20074 (The commander in Pujehun was One Man One also known as Scorpion).

<sup>5155</sup> TF1-371, Transcript 25 January 2008, p. 2222 (CS) (Oliver Varney, together with his Deputy Charles Timber, were in charge of the operation on Pujehun District; They were reporting to Sam Larto and "then the report filter on to Charles Taylor who was by that time residing in Gbang"); Charles Ghankay Taylor, 16 September 2009, p. 29061 (Charles Timba was one of the NPFL commanders that worked along with Sam Tuah in Sierra Leone); TF1-567, Transcript 2 July 2008, p. 12820 (Charles Timber was the training commandant of Pendembu vocational secondary school compound, a training base in Kailahun district); TF1-371, 25 January 2008 p. 2220 (CS) (The 2nd and 6th Battalions participated in the invasion of Sierra Leone ); Exhibit P-054, "NPFL command structure in 1990-1991 as indicated by TF1-371" (describing Charles Timber as a member of the 6th Battalion under the direct command of One Man One).

<sup>5156</sup> Exhibit P-055, "RUF Command Structure After the Invasion of Sierra Leone Circa March, June 1991", ERN 100161.





the radio programme Focus on Africa on the BBC. The Accused further stated that he was also immediately informed by President Momoh that NPFL soldiers participated in the invasion.<sup>5157</sup> However, when he learned of the involvement of NPFL soldiers in the invasion of Sierra Leone, the Accused did not immediately react. To the contrary, it is undisputed that around June 1991 following a meeting with the RUF leader Foday Sankoh, the Accused provided NPFL fighters and commanders for reinforcement in Sierra Leone.<sup>5158</sup> These NPFL commanders included Generals Francis Mewon<sup>5159</sup> and Dopoe Menkarzon.<sup>5160</sup> The evidence clearly demonstrates that after June 1991, the Accused provided weapons and ammunitions to his troops and RUF troops in Sierra Leone.<sup>5161</sup> The Accused also provided NPFL radios

<sup>5157</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24764-24769.

<sup>5158</sup> Charles Ghankay Taylor, Transcript 25 November 2009, p. 32367 (in May/June 1991, Taylor contacted the leader of RUF to get the RUF to cooperate with the NPFL in terms of security of the border because NPFL and RUF had a common enemy); Foday Lansana, Transcript 20 February 2008, pp. 4350, 4354-4355 (While he was in Foya, Lansana saw at least every day or after one or two days a group of people on board a truck with arms and ammunition would come from Voinjama into Foya en route to Sierra Leone); Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21321-21325 (While he was in Bomi Hills, Fornie saw NPFL reinforcement coming from Liberia going to the front in Sierra Leone).

<sup>5159</sup> TF1-168, Transcript 21 January 2009, pp. 23200-23202 (CS) (describing General Dopoe Menkarzon and General Francis Menwon as NPFL Special Forces in charge of Kailahun district around May 1991); Foday Lansana, Transcript 20 February 2008, pp. 4370-4373 (describing NPFL commanders, like Anthony Menquenagbeh, Francis Mewon or Duopo Merkazon as fully in control of supplies and monitoring and dispatching of everything that went on in Sierra-Leone in 1992); TF1-567, Transcript 2 July 2008, pp. 12826-12827 (TF1-567 testified that while he was training at the Pendembu training base from May 1991 to 1992, he saw Foday Sankoh and the Liberian Special Forces Francis Mewon and Dopoe Menkarzon who came to replace NPFL commander Samuel Tuah); See also TF1-371, Transcript 25 January 2008 p. 2220 (CS) (The 2nd and 6th Battalions participated in the invasion of Sierra Leone ); Exhibit P-054, "NPFL command structure in 1990-1991 as indicated by TF1-371" (describing Francis Mewon as Deputy Commander of the 1st Battalion Commander); TF1-338, Transcript 1 September 2008, pp. 15106-15107 (In 1992, Anthony Mekunagbe, Charles Timber, Oliver Varney, Dopoe, Menkarzon, Francis Mewon used to visit Foday Sankoh in Kailahun).

<sup>5160</sup> Charles Ghankay Taylor, Transcript 15 September 2009, p. 28936 (Dopoe Menkarzon was not involved in the initial invasion of Sierra Leone; he became involved after Taylor's meeting with Sankoh); TF1-168, Transcript 21 January 2009, pp. 23200-23202 (CS) (describing General Dopoe Menkarzon and General Francis Menwon as NPFL Special Forces in charge of Kailahun district around May 1991); Foday Lansana, Transcript 20 February 2008, pp. 4370-4373 (describing NPFL commanders, like Anthony Menquenagbeh, Francis Mewon or Duopo Merkazon as fully in control of supplies and monitoring and dispatching of everything that went on in Sierra-Leone in 1992); TF1-338, Transcript 1 September 2008, pp. 15106-15107 (In 1992, Anthony Mekunagbe, Charles Timber, Oliver Varney, Dopoe, Menkarzon, Francis Mewon used to visit Foday Sankoh in Kailahun); TF1-567, Transcript 2 July 2008, pp. 12826-12827 (TF1-567 testified that while he was training at the Pendembu training base from May 1991 to 1992, he saw Foday Sankoh and the Liberian Special Forces Francis Mewon and Dopoe Menkarzon who came to replace NPFL commander Samuel Tuah); Exhibit P-065, "Letter from Sankoh to Taylor dated 5 May 1992" (mentioning the name of General Dopoe); Moses Blah, Transcript 14 May 2008, pp. 9865-9866 (Dopoe Menkarzon came back from Sierra Leone to Liberia after the Operation Top Final. Menkarzon, got a job as head of security at the bureau of maritime affairs); But See in contrast TF1-371, Transcript 25 January 2008, p. 2224 (CS), (Dopoe Menkarzon, a NPFL special force commando, participated in the Kailahun attack in March 1991); Transcript 25 January 2008, p. 2220 (CS) (The 2nd and 6th Battalions participated in the invasion of Sierra Leone ); Exhibit P-054, "NPFL command structure in 1990-1991 as indicated by TF1-371" (describing Dopoe Menkarzon as a member of the 2nd Battalion (based in Voinjama) under the direct command of Anthony Menkunagbe, Commander of the 2nd Battalion).

<sup>5161</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24806-24808, 24809-24812 (Taylor provided manpower, arms and ammunition guest house for Foday Sankoh and radio room in Gbarnga. Taylor had little to

and radio operators to the RUF.<sup>5162</sup> The RUF leader, Foday Sankoh, was given a house in Gbarnga and basic facilities.<sup>5163</sup>

2381. Thus, when viewing the record as a whole, it can only be concluded that the Accused was involved in the invasion of Sierra Leone. Widespread belief in his involvement was acknowledged by the Accused himself as having been held by the international community and President Momoh at the time of the invasion.<sup>5164</sup>

2382. Turning to the motivations behind the NPFL and RUF cooperation in invading Sierra Leone, the Prosecution alleges that the invasion of Sierra Leone was the prelude to the achievement of the ultimate objectives of the common plan, design or purpose, namely to terrorize the civilian population in order to forcibly control the population and territory of Sierra Leone and to pillage its resources, in particular diamonds.<sup>5165</sup>

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share as he was fighting a war himself. However, he did, on occasion, share with him limited quantities of materiel); Transcript 20 July 2009, pp. 24825-24827 (Taylor provided minimal assistance to Sankoh from August 1991 through May 1992. He sent small amounts of AK ammunition from time to time. Perhaps three or five boxes. He also sent some RPG rockets. He did not send arms because Taylor needed those as he was still fighting); Exhibit P-065, "Letter from Foday Sankoh to Charles Taylor dated 2 May 1992" (thanking Taylor for the arms and ammunitions received but requesting more ammunition to continue the fight); Yanks Smythe, Transcript 22 February 2010, pp. 35674-35677 (Between 1991 and 1992, Sankoh visited Gbarnga and received small amounts of arms and ammunitions from the NPFL); TF1-567, Transcript 2 July 2008, pp. 12829, 12838-12845 (in 1991, Sankoh was going to see Charles Taylor, and he brought back arms and ammunition together with food), p. 12867 (in 1992, Taylor provided Sankoh with a good amount of arms and ammunitions including RPGs, RPG boxes, AK rounds, GPMG in exchange of diamonds); Foday Lansana, Transcript 20 February 2008, pp. 4350, 4354-4355 (while he was in Foya, Lansana saw at least every day or after one or two days a group of people on board a truck with arms and ammunition would come from Voinjama into Foya en route to Sierra Leone), pp. 4370- 4373 (describing NPFL commanders, like Anthony Menquenagbeh, Francis Mewon or Duopo Merkazon as fully in control of supplies and monitoring and dispatching of everything that went on in Sierra-Leone in 1992); Perry Kamara, Transcript 4 February 2008, p. 3045 (in 1992, the RUF was getting arms, ammunition, food and drugs from Taylor); Charles Ngebeh, Transcript 22 March 2010, p. 37772 (During the early stages of the RUF incursion into Sierra Leone, in 1991 the RUF received support from Mr Taylor in the form of food, medicine and a small amount of ammunition).

<sup>5162</sup> Operational Support: Communications, Radio Equipment and Training.

<sup>5163</sup> Charles Ghankay Taylor, Transcript 10 September 2009, p. 28597 (Taylor provided Sankoh with a house in Gbarnga from August/September 1991 until the end of his relationship with Sankoh in May of 1992); Charles Ghankay Taylor, Transcript 1 October 2009, pp. 30042-30043 (Taylor agreed that he provided Sankoh with a house in Gbarnga in 1991); Yanks Smythe, 22 February 2010, pp. 35674-35677 (Between 1991 and 1992, Sankoh visited Gbarnga and received small amounts of arms and ammunitions from the NPFL); TF1-338, Transcript 1 September 2008 p. 15107 (in 1992, Foday Sankoh did many trips to Gbarnga in Liberia, including two in company of TF1-338); Fayia Musa, Transcript 13 April 2010, pp. 38900-38901 (between April 1991 and February 1992 Foday Sankoh was almost always in Gbarnga); TF1-567, Transcript 2 July 2008, pp. 12838-12839 (the witness went together with Foday Sankoh to Gbarnga twice, one time in 1991, one time in 1992).

<sup>5164</sup> Charles Ghankay Taylor, Transcript 20 July 2009, p. 24769.

<sup>5165</sup> Prosecution Final Trial Brief para. 575.

2383. The Trial Chamber heard a considerable amount of evidence establishing that from 1991, NPFL soldiers in Sierra Leone committed crimes against Sierra Leonean civilians including looting, abduction, rape and killing.<sup>5166</sup>

2384. The Trial Chamber also heard evidence that, after the invasion, the NPFL opened training camps in which they trained abducted civilians including children. Specifically, TF1-567, TF1-516, Albert Saidu and Alice Pyne testified that after the invasion of Sierra Leone in March 1991, they were abducted by RUF and NPFL rebels invading Sierra Leone, and forced to undergo military training in NPFL/RUF training camps in Kailahun district.<sup>5167</sup> There, they found hundreds or thousands of other civilians abducted, including

<sup>5166</sup> TF1-371, Transcript 25 January 2008, pp. 2238-2239 (CS) (Sankoh told TF1-371 that he was going to Gbange to complain to Taylor about the behaviour of NPFL soldiers who were killing, harassing and looting civilians); Yanks Smythe, Transcript 22 February 2010, p. 35678 (Smythe heard that the reason of the departure of NPFL forces from Sierra Leone was that Sankoh complained to Taylor that some of the NPFL soldiers were misbehaving); Moses Blah, Transcript 14 May 2008, pp. 9860-9861 (Sankoh told Blah: "the boys from NPFL, whom the chief sent to help me, they got involved into a lot of atrocities, raping women, looting people's property and killing people, and these are the people I have gone to liberate and I am losing respect amongst my tribesmen. This was what I have come to consult with the chief on"); Alice Pyne, Transcript 17 June 2008, pp. 12048-12055 (Alice Pyne testified that she was abducted together with 100 able bodied civilians (boys, girls, women and men) by NPFL Liberian fighters. The NPFL fighters dressed in civilian clothes who searched for arms and ammunitions from civilian houses, looted civilian money and forced to train in a training camp commanded by a NPFL soldier named CO Dugba and his deputy Pele Boy); Corinne Dufka, Transcript 22 January 2008, p. 1938 (Dufka states that the disagreements between RUF and NPFL about the NPFL combatants involved in the perpetration of abuses in Sierra Leone, resulted in Operation Top 20, when the NPFL was expelled from Sierra Leone; Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24819-24820 (In about April 1992, Sankoh complained that Taylor's soldiers were murdering and raping); Fayia Musa, Transcript 13 April 2010, pp. 38897-38906 (Testified about Top 20 and Top 40 during which killings and rapes by NPFL soldiers took place as well as acts of cannibalism); Augustine Mallah, Transcript 12 November 2008, p. 20085 (Mallah testified about the NPFL crimes in Pujehun district: civilians were forcibly captured and trained, wives were abducted and raped, properties were looted); Foday Lansana, Transcript, 20 February 2008, pp. 4374-4378 (Charles Taylor said on a message broadcast on the radio that he had received uncountable complaints of infighting and poor treatment of civilians and so he was ordering the evacuation of NPFL troops back to Liberia within 10 days); DCT-292, Transcript 2 June 2010, pp. 41882-41893 (lot of complaints against NPFL soldiers harassing and killing civilians, and engaging in cannibalism, and rape. A Liberian named Bosco executed a woman in the witness's presence because he wanted her daughter); TF1-585, Transcript 5 September 2008, pp. 15579-15580 (PS) (TF1-585 testified that many people were killed, raped, and pregnant woman and children were mutilated in Sierra Leone in 1992); Martin George, Transcript 22 April 2010, pp. 39684-39687 (George's group arrived in Kailahun on 1 January 1993. He was told that NPFL troops had come to Kailahun and harassed people, raped them and forced them to do work. The NPFL had organized a group called Top 20, then Top 40, who started to kill civilians and take their properties); *See also* Exhibit P-277 (Confidential), pp. 18-20 (describing crimes committed by NPFL soldiers); Exhibit D-336 (Footpaths to Democracy, RUF, 1995) pp. 9707-9708 ("We do not deny that the fact that some of those who volunteered to join our cause were veterans of the Liberian civil war but majority were of Sierra Leonean parentage. However, this minor "alien" involvement in our just and human cause was curtailed as early as May 1992 when it became a nightmarish experience for our civilian population").

<sup>5167</sup> TF1-567, Transcript 2 July 2008, pp. 12818-12820 (TF1-567 was in Pendembu Town, Kailahun district in May 1991 when he saw rebels speaking Liberian English, shooting guns around town and capturing civilians. TF1-567 who was 16 years old at the time, was captured together with sixteen other people. Some of the captives were younger than the witness. They were then taken to Pendembu vocational secondary school compound to undergo training); TF1-516, Transcript 8 April 2008, pp. 6813-6815, 6876; Transcript 11 April 2008, pp. 7332-7333 (TF1-516 was 17 years old when he was abducted by a Liberian named Rambo in Kailahun town in March



children and women, who were divided into different groups by sex and age, including SBUs (Small Boys Units), SGUs (Small Girls Units) and WACs.<sup>5168</sup> Recruits were trained by Liberian NPFL trainers.<sup>5169</sup> Witness TF1-516 and Saidu testified that a recruit who tried to escape was killed as an example to others.<sup>5170</sup> The Trial Chamber recalls its previous findings that Pyne and Witnesses TF1-567 and TF1-516 are all generally credible<sup>5171</sup> and finds Albert Saidu likewise to be generally credible. Similarly, Mansaray, Mallah and Kamara, all generally credible witnesses,<sup>5172</sup> testified that they were captured by RUF and NPFL soldiers invading Sierra Leone around April 1991, and taken to Gissiwulo training base in Pujehun district, where they received, together with hundreds of other civilians, including children, military training by RUF and NPFL trainers.<sup>5173</sup> The evidence further

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1991. Two weeks later, the witness escaped back to his village in Kailahun but one month after that he was recaptured, again by Liberians); Albert Saidu, Transcript 3 June 2008, pp. 10865-10871 (Albert Saidu was captured with 100 other civilians including young children by RUF and Liberian rebels invading Sierra Leone in March 1991 and forced to follow military trainings at Pedembu in Kailahun district); Alice Pyne, Transcript 17 June 2008, pp. 12048-12049 (Pyne was abducted by NPFL fighters in March 1991 together with 100 other civilians including boys, girls and women. The NPFL fighters including one Sierra Leonean named Gibba, dressed in civilian clothes, searched for arms and ammunitions from civilian houses, looted civilian money).

<sup>5168</sup> TF1-567, Transcript 2 July 2008, pp. 12821-12826. (At the base, around 800 people, including children as young as 13 years old, both boys and girls, underwent military training); TF1-516, Transcript 8 April 2008, pp. 6815-6824, 6876 (TF1-516 testified that captive civilians arrived from other areas to a training base in Kailahun. There were approximately 5000 "recruits" including children divided by sex into Small Boys Units and Small Girls Units who were from 10 up to 20 years old); Albert Saidu, Transcript 3 June 2008, pp. 10871-10873 (abducted civilians who were divided into groups: SBUs aged 9-13 years and WACs girls aged 11-12 years who were forced to be bush wives to the senior commanders); Alice Pyne, Transcript 17 June 2008, pp. 12051-12055 (Alice Pyne was taken with 100 other civilians to Dia training base between Manosewallu and Koindu where they were militarily trained for 3 months. The training commanders, CO Dugba and NPFL fighter Pele Boy, divided about 300 civilians into groups: 80 SBUs and SGUs aged 8-13 years, female and male adults).

<sup>5169</sup> TF1-567, Transcript 2 July 2008, pp. 12825-12826 (TF1-567 named Matthew and Jah Glory, two at the camp. TF1-567 also mentioned Monica Pearson, a Liberian, as part of the group of commanders at the camp at the time); Albert Saidu, Transcript 3 June 2008, pp. 10871-10872, 10874-10875 (Saidu spent three months training in military tactics by NPFL Special forces instructors CO Big Darling, CO Nyamator, CO Rebel Baby. In addition, Special force members in charge of training, CO Sam Tuah, Dopoe, and General Mustapha visited the trainees at the base); Alice Pyne, Transcript 17 June 2008, pp. 12048-12055 (Pyne testified that she was abducted by NPFL soldiers and trained by them at Dia training camp. NPFL CO Dugba was commander and Pele Boy deputised him).

<sup>5170</sup> TF1-516, Transcript 8 April 2008, pp. 6820-6822 (a recruit who tried to escape from the training base was killed as an example to others); Albert Saidu, Transcript 3 June 2008, pp. 10881-10883 (During the training, the securities arrested two trainees who attempted to escape and beat them severely. In the presence of the witness and others, CO Sam Tuah shot them dead and later dumped them in a bush). See also TF1-567, Transcript, 2 July 2008, pp. 12821-12823 (Those who refused to train were punished, meaning that they would be beaten. Children as young as 12 were beaten for refusing to train, including both boys and girls).

<sup>5171</sup> Credibility Assessment, Alice Pyne, paras 304-307; Credibility Assessment, TF1-567, paras 313-317; Credibility Assessment, TF1-516, paras 275-284.

<sup>5172</sup> Credibility Assessment, Mustapha M. Mansaray, paras 254-262; Credibility Assessment, Perry Kamara, paras 227-236; Credibility Assessment, Augustine Mallah, Pre-Indictment period (1988-1996), para. 2522.

<sup>5173</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20062-20074 (Augustine Mallah was captured in 1991 at Soriegbema and taken to Gissiwulo, Pujehun District for training. There were more than 1000 people aged from 10 to 22 years that were being trained by NPFL training instructors at Gisiwulo); Mustapha M. Mansaray, Transcript 4 March 2008, pp. 5213, 5223 (Mustapha Mansaray was captured together with other civilians in

demonstrates that during two operations named Top 20<sup>5174</sup> and Top 40<sup>5175</sup>, NPFL soldiers

April 1991 in Pujehun district RUF and NPFL soldiers and taken to a training base at Gissiwulo where he stayed until June 1991. At the training base, more than 500 civilians aged between 14 and 45 years old received military training from Bockarie also called AB an NPFL fighter, CO, Yagbawolo an RUF vanguard and the commander Chico Mayar); Perry Kamara, Transcript 4 February 2008, pp. 3025-3026 (Perry Kamara was captured around April 1991 at Zimmi and together with other civilians, men and women, was taken to the first training base at Gissiwulo in Pujehun district, where he received guerrilla training by NPFL soldiers for two months).

<sup>5174</sup> Issa Sesay, Transcript 5 July 2010, p. 43649 (Top 20 took place in March/April 1992. Top 40 refers to the time in May 1992 when the NPFL fighters arrested Sesay and others and took them to Kuiva); Alice Pyne, Transcript 17 June 2008, p. 12059 (Alice Pyne understood Top 20 to be the result of one NPFL commander killing another RUF commander. Foday Sankoh passed a command for the NPFL commander to be executed, which resulted in infighting); TF1-168, Transcript 21 January 2009, pp. 23205-23208 (CS) (Top 20 were infightings between NPFL and RUF: during which NPFL fighters asserted themselves over the RUF Vanguard. NPFL fighters retaliated, killed, burned houses, etc. Civilians and Junior Commandos suffered the most during Operation Top 20); Fayia Musa, Transcript 13 April 2010, pp. 38897-38904 (Top 20 was a killing spree in February and March 1992 during which the Liberians killed anyone that was a Sierra Leonean. During Top 20, Isaac Mongor executed 30 civilians behind a house in the town of Sadiallum Luawa Chiefdom and earned the nickname Tombolo, meaning 'genocide' in Mende. During Top 20 Liberians would force elderly individuals to carry bags of coffee to Foya. If anyone resisted they would be killed. Many rapes took place during the Top 20 period, as well as act of cannibalism); TF1-516, Transcript 9 April 2008, p. 6992 (Sam Tuah was a NPFL general. He was based in Pendembu. He organised a mission code named Top 20 in which fighters went on a rampage of murder and rape); DCT-292, Transcript 2 June 2010, pp. 41888-41893 (The first operation, Top 20, took place between February and March 1992 and consisted of the arrest of RUF members by NPFL like Peter Vandi, Sesay, Morris Kallon. Witness DCT-292 was arrested in a second operation Top 40, which took place in May 1992. Sankoh unsuccessfully attempted to prevent Kawie arresting RUF members during Top 40); Mohamed Kabbah, Transcript 15 September 2008, pp. 16239-16243 (During the period of Top 20, RUF recruits who escaped to Guinea were mutilated and killed there); Martin George, Transcript 22 April 2010, pp. 39684-39687 (George's group arrived in Kailahun on 1 January 1993. He was told that NPFL troops had come to Kailahun and harassed people, raped them and forced them to do work. The NPFL had organized a group called Top 20, then Top 40, who started to kill civilians and take their properties); Exhibit P-277 (Confidential), pp. 21-22 (Part of the report describing Top 20). See also Foday Lansana, Transcript 20 February 2008, pp. 4370-4373 (Describing the struggle for power between NPFL and RUF commanders in 1992, that resulted in serious infighting between the NPFL fighting troops and the RUF vanguards in a series that was referred to as "Top 20", "Top 40" and "Top Final"); Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24819-24820 (In about April 1992, Sankoh complained that Taylor's soldiers were murdering and raping and were not respecting him as the leader. Taylor said he would send Francis Menwon to investigate but before he could, the RUF had taken matters into its own hands. By late April/May Foday Sankoh had lost control and there was major combat between the RUF forces and NPFL soldiers sent by Taylor. There were killings on both sides. Taylor ordered Menkarzon and all the NPFL in Sierra Leone to return); Augustine Mallah, Transcript 14 November 2008, pp. 20274-20276 (Mallah heard that Top 20 and Top 40 were fights among the NPFL Liberians and the Vanguard. Rashid Manasaray, deputy to Foday Sankoh and his junior commando bodyguards were killed during these operations which took place in 1992. Mallah also heard that in 1992, most of the NPFL Liberian fighters returned to Liberia).

<sup>5175</sup> Albert Saidu, Transcript 6 June 2008, pp. 11226-11227, 11237 (Albert Saidu describes Top 40 as a mission in which the NPFL killed civilians in the RUF territory); Issa Sesay, Transcript 5 July 2010, p. 43649 (Top 40 refers to the time in May 1992 when the NPFL fighters arrested Sesay and others and took them to Kuiva); TF1-168, Transcript 21 January 2009, pp. 23208-23211, 23214 (CS) (Operation Top 40 was similar to Top 20. NPFL soldiers arrested some Vanguard and took most to Kuiva and others to Camp Naama. At Kuiva, the Vanguard were mistreated, and some were killed); Fayia Musa, Transcript 13 April 2010, pp. 38904-38906 (Top 40 was the continuation of Top 20. It occurred in May 1992, followed the same pattern (murders of civilians, rapes, force labour) and lasted through the month of May); DCT-292, Transcript 2 June 2010, pp. 41888-41893 (DCT-292 was arrested in a second operation Top 40, which took place in May 1992. Sankoh unsuccessfully attempted to prevent Kawie arresting RUF members during Top 40); Martin George, Transcript 22 April 2010, pp. 39684-39687 (George's group arrived in Kailahun on 1 January 1993. He was told that NPFL troops had come to Kailahun and harassed people, raped them and forced them to do work. The NPFL had organized a group called Top 20, then Top 40, who started to kill civilians and take their properties); TF1-567, Transcript 7 July 2008, pp. 13082-13083: Top 20 and Top 40 were operations around 1991-1992 when NPFL soldiers led by Dpoe

led attacks against Sierra Leonean civilians as well as junior RUF commandos. Around April/May 1992 Sankoh met the Accused in Gbarnga, Liberia and complained that the Accused's men were murdering and raping civilians and not respecting Sankoh as the leader.<sup>5176</sup> In June 1992, RUF forces attacked NPFL soldiers in retaliation for their crimes in an operation called Top Final.<sup>5177</sup> Subsequently, the Accused ordered all the NPFL troops in Sierra Leone to withdraw.<sup>5178</sup>

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Menkarzon and James Karway, killed Sierra Leonean civilians and junior commandos); Exhibit P-277 (Confidential), pp. 21-22 (Part of the report describing the crimes committed by NPFL soldiers during the operation Top 40); See also Foday Lansana, Transcript 20 February 2008 pp. 4370-4373 (Describing the struggle for power between NPFL and RUF commanders in 1992, that resulted to serious infighting between the NPFL fighting troops and the RUF vanguards in a series that was referred to as "Top 20", "Top 40" and "Top Final"); Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29513-29515 (Firefights between NPFL and RUF around May 1992); Transcript 20 July 2009, pp. 24819-24820 (In about April 1992, Sankoh complained that Taylor's soldiers were murdering and raping and were not respecting him as the leader. Taylor said he would send Francis Menwon to investigate but before he could, the RUF had taken matters into its own hands. By late April/May Foday Sankoh had lost control and there was major combat between the RUF forces and NPFL soldiers sent by Taylor. There were killings on both sides. Taylor ordered Menkarzon and all the NPFL in Sierra Leone to return); Augustine Mallah, Transcript 14 November 2008, pp. 20274-20276 (Mallah heard that Top 20 and Top 40 were fights among the NPFL Liberians and the Vanguards. Rashid Manasaray, deputy to Foday Sankoh and his junior commando bodyguards were killed during these operations which took place in 1992. Mallah also heard that in 1992, most of the NPFL Liberian fighters returned to Liberia).

<sup>5176</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24819-24820 (In about April 1992, Sankoh complained that Taylor's soldiers were murdering and raping and were not respecting him as the leader. Taylor said he would send Francis Menwon to investigate but before he could, the RUF had taken matters into its own hands. By late April/May Foday Sankoh had lost control and there was major combat between the RUF forces and NPFL soldiers sent by Taylor. There were killings on both sides. Taylor ordered Menkarzon and all the NPFL in Sierra Leone to return); TF1-371, Transcript 25 January 2008, pp. 2238-2239 (CS) (Sankoh told TF1-371 that he was going to Gbange to complain to Taylor about the behaviour of NPFL soldiers who were killing, harassing and looting civilians); Yanks Smythe, Transcript 22 February 2010 p. 35678 (Smythe heard that the reason of the departure of NPFL forces from Sierra Leone was that Sankoh complained to Taylor that some of the NPFL soldiers were misbehaving); Moses Blah, Transcript 14 May 2008, pp. 9860-9861 (Sankoh told Blah: "the boys from NPFL, whom the chief sent to help me, they got involved into a lot of atrocities, raping women, looting people's property and killing people, and these are the people I have gone to liberate and I am losing respect amongst my tribesmen. This was what I have come to consult with the chief on"); TF1-168, Transcript 21 January 2009, pp. 23211-23213 (CS) (TF1-168 learnt through his wife that Sankoh complained to Taylor who recalled the Liberians fighting in Sierra Leone back to Liberia. This operation was called Top Final and took place in June 1992. Ruthless NPFL soldiers were asked to leave, and those who did not want to leave were chased out of Sierra Leone by RUF forces); Fayia Musa, Transcript 13 April 2010, pp. 38905-38912 (After Top 40 the civilians sent a message to Foday Sankoh in Gbarnga telling him that he would lose their support if the killings continued. Sankoh informed Charles Taylor of the killings. Charles Taylor instructed one of his commanders, Dopoe Menkarzon, to enter the RUF territory and instruct Liberians who did not belong to the RUF to return in Liberia. This forceful eviction of non-Sierra Leoneans was known as Operation Top Final and took place between June and July 1992. Dopoe Menkarzon conducted these arrests himself assisted later by the RUF); DCT-292, Transcript 2 June 2010, pp. 41882-41893 (A Liberian named Bosco executed a woman in the witness's presence because he wanted her daughter. Witness DCT-292 reported this crime to Sankoh and asked him to complain to the leader of these Liberians. Sankoh decided to go to Gbarnga, and when he came back Dopoe Menkarzon and James Kawie arrested all the RUF officers and took them to Gbarnga. The group that was arrested included Edward Fembeh, Daniel Kallon, Augustine Kargbo, Abraham Dugbeh, and Mon Ami).

<sup>5177</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24819-24820 (In about April 1992, Sankoh complained that Taylor's soldiers were murdering and raping and were not respecting him as the leader. Taylor said he would send Francis Menwon to investigate but before he could, the RUF had taken matters into its own hands. By late April/May Foday Sankoh had lost control and there was major combat between the RUF forces

and NPFL soldiers sent by Taylor. There were killings on both sides. Taylor ordered Menkarzon and all the NPFL in Sierra Leone to return); TF1-367, Transcript 29 August 2008, pp. 14945-14947 (PS) (Top Final was the operation to rid bad NPFL soldiers from Sierra Leone. Taylor ultimately withdrew his soldiers committing crimes); John Vincent, Transcript 26 March 2010, pp. 38078-38079 (John Vincent met Dopoe Menkarzon during Top Final, when Dopoe was sent to repatriate the NPFL soldiers who had misbehaved); Issa Sesay, Transcript 5 July 2010, p. 43649 (Top final took place in June 1992); Albert Saidu, Transcript 6 June 2008, pp. 11237 (Top Final was the removal of NPFL Special forces from Sierra Leone to Liberia); TF1-168, Transcript 21 January 2009, pp. 23211-23213 (CS) (TF1-168 learnt through his wife that Sankoh complained to Taylor who recalled the Liberians fighting in Sierra Leone back to Liberia. This operation was called Top Final and took place in June 1992. Ruthless NPFL soldiers were asked to leave, and those who did not want to leave were chased out of Sierra Leone by RUF forces); Fayia Musa, Transcript 13 April 2010, pp. 38905-38912 (After Top 40 the civilians sent a message to Foday Sankoh in Gbarnga telling him that he would lose their support if the killings continued. Sankoh informed Charles Taylor of the killings. Charles Taylor instructed one of his commanders, Dopoe Menkarzon, to enter the RUF territory and instruct Liberians who did not belong to the RUF to return in Liberia. This forceful eviction of non-Sierra Leoneans was known as Operation Top Final and took place between June and July 1992. Dopoe Menkarzon conducted these arrests himself assisted later by the RUF); Martin George, Transcript 22 April 2010, pp. 39684-39687 (George's group arrived in Kailahun on 1 January 1993. He was told that RUF commanders in Kailahun, CO Mohammed and Sam Bockarie organized an attack (called Top Final) to get rid of the NPFL troops and push them out of Sierra Leone. The witness was not in Kailahun during Top Final); TF1-567, Transcript 7 July 2008, pp. 13082-13083: Top Final was an operation during which, RUF junior commands and RUF vanguards drove away the NPFL soldiers who were killing the Sierra Leonean civilians and junior commandos. NPFL members who did not cause trouble stayed in the RUF. Top Final took place in 1992; Corinne Dufka, Transcript 22 January 2008, p. 1938 (Dufka states that the disagreements between RUF and NPFL about the NPFL combatants involved in the perpetration of abuses in Sierra Leone, resulted in operation Top 20 [sic], when the NPFL was expelled from Sierra Leone); See also Exhibit D-336, "Footpaths to Democracy, RUF, 1995", pp. 9707-9708 (We do not deny that the fact that some of those who volunteered to join our cause were veterans of the Liberian civil war but majority were of Sierra Leonean parentage. However, this minor "alien" involvement in our just and human cause was curtailed as early as May 1992 when it became a nightmarish experience for our civilian population); Moses Blah, Transcript 14 May 2008, p. 9865 (Christopher Varmoh and Dopoe Menkarzon told Moses Blah that they left Sierra Leone because there was a conflict between them and Foday Sankoh); Foday Lansana, Transcript 20 February 2008, pp. 4370-4373 (Describing the struggle for power between NPFL and RUF commanders in 1992, that resulted to serious infighting between the NPFL fighting troops and the RUF vanguards in a series that was referred to as Top 20, "Top 40" and "Top Final").

<sup>5178</sup> Prosecution Final Trial Brief, para. 1139; Defence Final Trial Brief, paras 429-430; Yanks Smythe, Transcript 22 February 2010, p. 35678 (All the NPFL soldiers fighting ULIMO in Sierra Leone were withdrawn); Foday Lansana, Transcript 20 February 2008, p. 4372 ("In May 1992 there was an instruction from Mr Charles Ghankay Taylor to Anthony Menquenagbeh that all the generals of the Special Forces, the battalion commanders, that they should evacuate all the NPFL fighting men from Sierra Leone back to Liberia"); Charles Ngebeh, Transcript 22 March 2010, pp. 37763-37765 (In August 1991, infightings between NPFL and RUF members; Taylor heard rumours that Liberians were being killed and sent General Dopoe Menkarzon to Quiva to investigate what was going on at the base. Subsequently, Taylor ordered the NPFL forces under his command to withdraw from the country within 72 hours, and to bring back all the arms that had been brought into Sierra Leone. Taylor ceased providing assistance to the RUF. From the year 1992 to 2001, the RUF engaged in a self-reliant struggle); Fayia Musa, Transcript 13 April 2010, pp. 38905-38912 (After Top 40 the civilians sent a message to Foday Sankoh in Gbarnga telling him that he would lose their support if the killings continued. Sankoh informed Charles Taylor of the killings. Charles Taylor instructed one of his commanders, Dopoe Menkarzon, to enter the RUF territory and instruct Liberians who did not belong to the RUF to return in Liberia. This forceful eviction of non-Sierra Leoneans was known as Operation Top Final and took place between June and July 1992. Dopoe Menkarzon conducted these arrests himself assisted later by the RUF); Isaac Mongor, Transcript 3 April 2008, pp. 6615-6618 (In 1992 there were a serious disagreement between the RUF and the NPFL over the behaviour of NPFL members in Sierra Leone. By the middle of 1992 Taylor ordered the withdrawal of all active NPFL personnel from Sierra Leone. A few NPFL members decided to stay in Sierra Leone and join the RUF. Two men of Mongor died in this battle between the RUF and NPFL); Foday Lansana, Transcript 20 February 2008, pp. 4374-4378, 4521 (Charles Taylor said on a message broadcast on the radio that he had received uncountable complaints of infighting and poor treatment of civilians and so he was ordering the evacuation of NPFL troops back to Liberia within 10 days. This directive was written in the log book and copies were made for the various commanders who were going to Pendembu, Kailahun, Quiva and wherever NPFL

2385. In the Trial Chamber's view, while it is established that NPFL soldiers committed atrocities in Sierra Leone after the invasion, the evidence fails to establish that these crimes were committed pursuant to an agreement between Taylor and Sankoh. To the contrary, the evidence regarding Sankoh's meeting with Taylor in May 1992, during which Sankoh expressed his concerns regarding crimes committed by the NPFL contradicts the Prosecution's allegation that Taylor and Sankoh had a common purpose to terrorize the civilian population in order to forcibly control the population and territory of Sierra Leone and to pillage its diamonds. If Sankoh and Taylor had agreed to terrorize the civilian population, Sankoh would not have been surprised by the atrocities committed by NPFL troops, let alone complained to Taylor about them.

2386. The Trial Chamber also recalls the evidence that initially, the ideology of the RUF was not to terrorise civilians and that, while in Camp Naama, the RUF recruits received training including basic Geneva Convention regulations on the treatment of civilians.<sup>5179</sup> Moreover, then Trial Chamber accepts the evidence of Prosecution Witness TF1-579, who testified that prior to the invasion of Sierra Leone, he heard Sankoh telling Oliver Varney that he did not want any looting during the invasion or any civilian to be harassed.<sup>5180</sup>

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troops were based in Sierra Leone. Lansana was part of the group that went to Vahun on the basis of that instruction).

<sup>5179</sup> TF1-371, Transcript 24 January 2008, pp. 2203-2204 (CS) (Sankoh asked Mike Lamin to teach ideology and provided him with brochures on basic Geneva Convention regulations on how to treat civilians and respect them during the conflict); TF1-168, Transcript 21 January 2009, p. 23181-23182 (CS) (During the invasion of Sierra Leone civilians were "not treated fine. They were not treated nicely, as opposed to our basic ideology that we were taught at the base. In fact, it was surprising to me to see things happening that way"); TF1-168, Transcript 23 January 2009, pp. 23395-23396 (CS) (TF1-168 received instruction to give good treatment to civilians in order to make them support the revolution); George, Transcript 21 April 2010, p. 39612-39614 (George testified that Mike Lamin, a Sierra Leonean instructor, taught all the recruits how to take care of civilians during missions). Vincent, Transcript 25 March 2010, pp. 37998-37999 (the ideology class taught the trainees to take good care of civilians and to attack only military installations); DCT-292, Transcript 1 June 2010, pp. 41708-41709, 41714 (The ideology training in Camp Naama included: ensuring that a person who surrenders is unharmed and handed them over to the nearest senior officer for screening; a prohibition against raping; the correct treatment of captured civilians - soldiers needed to gather the civilians in one place and guard them. Another element of the ideology was that whenever a town is captured, any material captured, including arms, ammunition, clothing, and food had to be kept under the supervision of the commander. These materials then had to be shared among the civilians and the fighters); Sam Kolley, Transcript 1 November 2010, pp. 48374 (Ideology training included advice on how to treat civilians and prisoners but not on how to terrorize them. According to Kolley, terrorism was not the ideology of the RUF); DCT-025, Transcript 12 March 2010, pp. 37248-37250 (ideological training included care of civilians, women and children); See also TF1-371, Transcript 30 January 2008, pp. 2633-2634 (CS) (TF1-371 never heard any direct order to indiscriminately kill civilians, or a direct order to amputate or mutilate civilians. It was not the policy at the formation of the RUF in 1991 to terrorise civilians); But see in contrast Issa Sesay, Transcript 5 July 2010, p. 43601 (Sesay testified that while at Camp Naama, Sankoh criticized Isaac Mongor for teaching the trainees that once they captured a town they should divide the civilians into two groups and kill one of them in order to obtain the loyalty of the other group).

<sup>5180</sup> TF1-579, Transcript 5 November 2008, pp. 19794-19795.

2387. The Accused testified that he supported the RUF in order to fight ULIMO and the Sierra Leonean Government in Sierra Leone without having to fight ULIMO and the Sierra Leonean army in Liberia.<sup>5181</sup> The Defence suggests that this could be seen as a strategic expansion creating a frontier buffer zone behind which the revolution in Liberia could be adequately protected.<sup>5182</sup> Indeed, significant evidence was adduced showing that the Accused's main objective was to fight the Liberian insurgency group formed in Sierra Leone,<sup>5183</sup> along with the Sierra Leonean Government allegedly supporting them.<sup>5184</sup> This common objective is not criminal per se.

<sup>5181</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28692-28693; Transcript 15 September 2009, pp. 28939-28940.

<sup>5182</sup> Defence Final Trial Brief, para. 428.

<sup>5183</sup> Exhibit P-277 (Confidential), p. 18 ("Despite President Taylor's total involvement in the Sierra Leone crisis, he had no territorial ambition in Sierra Leone. His main interest was material wealth and to use the Sierra Leone borders as buffer zones to forestall the efforts of dissident Liberians United Defence Force, LUDF, which later was transformed into United Liberian Movement for Democracy in Liberia, ULIMO"); Mohamed Kabbah, Transcript 16 September 2008, pp. 16324-16325 (Mohamed Kabbah heard that NPFL assisted the RUF in order to push back the Sierra Leonean Government inland and that they would leave Sierra Leone afterward); Augustine Mallah, Transcript 12 November 2008, p. 20080 (ULIMO and Sierra Leonean were the enemies of the RUF / NPFL); See also DCT-228, Transcript 19 May 2010 p. 41250 (ULIMO was formed in Sierra Leone and attacked the NPFL from Sierra Leone); Mohamed Kabbah, Transcript 16 September 2008, pp. 16321-16325 (ULIMO was looking in Sierra Leone for Liberians and Sierra Leoneans of Mandingo ethnicity in order to fight NPFL); Moses Blah, Transcript 19 May 2008, p. 10193 (ULIMO forces were mostly made up of former Doe's supporters and ex-Liberian army soldiers); Dauda Aruna Fornie, 1 December 2008 p. 21334 ("A group emerged in 1991 from the Sierra Leone area which was fighting against Mr Taylor [...] called ULIMO"); Hassan Bility, 13 January 2009, p. 22468 ("ULIMO was composed of displaced Liberians, many of whom were former Doe supporters, former Liberian soldiers"); Charles Ghankay Taylor, Transcript 22 September 2009, p. 29317 (ULIMO was a group formed in Guinea and Sierra Leone composed primarily of former AFL soldiers under Doe's regime); Charles Ghankay Taylor, Transcript 14 January 2010, pp. 33276-33277 (reading page 125 of the Liberian TRC final report volume 2: "A Mandingo faction Movement For the Redemption of Muslims -MRM- founded by Alhaji Kromah and a Krahn faction Liberia United Defence Force -LUDF- organised by a US-trained Special Forces officer who was also once Doe's Minister of Defence and ambassador to Sierra Leone, Albert Karpeh, together merged into the United Liberation Movement For Democracy - ULIMO - on May 29, 1991"); John Vincent, Transcript 25 March 2010, pp. 38033-38034 ("ULIMO forces were formed in Sierra Leone, but they were Liberians who were coming back to fight against the NPFL"); DCT-228, Transcript 19 May 2010 p. 41236 ("ULIMO is an armed group that attacked the NPFL fighting to dethrone Mr Taylor"); Exhibit P-031, "Report for the Special Court for Sierra Leone, Charles Taylor and the War in Sierra Leone, Stephen Ellis, 5 December 2006", p. 7; Exhibit D-026, "Submissions to the Sierra Leone Truth and Reconciliation Commission, Appendix 2, Statement by His Excellency the President Alhaji Dr Ahmad Tejan Kabbah, 4 August 2003".

<sup>5184</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 965-966; Transcript 11 January 2008, pp. 1028-1029 (Sherif was a former senior member of ULIMO; He testified that ULIMO received assistance from Sierra Leone and Guinea); Corrine Dufka, 22 January 2008, p. 1905 ("Sierra Leone government used Liberian ULIMO rebels to fight the Sierra Leone government's battle with the RUF. In exchange for its assistance ULIMO used Sierra Leone as a back base for its war against the NPFL and on several occasions were joined by Sierra Leone Army soldiers (SLA) who accompanied them on military operations into Liberia"); Moses Blah, Transcript 19 May 2008, p. 10192 (Sierra Leone Government supported ULIMO); Augustine Mallah, Transcript 12 November 2008, p. 20080 (ULIMO and Sierra Leonean were the enemies of the RUF/NPFL); Dauda Aruna Fornie, 1 December 2008 p. 21334, 8 December 2008, p. 21989 ("ULIMO was fighting alongside with Sierra Leonean Government"); TF1-174, Transcript 28 January 2009 p. 23811 (ULIMO operated from Sierra Leone); Charles Ghankay Taylor, Transcript 25 November 2009 p. 32367 (Taylor received information that ULIMO fighters

2388. In light of the foregoing, the Trial Chamber finds that crimes were committed by NPFL soldiers during and after the invasion of Sierra Leone in 1991. However, in the Trial Chamber's view, the evidence is insufficient for a finding that the Accused's support for the invasion of Sierra Leone was undertaken pursuant to a common purpose to terrorize the civilian population.

### Findings

2389. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that in Voinjama in March 1991, the Accused, Foday Sankoh and Dr Manneh together with NPFL and RUF commanders held a meeting during which they planned and organised the invasion of Sierra Leone in accordance with the strategy hatched in Libya and Burkina Faso.

2390. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused supported the invasion of Sierra Leone.

2391. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that after the invasion, NPFL troops committed crimes against Sierra Leonean civilians.

2392. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the support of the Accused for the invasion of Sierra Leone was undertaken pursuant to a common purpose to terrorize the civilian population of Sierra Leone.

### 5. Attack on Kono (November 1992 to January 1993)

#### Submissions of the Parties

were armed by the Sierra Leonean government); John Vincent, Transcript 25 March 2010, pp. 38033-38034 ("ULIMO forces were formed in Sierra Leone, but they were Liberians who were coming back to fight against the NPFL"); Martin George, Transcript 22 April 2010, pp. 39670-39671 (ULIMO joined the government troops of Momoh who gave them ammunition); DCT-228, Transcript 19 May 2010, p. 41250 (ULIMO was formed in Sierra Leone and attacked the NPFL from Sierra Leone); DCT-190, Transcript 25 June 2010, p. 43467 (DCT-190 testified that he was fighting against the RUF on behalf of ULIMO with the Sierra Leone government); Mohamed Kabbah, Transcript 16 September 2008, p. 16324-16325 (Mohamed Kabbah heard that NPFL assisted the RUF in order to push back the Sierra Leonean Government inland and that they would leave Sierra Leone afterward); Dauda Aruna Fornie, 8 December 2008, p. 21989 ("ULIMO alongside with the Sierra Leonean Government was fighting against the RUF and the NPFL"); Charles Ghankay Taylor, Transcript 25 November 2009, p. 32367 (the purpose was to fight also Sierra Leonean Government which was supported ULIMO fighters); Exhibit P-031, "Report for the Special Court for Sierra Leone, Charles Taylor and the War in Sierra Leone, Stephen Ellis, 5 December 2006", p. 7; Exhibit D-026, "Submissions to the Sierra Leone Truth and Reconciliation Commission"; Appendix 2, Statement by His Excellency the President Alhaji Dr Ahmad Tejan Kabbah, 4 August 2003.

2393. The Prosecution alleges that from the very inception of the conflict in Sierra Leone, diamonds were looted from Sierra Leonean civilian and commercial companies in Pujehun and Kailahun Districts and taken to the Accused. Foday Sankoh travelled from Sierra Leone to Gbarnga taking looted diamonds to the Accused and the Accused rewarded Sankoh with arms, ammunition and other supplies which Sankoh took back to Sierra Leone.<sup>5185</sup> The Prosecution further submits that by mid-1992, the Accused and Sankoh had formed a plan to capture Kono District because it was a diamondiferous area. Sankoh subsequently explained the plan to senior members of the RUF, including Sam Bockarie, Issa Sesay and Morris Kallon. Sankoh explained to them that they should capture Kono to get more diamonds so that they would be able to continue the war.<sup>5186</sup>

2394. The Prosecution also submits that by late 1992, the Accused directed Sankoh to capture the diamond mining area of Kono and supplied the arms and ammunition needed for the mission. Sankoh brought back the looted diamonds to the Accused in exchange for arms and ammunition to continue the RUF war effort.<sup>5187</sup>

2395. The Defence acknowledges that in the early years of the Sierra Leone conflict, although the RUF was not engaged in organized mining, it nevertheless had diamonds in its possession captured from civilians. The Defence submits that all these diamonds were “given to the RUF’s External Delegation for their sustenance in the Ivory Coast”.<sup>5188</sup> The Defence contends that nothing in the Prosecution’s evidence supports the assertion that the Accused directed Sankoh to capture Kono.<sup>5189</sup> Moreover, the Defence submits that evidence suggesting that the acquisition of diamonds might also have underlined the JCE directly contradicts other Prosecution evidence that Sankoh in fact discouraged diamond mining, especially in the early years of the war.<sup>5190</sup>

## Evidence

### Prosecution Witness TF1-567

<sup>5185</sup> Prosecution Final Trial Brief, paras 344-345.

<sup>5186</sup> Prosecution Final Trial Brief, paras 86-88, 92.

<sup>5187</sup> Prosecution Final Trial Brief, paras 92, 347-348.

<sup>5188</sup> Defence Final Trial Brief, paras 459-460, 792-793, 1204-1206.

<sup>5189</sup> Defence Response to Prosecution Final Trial Brief, para. 74.

<sup>5190</sup> Defence Final Trial Brief, para. 777. See also Defence Final Trial Brief, paras 792-793, 1208.



2396. Witness TF1-567 testified that he accompanied Sankoh on two occasions to Taylor's mansion in Gbarnga, Liberia, in 1991 and 1992, crossing the Sierra Leonean-Liberian border and the NPFL checkpoints without any problem. During his first trip to Liberia in 1991, Witness TF1-567 did not see Taylor personally but was informed by Sankoh that Taylor provided him with arms and ammunitions. TF1-567 and Sankoh came back from Gbarnga with a truck loaded with arms and ammunition.<sup>5191</sup>

2397. TF1-567 testified that during his second trip with Sankoh to Gbarnga, in 1992, Taylor provided the RUF with a truck loaded with food and other supplies. TF1-567 and Sankoh escorted the truck to Bomi Hills, where they met RUF soldiers Philip Palmer, Pa Moriba, Smiling P, and Sam Bockarie (a.k.a. Mosquito), as well as their commander, the NPFL commander One Man One. There, Sankoh, One Man One and Philip Palmer held a meeting during which they agreed that the RUF soldiers should go back to fight in Kailahun district, which had been captured by Governmental forces.<sup>5192</sup>

2398. After this meeting, TF1-567 and Sankoh returned to Gbarnga where Sankoh met Taylor again. During the meeting, Sankoh and Taylor agreed to attack Kono as a priority because Kono was a diamond mining area. In order to attack Kono, Taylor provided arms, ammunition and food to Sankoh, which were loaded onto a truck from Taylor's mansion. While they were at Taylor's mansion, TF1-567 saw Charles Taylor for the first time. Witness TF1-567, Sankoh and Bockarie drove the truck back to Pendembu, Sierra Leone.<sup>5193</sup>

2399. Three days after their return to Pendembu, Sankoh called a meeting that was attended, among others, by Issa Sesay and Morris Kallon, during which Sankoh told the RUF soldiers that they should capture Kono in order to get diamonds to buy more arms and ammunition. Sankoh appointed Bockarie as commander of the attack on Kono.<sup>5194</sup> Witness TF1-567 testified that the fighters who went with Bockarie to attack Kono were composed of both genders and ranged in age from fourteen upwards. Bockarie and his troops captured Gandorhun and advanced on Koidu Town. Despite Bockarie's advice not to do so, Sankoh moved to Koidu accompanied by Witness TF1-567. While there, Witness TF1-567

<sup>5191</sup> TF1-567, Transcript 2 July 2008, pp. 12839-12844.

<sup>5192</sup> TF1-567, Transcript 2 July 2008, pp. 12844-12851.

<sup>5193</sup> TF1-567, Transcript 2 July 2008, pp. 12852-12856.

<sup>5194</sup> TF1-567, Transcript 2 July 2008, pp. 12857-12858.

personally saw, on two occasions, Bockarie giving Sankoh plenty of diamonds captured from civilians during the attacks.<sup>5195</sup>

2400. By late 1992 Sankoh left Koidu Town, leaving Witness TF1-567 there to supervise the distribution of rice and other materials to the RUF soldiers. Witness TF1-567 heard from Bockarie that Sankoh had been summoned by Taylor to Gbarnga. Sankoh sent a message to Bockarie that Taylor had provided more arms and ammunition but that ULIMO had blocked the road back to Sierra Leone, between Voinjama and Kailahun. Bockarie told Sankoh not to worry, that he would get some men to go and clear the way to Kailahun.<sup>5196</sup> When Sankoh finally arrived in Kailahun, he asked Bockarie to come and meet him. Witness TF1-567 joined Bockarie on his journey to Kailahun, during which they captured civilians along the way to carry items that the RUF had looted from civilians.<sup>5197</sup> When Witness TF1-567 and Bockarie arrived in Kailahun, Sankoh called a meeting. During this meeting, Sankoh said that he had given some of the diamonds looted from Kono to Taylor, who in exchange provided him with more arms and ammunition including RPGs, GPMGs and AK rounds. These weapons were later distributed to the front lines.<sup>5198</sup>

#### Prosecution Witness Perry Kamara

2401. Witness Perry Kamara, an RUF recruit, testified that in 1992, ULIMO attacked the RUF troops forcing them to retreat to Pujehun and to cross the border with Liberia. Kamara was among the RUF soldiers who crossed the border to take refuge in Kakata, Liberia.<sup>5199</sup> Kamara testified that in early November 1992, during the parade, Isaac Musa, one of Taylor's commanders, explained that Taylor had requested him to regroup all the RUF soldiers of Kakata and the surrounding villages in order to allow Foday Sankoh to collect them and bring them to Sierra Leone for "a very big mission".<sup>5200</sup> While Isaac Musa was conveying this message, Sankoh, Taylor, his commanders and bodyguards arrived at the parade in a convoy.<sup>5201</sup> Foday Sankoh requested the fighters to return to Sierra Leone and

<sup>5195</sup> TF1-567, Transcript 2 July 2008, pp. 12858-12863. (TF1-567 testified that he saw Bockarie giving Sankoh a parcel of some 15 bigger diamonds and some 5 sizeable diamonds on the first occasion and plenty on the second).

<sup>5196</sup> TF1-567, Transcript 2 July 2008, pp. 12863-12865 (CS).

<sup>5197</sup> TF1-567, Transcript 2 July 2008, pp. 12865-12866.

<sup>5198</sup> TF1-567, Transcript 2 July 2008, pp. 12866-12867.

<sup>5199</sup> Perry Kamara, Transcript 4 February 2008, pp. 3033-3034.

<sup>5200</sup> Perry Kamara, Transcript 4 February 2008, p. 3034.

<sup>5201</sup> Perry Kamara, Transcript 4 February 2008, p. 3034.

explained that Taylor gave him trucks, arms and ammunitions.<sup>5202</sup> Two hours later, trucks carrying arms and ammunitions covered with bags arrived. The RUF fighters then boarded the trucks and moved to Taylor's headquarters in Gbarnga.<sup>5203</sup> Kamara travelled with RUF members including Commander Rashid Mansaray and some Liberians. In the first instance, some men went to Libya, some to Pujehun District in Sierra Leone, and another group, which Kamara moved with, went to Kakata. The first group, to which Kamara belonged, moved to Kailahun and then was based in Pendembu.<sup>5204</sup>

2402. Kamara further testified that in late 1992, Sankoh summoned a meeting in which he told RUF soldiers that he had just returned from Liberia with ammunition and that during this trip, Charles Taylor told him to use the ammunition to attack Kono in order to acquire diamonds and money to buy more ammunition. Mohamed Tarawalli was appointed to lead the attack on Kono. During the attack, the RUF captured diamonds, which were used to purchase more weapons. Kamara testified that he personally saw diamonds in a big bottle and US Dollars that Mohamed Tarawalli brought from Kono after the attack.<sup>5205</sup>

Prosecution Witness TF1-168

2403. Witness TF1-168 was among the RUF soldiers in Pujehun District under the control of One Man One after the invasion of Sierra Leone. He testified that when the NPFL and RUF troops captured Pujehun District, diamonds were taken. The NPFL/RUF forces captured the mining company MMC, killed its manager and captured its diamonds. However, Sankoh did not want his soldiers to conduct mining operations since he considered that such operations could make soldiers forget about war.<sup>5206</sup>

2404. TF1-168 testified that in 1992, Sankoh informed him that he had taken the diamonds captured during the attack of Pujehun to his brother, Charles Taylor, in Gbarnga. On cross-examination TF1-168 stated that he did not know if Sankoh was telling him the truth.<sup>5207</sup>

<sup>5202</sup> Perry Kamara, Transcript 4 February 2008, p. 3035.

<sup>5203</sup> Perry Kamara, Transcript 4 February 2008, p. 3035.

<sup>5204</sup> Perry Kamara, Transcript 4 February 2008, p. 3036.

<sup>5205</sup> Perry Kamara, Transcript 4 February 2008 pp. 3045-3046.

<sup>5206</sup> TF1-168, Transcript 21 January 2009, pp. 23180-23181 (CS); Transcript 26 January 2009, pp. 23482-23483 (CS).

<sup>5207</sup> TF1-168, Transcript 21 January 2009, pp. 23180-23181 (CS); Transcript 26 January 2009, pp. 23482-23483 (CS).

2405. TF1-168 further testified that around August 1991, the RUF was pushed back to Liberia by ULIMO.<sup>5208</sup> Subsequently, TF1-168 moved to Bomi Hills where he stayed until the NPRC Coup in April 1992.<sup>5209</sup> In late April 1992, TF1-168 travelled to Gbarnga.<sup>5210</sup> The witness stated that during a meeting in Gbarnga around May/June 1992, Sankoh told his senior officers including TF1-168, Rashid Mansaray, Noah Kanneh and Pa Kallon that Taylor was reducing his support to Sankoh's RUF without any reason. TF1-168 considered that the fact that Sankoh was not bringing in precious minerals like diamonds for Taylor anymore was probably the explanation.<sup>5211</sup> In June 1992, after discussion with Taylor about crimes committed by NPFL soldiers in Sierra Leone, Sankoh left Liberia, taking with him arms and ammunition he obtained from Taylor.<sup>5212</sup>

2406. TF1-168 further stated that in October 1992, Sankoh returned to Gbarnga and told the RUF troops remaining in Gbarnga that his plan was to advance toward Kono District. However, he told the troops en route from Kailahun to wait until he was also on the ground in order to launch the attack. Sankoh used NPFL radios to convey messages to the RUF troops while he was mobile.<sup>5213</sup>

2407. TF1-168 testified that shortly after he left Gbarnga, he was arrested and detained on Sankoh's order for insubordination. Around October/November 1992, during TF1-168's detention, the RUF troops led by Sam Bockarie captured Kono, but lost it in late January 1993.<sup>5214</sup>

2408. TF1-168 testified that the RUF wanted to capture Kono District because it was one of the two roads to Freetown but also because Kono was a diamondiferous area.<sup>5215</sup> However, TF1-168 considered that between 1991 and 1996 diamonds did not really play any major role in the war because no organised mining was taking place. TF1-168 stated that it

<sup>5208</sup> TF1-168, Transcript 21 January 2009, pp. 23180-23186 (CS).

<sup>5209</sup> TF1-168, Transcript 21 January 2009, pp. 23184-23191 (CS).

<sup>5210</sup> TF1-168, Transcript 21 January 2009, pp. 23191-23193 (CS).

<sup>5211</sup> TF1-168, Transcript 23 January 2009, pp. 23443-23444 (CS).

<sup>5212</sup> TF1-168, Transcript 21 January 2009, pp. 23214-23215 (CS).

<sup>5213</sup> TF1-168, Transcript 21 January 2009, p. 23215 (CS).

<sup>5214</sup> TF1-168, Transcript 21 January 2009, pp. 23222-23224 (CS).

<sup>5215</sup> TF1-168, Transcript 21 January 2009, p. 23224 (CS).

was Sankoh who, confronted with the lack of support of his allies, decided to use diamonds as a way of financing the purchase of weapons for the RUF struggle.<sup>5216</sup>

Prosecution Witness TF1-367

2409. Witness TF1-367, an RUF Vanguard, arrived in Koindu in the Kailahun District two days after the NPFL invaded Sierra Leone. Witness TF1-367 spent 3 months there, after which he was sent by Sankoh to Gbarnga where he was appointed ground commander of Sankoh's house in Gbarnga.<sup>5217</sup>

2410. TF1-367 stated that while he was ground commander in Gbarnga he accompanied Sankoh on several occasions on trips from Gbarnga, Liberia to Sierra Leone, during which Sankoh brought the arms, ammunitions and condiments provided by Taylor to RUF troops in Sierra Leone.<sup>5218</sup>

2411. TF1-367 stated that in 1992, the RUF captured Koidu Town, Kono District, and managed to keep control over it for approximately 3 months before being pushed back by ULIMO. The RUF re-captured Koidu Town in 1995 after TF1-367 was appointed as commander of this area.<sup>5219</sup>

2412. In a prior statement to the Prosecution read by Defence Counsel during TF1-367's cross-examination, TF1-367 had said that during all this period, RUF was not mining but seized diamonds and other precious minerals from civilians which were taken to Charles Taylor in Gbarnga. This was confirmed by the witness, TF1-367 himself escorted Sankoh from Sierra Leone to Taylor's residence in Gbarnga on a couple of occasions. The witness confirmed that he did not see the actual handover of diamonds from Sankoh to Taylor, but he stayed with Taylor's bodyguards while Sankoh and Taylor entered a room together in private.<sup>5220</sup>

<sup>5216</sup> TF1-168, Transcript 26 January 2009, pp. 23483-23484 (CS).

<sup>5217</sup> TF1-367, Transcript 20 August 2008 pp. 14099-14102.

<sup>5218</sup> TF1-367, Transcript 20 August 2008 pp. 14103-14105.

<sup>5219</sup> TF1-367, Transcript 20 August 2008 pp. 14108-14110.

<sup>5220</sup> TF1-367, Transcript 1 September 2008, pp. 15057-15059.

2413. In this prior statement, TF1-367 stated that he attended a meeting during which Sankoh told Bockarie and Issa Sesay to continue to bring diamonds to Charles Taylor during his absence.<sup>5221</sup>

Prosecution Witness TF1-371

2414. Witness TF1-371, an RUF officer, testified that before 1996, the RUF did not conduct mining operations in the areas they conquered. TF1-371 heard from Sankoh that even when the RUF conquered Kono district in 1992/1993, they merely washed the gravel that the miners had already extracted to get diamonds without really mining. TF1-371 stated, however, that the NPFL commander of Bomi County, Oliver Varney, conducted mining operations at Zimmi border in 1991 when the RUF initially invaded Sierra Leone.<sup>5222</sup>

Prosecution Witness Dauda Aruna Fornie

2415. Witness Dauda Aruna Fornie, an RUF radio operator, testified that during the 1992 rainy season, ULIMO captured Bomi Hills, forcing the RUF to retreat to the Liberian border. Fornie was assigned by Sankoh to Kakata, Liberia. While he was there, Fornie heard from Bockarie that Sankoh wanted the RUF soldiers present in the area to gather at the MP headquarters in Kakata. Two days later, Sankoh came in a convoy with Charles Taylor. The convoy was carrying various weapons including twin barrels. Sankoh alighted and spoke to the RUF soldiers briefly, informing them that trucks would come to collect them to bring them back to Sierra Leone. Fornie did not see Taylor because the door and the windows of the vehicle remained closed, but Bockarie told Fornie that Taylor was in the vehicle. Fornie testified that later a big three wiper [sic] Toyota truck was sent and brought around 70 RUF soldiers to Kailahun, Sierra Leone passing through Gbarnga.<sup>5223</sup>

Prosecution Witness Foday Lansana

2416. Witness Foday Lansana, a senior RUF radio operator, testified that in 1992, after the National Provisional Ruling Council (NPRC) overthrew the legitimate government of Sierra Leone led by Joseph Saidu Momoh, the NPRC called for a ceasefire with the RUF which

<sup>5221</sup> TF1-367, Transcript 1 September 2008, p. 15058.

<sup>5222</sup> TF1-371, Transcript 31 January 2008, p. 2769 (CS).

<sup>5223</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21360-21371; Transcript 8 December 2008, pp. 21993-21999; Transcript 11 December 2008, pp. 22257-22258.

was observed for a while. Later, however, the ceasefire was broken by the Guinean and Nigerian contingents of the NPRC. During the attacks, the RUF captured a large quantity of arms and ammunition.<sup>5224</sup>

2417. Foday Lansana testified that after the attack, Sankoh contacted Taylor over the radio and informed him that he had captured heavy artillery. Sankoh told Taylor that he could not use the artillery because he had no ammunition and that he would need light weapons. Taylor told Sankoh to come to Gbarnga with the artillery in his possession to exchange it for light weapons and ammunitions. Lansana stated that he was the radio operator for this conversation and that, as such, he heard the entire conversation.<sup>5225</sup>

2418. Foday Lansana further testified that, as a result of the conversation, Sankoh left Pendembu for Gbarnga. Around mid-1992, Sankoh returned to Pendembu with a large quantity of arms and ammunition. Upon Mr Sankoh's return, Mohamed Tarawalli, Sam Bockarie, Issa Sesay and Morris Kallon were instructed to go to Koidu, Kono District in order to attack government troops and conquer the area because it was a diamond rich mining area. Lansana did not participate directly in the operation but was aware of the evolution of the operation when transmitting the radio reports sent by Mohamed Tarawalli to Sankoh. Lansana testified that the operation went smoothly but that the RUF was chased out of Koidu into Pendembu at the end of 1992.<sup>5226</sup>

#### Prosecution Witness Albert Saidu

2419. Witness Albert Saidu testified that Captain Ben, whom he knew because they had been captured together in Bunumbu and taken for training,<sup>5227</sup> came from Kono with diamonds sewn into his trousers in the belt area.<sup>5228</sup> Captain Ben showed the witness the place where the diamonds were sewn and told the witness that he was taking the diamonds to Foday Sankoh.<sup>5229</sup> Saidu testified that Captain Ben took the diamonds to Sankoh, and that he "felt" that Sankoh then took the diamonds to Charles Taylor.<sup>5230</sup> The witness clarified

<sup>5224</sup> Foday Lansana, Transcript 20 February 2008, pp. 4392-4393.

<sup>5225</sup> Foday Lansana, Transcript 20 February 2008, pp. 4393-4395.

<sup>5226</sup> Foday Lansana, Transcript 20 February 2008, pp. 4395-4396.

<sup>5227</sup> Albert Saidu, Transcript 4 June 2008, p. 10907.

<sup>5228</sup> Albert Saidu, Transcript 4 June 2008, p. 10912.

<sup>5229</sup> Albert Saidu, Transcript 4 June 2008, pp. 10912-10913.

<sup>5230</sup> Albert Saidu, Transcript 4 June 2008, p. 10914.

that he felt that way because “that’s where he used to go to bring ammunition for us to fight”.<sup>5231</sup> Captain Ben also told the witness about his travels to Liberia, and said that they used to bring back arms and ammunitions from Liberia for the revolution.<sup>5232</sup>

#### Prosecution Witness TF1-338

2420. Witness TF1-338 testified that Sankoh used to go to Taylor’s mansion in Gbarnga and return to Kailahun in Sierra Leone with arms and ammunition. TF1-338 himself travelled twice as a security accompanying Foday Sankoh to Taylor’s mansion in Gbarnga.<sup>5233</sup>

#### Prosecution Witness Stephen Ellis

2421. Expert witness Stephen Ellis testified that at the beginning, the Sierra Leonean conflict was primarily about political and social matters. However, in the late 1990s the control of diamonds became a key factor in the hostilities because participants were able to use the profits from diamonds to fuel the continuation of the war.<sup>5234</sup> According to Ellis, there were reports of RUF rebels smuggling diamonds from Sierra Leone to Liberia as early as 1991. The expert witness noted that the Sierra Leone TRC identified three phases of the Sierra Leonean war that is 1991-1994, 1994-1997, and the period after 1997. According to the witness, it was only during the latter period that the diamond trade expanded.<sup>5235</sup>

#### The Accused

2422. The Accused testified that from August 1991 until May 1992 he provided small amounts of arms and ammunition to Foday Sankoh and the RUF with the strategic purpose of having the RUF fight ULIMO in Sierra Leone, so he would not have to fight them in Liberia. ULIMO had been armed by the Sierra Leonean Government.<sup>5236</sup> The Accused stated that he only provided the RUF with ammunition and not big weapons; the NPFL did not have a strategic partnership with the RUF to enable the RUF to gain military power in Sierra Leone. The Accused explained that he deliberately under-supported Sankoh. As a result, in

<sup>5231</sup> Albert Saidu, Transcript 4 June 2008, p. 10914.

<sup>5232</sup> Albert Saidu, Transcript 4 June 2008, p. 10914.

<sup>5233</sup> TF1-338, Transcript 2 September 2008, pp. 15107-15108, 15200-15201 (PS).

<sup>5234</sup> Stephen Ellis, Transcript 16 January 2008, pp. 1438-1440.

<sup>5235</sup> Stephen Ellis, Transcript 16 January 2008, pp. 1470-1471.

<sup>5236</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28692-28693; Transcript 15 September 2009,



May 1992 Foday Sankoh wrote a letter expressing his disappointment, to which the Accused responded that he did the best he could do. After May 1992, the links between Sankoh and the Accused were severed and the Accused stopped providing arms and ammunition.<sup>5237</sup>

2423. The Accused also denied having discussed with Foday Sankoh the capture of Kono as alleged by the Witness TF1-567.<sup>5238</sup> The Accused recalled that there was no link between the NPFL and RUF after May 1992.<sup>5239</sup> The Accused denied receiving diamonds or anything from Foday Sankoh, Sam Bockarie or Issa Sesay.<sup>5240</sup> The Accused further denied that his motivation for stopping the provision of materiel to Sankoh was because he expected to receive diamonds.<sup>5241</sup>

2424. The Accused testified that he routinely visited Kakata. However, he did not recall any instances when the RUF was repelled by ULIMO and had to retreat to Kakata. In any event, there were no RUF soldiers in Liberia around November 1992 since the NPFL had split with the RUF at that time.<sup>5242</sup> He also denied Perry Kamara's testimony that he, Taylor, gave a message to Musa to collect all the RUF in Kakata and take them to Sierra Leone for a big mission.<sup>5243</sup>

#### Defence Witness Issa Sesay

2425. Witness Issa Sesay testified that after April 1992, when the NPFL left Sierra Leone, NPFL troops took their arms and ammunition with them. As a consequence the RUF was short of weapons. In order to get arms and ammunition, the RUF set ambushes and traded with Guineans. This continued from 1992 until the RUF joined the AFRC in 1997.<sup>5244</sup>

2426. Issa Sesay further stated that Charles Taylor did not provide any weapons to RUF after he withdrew his troops in April 1992. There was no communication between Sankoh

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pp. 28939-28946.

<sup>5237</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28694-28699, Transcript 15 September 2009, pp. 28947-28953.

<sup>5238</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28694-28699.

<sup>5239</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28706-28707.

<sup>5240</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28939-28940.

<sup>5241</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28944-28946.

<sup>5242</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28976-28977.

<sup>5243</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28973-28974.

<sup>5244</sup> Issa Sesay, Transcript 26 July 2010, pp. 44621-44623; Transcript 17 August 2010, pp. 46463-46464.

and Taylor during this time. Sesay would have known if this were the case since he was based in Kailahun from 1991 to 1997.<sup>5245</sup>

2427. Issa Sesay denied that the RUF sent to Taylor the artillery it had captured, as recounted by Foday Lansana. Sesay testified that the artillery captured was used by the RUF.<sup>5246</sup> Sesay submitted that he was in a better position to know since he was on the front lines while Foday Lansana was not.<sup>5247</sup>

#### Defence Witness Sam Kolleh

2428. Witness Sam Kolleh, an RUF Vanguard, testified that around August/September 1991, the government troops and ULIMO attacked the RUF troops, forcing them to retreat to the border between Sierra Leone and Liberia and to take refuge in the bush, where they created “jungles”.<sup>5248</sup>

2429. Kolleh stated that, while he was in the bush, Sankoh assigned him to be a transporter. As such, Kolleh transported letters from the different RUF Jungles to Sankoh’s headquarters in Zogoda.<sup>5249</sup> On three occasions between 1994 and 1995, Sankoh also asked Kolleh to transport diamonds to Issa Sesay. Kolleh testified that the diamonds were captured during ambushes. After Kolleh took the diamonds to Kailahun to Issa Sesay, Kolleh and Sesay moved to the Guinean border where they gave the diamonds to members of the External Delegation Fayia Musa, Deen-Jalloh and Philip Palmer. Kolleh never transported any diamonds to Liberia, and he did not know whether the RUF provided Taylor with diamonds.<sup>5250</sup>

#### Defence Witness Martin George

2430. Witness Martin George testified that in late 1992 or early 1993, Sankoh ordered Sam Bockarie to launch an attack on Kono to capture the diamond mining area from Momoh’s soldiers because it was the government stronghold and a place which could support the

<sup>5245</sup> Issa Sesay, Transcript 26 July 2010, pp. 44623-44624.

<sup>5246</sup> Issa Sesay, Transcript 12 August 2010, p.46115-46116.

<sup>5247</sup> Issa Sesay, Transcript 12 August 2010, p. 46117.

<sup>5248</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48376-48380.

<sup>5249</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48390-48394, 48398-48401.

<sup>5250</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48394-48398, 484324.

RUF.<sup>5251</sup> George stated that when the Kono attack was successful, the RUF began looking for diamonds. They did not dig mines but rather instructed civilians to wash gravel to find diamonds. When diamonds were found, the mining commander gave them to Foday Sankoh, who was also in Kono. The witness was not there himself and did not know what Foday Sankoh did with the diamonds.<sup>5252</sup>

Defence Witness Fayia Musa

2431. Witness Fayia Musa, an RUF officer, testified that after Operation Top Final and the withdrawal of the NPFL from Sierra Leone, the position of the RUF in terms of weapons was bad.<sup>5253</sup> After Top Final, Sankoh never returned to Liberia; he was disappointed by Charles Taylor, who had promised to provide him support but failed to do so. Sankoh made it clear that from that point the RUF should rely on its own resources to run the campaign.<sup>5254</sup>

2432. Fayia Musa testified that, in late 1992 and early 1993, things were becoming really difficult for the RUF. The RUF forces had been pushed into the Kissi Teng chiefdom while the rest of the country had been recaptured by government troops. The RUF was surrounded.<sup>5255</sup> Fayia Musa stated that Sam Bockarie used his military creativity and a trick called 'Porosound' in order to make the government soldiers believe that they were surrounded and being attacked by a large number of RUF soldiers. The ploy worked and the government soldiers retreated to Pendembu, leaving behind guns and ammunition.<sup>5256</sup>

2433. The RUF used these weapons to conquer more territory. In December 1992, the RUF captured Kono. However, the RUF was only able to stay in Kono until January 1993 because of looting and because the government forces pushed hard to kick the RUF out, suspecting that if the RUF stayed long enough they would engage in mining.<sup>5257</sup>

2434. Fayia Musa stated that between 1991 and March 1996 the RUF did not engage in diamond mining. Indeed, from the first day the RUF captured Kono, Sankoh prohibited the

<sup>5251</sup> Martin George, Transcript 22 April 2010, pp. 39696-39698.

<sup>5252</sup> Martin George, Transcript 22 April 2010, pp. 39698-39700.

<sup>5253</sup> Fayia Musa, Transcript 14 April 2010, pp. 38913-38915.

<sup>5254</sup> Fayia Musa, Transcript 14 April 2010, p. 38915.

<sup>5255</sup> Fayia Musa, Transcript 14 April 2010, p. 38924.

<sup>5256</sup> Fayia Musa, Transcript 14 April 2010, p. 38925.

<sup>5257</sup> Fayia Musa, Transcript 14 April 2010, pp. 38925-38926.

mining. Nevertheless, the government forces did not let the RUF stay in Kono long enough to engage in mining. However, Fayia Musa testified that diamonds abandoned by the miners of Kono were captured by the RUF.<sup>5258</sup> Fayia stated that the diamonds captured during the attack on Kono were taken to Sankoh in Kailahun, where he kept them until he left to start the peace process in Abidjan. The diamonds were then given to Ms. Isatu Kallon, an RUF procurement officer.<sup>5259</sup>

Defence Witness Charles Ngebeh

2435. Witness Charles Ngebeh, an RUF recruit, testified that in 1992 Captain Strasser and his NPRC forces overthrew the APC government. Strasser announced that he would not negotiate with the RUF and that he would push them out of the country.<sup>5260</sup> Shortly after this announcement, Sam Bockarie attacked Gandorhun. During the attack, the RUF captured a lot of ammunition, as well as two grenade launchers.<sup>5261</sup> Ngebeh also stated that in June or July 1992, on his way to attack Kono, Sam Bockarie's troops captured a war tank with ammunition from the NPRC that enabled the RUF to capture Kono. Ngebeh denied that the RUF received any materials from Liberia and testified that the struggle was entirely self-reliant.<sup>5262</sup>

Defence Witness DCT-025

2436. Witness DCT-025, an RUF soldier in charge of stores of supplies and weaponry,<sup>5263</sup> testified that Foday Sankoh did not leave Sierra Leone in 1992. At times Sankoh went to Pendembu or Mobai, but he always returned to Kailahun afterwards. Witness DCT-025 never heard of Sankoh going to Gbarnga to see Taylor during this period and bringing back food, arms and ammunition. Similarly, Witness DCT-025 was not aware of the RUF mining for diamonds and had not seen Sankoh with diamonds during this period.<sup>5264</sup>

Prosecution Exhibit P-018

<sup>5258</sup> Fayia Musa, Transcript 14 April 2010, pp. 38927, 38938.

<sup>5259</sup> Fayia Musa, Transcript 14 April 2010, p. 38928.

<sup>5260</sup> Charles Ngebeh, Transcript 22 March 2010, pp. 37780-37781.

<sup>5261</sup> Charles Ngebeh, Transcript 22 March 2010, pp. 37781 - 37782.

<sup>5262</sup> Charles Ngebeh, Transcript 22 March 2010, p. 37785.

<sup>5263</sup> DCT-025, Transcript 18 March 2010, pp. 37536-37538.

<sup>5264</sup> DCT-025, Transcript 16 March 2010, pp. 37299-37300; Transcript 18 March 2010, pp. 37532-37538.

2437. Exhibit P-018 is the Report of the Panel of Experts established pursuant to Security Council Resolution 1306. Paragraph 67 of the Report states as follows:

The Revolutionary United Front initiated the war in 1991. Until 1995, RUF diamond mining and digging was probably done on a sporadic and individual basis. By 1995, however, the RUF and its patrons were clearly taking a much greater interest in the diamond fields of Kono District, and had to be removed forcefully at that time by the private military company, Executive Outcomes. From then on, the RUF interest in diamonds became more focused, especially with the 1997 imprisonment of Foday Sankoh in Nigeria. During his imprisonment and subsequently, the diamond areas of Kono and Tongo Field became a primary military focus of the RUF, and diamond mining became a major fund-raising exercise.<sup>5265</sup>

Prosecution Exhibit P-065

2438. Exhibit P-065 is a letter from RUF leader Foday Sankoh to Charles Taylor, dated 5 May 1992. In the letter Foday Sankoh thanked Charles Taylor for his offer of boxes of AK-47 ammunition and ten boxes of RPG rockets but states that what was offered was not enough to carry out "Operation Capture Daru". In the letter, Sankoh asked Taylor to increase the amount to 20 boxes of AK-47 ammunition and 12 RPG rockets plus some Beretta rounds and states that this would sustain the RUF "while awaiting the long term supply that you have promised us".<sup>5266</sup>

Prosecution Exhibit P-497

2439. Exhibit P-497 is Volume Two of the Report of the Sierra Leone Truth and Reconciliation Commission. Paragraph 130 of Volume Two of the Report states:

The RUF was responsible for the first sustained assault on Koidu Town, Kono District, from October 1992 until February 1993. This assault resulted in a spate of violations against local residents including the killing of Chiefs, government officials, businesspersons and members of the Lebanese community.<sup>5267</sup>

Prosecution Exhibit P-498

2440. Exhibit P-498 is Volume Three of the Report of the Sierra Leone Truth and Reconciliation Commission. Paragraph 49 of Volume Three of the Report states:

The Commission's research demonstrates that the RUF could not have earned all the money attributed to it in official reports from conflict diamonds alone. Except for a brief period in 1992 when the RUF occupied Koidu, the headquarters of the diamond-rich Kono District, it

<sup>5265</sup> Exhibit P-018, "Report of the Panel of experts established pursuant to Security Council Resolution 1306", p. 16 (para. 67).

<sup>5266</sup> Exhibit P-065, "Letter from Foday Sankoh to Charles Taylor", 5 May 1992.

<sup>5267</sup> Exhibit P-497, "Report of the Sierra Leone Truth and Reconciliation Commission-Volume Two", para. 130.

did not have access to the major diamond-producing areas of the country until 1995, when it occupied Koidu again for four months before being driven out by Executive Outcomes. RUF's diamond pickings in those areas could not have constituted the colossal amounts reflected in the literature. Figure 1 shows that, except in 1986, Belgian imports of diamonds from Liberia have always outstripped those from Sierra Leone. Yet Liberia is not reputed to have substantial diamond deposits and does not have gemstone-quality diamonds. The conclusion to be drawn from the above tables and Figure 1 is that diamond smuggling within the axis of Guinea, Sierra Leone, Liberia and Côte d'Ivoire has been going on for more than 30 years, with Liberia being the principal conduit. This would suggest that those involved in diamond smuggling had developed networks and contacts in Liberia, which facilitated their smuggling and export of diamonds from within the region. Even in 1990, before the war in Sierra Leone started, Liberia exported more than 5 million carats of diamonds.<sup>5268</sup>

### Defence Exhibit D-123G

2441. Exhibit D-123G is a photo of a long-range artillery gun which was given to the NPFL by Foday Sankoh. It came from Sierra Leone in late 1991 or early 1992.<sup>5269</sup> Taylor testified that this gun was donated to him by the RUF. The picture was taken during its delivery.<sup>5270</sup>

### Deliberations

2442. It is undisputed that after June 1991 the Accused provided the RUF with arms and ammunition.<sup>5271</sup> However, while the Defence submits that the cooperation between NPFL and RUF stopped entirely after the withdrawal of NPFL forces from Sierra Leone around May/June 1992,<sup>5272</sup> the Prosecution contends that even after the withdrawal the Accused continued to provide the RUF with materiel in exchange for diamonds. The Prosecution submits that by mid-1992 the lull in the supply of diamonds from the RUF to the Accused corresponded to the diminution of materiel from the Accused to the RUF.<sup>5273</sup>

2443. In this context the Prosecution, relying on the testimony of Witness TF1-567, alleges that during a meeting in Gbarnga in November 1992, the Accused and Sankoh formed a plan

<sup>5268</sup> Exhibit P-498, "Report of the Sierra Leone Truth and Reconciliation Commission-Volume Three," para. 49.

<sup>5269</sup> Exhibit D-123G, Photograph-DP 7 "Marked and signed by Charles Ghankay Taylor."

<sup>5270</sup> Charles Ghankay Taylor, Transcript 22 July 2009, pp. 24999-25003.

<sup>5271</sup> See Prosecution Final Trial Brief, para. 88; Defence Final Trial Brief, paras 428, 815; *See also* Charles Ghankay Taylor, Transcript 20 July 2009, p. 24811; Transcript 14 September 2009, pp. 28692-28693; Transcript 15 September 2009, pp. 28939-28940.

<sup>5272</sup> Defence Final Trial Brief paras 428, 430.

<sup>5273</sup> Prosecution Final Trial Brief para. 348.

to attack Kono in order to get diamonds.<sup>5274</sup> The Trial Chamber notes that the Prosecution also alleges that the Accused directed Foday Sankoh to capture Kono District.<sup>5275</sup>

2444. The Trial Chamber will first assess the evidence regarding an alleged provision of diamonds in exchange of arms and ammunition, before turning to the evidence regarding the Accused's alleged involvement and support in the attack on Kono in late 1992.

*Provision of diamonds in exchange of arms and ammunition in 1991-1992*

2445. Evidence from both Prosecution and Defence witnesses shows that during the invasion of Sierra Leone, RUF soldiers captured diamonds from civilians and companies.<sup>5276</sup> Witness TF1-367 testified that he accompanied Foday Sankoh on several trips from Gbarnga, Liberia, to Sierra Leone, in which Sankoh brought arms, ammunition, and condiments provided by Taylor to RUF troops in Sierra Leone.<sup>5277</sup> In a prior statement to the Prosecutor, affirmed in his testimony under cross-examination, Witness TF1-367 said that diamonds seized from civilians were taken by Sankoh to Taylor in Gbarnga and that the witness himself escorted Sankoh on a couple of these trips.<sup>5278</sup>

2446. With regard to Witness TF1-367's general credibility, the Trial Chamber notes that he provided generally clear and comprehensive evidence. The Trial Chamber does not consider the witness's apparent confusion as to the date he became mining commander in Kono<sup>5279</sup> to be detrimental to his overall credibility. Under cross-examination, TF1-367's

<sup>5274</sup> Prosecution Final Trial Brief para. 86.

<sup>5275</sup> Prosecution Final Trial Brief para. 348.

<sup>5276</sup> TF1-168, Transcript 21 January 2009 (CS), pp. 23180-23181 (testified that when the NPFL and RUF troops captured Pujehun District diamonds were captured. Thus the NPFL / RUF forces captured the mining company MMC, killed its manager and captured its diamonds); TF1-367, Transcript 1 September 2008 p. 15042 (In 1992 the RUF obtained their diamonds from the houses of civilians); TF1-567, Transcript 2 July 2008 pp. 12861-12862 (TF1-567 saw Mosquito giving diamonds to Sankoh. Mosquito explained that his troops got these diamonds when they attacked the town and when they searched civilians we took these diamonds from them); Sam Kolleh, 1 November 2010, p. 48434 (Kolleh testified that the diamonds he gave to Issa Sesay for the External Delegation came from ambushes when the war was advancing).

<sup>5277</sup> TF1-367, Transcript 20 August 2008, pp. 14103-14105.

<sup>5278</sup> TF1-367, Transcript 1 September 2008, pp. 15057-15059.

<sup>5279</sup> Throughout his testimony, the witness gave evidence suggesting he had become mining commander at various dates between the end of 1997 and December 1998. See TF1-367, Transcript 20 August 2008, pp. 14158-14161: in examination-in-chief, TF1-367 testified that he was appointed "at the end of '97 to the beginning of '98" at a time when ECOMOG was in control of Koidu Town. The Trial Chamber recalls that ECOMOG regained control in around April 1998 [Military Operations: Operation Fitti-Fatta] and that it was retaken by the troops commanded by Issa Sesay in December 1998 [Military Operations: Freetown, Implementation of the Plan]; TF1-367, Transcript 21 August 2008, pp. 14297-14298: the witness testified to being appointed at the end of 1998, "because when [Johnny Paul Koroma] was molested Charles Taylor received the information so he called upon him to go to Monrovia". The Trial Chamber recalls that the incident to which

testimony remained consistent although the Defence raised a number of inconsistencies with his prior statements. In that regard, the witness openly admitted that large parts of his first statement to the Prosecution were untrue<sup>5280</sup> but the Trial Chamber accepts his explanation that he was motivated to lie by fear of arrest by the Special Court.<sup>5281</sup> The Trial Chamber finds the remaining inconsistencies to be generally minor<sup>5282</sup> and is largely satisfied by the explanations TF1-367 provided, particularly in view of the consistency with which the witness maintained his in-Court testimony. The Trial Chamber therefore finds TF1-367 to be generally credible and will consider further issues relating to his credibility in context as they may arise.

2447. While TF1-367 was the only witness who testified that he was with Sankoh when Sankoh took diamonds to the Accused during this period, the Trial Chamber notes that his evidence is corroborated by Witnesses TF1-168 and TF1-567, both of whom testified that Sankoh told them that diamonds were brought to the Accused.<sup>5283</sup> Witness TF1-168 stated that he was unable to tell if Sankoh was telling the truth.<sup>5284</sup> Witness TF1-567 testified that he saw Bockarie give Sankoh plenty of diamonds captured from civilians<sup>5285</sup> and that at a meeting called by Sankoh, Sankoh said that he had given some of the diamonds looted from Kono to the Accused in exchange for arms and ammunition.<sup>5286</sup>

2448. On the basis of this evidence, the Trial Chamber concludes that Sankoh gave diamonds to the Accused. The Trial Chamber notes, however, that the evidence does not

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he was referring, the confiscation of diamonds from Johnny Paul Koroma, took place around March 1998 [Diamonds: Alleged Delivery of Diamonds to the Accused]; TF1-367, Transcript 1 September 2008, pp. 15041-15043; he agreed to a date of December 1998 proposed by Defence Counsel; TF1-367, Transcript 28 August 2008, pp. 14905-14906: The witness denied a prior statement placing his appointment in December 1998, saying he did not recall the month.

<sup>5280</sup> The witness was cross-examined on his first prior statement at TF1-367, Transcript 28 August 2008, pp. 14879-14926. See in particular TF1-367, Transcript 28 August 2008, pp. 14879-14884, 14926.

<sup>5281</sup> TF1-367, Transcript 28 August 2008, pp. 14879-14884. See also TF1-367, Transcript 21 August 2008, p. 14276: the witness explained that after Issa Sesay et al had been arrested, there were rumours that anybody who had been in the RUF would be arrested.

<sup>5282</sup> See for example TF1-367, Transcript 1 September 2008, pp. 15025-15029 regarding whether, as recorded in his prior statement, TF1-367 travelled to Monrovia with Bockarie two or three times or, as he testified, TF1-367 went to Liberia two or three times but to Monrovia only once.

<sup>5283</sup> TF1-567, Transcript 2 July 2008, pp. 12866-12867; TF1-168, Transcript 21 January 2009, (CS), pp. 23180-23181.

<sup>5284</sup> TF1-168, Transcript 26 January 2009, pp. 23482-23483 (CS).

<sup>5285</sup> TF1-567, Transcript 2 July 2008, pp. 12858-12863 (TF1-567 testified that he saw Bockarie giving Sankoh a parcel of some 15 bigger diamonds and some 5 sizeable diamonds on the first occasion and plenty on the second).

<sup>5286</sup> TF1-567, Transcript 2 July 2008, pp. 12866-12867.



conclusively establish that these diamonds were given to the Accused in payment for arms and ammunition. In his letter to Taylor, dated 5 May 1992, Foday Sankoh did not mention any kind of payment – including diamonds- in exchange for the support he was seeking from the Accused.<sup>5287</sup> The Trial Chamber recalls also that significant evidence has been adduced showing that the Accused's main reason to support the RUF during the early years of the Sierra Leonean war was his desire to avoid fighting ULIMO in Liberia.<sup>5288</sup> Moreover, Witness TF1-168 testified that between 1991 and 1996 diamonds did not play a major role in the Sierra Leonean war.<sup>5289</sup>

2449. In the Trial Chamber's view the evidence adduced, and in particular the alternative explanation for the Accused's support to the RUF, in the interest of fighting ULIMO, suggests that during the early years of the invasion the provision of materiel by the Accused to the RUF was not necessarily in exchange for diamonds, although the delivery of diamonds to the Accused may have been one consideration among others.

*The Accused's alleged involvement and support in the attack of Kono in late 1992.*

2450. Witness TF1-567's testimony that at a meeting Sankoh and Taylor agreed to attack Kono because Kono was a diamond mining area<sup>5290</sup> is corroborated in part by Perry Kamara. The Trial Chamber recalls its findings that both TF1-567 and Kamara are generally credible witnesses.<sup>5291</sup> Kamara testified that in early November 1992, during a parade in Kakata,

<sup>5287</sup> Exhibit P-065, letter from Foday Sankoh to Charles Taylor dated 5 May 1992.

<sup>5288</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28692-28693; Transcript 15 September 2009, pp. 28939-28940 (Taylor testified that from August 1991 until May 1992 he provided small amounts of arms and ammunition to Foday Sankoh and the RUF in order to fight ULIMO and the Sierra Leonean Government in Sierra Leone to avoid having to fight ULIMO and the Sierra Leonean army in Liberia); Exhibit P-277 (Confidential), p. 18 ("Despite President Taylor's total involvement in the Sierra Leone crisis, he had no territorial ambition in Sierra Leone. His main interest was material wealth and to use the Sierra Leone borders as buffer zones to forestall the efforts of dissident Liberians United Defence Force, LUDF, which later was transformed into United Liberian Movement for Democracy in Liberia, ULIMO"); Mohamed Kabbah, Transcript 16 September 2008, pp. 16324-16325 (Kabbah heard that NPFL assisted the RUF in order to push back the Sierra Leonean Government inland and that they would leave Sierra Leone afterward); Dauda Aruna Fornie, 1 December 2008, p. 21334 ("A group emerged in 1991 from the Sierra Leone area which was fighting against Mr Taylor [...] called ULIMO"); DCT-228, Transcript 19 May 2010, p. 41250 (ULIMO was formed in Sierra Leone and attacked the NPFL from Sierra Leone); Hasan Bility, 13 January 2009, p. 22468 ("ULIMO was composed of displaced Liberians, many of whom were former Doe supporters, former Liberian soldiers"); Charles Ghankay Taylor, Transcript 22 September 2009, p. 29317 (ULIMO was a group formed in Guinea and Sierra Leone composed primarily of former AFL soldiers under Doe's regime); DCT-228, Transcript 19 May 2010 p. 41236 ("ULIMO is an armed group that attacked the NPFL fighting to dethrone Mr Taylor").

<sup>5289</sup> TF1-168, Transcript 26 January 2009, pp. 23483-23484 (CS).

<sup>5290</sup> TF1-567, Transcript 2 July 2008, pp. 12852-12856.

<sup>5291</sup> Credibility Assessment, TF1-567, paras 313-317; Credibility Assessment, Perry Kamara, paras 227-236.

Liberia, he saw Sankoh, Taylor, his commanders and bodyguards arriving in a convoy.<sup>5292</sup> Sankoh said that Taylor had given him trucks, arms and ammunition<sup>5293</sup> and after bringing back these materials to Sierra Leone, Sankoh called a meeting of RUF soldiers at which he said that Charles Taylor had told him to attack Kono in order to acquire diamonds and money to buy more ammunition. Witness TF1-567 testified that Bockarie was appointed to lead the attack on Kono, while Kamara testified that Mohamed Tarawalli was appointed to lead the attack,<sup>5294</sup> but apart from this detail, the witnesses corroborate each other on the fact that around November 1992, in Gbarnga, Taylor provided Sankoh with arms and ammunitions to attack Kono.

2451. Witness TF1-567's account is further corroborated by Dauda Aruna Fornie who testified that while he was in Kakata, Sankoh told the RUF soldiers that trucks loaded with ammunitions would come to collect them to bring them back to Sierra Leone. While Kamara saw Taylor, Fornie testified that he did not see Taylor because the door and the windows of the vehicle remained closed, but he said Bockarie informed him that Taylor was inside the vehicle.<sup>5295</sup>

2452. Foday Lansana also corroborates the account of these witnesses in his testimony that Sankoh returned from Gbarnga to Pendembu with a large quantity of arms and ammunition and that upon his return, Mohamed Tarawalli, Sam Bockarie, Issa Sesay and Morris Kallon were instructed to go to Koidu, Kono District in order to attack government troops and conquer the area because it was a diamond rich mining area.<sup>5296</sup> While Lansana placed this event in mid-1992 his account corresponds in all other respects to the other witnesses' testimony and the Trial Chamber therefore accepts this evidence.

2453. In light of the evidence, the Trial Chamber does not accept the blanket denials of the Accused<sup>5297</sup> and of Issa Sesay that there were no links between the NPFL and RUF after May 1992 or the blanket denial, made also by Charles Ngebeh,<sup>5298</sup> that no materiel was sent

<sup>5292</sup> Perry Kamara, Transcript 4 February 2008, p. 3034.

<sup>5293</sup> Perry Kamara, Transcript 4 February 2008, p. 3035.

<sup>5294</sup> Perry Kamara, Transcript 4 February 2008, pp. 3045-3046.

<sup>5295</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21360-21371; Transcript 8 December 2008, pp. 21993-21999; Transcript 11 December 2008, pp. 22257-22258.

<sup>5296</sup> Foday Lansana, Transcript 20 February 2008, pp. 4395-4396.

<sup>5297</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28694-28699, 28706-28707; Transcript 15 September 2009, pp. 28939-28940.

<sup>5298</sup> Charles Ngebeh, Transcript 22 March 2010, p. 37785.

to the RUF after this time. Moreover, the Trial Chamber does not find credible the Accused's denial of having received diamonds from Sankoh. Defence witness Sam Kolleh testified that he did not know whether the RUF provided Taylor with diamonds. Defence Witness Martin George testified that diamonds found after the successful attack on Kono were given to Sankoh, and he said he did not know what Sankoh did with the diamonds.<sup>5299</sup> Fayia Musa's testimony that diamonds from Kono were given by Sankoh to Isatu Kallon does not in the Trial Chamber's view negate the possibility that diamonds were also given by Sankoh to the Accused. In the Trial Chamber's view, the testimony of these Defence witnesses does not raise any doubt that the Accused was involved in the attack of Kono by providing arms and ammunitions to Sankoh.

2454. Finally, regarding the Accused's involvement in the decision to attack Kono, the Trial Chamber notes that Witness TF1-567 testified that Sankoh and Taylor had agreed or "arranged" to capture Kono<sup>5300</sup> while Perry Kamara testified that Taylor told Sankoh to capture Kono.<sup>5301</sup> The Trial Chamber recalls that none of the witnesses was present during Sankoh's meeting with Taylor. As their testimonies are unclear and inconsistent on Taylor's exact role in the decision to attack Kono, the Trial Chamber is unable to determine what this role was. The Trial Chamber further notes that Witness TF1-168 testified that around October 1992, Sankoh went to Gbarnga in order to explain to the RUF troops remaining in Gbarnga that his plan was to advance towards Kono District.<sup>5302</sup> This testimony of Witness TF1-168 therefore suggests that the plan to attack Kono was made before Sankoh's trip to Gbarnga.

<sup>5299</sup> Martin George, Transcript 22 April 2010, pp. 39698-39700.

<sup>5300</sup> TF1-567, Transcript 2 July 2008 p. 12854 ("Well he told him that he and his brother had arranged that this was the time that they were to capture Kono, because Kono was a diamond mining area and that they should try and capture there. Later Charles Taylor gave the arms and ammunition. Q. And what type of arms and ammunition -- JUDGE LUSSICK: Well I am sorry to interrupt, but it is just that I don't understand that last answer. The answer was "Well, he told him that he and his brother ...". It looks as though there is a third person in there somewhere. MS HOLLIS: Thank you, your Honour, I will clarify that: Q. Mr Witness, you said that Foday Sankoh went to his brother Charles Taylor and "... he told him that he and his brother had arranged that was the time that they were to capture Kono". Now when you say, "... he told him that he and his brother had arranged ...", who told whom? A. Well he was trying to talk to us that he and his brother, he and Charles Taylor, have arranged that Charles Taylor was to help with arms and ammunition to go and capture Kono because Kono had diamonds. Q. Just to be absolutely clear, when you say, "He and Charles Taylor", who is the "he"? A. Foday Sankoh").

<sup>5301</sup> Perry Kamara, Transcript 4 February 2008 p. 3046 ("The RUF leadership summoned a meeting and that was Foday Sankoh. He said he just returning back from Mr Taylor and now he said he is there to organise us so that we will use this ammunition to attack Kono so that we will be able to get diamonds and money that will help us to get more ammunition. That was what he said Taylor told him. So he sent Mohamed Tarawalli on that particular mission. Luckily for Mohamed Tarawalli he succeeded").

2455. The Trial Chamber considers that it has insufficient evidence to determine when and where the decision was made to attack Kono. It can only be concluded on the basis of the evidence adduced that the Accused and Sankoh discussed the decision to attack Kono, not that Taylor ordered it or planned it with Sankoh.

2456. Finally, turning to the motivation behind the Kono attack, the Trial Chamber heard substantial evidence establishing that the presence of diamonds was indisputably one motivation behind the attack.<sup>5303</sup> However this was not the only motivation. For example, Witness TF1-168 testified that the RUF wanted to capture Kono District because it was a diamondiferous area but also because it was a strategic road to Freetown.<sup>5304</sup> Furthermore, the evidence on record shows that while in control of Kono, the RUF did not try to start mining operations.<sup>5305</sup> Expert witness Stephen Ellis testified that it was only during the later 1990s that diamonds became a key factor in the hostilities. In the Trial Chamber's view, this failure to start mining operations suggests that the acquisition of diamonds was not the primary purpose of the attack on Kono, although it notes the evidence that diamonds were seized from civilians when Kono was captured.<sup>5306</sup>

### Findings

2457. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that, around November 1992, the Accused provided Sankoh with arms and ammunition for an attack on Kono.

2458. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that during this time the Accused received diamonds from Sankoh.

2459. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that in 1992 the Accused and Sankoh formed a common plan to capture Kono, or that the Accused directed Sankoh to capture Kono, because it was a diamondiferous area.

<sup>5302</sup> TF1-168, Transcript 21 January 2009, p. 23215 (CS).

<sup>5303</sup> See for example TF1-567, Transcript 2 July 2008, pp. 12852-12856.

<sup>5304</sup> TF1-168, Transcript 21 January 2009, p. 23224 (CS).

<sup>5305</sup> See for example TF1-168, Transcript 21 January 2009, pp. 23180-23181 (CS); Transcript 26 January 2009, pp. 23482-23483 (CS); TF1-367, Transcript 1 September 2008 pp. 15057-15059.

<sup>5306</sup> See for example TF1-367, Transcript 1 September 2008 pp. 15057-15059.

## 6. Alleged RUF Assistance to Fight ULIMO in Liberia

### Submissions of the Parties

2460. The Prosecution alleges that throughout the conflicts in Liberia and Sierra Leone, Taylor made free use of his proxy force, the RUF. Specifically, the Prosecution submits that in 1993, at Taylor's direction, Sankoh sent RUF personnel under the command of Morris Kallon to Liberia to fight with Taylor's NPFL against ULIMO. Kallon was tasked to open the way to Gbarnga and get materiel from Taylor. The attempt was unsuccessful and Kallon returned to Sierra Leone from Liberia in about 1994 via Guinea, without arms or ammunition.<sup>5307</sup>

2461. The Defence concedes to a mutual pact between Taylor and Sankoh to neutralise ULIMO.<sup>5308</sup> It submits however that this cooperation stopped after Operation Top Final and the withdrawal of NPFL forces from Sierra Leone.<sup>5309</sup>

### Evidence

#### Prosecution Witness Perry Kamara

2462. Witness Perry Kamara, an RUF radio operator,<sup>5310</sup> testified that in 1993 the RUF supply route was blocked by ULIMO. Taylor asked Sankoh to send a group in order to fight ULIMO there. Accordingly, Mr Kallon led a group to Liberia and attacked ULIMO positions in order to enable the RUF to access supply routes to Taylor's headquarters.<sup>5311</sup>

#### Prosecution Witness TF1-567

2463. Witness TF1-567, an RUF member,<sup>5312</sup> testified that in 1993, ULIMO captured the areas of Kailahun, Foya, and Voinjama, blocking the routes of the RUF to Liberia. Witness TF1-567 testified that during a meeting Sankoh explained that Charles Taylor suggested to

<sup>5307</sup> Prosecution Final Trial Brief, para. 384.

<sup>5308</sup> Defence Final Trial Brief, para. 779.

<sup>5309</sup> Defence Final Trial Brief, paras 343, 431, 778, 1237-1239. See also Defence Response to the Prosecution Final Trial Brief para. 84 ("Para. 384 is pre-Indictment and thus is Rule 93 evidence, which the Trial Chamber should not accept. In any event, Morris Kallon returned to Sierra Leone without arms or ammunition, so it is unclear how Taylor could be responsible under aiding and abetting when there was no substantial assistance actually given").

<sup>5310</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>5311</sup> Perry Kamara, Transcript 6 February 2008, p. 3272.

him that he should send some soldiers from Sierra Leone in order to get more arms and ammunition. Accordingly, Foday Sankoh selected some RUF Liberian soldiers, including Morris Kallon, and asked them to go to Liberia. Morris Kallon and his men left but never managed to pass through the border. The border was closed until 1998, cutting off the road of communications between the RUF and NPFL.<sup>5313</sup>

Prosecution Witness Isaac Mongor

2464. Witness Isaac Mongor, an RUF Commander,<sup>5314</sup> testified that around 1993, ULIMO occupied Voinjama in Liberia. Sankoh called Mongor and told him that Taylor asked him to send RUF troops in order to repel ULIMO troops from Voinjama. Mongor left for Voinjama and fought together with NPFL troops. Together the NPFL and RUF managed to capture Voinjama from ULIMO.<sup>5315</sup>

2465. Mongor testified that while he was fighting in Voinjama, Kallon and his men, together with NPFL troops, also fought ULIMO but could not dislodge them. Kallon planned to take a bypass to go to Gbarnga, but all his men were killed. Morris Kallon was the only one who survived that attack.<sup>5316</sup>

Prosecution Witness TF1-168

2466. Witness TF1-168, an RUF officer,<sup>5317</sup> testified that by January/February 1993 ULIMO had spread into Lofa County in Liberia, threatening the supply route to Gbarnga. Witness TF1-168 said that Sankoh informed him that the RUF received a message to send RUF troops to Mendekoma going towards Voinjama, in order to help NPFL troops to stop ULIMO from closing the route to Gbarnga. Most of the Liberian vanguards volunteered to go on that mission under the command of Morris Kallon. Witness TF1-168 testified that the

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<sup>5312</sup> TF1-567, Transcript 2 July 2008, p. 12833; Transcript 4 July 2008, pp. 12986-12988 (PS).

<sup>5313</sup> TF1-567, Transcript 2 July 2008, pp. 12867-12868.

<sup>5314</sup> See for example: Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March 2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>5315</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5677-5679.

<sup>5316</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5681-5683.

<sup>5317</sup> TF1-168, Transcript 22 January 2009, pp. 23275-23282 (CS).

mission failed and the supply route to Gbarnga was completely cut off. None of the men except Morris Kallon returned.<sup>5318</sup>

Prosecution Witness Albert Saidu

2467. Witness Albert Saidu, an RUF adjutant from 1991 to 2001,<sup>5319</sup> testified that before April 1992, the border between Liberia and Sierra Leone was still open. However, after the NPRC led by Strasser King overthrew Momoh's government, ULIMO intensified their attacks and the RUF lost Kono and were pushed back to the Koindu border, cutting the supply road between Sierra Leone and Liberia.<sup>5320</sup>

2468. Albert Saidu testified that before the border was cut off, Morris Kallon entered Liberia with RUF soldiers to bring back ammunition, but he was still in Liberia when ULIMO took over the border. Around 1993, Morris Kallon and his men, together with NPFL soldiers, tried to open the border but failed to do so. Albert Saidu testified that RUF lost fighters during the fight but that Morris Kallon managed later on to reach the RUF territory, passing through Guinea.<sup>5321</sup>

Prosecution Witness Jabaty Jaward

2469. Witness Jabaty Jaward, an RUF soldier based in Pendembu,<sup>5322</sup> testified that after the invasion of Sierra Leone, RUF arms and ammunition and food supplies were coming from the NPFL territory in Liberia. Jaward used to see Foday Sankoh passing through Pendembu from Gbarnga in trucks loaded with arms and ammunition.<sup>5323</sup>

2470. Jaward stated that in 1993, ULIMO conquered the border between Sierra Leone and Liberia, cutting off the RUF supply route from Liberia. Before the border was completely closed in November 1993, Sankoh sent a group of fighters led by Morris Kallon across the border to go to Gbarnga for arms and ammunition, during which time they were cut off.

<sup>5318</sup> TF1-168, Transcript 21 January 2009, pp. 23226-23227 (CS).

<sup>5319</sup> Albert Saidu, Transcript 4 June 2008, p. 10895.

<sup>5320</sup> Albert Saidu, Transcript 4 June 2008, pp. 10934-10936.

<sup>5321</sup> Albert Saidu, Transcript 4 June 2008, pp. 10936-10939.

<sup>5322</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13306, 13332; Transcript 10 July 2008, p. 13383.

<sup>5323</sup> Jabaty Jaward, Transcript 9 July 2008 pp. 13261-13263.

Jaward testified that the group was not able to come back to Sierra Leone and that Morris Kallon had to pass through Guinea in order to come back to RUF territory.<sup>5324</sup>

Prosecution Witness TF1-516

2471. Witness TF1-516, an RUF member,<sup>5325</sup> testified that while he was at a muster parade in Buedu, in early 1993, Sankoh informed the RUF that ULIMO had captured Voinjama, Kolahun and Foya, cutting off the RUF from the NPFL. Sankoh asked Morris Kallon to go to Gbarnga in order to get materials and gave him a good number of RUF fighters for this mission. The RUF fighters crossed into Liberia and manoeuvred on to Gbarnga. When Morris Kallon and those men arrived, a radio message was sent to Sankoh explaining that the RUF fighters, led by Morris Kallon, arrived in Gbarnga, though they had met some obstacles on the way. Kallon only came back after the AFRC coup in 1997.<sup>5326</sup>

The Accused

2472. The Accused testified that between August 1991 and May 1992, he provided minimal assistance to Sankoh by sending small amounts of ammunition from time to time.<sup>5327</sup> However, after 1992 and Operation Top Final, the Accused cut off all links with the RUF and gave them no assistance.<sup>5328</sup> Moreover, ULIMO had closed the entire border between Liberia and Sierra Leone around August 1992.<sup>5329</sup>

Defence Witness Charles Ngebeh

2473. Witness Charles Ngebeh, an RUF soldier,<sup>5330</sup> testified that in 1994 Morris Kallon was in Liberia. Ngebeh did not know whether Sankoh sent Kallon to Liberia to assist the NPFL but testified that Kallon came back from Liberia to Sierra Leone, passing through Guinea.<sup>5331</sup>

<sup>5324</sup> Jabaty Jaward, Transcript 9 July 2008 pp. 13263, 13289-13293.

<sup>5325</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>5326</sup> TF1-516, Transcript 9 April 2008, pp. 7043-7047, 7050, 7077-7081.

<sup>5327</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24825-24827.

<sup>5328</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24822-24825.

<sup>5329</sup> Charles Ghankay Taylor, Transcript 21 July 2009, pp. 24820-24822, 24937-24940; 24848-24857, 24890-24891.

<sup>5330</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37847.

<sup>5331</sup> Charles Ngebeh, Transcript 12 April 2010, pp. 38733-38734.



Deliberations

2474. It is undisputed that after Operation Top Final and the withdrawal of NPFL forces from Sierra Leone,<sup>5332</sup> ULIMO and Sierra Leonean government troops intensified their attacks against the RUF, cutting off the border between Liberia and Sierra Leone and preventing the RUF from getting any supplies from Liberia.<sup>5333</sup>

2475. In that context the Prosecution alleges that in 1993, in an unsuccessful attempt to keep the supply lines open and at the Accused's direction Sankoh sent RUF personnel under the command of Morris Kallon to Liberia to fight with the Accused's NPFL against ULIMO. The Prosecution further submits that Kallon was tasked to open the way to Gbarnga and get materiel from the Accused but that Kallon returned to Sierra Leone from Liberia in about 1994 via Guinea, without arms or ammunition.<sup>5334</sup> While the Defence concedes to a mutual pact between the Accused and Sankoh to neutralise ULIMO, it denies that this was pursuant to any Joint Criminal Enterprise and submits that this cooperation ended after Operation Top Final around June 1992.<sup>5335</sup>

2476. The evidence establishes that in 1993, Sankoh sent a group of RUF fighters led by Morris Kallon to Liberia in order to open the border controlled by ULIMO and to purchase arms and ammunition.<sup>5336</sup> The mission failed and most of the border was cut off.<sup>5337</sup> Morris Kallon survived and came back later to Sierra Leone, passing through Guinea.<sup>5338</sup> The

<sup>5332</sup> Pre-Indictment Period (1988-1996): The Invasion of Sierra Leone.

<sup>5333</sup> Prosecution Final Trial Brief, paras 216-218; Defence Final Trial Brief, paras 342, 426, 434-436.

<sup>5334</sup> Prosecution Final Trial Brief, para. 384.

<sup>5335</sup> Defence Final Trial Brief, paras 343, 779, 431, 778, 1237-1239.

<sup>5336</sup> Perry Kamara, Transcript 6 February 2008, p. 3272; TF1-567, Transcript 2 July 2008, pp. 12867-12868; Jabaty Jaward, Transcript 9 July 2008, p. 13292; TF1-516, Transcript 9 April 2008, pp. 7043-7047, 7050, 7077-7081; Charles Ngebeh, Transcript 12 April 2010, pp. 38733-38734; See also Isaac Mongor, Transcript 10 March 2008, p. 5677 (Sankoh asked Mongor to fight ULIMO in Voinjama).

<sup>5337</sup> Isaac Mongor, Transcript 10 March 2008, p. 5681 ("they couldn't dislodge the ULIMOs. Since they could not overpower the ULIMOs he planned to take a bypass to go to Gbarnga, but they couldn't make it up and the manpower that he had all of them were killed"); TF1-168, Transcript 21 January 2009, pp. 23226-23227 (CS) ("The mission failed because as we learned later ULIMO sealed off the area so the supply route to Gbarnga was completely cut off and then by then [sic] even our men that went on the mission, we didn't see anybody return, not until later on"); Albert Saidu, Transcript 4 June 2008, pp. 10937-10939 (Morris Kallon and his men together with NPFL soldiers failed to open the border. The RUF lost soldiers during the fight).

<sup>5338</sup> Isaac Mongor, Transcript 10 March 2008, p. 5681 ("Morris Kallon was able to escape. He survived that attack" [...] "He returned, but not immediately after the incident"); TF1-168, Transcript 21 January 2009, pp. 23226-23227 (CS) ("Surprisingly, while we were in the Koindu jungle, one morning we just saw Morris Kallon. He returned alone [...] when he was going on the trip he had over 50 fighters with him, but upon his return I saw him alone"); Albert Saidu, Transcript 4 June 2008, p. 10939 (Morris Kallon managed later on to join the RUF territory passing through Guinea); Jabaty Jaward, Transcript 9 July 2008, p. 13293 (Morris Kallon had to pass

question for the Trial Chamber is whether the Accused requested Sankoh's assistance to open the border controlled by ULIMO.

2477. Witnesses Perry Kamara and TF1-567 testified that Sankoh sent Kallon and his men at Taylor's direction. Similarly, Isaac Mongor testified that at the same period, Sankoh sent him to fight ULIMO, saying that this was at Taylor's request. Witness TF1-168 testified that Sankoh told him that he had received a message asking him to send troops in order to help NPFL troops to stop ULIMO from closing the route to Gbarnga, although TF1-168 did not specifically mention the Accused.<sup>5339</sup> The Trial Chamber recalls its findings that Kamara, TF1-567, Mongor and TF1-168 are all generally credible witnesses.<sup>5340</sup>

2478. Witness TF1-567 and Mongor testified that it was Sankoh who informed them that Taylor requested the RUF's assistance to fight ULIMO in the border area.<sup>5341</sup> Kamara did not explain how he obtained this information.<sup>5342</sup>

2479. The evidence shows that ULIMO was advancing toward the border and cutting off the border between Sierra Leone and Liberia. In this context, it is evident that despite NPFL's withdrawal from Sierra Leone, Taylor and Sankoh both still had an interest in fighting their common enemy ULIMO. Even after the withdrawal of the NPFL, the RUF still needed NPFL military support in order to fight ULIMO and the Sierra Leonean Government forces. At the same time, Taylor's NPFL needed RUF troops to attack ULIMO, in order to prevent major attacks on Liberia. In this context, it is credible that Taylor would call Sankoh and request his assistance to fight their common enemy, as they had done continuously since June 1991.

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through Guinea in order to come back to the RUF territory); Charles Ngebeh, Transcript 12 April 2010, p. 38734 (Kallon came back from Liberia to Sierra Leone passing through Guinea).

<sup>5339</sup> TF1-168, Transcript 21 January 2009, pp. 23226-23227 (CS).

<sup>5340</sup> Credibility Assessment, Perry Kamara, paras 227-236; Credibility Assessment, TF1-567, paras 313-317; Credibility Assessment, Isaac Mongor, paras 269-274; Credibility Assessment, TF1-168, Pre-Indictment period (1988-1996), para. 2328.

<sup>5341</sup> TF1-567, Transcript 2 July 2008, pp. 12867-12868; Isaac Mongor, Transcript 10 March 2008, pp. 5677-5679.

<sup>5342</sup> Perry Kamara, Transcript 6 February 2008, p. 3272 ("1993 a group went there and even up to the time when we had disarmed Taylor sent instructions for the RUF to go there as a stand-by force in case UNAMSIL would attempt to attack our positions. In 1993 when our supply route was blocked by ULIMO Mr Kallon had to send - I am sorry, Mr Kallon had to lead a group to go and fight in Liberia. It was a request from Mr Taylor to Sankoh at that time. That was the first group I can remember went to Liberia. They were the ones who went and formed - I mean they attacked ULIMO positions so that we could get supply routes to Mr Taylor's headquarters").

2480. In the light of the foregoing evidence, and particularly the testimonies of Perry Kamara, TF1-567 and Isaac Mongor, who all specifically mentioned the Accused, the Trial Chamber is satisfied that Sankoh sent RUF forces to Liberia at the request of the Accused.

### Findings

2481. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in 1993, following a request from the Accused, Sankoh sent RUF personnel under the command of Morris Kallon to Liberia to fight with the NPFL against ULIMO.

### 7. Alleged Supply of Materiel to the RUF from Guinea during ULIMO Occupation

#### Submissions of the Parties

2482. The Prosecution submits that at the end of 1993/beginning of 1994, the border area between Liberia and Sierra Leone was controlled by ULIMO. Such severe restriction of access to the border areas effectively cut off the direct supply lines from Taylor in Liberia to the fighters in Sierra Leone. However, Taylor devised other means of delivering materiel to his surrogate force there, the RUF. He instructed Joseph (“Zigzag”) Marzah to establish a relationship with persons in Guinea in order to take materiel into Guinea for the RUF. To that end, Taylor provided Marzah with a vehicle and the “start up” money to establish the relationship. In this way, Marzah was able to transport ammunition into Guinea and hand it over to one of Taylor’s Special Forces, Tiagan Wantee, who was at that time Taylor’s “ambassador to Guinea” for onward transit to Sierra Leone. This was a similar method to that established with Isatu Kallon when she went to Guinea from Taylor’s controlled territory in Liberia by way of the NPFL stronghold in Danané, Côte d’Ivoire. Just as he did with Marzah, no doubt Taylor gave this trader the “start up” money and other assistance to secure a trading alliance with Guineans in Guinea. From that alliance she was able to purchase or barter for ammunition which she then provided to the RUF. In this way Taylor was able to indirectly provide some amount of materiel to his proxy force in Sierra Leone at a time when the direct overland route was not completely open to him.<sup>5343</sup>

<sup>5343</sup> Prosecution Final Trial Brief, para. 218.

2483. The Defence challenges Marzah's general credibility<sup>5344</sup> and submits that the allegation is characterized by hyperbole, duplicity and made purely by assumption.<sup>5345</sup>

### Evidence

#### Prosecution Witness Joseph Marzah

2484. Witness Joseph ("Zigzag") Marzah, an NPFL soldier,<sup>5346</sup> testified that after 1991, ULIMO occupied Lofa County in Liberia blocking the supply road between Liberia and Sierra Leone.<sup>5347</sup> As a result, Taylor instructed Marzah to "penetrate through" with arms and ammunition. Taylor gave Marzah \$USD 1,600 and a Nissan pickup. Marzah pretended to be a businessman selling kola nuts and established relationships with a couple of Guinean customs officers who, after being given a balawala bag of kola nuts, assisted him in transporting the kola nuts bags as far as Kissidugu. Marzah testified that ammunition from Charles Taylor, like rockets, was hidden in the bags. In Kissidugu, Tiagen Wantee and a Mandigo friend collected the kola nuts bags and brought them to the Liberian Embassy in Conakry.<sup>5348</sup>

#### Prosecution Witness TF1-168

2485. Witness TF1-168, an RUF officer, was with Sankoh in the RUF headquarters until the end of 1994. Witness TF1-168 testified that from 1993 until December 1994, the only source of weapons were those captured from the enemy. TF1-168 further stated that the RUF was not receiving arms from Guinea since it was not controlling the Kailahun area but had retreated to the jungle of Zogoda.<sup>5349</sup>

#### Prosecution Witness TF1-375

2486. Witness TF1-375, an RUF member, testified that Tiagen Wantee was an ambassador to Guinea, but later he was chased out of Guinea and came to Liberia.<sup>5350</sup>

<sup>5344</sup> Defence Final Trial Brief, paras 1430-1448.

<sup>5345</sup> Defence Response to the Prosecution Final Trial Brief paras 42, 44.

<sup>5346</sup> Joseph Marzah, Transcript 13 March 2008, pp. 6053-6055.

<sup>5347</sup> Joseph Marzah, Transcript 12 March 2008, pp. 5871-5872.

<sup>5348</sup> Joseph Marzah, Transcript 12 March 2008, pp. 5872-5875.

<sup>5349</sup> TF1-168, Transcript 23 January 2009, pp. 23449-23451 (CS).

<sup>5350</sup> TF1-375, Transcript 22 August 2008, p. 14377 (PS).

Prosecution Witness Jabaty Jaward

2487. Witness Jabaty Jaward, a former RUF member and a SSS member, testified that Tiagen Wantee was the former Liberian ambassador to Guinea.<sup>5351</sup>

The Accused

2488. The Accused denied having given any instruction to Marzah to transport materials through Guinea. He admitted having an ambassador named Tiagen Wantee in Guinea but only after late 1997, when he was elected President of Liberia.<sup>5352</sup>

Deliberations

2489. It is undisputed that around 1993, ULIMO took control of Lofa County in Liberia, cutting off the supply road between Liberia and Sierra Leone.<sup>5353</sup>

2490. The Prosecution, relying on Joseph Marzah's testimony, alleges that in 1994 the Accused instructed Marzah to establish a relationship with persons in Guinea in order to take materiel into Guinea for the RUF.<sup>5354</sup> The Trial Chamber recalls its finding that Marzah's testimony, particularly as it relates to his personal interaction and communication with the Accused, must be considered with caution and requires corroboration.<sup>5355</sup>

2491. Marzah did not provide any specific dates for his alleged trips to Guinea. However, he testified that he made his trips to Guinea while ULIMO occupied Lofa County in Liberia.<sup>5356</sup> No other witness corroborated Marzah's account that while the supply road between Liberia and Sierra Leone was blocked by ULIMO, Taylor devised another means of delivering materiel to the RUF. To the contrary, Witness TF1-168, an RUF officer who was with Sankoh at the RUF headquarters until the end of 1994, testified that the only source of weapons for the RUF were those captured from the enemy. Witness TF1-168 further stated specifically that the RUF was not receiving arms from Guinea.<sup>5357</sup> In the Trial Chamber's

<sup>5351</sup> Jabaty Jaward, Transcript 16 July 2008, pp. 13931-13932. But see prior statement "Tiagen Wantee was an assistant to the Guinean Ambassador" (Jabaty Jaward, Transcript 16 July 2008, pp. 13933-13934).

<sup>5352</sup> Charles Ghankay Taylor, Transcript 29 September 2009, pp. 29834-29848.

<sup>5353</sup> Prosecution Final Trial Brief, paras 216-218; Defence Final Trial Brief, paras 342, 434-436.

<sup>5354</sup> Prosecution Closing Brief, para. 218.

<sup>5355</sup> Credibility Assessment, Joseph Marzah, paras 263-268.

<sup>5356</sup> Joseph Marzah, Transcript 12 March 2008, pp. 5871-5782.

<sup>5357</sup> TF1-168, Transcript 23 January 2009, pp. 23449-23451 (CS).

view, this testimony from a well informed RUF officer, casts further doubt on Marzah's uncorroborated testimony.

2492. In light of the evidence of TF1-168, whom the Trial Chamber has found to be generally credible,<sup>5358</sup> and its general reservations regarding Marzah's evidence, which is not corroborated with regard to this allegation, the Trial Chamber does not find that the allegation has been established.

### Findings

2493. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the Accused instructed Joseph ("Zigzag") Marzah to establish a relationship with persons in Guinea in order to take materiel into Guinea for the RUF.

## 8. Sierra Rutile

### Submissions of the Parties

2494. The Prosecution submits that Taylor advised Sankoh to attack a major place and terrorise the area, starting with the civilians, including white employees, in order to raise the concern of the international community and to force the government and international community to agree to a peace deal. Following this advice, Sankoh's troops left burned villages and dead civilians in their wake as they moved to Sierra Rutile and its environs. During the attack on Sierra Rutile and environs, the RUF also abducted staff and looted a substantial sum of money from the company. After the attack, Sankoh reported to Taylor via NPFL radio stations. Taylor told Sankoh to save the money in order to buy ammunitions, food and drugs for the fighters and to establish diplomatic relations with the outside world. The Prosecution relies primarily on the testimonies of Augustine Mallah and Perry Kamara.<sup>5359</sup>

2495. The Defence contends that the testimony of Augustine Mallah and Perry Kamara lacks credibility and contradicts the testimony of other Prosecution witnesses. The Defence

<sup>5358</sup> Credibility Assessment, TF1-168, Pre-Indictment period (1988-1996), para. 2328.

<sup>5359</sup> Prosecution Final Trial Brief, paras 122-124, 417.

further submits that this evidence is an elaborately made up story deliberately designed to directly implicate Taylor in the planning of RUF combat activities in Sierra Leone.<sup>5360</sup>

### Evidence

#### Prosecution Witness Augustine Mallah

2496. Witness Augustine Mallah, a former RUF member,<sup>5361</sup> testified that at the end of 1994, while he was at the RUF base in the jungle in Zogoda, Foday Sankoh told him that he, together with Denis Mingo (a.k.a. Superman) and Jalloh, a Sierra Leonean RUF Junior Commando, would be sent on a mission to Sierra Rutile under the command of CO Mohamed Tarawalli (a.k.a. Zino).<sup>5362</sup>

2497. Four or five days later, Sankoh assembled a formation and said that he had received advice from “the other side”, to attack and terrorise the area of Sierra Rutile by killing civilians, burning villages and abducting white employees of the Sierra Rutile mining company located there. Sankoh told Mallah later that “the other side” meant Charles Taylor. Sankoh explained that the purpose was to frighten the population and the soldiers there and to raise concern in the international community in order to force the international community to concentrate on peace in Sierra Leone.<sup>5363</sup> Mallah stated that while he was at Zogoda, in 1994, he saw Sankoh having conversations with Taylor by radio on a daily basis. Mallah heard their conversations clearly because the radio had a speaker.<sup>5364</sup>

2498. In accordance with Sankoh’s order, Mallah and the other RUF soldiers attacked Sumbuya, Tikonko, Bo Town, Njala University and Kanbaima. Most of the towns were burned and civilians were killed. Sierra Rutile mining company was burned and its equipment destroyed. Three employees of the company were captured. Mallah further testified that four employees of a company named Sironco Company were also captured and sent to Sankoh at Zogoda. During the attack, Mallah and other RUF soldiers reported to Mohamed Tarawalli, who informed Sankoh regularly of the crimes committed. Mallah

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<sup>5360</sup> Defence Final Trial Brief, paras 437-438, 776, 820-835, 1238-1239, 1354-1358.

<sup>5361</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20092-20094. Mallah was an RUF commander of the Sankoh Strike Force Commanders Unit.

<sup>5362</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20096-20097.

<sup>5363</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20096-20099.

<sup>5364</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20109-20112; Transcript 14 November 2008, pp. 20294-20295.

testified that when Mohamed Tarawalli spoke to Sankoh, all the RUF commanders listened to the conversation with radio sets. After the attack Mallah remained in Sierra Rutile for eight months, after which he came back to Zogoda.<sup>5365</sup>

Prosecution Witness Perry Kamara

2499. Witness Perry Kamara, a former RUF Junior Commando<sup>5366</sup> and an RUF radio operator, testified that in 1994, Taylor and the RUF used to have radio communications every two or three days.<sup>5367</sup> As a radio man he received and monitored the radio transmissions and read from the log books. Kamara testified that Sankoh “was always advised by Mr Taylor” and that “any time Mr Sankoh received message from Mr Taylor we will undertake a serious attack”.<sup>5368</sup> In late 1994-1995, Taylor advised Sankoh to attack major places like Kono or Sierra Rutile. As a result, Sankoh informed his men, including the witness, that he wanted to attack the mining company of Sierra Rutile in Bonthe district, in the southern part of Sierra Leone.<sup>5369</sup> The RUF mission on Sierra Rutile was commanded by CO Mohamed Tarawalli. During the attack on Sierra Rutile, RUF soldiers captured the manager of the company and other white men. After the mission, the commander Mohamed Tarawalli came back with money wrapped in a rice bag. When Tarawalli came back to the base, Sankoh reported to Taylor who advised him to buy ammunitions, food and drugs for his fighters with the money looted.<sup>5370</sup>

2500. Taylor also advised Sankoh to use the money and the white hostages in order to establish diplomatic relations with other countries. More specifically, he said Sankoh should send educated RUF members to Côte d’Ivoire in order to establish RUF representation there. Fayia Musa, Deen Jalloh, Philip Palmer and their families were chosen for this diplomatic mission.<sup>5371</sup>

Prosecution Witness TF1-168

<sup>5365</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20101-20102.

<sup>5366</sup> Perry Kamara, Transcript 4 February 2008, pp. 3024-3027.

<sup>5367</sup> Perry Kamara, Transcript 4 February 2008, p. 3049.

<sup>5368</sup> Perry Kamara, Transcript 4 February 2008, p. 3053.

<sup>5369</sup> Perry Kamara, Transcript 4 February 2008, pp. 3053-3054.

<sup>5370</sup> Perry Kamara, Transcript 4 February 2008, p. 3054.

<sup>5371</sup> Perry Kamara, Transcript 4 February 2008, p. 3056.



2501. Witness TF1-168, an RUF officer,<sup>5372</sup> testified that by late 1994, the RUF soldiers at RUF Headquarters in Zogoda were having difficulty surviving without food and under constant attack by ULIMO and Government troops.<sup>5373</sup> Sankoh and other RUF officers decided that it was time to leave the jungle and to meet the international community in order to negotiate peace. For this purpose, on 11 December 1994, Sankoh sent RUF members including Philip Palmer, Deen-Jalloh, Isatu Kallon, Daniel Kallon, Philip Sannoh, Alhaji Kamara and Issa Sesay to Côte d'Ivoire in order to establish a public relations campaign for the RUF. The members of the RUF delegation left Sierra Leone passing through Guinea.<sup>5374</sup> On or about 13 December 1994, while in Gueckedou on their way to Côte d'Ivoire, Philip Palmer and Alhaji Kamara were arrested by an anti gang unit of the police for being members of a rebel group. They were moved to Conakry and detained there until May 1995. After being released in May 1995, Palmer remained with the Sierra Leonean Ambassador to Guinea, in Conakry, for two weeks.<sup>5375</sup>

2502. Witness TF1-168 further testified that Foday Sankoh had European, American and Sierra Leonean hostages, abducted from Sierromco and Sierra Rutile. The hostages were held prisoners at the RUF's headquarters in Zogoda and later turned over to a special envoy, who in turn delivered them to the ICRC.<sup>5376</sup>

#### Prosecution Witness TF1-567

2503. Witness TF1-567, an RUF security officer in Zogoda,<sup>5377</sup> testified that in 1994, Foday Sankoh asked Mohamed Tarawalli (a.k.a. Zino) and Superman to come to Zogoda. There, he instructed them to attack Sierra Rutile and the western jungle and to open a base in the Western Area, because it was close to Freetown. Witness TF1-567 went there with Zino. He testified that while there, the RUF used to set ambushes on the highway to get food from civilian vehicles and arms and ammunition from military vehicles.<sup>5378</sup>

#### The Accused

<sup>5372</sup> TF1-168, Transcript 22 January 2009, pp. 23275-23282 (CS).

<sup>5373</sup> TF1-168, Transcript 21 January 2009, pp. 23239-23240 (CS).

<sup>5374</sup> TF1-168, Transcript 21 January 2009, pp. 23245-23248 (CS).

<sup>5375</sup> TF1-168, Transcript 21 January 2009, pp. 23248-23252 (CS).

<sup>5376</sup> TF1-168, Transcript 22 January 2009, pp. 23263-23265 (CS).

<sup>5377</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS); Transcript 4 July 2008, pp. 12986-12988 (PS).

<sup>5378</sup> TF1-567, Transcript 2 July 2008, pp. 12876-12878.

2504. The Accused denied having any contact with Foday Sankoh from 1992 onwards and denied giving any advice to attack Sierra Rutile.<sup>5379</sup> He added that he did not know what or where Sierra Rutile was.<sup>5380</sup> The Accused also denied advising Foday Sankoh that RUF should establish diplomatic relations with the outside world.<sup>5381</sup>

Defence Witness Martin George

2505. Witness Martin George, an RUF Lieutenant,<sup>5382</sup> testified that, around mid-1994, he went to the RUF headquarters in Zogoda and attended a meeting during which Sankoh assigned Mohamed Tarawalli to capture Sierra Rutile and Sam Bockarie to capture Matru Jong. Sankoh explained that Sierra Rutile was an important target because it was a major government base and if they “got it” they would “shake up the government”. The witness never heard Sankoh speak of Charles Taylor during the meeting or mention that this attack had been ordered by Taylor. George stated that the decision came from Sankoh directly.<sup>5383</sup> George further stated that during the meeting with Sankoh at Zogoda he did not hear anyone saying that the RUF should terrorise, capture or kill any civilians. The objective of the mission was to capture Sierra Rutile, a mining company which was an important source of supply for the Government.<sup>5384</sup>

2506. George testified that Sam Bockarie and Mohamed Tarawalli both passed by his base in Ngolahun Vaama on the way to Sierra Rutile and Matru-Jong and on their return. Moreover, the witness and his radio operator, Dauda Aruna Fornie, received frequent reports on the operations by radio. During the operation in Sierra Rutile, Mohamed Tarawalli took 16 hostages including three white British citizens. The hostages were taken to Sankoh’s base in Zogoda. Sankoh had the 3 British nationals escorted to Guinea and released upon the request of the international community. The witness did not know what happened during the attacks in Sierra Rutile or in Njala, Kambaima or Sumbuya since he was not part of the mission.<sup>5385</sup>

<sup>5379</sup> Charles Ghankay Taylor, Transcript 16 September 2009, p. 28999.

<sup>5380</sup> Charles Ghankay Taylor, Transcript 23 July 2009, pp. 25131-25132.

<sup>5381</sup> Charles Ghankay Taylor, Transcript 16 September 2009, p. 29000.

<sup>5382</sup> Martin George, Transcript 21 April 2010, p. 39592; Transcript 22 April 2010, pp. 39627, 39708, 39710; Transcript 23 April 2010, pp. 39766, 39787-39795.

<sup>5383</sup> Martin George, Transcript 22 April 2010, pp. 39708-39713; Transcript 27 April 2010, pp. 40091-40092.

<sup>5384</sup> Martin George, Transcript 22 April 2010, pp. 39722-39728; Transcript 27 April 2010, pp. 40092-40094.

<sup>5385</sup> Martin George, Transcript 22 April 2010, pp. 39712-39716; Transcript 27 April 2010, pp. 40093-40097.

2507. George testified that during the attacks on Sierra Rutile and Matru Jong, he never heard that the RUF was in communication with anyone in Liberia nor of arms and ammunition being sent from Liberia. The witness stated that the RUF obtained arms and ammunition to attack Sierra Rutile and Matru Jong by attacking military bases belonging to Momoh's soldiers.<sup>5386</sup>

2508. George did not remember the name of Augustine Mallah. However he did remember the nickname of OG. He testified that OG was part of the mission attacking Sierra Rutile. However, he said OG was not an RUF commander.<sup>5387</sup>

#### Defence Witness Issa Sesay

2509. Witness Issa Sesay, senior RUF commander,<sup>5388</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>5389</sup> testified that in 1995 RUF troops, led by Mohamed Tarawalli and Superman, attacked Sierra Rutile from the Kangari Hills. During the attack, the RUF captured American and British expatriate workers who were taken to the Sankoh headquarters in Zogoda.<sup>5390</sup> Between April and June 1995, the ICRC contacted Foday Sankoh on the radio in order to organise the release of the hostages. Sankoh agreed to release them and asked Sesay to escort them to the Guinean border. Sesay escorted them to the Guinean border where they were received by the ICRC.<sup>5391</sup>

2510. Sesay testified that the order to release the hostages did not come from Charles Taylor but from Sankoh. Similarly, it was Sankoh himself who ordered the attack on Sierra Rutile. At this time, Sankoh was angry at Taylor and refused to talk to him. Accordingly, the RUF and Taylor had no communications.<sup>5392</sup>

#### Defence Witness Fayia Musa

<sup>5386</sup> Martin George, Transcript 22 April 2010, pp. 39716-39717.

<sup>5387</sup> Martin George, Transcript 22 April 2010, pp. 39722-39723.

<sup>5388</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>5389</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>5390</sup> Issa Sesay, Transcript 6 July 2010, pp. 43747-43748.

<sup>5391</sup> Issa Sesay, Transcript 6 July 2010, pp. 43748, 43750-43752.

<sup>5392</sup> Issa Sesay, Transcript 6 July 2010, pp. 43749-43752.

2511. Witness Fayia Musa, an RUF member of the External Delegation,<sup>5393</sup> testified that, in 1994 Foday Sankoh gave the order to attack Sierra Rutile in order to expand his territory before the peace talks started. Sankoh knew that peace talks would begin soon and that military activity would lose its relevance. Many individuals were captured during this operation. Among those captured at Sieromco mines was Dr Barrie, a Sierra Leonean, who decided to join the RUF External Delegation after he was offered release instead of being returned to Freetown.<sup>5394</sup>

2512. Fayia Musa further testified that in December 1994, Sankoh agreed to send out an External Delegation comprised of Ibrahim Deen-Jalloh, Isatu Kallon, Agnes Deen-Jalloh, Philip Palmer, Kono Manyi and Alhaji Brima Kamara.<sup>5395</sup> The delegation was picked up by Mr Addai-Sebo in Kailahun and went to Côte d'Ivoire passing through Guinea. Fayia Musa explained that the most direct route from Sierra Leone to Côte d'Ivoire was through Liberia, but that the RUF decided not to have anything to do with Liberia.<sup>5396</sup>

2513. The External Delegation did not reach Danané without incident. Madame Isata Kallon managed the programme poorly, and when the RUF delegation reached Gueckedou, police officers arrested Mr Kamara and Palmer. Palmer was held in Guinea until July 1995.<sup>5397</sup>

#### Defence Witness Charles Ngebeh

2514. Witness Charles Ngebeh, an RUF member, testified that in late 1994, Foday Sankoh ordered CO Mohamed Tarawalli to carry out an attack on Sierra Rutile, where a ship laden with arms and ammunition intended for the NPRC was sitting in the port.<sup>5398</sup> RUF troops attacked Sierra Rutile and captured a lot of materiel including AK-47, RPG, GPMG, and anti-aircraft arms.<sup>5399</sup>

<sup>5393</sup> Fayia Musa, Transcript 14 April 2010, pp. 38942-38950. Fayia Musa was a member of the RUF external delegation that Sankoh sent to Côte d'Ivoire in 1995 to negotiate a peace deal.

<sup>5394</sup> Fayia Musa, Transcript 14 April 2010, pp. 39007-39008.

<sup>5395</sup> Fayia Musa, Transcript 14 April 2010, p. 38947.

<sup>5396</sup> Fayia Musa, Transcript 14 April 2010, pp. 38942-38944

<sup>5397</sup> Fayia Musa, Transcript 14 April 2010, pp. 38945-38946.

<sup>5398</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37809.

<sup>5399</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37810.

2515. Ngebeh did not participate in the attack on Sierra Rutile but was sent together with Gibril Massaquoi to Mile 91 on 25 December 1994, during which the RUF captured arms and ammunitions.<sup>5400</sup>

#### Defence Witness Isatu Kallon

2516. Witness Isatu Kallon testified that while she was at the refugee Camp at Danané in Côte d'Ivoire, she met a Red Cross officer named "Dr Sebo" who told her that the Red Cross sent him to Sierra Leone in order to assist in the release of five white men who had been abducted, and requested the witness's help. Kallon heard over BBC radio that five white persons had been abducted from Kabala and Panguma but did not know who abducted them.<sup>5401</sup> She did not hear that Taylor advised the RUF to capture these men.<sup>5402</sup>

#### Defence Witness John Vincent

2517. Witness John Vincent, a Liberian Vanguard commander,<sup>5403</sup> testified that a mission in Sierra Rutile was planned. However, Vincent was not in Zogoda at that time and could not provide further information. Vincent stated that Sam Kolleh or Martin George would know more about this mission than he did.<sup>5404</sup>

#### Deliberations

2518. Having reviewed the evidence, the Trial Chamber notes that it is not disputed that in late 1994 or early 1995, at the RUF headquarters in Zogoda, Foday Sankoh ordered his Deputy Commander CO Mohamed Tarawalli to attack the international mining company Sierra Rutile in Bonthe District.<sup>5405</sup> In accordance with Sankoh's order, Mohamed Tarawalli together with Denis Mingo (a.k.a. Superman) attacked Sierra Rutile.<sup>5406</sup> During this attack

<sup>5400</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37810-37813.

<sup>5401</sup> Isatu Kallon, Transcript 17 June 2010, pp. 42809-42811.

<sup>5402</sup> Isatu Kallon, Transcript 22 June 2010, p. 43104.

<sup>5403</sup> John Vincent, Transcript 26 March 2010, pp. 38107, 38114-38116, 38118, 38137, 38145; Transcript 30 March 2010, pp. 38226, 38239; Transcript 31 March 2010, p. 38390, 38408, 38460, 38461.

<sup>5404</sup> John Vincent, Transcript 25 March 2010, pp. 38054-38055.

<sup>5405</sup> TF1-567, Transcript 2 July 2008, p. 12876; Perry Kamara, Transcript 4 February 2008, pp. 3053-3054; Charles Ngebeh, Transcript 12 April 2010, p. 38653; Martin George, Transcript 22 April 2010, pp. 39712-39716; Issa Sesay, Transcript 6 July 2010, p. 43747.

<sup>5406</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20098-20101 (Sankoh directly ordered the attack of Sierra Rutile, the killings of civilians and the abduction of the Sierra Rutile employees); Perry Kamara, Transcript 4 February 2008, pp. 3053-3054 ("Sankoh told us that he wanted to look for a major place that he would attack according to Mr Taylor's advice [...] As a result he chose to attack Sierra Rutile and the attack on

several employees of the mining company and some British and American expatriates were abducted and taken hostage to Zogoda.<sup>5407</sup> Subsequently, following discussion with ICRC officials, Sankoh ordered the hostages to be taken to Guinea where they were released.<sup>5408</sup>

2519. The Prosecution, relying on the testimony of Augustine Mallah and Perry Kamara, alleges that the attack on Sierra Rutile happened after Taylor advised Sankoh to attack a major place and terrorise the area. Augustine Mallah and Perry Kamara testified that in accordance with Taylor's guidance, Sankoh's troops terrorised the civilian population committing murders, lootings and abductions.

2520. Augustine Mallah, an RUF officer and commander of the Sankoh Strike Force Commanders Unit, testified that Sankoh told him that he had received advice from Charles Taylor to attack and terrorise the area of Sierra Rutile.<sup>5409</sup> Mallah stated that while he was at Zogoda, in 1994, he saw Sankoh having conversations with Taylor on a daily basis.<sup>5410</sup> Mallah further stated that he heard their conversations clearly since the radio they used had a speaker and Mallah was in the room.<sup>5411</sup>

2521. Before evaluating the merits of Augustine Mallah's testimony, the Chamber will consider his general credibility.

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Sierra Rutile was a successful one"); TF1-567, Transcript 2 July 2008, pp. 12876-12878 (Sankoh instructed Mohamed Tarawalli and Superman to attack Sierra Rutile); Martin George, Transcript 22 April 2010 p. 39712 (The instruction to attack Sierra Rutile came from Foday Sankoh directly); Transcript 27 April 2010 p. 40091 (The attack on Sierra Rutile was ordered by Foday Sankoh); Issa Sesay, Transcript 6 July 2010, p. 43749 (Sankoh himself ordered the attack on Sierra Rutile); Fayia Musa, Transcript 14 April 2010, pp. 39007-39008 (Sankoh gave the order to attack Sierra Rutile); Charles Ngebeh, Transcript 23 March 2010, p. 37809 (Sankoh ordered CO Mohamed Tarawalli to carry out an attack on Sierra Rutile).

<sup>5407</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20101-20102 (Three employees of the company were captured. Mallah further testified that four employees of a company named Sironco Company were also captured and sent to Sankoh at Zogoda); Perry Kamara, Transcript 4 February 2008, p. 3054 (During the attack on Sierra Rutile, RUF soldiers captured the manager of the company and other white men); Martin George, Transcript 22 April 2010, pp. 39712-39715 (During the operation in Sierra Rutile, Mohamed Tarawalli took 16 hostages including three white British citizens. The hostages were taken to Sankoh's base in Zogoda); Issa Sesay, Transcript 6 July 2010, pp. 43747-43748 (During the attack, the RUF captured American and British expatriate workers who were taken to the Sankoh headquarters in Zogoda).

<sup>5408</sup> TF1-168, Transcript 22 January 2009, pp. 23263-23265 (CS) (The American and British hostages were held prisoners at the RUF's headquarters in Zogoda and later turned over to a special envoy, who in turn delivered them to the ICRC); Martin George, Transcript 22 April 2010, pp. 39715-39716 (Sankoh had the 3 British nationals escorted to Guinea and released upon the request of the international community); Issa Sesay, Transcript 6 July 2010, pp. 43748, 43750-43752 (Sankoh agreed to release them and asked Sesay to escort them to the Guinean border Sesay escorted them to the Guinean border where they were received by the ICRC).

<sup>5409</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20096-20099.

<sup>5410</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20109-20112.

<sup>5411</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20109-20112; Transcript 14 November 2008 pp. 20294-20295.

2522. Mallah gave generally coherent and detailed testimony although the Trial Chamber observed that on a few occasions, his evidence became confused, particularly when providing extensive answers during his examination-in-chief.<sup>5412</sup> Mallah was careful to distinguish between those events about which he had direct knowledge, and those events which he had not personally witnessed and openly admitted not personally knowing key figures such as Ibrahim Bah.<sup>5413</sup> Despite holding a position which allowed him close access to the RUF high command, Mallah admitted that his main focus during the conflict was on military operations and that he “did not have much concerns [sic] about government”.<sup>5414</sup> In the Trial Chamber’s view, this explains otherwise incongruous gaps in Mallah’s knowledge, such as his uncertainty over the meaning of the term “Honourable”<sup>5415</sup> and his use of the nomenclature “Yamoussoukro Peace Accord” to refer to the Abidjan Peace Accord.<sup>5416</sup> When confronted on cross-examination by prior inconsistent statements, the Trial Chamber found Mallah’s testimony to be consistent and candid when addressing inaccuracies in his prior statements.<sup>5417</sup> Although his explanations did not, as discussed below, cure all these inconsistencies, the Trial Chamber noted that his testimony was substantially corroborated by other reliable witnesses. On the basis of the foregoing, the Trial Chamber finds Augustine Mallah to be generally credible and will consider further issues relating to his credibility in context as they may arise.

2523. In this particular instance, the Trial Chamber notes that Mallah’s testimony evolved considerably between his initial statement to the Prosecution on 1 March 2003 and his testimony in Court in November 2008. In a statement dated 1 March 2003, Mallah said that he inferred that Taylor communicated with Sankoh because he saw a man named Action Man bring two letters from Taylor requesting to talk with Sankoh in 1994 and 1996.<sup>5418</sup> Mallah admitted that what he said to the Prosecution investigators at that time was “not correct” but explained that he had his reasons for doing so.<sup>5419</sup> In a subsequent document dated 16 July 2006, the Prosecution’s investigator noted Mallah as having stated that “the

<sup>5412</sup> See for example Augustine Mallah, Transcript 12 May 2008, pp. 20085-20090.

<sup>5413</sup> Augustine Mallah, 17 November 2008, p. 20372; Transcript 18 November 2008, pp. 20481-20482.

<sup>5414</sup> Augustine Mallah, Transcript 17 November 2008, p. 20386.

<sup>5415</sup> Augustine Mallah, Transcript 17 November 2008, pp. 20382-20386.

<sup>5416</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20109, 20136; Transcript 14 November 2008, pp. 20306-20309.

<sup>5417</sup> See for example Augustine Mallah, Transcript 14 November 2008, pp. 20324-20326.

<sup>5418</sup> Augustine Mallah, Transcript 14 November 2008, pp. 20294-20295.

<sup>5419</sup> Augustine Mallah, Transcript 14 November 2008, p. 20296.

radio operator never told him what Charles Taylor wanted Foday Sankoh on the radio and he is not aware of the nature of their conversation".<sup>5420</sup> Mallah read this statement again on 23 May 2007 and signed it on 3 July 2007.<sup>5421</sup> He was offered the opportunity to change his statement on several occasions but did not choose to do so.<sup>5422</sup> He acknowledged the inconsistency between his prior statements and his testimony, maintaining that he had his reasons for not having made truthful statements, although he did not say what those reasons were. The Trial Chamber notes that Perry Kamara's testimony corroborates Mallah's evidence that the Accused advised Sankoh to attack major places in Sierra Leone, and that the Sierra Rutile attack followed upon such advice.

2524. Perry Kamara also testified that Taylor and the RUF had radio communications every two or three days and that Taylor advised Sankoh to attack major places such as Sierra Rutile, resulting in attacks, including the attack on Sierra Rutile.<sup>5423</sup> As a radio man, Kamara received and monitored radio transmissions and read the logbooks.<sup>5424</sup> The Trial Chamber notes that when describing the conversation, Kamara quotes the Accused's alleged statement as if he directly heard this conversation.<sup>5425</sup> The Trial Chamber recalls its finding that Perry Kamara is generally a credible witness.<sup>5426</sup> Kamara testified that following the Sierra Rutile attack, Sankoh reported to Taylor who advised him to buy ammunitions, food and drugs with the money that had been looted, and to use the money and the hostages taken to establish diplomatic relations with other countries.<sup>5427</sup> This evidence does not indicate that the Accused advised Sankoh to loot and capture hostages. However, it does indicate that the Accused was aware of these crimes and advised Sankoh on the use of the money and the

<sup>5420</sup> Augustine Mallah, Transcript 14 November 2008, p. 20297.

<sup>5421</sup> Augustine Mallah, Transcript 14 November 2008, pp. 20297-20300.

<sup>5422</sup> Augustine Mallah, Transcript 14 November 2008, pp. 20297-20300.

<sup>5423</sup> Perry Kamara, Transcript 4 February 2008, p. 3049.

<sup>5424</sup> Perry Kamara, Transcript 4 February 2008, p. 3053 ("You know, as we all observed the process in Sierra Leone, Mr Sankoh always - was always advised by Mr Taylor. At any time Mr Sankoh received message from Mr Taylor we will undertake a serious attack. The RUF will attack the government troops. On many occasions as a radio man of the RUF I received, I monitored, I read from the log books, for example, when a place like Sierra Rutile, because Sankoh told us that he wanted to look for a major place that he would attack according to Mr Taylor's advice" [...] "And so in his conversation with Taylor he said, "You should either attack the major places like Kono or Sierra Rutile". As a result he chose to attack Sierra Rutile and the attack on Sierra Rutile was a successful one").

<sup>5425</sup> Perry Kamara, Transcript 4 February 2008, p. 3053 ("And so in his conversation with Taylor he said, 'You should either attack the major places like Kono or Sierra Rutile.' As a result he chose to attack Sierra Rutile and the attack on Sierra Rutile was a successful one"). The Trial Chamber finds that when mentioning "he", Kamara meant "Taylor". Read in the context of his testimony, there is no other reasonable explanation.

<sup>5426</sup> Credibility Assessment, Perry Kamara, paras 227-236.

<sup>5427</sup> Perry Kamara, Transcript 4 February 2008, pp. 3054-3056.



hostages. The Trial Chamber notes that according to Kamara, Taylor advised Sankoh to send RUF members to Côte d'Ivoire to establish RUF representation there. As discussed in the context of the External Delegation that was subsequently sent to Côte d'Ivoire, the Trial Chamber has noted and considered the inaccuracy of Kamara's account of the travel of the delegation and related issues.<sup>5428</sup>

2525. Numerous other witnesses, both for the Prosecution and the Defence, gave evidence with regard to Sankoh's order to attack Sierra Rutile.<sup>5429</sup> None of those witnesses mentioned the Accused's involvement in this attack. However, the Trial Chamber notes that there is nothing inconsistent in their testimony that Sankoh ordered the attack on Sierra Rutile with the testimony of Mallah and Kamara that the Accused advised him to do so. The Trial Chamber does not find the testimony of these witnesses probative as it does not confirm or refute the involvement of the Accused.

### Findings

2526. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in 1994, the Accused advised Sankoh to attack a major place in Sierra Leone, and that pursuant to this advice Sankoh ordered the RUF to attack Sierra Rutile. Following the attack, the Accused gave Sankoh further advice with regard to the use of the money looted and the hostages abducted during the course of the attack on Sierra Rutile.

## 9. Operation Stop Election (1996)

### Submissions of the Parties

2527. The Prosecution submits that after the initial invasion and early years of fighting and throughout the conflict in Sierra Leone, the Accused continued to provide the leaders of the RUF, RUF/AFRC with strategic instruction, direction and guidance in relation to a range of

<sup>5428</sup> Peace Process: External Delegation in Côte d'Ivoire.

<sup>5429</sup> TF1-567, Transcript 2 July 2008, pp. 12876-12878 (Sankoh instructed Mohamed Tarawalli and Superman to attack Sierra Rutile); Martin George, Transcript 22 April 2010, p. 39712 (The instruction to attack Sierra Rutile came from Foday Sankoh directly); Transcript 27 April 2010, p. 40091 (The attack on Sierra Rutile was ordered by Foday Sankoh); Issa Sesay, Transcript 6 July 2010, p. 43749 (Sankoh himself who ordered the attack on Sierra Rutile); Fayia Musa, Transcript 14 April 2010, pp. 39007-39008 (Sankoh gave the order to attack Sierra Rutile); Charles Ngebeh, Transcript 23 March 2010, p. 37809 (Sankoh ordered CO Mohamed Tarawalli to carry out an attack on Sierra Rutile).

political, military and other matters.<sup>5430</sup> The Prosecution submits in particular, that in accordance with the Accused's approval and guidance, Foday Sankoh implemented an RUF campaign of terror in 1996, known as "Operation Stop Election" during which the hands of any civilian captured would be amputated in order to terrorise the civilian population to gain the international community's attention and to prevent civilians from voting in the 1996 elections. The aim of the operation was to disrupt the elections by instilling terror in the civilian population and preventing them from voting, while at the same time raising concern of the Government and international community about holding the said elections before the signing of the Abidjan Peace Agreement.<sup>5431</sup> The Prosecution alleges that, although this plan was not devised by the Accused, Sankoh sought the Accused's approval for it, and the Accused told him in response that the plan was "not a bad one".<sup>5432</sup>

2528. The Defence does not dispute that Foday Sankoh ordered the RUF to carry out Operation Stop Election in early 1996 to disrupt the electoral process. The Defence argues, however, that while the RUF's plan was to make the operation fearful, Sankoh's orders did not involve planned atrocities, and challenges the credibility of witnesses Isaac Mongor<sup>5433</sup> and Alice Pyne<sup>5434</sup>. It submits further that the Accused played no role in Operation Stop Election, as cooperation between NPFL and RUF ceased in 1992 after Taylor withdrew his fighters from Sierra Leone in the operation known as "Top Final".<sup>5435</sup> The Trial Chamber considered the evidence of Prosecution witnesses Isaac Mongor, Augustine Mallah, Alice Pyne, Samuel Kargbo and protected witnesses TF1-371, TF1-168 and TF1-375, and Defence witnesses Charles Taylor, Martin George, Issa Sesay, John Vincent, and Fayia Musa, and Exhibits P-568, P-277 and D-062.

## Evidence

### Prosecution Witness Isaac Mongor

<sup>5430</sup> Prosecution Final Trial Brief, para. 119.

<sup>5431</sup> Prosecution Final Trial Brief, paras 130-131.

<sup>5432</sup> Prosecution Final Trial Brief, paras 130-133, 135, 401, 417, 427, 613, 956, 963, 1273.

<sup>5433</sup> Defence Final Trial Brief, paras 839-841, 1359, 1555.

<sup>5434</sup> Defence Final Trial Brief, para. 1494.

<sup>5435</sup> Defence Final Trial Brief, paras 343, 431, 444-445, 778, 836-841, 1237-1239, 1359, 1494, 1555; See also Defence Response to Prosecution Final Trial Brief, paras 13-14.

2529. Witness Isaac Mongor, an RUF commander,<sup>5436</sup> testified that in 1996, while the RUF was still in the bush, they learned that elections were going to be held in Sierra Leone.<sup>5437</sup> Foday Sankoh called the RUF Commanders to his base at Zogoda in Kenema District and expressed concern that while fighting was still going on between the NPRC Government and the RUF, the former had decided to hold national elections without involving the latter. Sankoh told the RUF Commanders that since the Government did not acknowledge the RUF, the latter should carry out an offensive to stop the elections.<sup>5438</sup>

2530. Mongor attended this meeting in Zogoda along with several other RUF commanders including Mohamed Tarawalli, Issa Sesay, Augustine Gbao, CO Rocky (Emmanuel Williams), Rambo (Boston Flomo) and Jungle (Daniel Tamba).<sup>5439</sup> While Mongor was there, an RUF radio operator named Z-Man<sup>5440</sup> told Sankoh that Charles Taylor wanted to speak with him on the radio set. Mongor joined Sankoh and both went to the thatched hut where the radio was located. Mongor stood just in front of the radio room within earshot as Sankoh spoke to Taylor.<sup>5441</sup> During the radio conversation, which lasted 20 to 25 minutes, Mongor overheard Sankoh explain to Taylor that the RUF had been cut off by ULIMO<sup>5442</sup> and were not getting supplies from Liberia anymore; that the NPRC Government had decided to carry on with the elections; that Sankoh had summoned his commanders to instruct them to carry out an offensive to disrupt the elections; and that the offensive entailed a plan to instil terror in the voters by amputating the hands of captured civilians who had participated or were going to participate in the voting and asking them to “take their hands off the election”. Mongor overheard Taylor responding that “the plan was not a bad one”. After the radio conversation, Sankoh told the RUF commanders that he had discussed the planned offensive with Taylor who considered it “not a bad plan at all”.<sup>5443</sup> Two days later, the RUF launched “Operation Stop Election”.<sup>5444</sup>

<sup>5436</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5647, 5691-5692.

<sup>5437</sup> Isaac Mongor, Transcript 10 March 2008, p. 5689.

<sup>5438</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5688-5689.

<sup>5439</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5689-5690, 5694-5695.

<sup>5440</sup> Elsewhere Mongor refers to this radio operator as “Zedman”. See Isaac Mongor, Transcript 2 April 2008, p. 6448.

<sup>5441</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5690-5691.

<sup>5442</sup> Isaac Mongor, Transcript 10 March 2008, p. 5695.

<sup>5443</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5689-5692.

<sup>5444</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5690-5695. At page 5696 Mongor states that the meeting of the RUF Commanders took place two days after the radio communication between Sankoh and Taylor.

2531. At the meeting, each commander was assigned an area to attack. Mongor was to attack Masingbi; Mohamed Tarawalli and Superman were to attack Magburaka and Makeni, while RUF Rambo and Mosquito were to attack Kenema Town.<sup>5445</sup> Mongor testified that Operation Stop Election was not successful in Masingbi as his fighters were unable to overrun the SLA and Kamajors or to capture or amputate any civilians taking part in the elections there.<sup>5446</sup> However, he heard that Mohamed Tarawalli and Superman successfully carried out the operation in Magburaka where RUF Commanders captured civilians, amputated their hands and carved RUF on their chests with razor blades.<sup>5447</sup>

2532. The Defence cross-examined Mongor at length as to why he failed to mention the alleged conversation between Taylor and Sankoh regarding “Operation Stop Election” in his 4 September 2006 statement to the Prosecution investigators, and instead waited until February 2008, just before his testimony, to do so. Mongor stated that he did mention the information to the investigators in 2006 but that they failed to record it.<sup>5448</sup>

Prosecution Witness Augustine Mallah

2533. Witness Augustine Mallah, a former RUF fighter,<sup>5449</sup> testified that in 1996 just before the elections in Sierra Leone, while he was at RUF headquarters in Zogoda, Foday Sankoh called a formation where most of the senior commanders were present, and Sankoh was giving instructions to soldiers and the commander he had named to attack Kenema, Morris Kallon. During this meeting, Sankoh explained that the Sierra Leonean Government had contacted him and told him that it had decided, despite the RUF’s opposition, to hold elections while the peace process was not completed and that in response, Sankoh had decided to “teach the Government and the international community a lesson” by obstructing the elections.<sup>5450</sup> The plan known as “Operation Stop Election” would entail the RUF attacking all the major towns where the elections were scheduled to take place and shooting dead or chopping off the hands of civilians going out to vote, in order to discourage others

<sup>5445</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5693-5696.

<sup>5446</sup> Isaac Mongor, Transcript 10 March 2008, p. 5697, Transcript 2 April 2008, p. 6453.

<sup>5447</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5696-5698.

<sup>5448</sup> Isaac Mongor, Transcript 2 April 2008, pp. 6468-6503.

<sup>5449</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20063-20073.

<sup>5450</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20104-20105.

from voting.<sup>5451</sup> Sankoh said that the ultimate objective was to raise the concern of the international community and to call for peace before elections.<sup>5452</sup>

2534. Morris Kallon and Issa Sesay were in charge of the operation in Kenema Town.<sup>5453</sup> Augustine Mallah participated in this operation. He testified that he would fire at any civilian he would find on the street and that he witnessed three civilians in Kenema Town who had their hands cut off by RUF soldiers.<sup>5454</sup> Mallah stated that although the RUF did not succeed in stopping the elections altogether, they succeeded in dissuading a lot of potential voters who ultimately did not go to vote for fear of the RUF reprisal.<sup>5455</sup>

#### Prosecution Witness Alice Pyne

2535. Witness Alice Pyne, a former RUF radio operator,<sup>5456</sup> testified that while at Black Water in 1996 before the elections, she was monitoring radio frequencies used by the SLA and RUF when she overheard President Maada Bio and Foday Sankoh agree over the radio to observe a ceasefire in order to bring the war between the RUF and the SLA to an end.<sup>5457</sup> The next day Foday Sankoh sent a radio message to all the RUF frontlines ordering the RUF to observe a ceasefire.<sup>5458</sup> A month later, discussions about a proposed Abidjan Peace Accord took place.<sup>5459</sup> Around the same time, Maada Bio contacted Sankoh again by radio and informed him of their wishes to organise free and fair and genuine elections in Sierra Leone but that the fighting should cease before free and fair elections could be held.<sup>5460</sup> Soon afterwards, there was a media announcement that Tejan Kabbah and his SLPP Party and the people of Sierra Leone had chosen to hold the elections before negotiating peace with the RUF.<sup>5461</sup> After the media announcement, Sankoh who at this time was in Côte d'Ivoire,<sup>5462</sup> sent a radio message through CO Mohamed<sup>5463</sup> to all the RUF frontlines to run

<sup>5451</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20105-20106.

<sup>5452</sup> Augustine Mallah, Transcript 12 November 2008, p. 20106.

<sup>5453</sup> Augustine Mallah, Transcript 12 November 2008, p. 20106.

<sup>5454</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20107-20108.

<sup>5455</sup> Augustine Mallah, Transcript 12 November 2008, p. 20109.

<sup>5456</sup> Alice Pyne, Transcript 17 June 2008, pp. 12046-12047.

<sup>5457</sup> Alice Pyne, Transcript 17 June 2008, pp. 12100-12101; Transcript 18 June 2008, pp. 12112-12114.

<sup>5458</sup> Alice Pyne, Transcript 18 June 2008, pp. 12113-12116.

<sup>5459</sup> Alice Pyne, Transcript 18 June 2008, p. 12118.

<sup>5460</sup> Alice Pyne, Transcript 18 June 2008, pp. 12129-12120.

<sup>5461</sup> Alice Pyne, Transcript 18 June 2008, p. 12121, 20 June 2008, p. 12349.

<sup>5462</sup> Alice Pyne, Transcript 18 June 2008, p. 12122, 20 June 2008, p. 12350.

<sup>5463</sup> Pyne stated at pp. 12122-12124 that at the time instructions were issued for "Operation Stop Election", CO

“Operation Stop Election” by going to all the major cities where the elections were scheduled to take place, by shooting in public places and causing panic in the civilian population with a view to disrupting or stopping the elections.<sup>5464</sup> Alice Pyne did not participate in the attack but testified that CO Isaac Mongor led armed RUF men and attacked anyone participating in the election, along the Matotoka - Masingbi axis.<sup>5465</sup> Pyne stated that “Operation Stop Election” was “not successful” in that the elections went ahead and were won by Tejan Kabbah.<sup>5466</sup> The Abidjan Peace Accord was signed after the elections on 30 November 1996.<sup>5467</sup>

Prosecution Witness TF1-371

2536. Witness TF1-371, an RUF officer, testified that while he was at the outpost called Blama Highway in 1996, the commander of the outpost, a former SBU named Base Marine, told him that before the general elections of 1996 Sankoh ordered the RUF to carry out an operation called “Operation Stop Election”. Base Marine told TF1-371 that the purpose of this operation was to stop people from voting and that although no specific orders were given to amputate civilians, some RUF soldiers used the operation to cut off people's hands.<sup>5468</sup>

Prosecution Witness TF1-168

2537. Witness TF1-168, an RUF officer, testified that while he was out of the country, a national forum was held in Sierra Leone in early 1996 under the Maada Bio regime, which unanimously agreed that elections in Sierra Leone should be held before peace.<sup>5469</sup> The RUF did not attend the forum although they were invited.<sup>5470</sup> In response, Foday Sankoh called a meeting of the RUF leadership,<sup>5471</sup> held in Zogoda, during which he expressed his dismay at

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Mohammed replaced Sankoh at Zogoda after the latter travelled to Abidjan to negotiate the Abidjan Peace Accord, accompanied by other senior RUF officials including Gibril Massaquoi, Fayia Musa, Philip Palmer, Osmon Tolo, Memunatu Deen, Philip Sannoh and Martin Moinama.

<sup>5464</sup> Alice Pyne, Transcript 18 June 2008, pp. 12121-12122.

<sup>5465</sup> Alice Pyne, Transcript 18 June 2008, pp. 12119-12123.

<sup>5466</sup> Alice Pyne, Transcript 18 June 2008, p. 12123.

<sup>5467</sup> Alice Pyne, Transcript 20 June 2008, p. 12349.

<sup>5468</sup> TF1-371, Transcript 25 January 2008, p. 2260 (CS); Transcript 29 January 2008, pp. 2461-2462 (CS); Transcript 4 February 2008, p. 2996 (CS).

<sup>5469</sup> TF1-168, Transcript 22 January 2009, p. 23264 (CS).

<sup>5470</sup> TF1-168, Transcript 22 January 2009, pp. 23265-23266 (CS).

<sup>5471</sup> At Transcript 22 January 2009, p. 23266 TF1-168 (CS), states that the RUF External Delegation was represented by spokesperson Fayia Musa who specifically travelled from Danané in Côte d’Ivoire to Zogoda to

the decision taken by the national forum and told those present that both he and Brigadier Julius Maada Bio, whom Sankoh had consulted, were not in favour of holding elections before negotiating peace.<sup>5472</sup> Sankoh ordered RUF combatants to go to the polling stations in all major towns where the elections were scheduled to take place and to run an operation to stop the elections, by cutting off the hands of the people taking part in the vote.<sup>5473</sup>

Prosecution Witness TF1-375

2538. Witness TF1-375, a former RUF fighter,<sup>5474</sup> testified that in 1996, while in the Western Area, he received orders from Superman to go to the crossing points at Kangari River in order to meet CO Mohamed (a.k.a. "Zino")<sup>5475</sup>, who would tell them about a mission, Peace Before Election.<sup>5476</sup> There CO Mohamed addressed the RUF soldiers at a muster parade at which he stated that Sankoh had gone for peace talks leaving him in charge of the RUF. He then ordered the RUF soldiers to attack Magburaka during which they would cut off the fingers of anybody who took part in the voting. TF1-375 did not participate in the mission but heard on the radio that a lot of amputations took place during this operation.<sup>5477</sup>

Prosecution Witness Samuel Kargbo

2539. Witness Samuel Kargbo testified that prior to the 1996 elections, while he was serving as an NPRC soldier in Freetown,<sup>5478</sup> he was sent to Joru near Kenema with instructions to repel the RUF who had declared "Operation No Election".<sup>5479</sup> After repelling the RUF from Joru, Kargbo went to Kenema National Hospital to visit some NPRC soldiers who had sustained injuries during the attack.<sup>5480</sup> At the hospital, Kargbo observed one or two people who had four fingers cut off, leaving them with only the thumb. These mutilated

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attend the meeting and who reported back to the external delegation upon his return.

<sup>5472</sup> TF1-168, Transcript 22 January 2009, p. 23267 (CS).

<sup>5473</sup> TF1-168, Transcript 22 January 2009, pp. 23265-23267 (CS).

<sup>5474</sup> TF1-375, Transcript 23 June 2008, pp 12475-12482 stated that in 1991 when he was abducted by the RUF and taken to Pendembu Training Camp, he was only 11 years old. In 1996 he was barely 16 years old when he was made SBU Battalion Commander in the RUF.

<sup>5475</sup> The Trial Chamber notes that the witness is referring to Mohamed Tarawallie.

<sup>5476</sup> TF1-375, Transcript 23 June 2008, pp. 12482.

<sup>5477</sup> TF1-375, Transcript 23 June 2008, pp. 12482-12483.

<sup>5478</sup> Samuel Kargbo, T. 21 May 2008, pp. 10414, 10421-10423.

<sup>5479</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10422-10423.

<sup>5480</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10422-10423.

civilians told Kargbo that the RUF soldiers cut off their fingers and sent them with a message to the Government soldiers that the RUF did not want an election.<sup>5481</sup>

### The Accused

2540. The Accused denied any involvement in “Operation Stop Election” and stated that he did not hear of the RUF committing atrocities in Sierra Leone in 1996 or carrying out amputations to stop elections.<sup>5482</sup> The Accused refuted Isaac Mongor’s testimony implicating him, stating that after the breakdown of relations between the NPFL and RUF in 1992 (referring to Operation Top Final) he had nothing to do with Foday Sankoh or the RUF.<sup>5483</sup> The Accused further testified that as a member of the Council of State in Liberia at the material time, he was busy trying to broker peace in Liberia in preparation for his own election as President the following year and as such had everything to lose in stopping the elections in Sierra Leone as that would only have disrupted peace in the whole sub-region.<sup>5484</sup>

### Defence Witness Martin George

2541. Witness Martin George, a former RUF fighter,<sup>5485</sup> testified that in early 1996 he was based in Ngolahun Vaama, and that he visited the RUF headquarters in Zogoda every weekend.<sup>5486</sup> George stated that in 1996, Kabbah decided to hold elections before completing peace talks with RUF. However, the RUF considered that these elections would not be free and fair, and Sankoh decided that the RUF should sabotage the elections. Accordingly, Sankoh convened a forum in Zogoda with various RUF jungle commanders. George attended the meeting.<sup>5487</sup> During the meeting, Sankoh ordered the RUF to attack the soldiers guarding the polling stations on election-day in order to disrupt the elections. George clarified that Sankoh’s orders were targeted at the Government soldiers guarding the polling stations but not the civilians.<sup>5488</sup> George stated that Sankoh initiated the order

<sup>5481</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10427-10429.

<sup>5482</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32375-32378.

<sup>5483</sup> Charles Ghankay Taylor, Transcript 22 July 2009, pp. 25031-25032; Transcript 27 October 2009, pp. 30407-30411.

<sup>5484</sup> Charles Ghankay Taylor, Transcript 22 July 2009, pp. 25031-25032.

<sup>5485</sup> Martin George, Transcript 21 April 2010 p. 39591.

<sup>5486</sup> Martin George, Transcript 22 April 2010 pp. 39713-39718.

<sup>5487</sup> Martin George, Transcript 22 April 2010 pp. 39718-39719.

<sup>5488</sup> Martin George, Transcript 22 April 2010 pp. 39719.



himself and that he (George) did not hear Foday Sankoh or anybody else say that the order to stop the elections came from Liberia or from Charles Taylor.<sup>5489</sup> At the meeting Morris Kallon was assigned to head the attack on polling stations in Kenema while Boston Flomo was to head the attack on those in Bo.<sup>5490</sup> Refuting the testimony of Witnesses Augustine Mallah, Fayia Musa and Exhibit P-277, George stated that he did not hear Sankoh issue orders to amputate civilians taking part in the voting in order to raise the concern of the international community.<sup>5491</sup> However, in cross-examination George admitted that he heard about the RUF amputating civilians who had ink on their thumbs on polling day.<sup>5492</sup> George did not participate in the operation but heard that on polling day “bullets were flying”.<sup>5493</sup>

#### Defence Witness Issa Sesay

2542. Witness Issa Sesay testified that he was in Côte d’Ivoire with the RUF External Delegation from November 1995 until April 1996.<sup>5494</sup> While in Côte d’Ivoire in March 1996, Sesay travelled with the RUF External Delegation, which included Philip Palmer, Fayia Musa, Deen Jalloh and Tom Nyuma, to Yamoussoukro where they met Foday Sankoh.<sup>5495</sup> In Yamoussoukro, Sankoh and the RUF External delegation met with Maada Bio and the NPRC delegation including Tom Nyuma, Kes Boya and the former Chief of Defence Staff, Carew.<sup>5496</sup> Sankoh and Maada Bio agreed that elections should not come before disarmament.<sup>5497</sup> Maada Bio devised a plan that if the NPRC politicians in Freetown forced him to hold an election before peace, the RUF should attack the cities of Bo, Kenema and Magburaka on the day of the election. In response, Maada Bio would instruct his army to withdraw from these areas, letting the RUF take control. Thus with part of the country under the control of the RUF, no free and fair elections could be held.<sup>5498</sup> Following this agreement, Sankoh gave the order from Côte d’Ivoire, instructing Mohamed Tarawalli e

<sup>5489</sup> Martin George, Transcript 22 April 2010 p. 39720.

<sup>5490</sup> Martin George, Transcript 22 April 2010 pp. 39720-39721, 39740.

<sup>5491</sup> Martin George, Transcript 22 April 2010 pp. 39740-39743, 27 April 2010, pp. 40056-40066.

<sup>5492</sup> Martin George, Transcript 27 April 2010 pp. 40055-40056.

<sup>5493</sup> Martin George, Transcript 22 April 2010 pp. 39720-39723.

<sup>5494</sup> Sesay states at Transcript 6 July 2010, p. 43741 that he had gone to Danané for medical treatment during this period.

<sup>5495</sup> Issa Sesay, Transcript 6 July 2010, p. 43741.

<sup>5496</sup> Issa Sesay, Transcript 6 July 2010, p. 43739.

<sup>5497</sup> Issa Sesay, Transcript 5 July 2010, p. 43592; Transcript 6 July 2010, p. 43738.

<sup>5498</sup> Issa Sesay, Transcript 5 July 2010, p. 43592, Transcript 6 July 2010, pp. 43738-43739, 43743.

(a.k.a. Zino) in Zogoda by radio that the RUF should attack Bo, Kenema and Magburaka.<sup>5499</sup>

The RUF carried out Operation Stop Election by attacking those locations but Maada Bio did not withdraw his troops as planned.<sup>5500</sup> The RUF, having encountered stiff resistance from the NPRC forces, resorted to carrying out amputations.<sup>5501</sup>

2543. Sesay was not aware of a direct order from Sankoh to carry out amputations and claimed that they arose spontaneously as a consequence of the betrayal of the RUF by the NPRC forces.<sup>5502</sup> Refuting the testimony of Isaac Mongor, Sesay stated that Taylor could not have ordered the RUF to carry out Operation Stop Election as Taylor and Sankoh had no contact during this period.<sup>5503</sup> Sesay stated that he did not attend the January 1996 meeting of RUF commanders convened by Sankoh in Zogoda;<sup>5504</sup> neither was he in Sierra Leone at the time of Operation Stop Election, nor was he able to monitor the radio message in which Sankoh issued the orders for the operation.<sup>5505</sup> However, he heard that the amputations happened in the Northern jungle under the command of Isaac Mongor.<sup>5506</sup> Sesay also stated that although the RUF carried out some amputations during Operation Stop Election, the majority of amputations in Sierra Leone were committed by the AFRC in the Districts of Kono, Koinadugu, Bombali, Port Loko and Freetown during the period February 1998 to January 1999.<sup>5507</sup>

2544. In cross-examination however, Sesay admitted that Foday Sankoh gave the order for the RUF to amputate civilians during Operation Stop Election.<sup>5508</sup> He also conceded that the meeting between Maada Bio and Foday Sankoh in Yamoussoukro in March 1996 took place after the Sierra Leone elections when Tejan Kabbah was already President elect.<sup>5509</sup>

<sup>5499</sup> Issa Sesay, Transcript 6 July 2010, pp. 43744-43745; Transcript 4 August 2010, p. 45379.

<sup>5500</sup> Issa Sesay, Transcript 6 July 2010, p. 43745.

<sup>5501</sup> Issa Sesay, Transcript 6 July 2010, pp. 43739-43740, 43742-43746.

<sup>5502</sup> Issa Sesay, Transcript 6 July 2010, p. 43746; Transcript 17 August 2010, p. 46498.

<sup>5503</sup> Issa Sesay, Transcript 6 July 2010, pp. 43743-43747; Transcript 4 August 2010, p. 45378; Transcript 17 August 2010, p. 46494.

<sup>5504</sup> Issa Sesay, Transcript 4 August 2010, pp. 45379-45384.

<sup>5505</sup> Issa Sesay, Transcript 6 July 2010, p. 43743.

<sup>5506</sup> Issa Sesay Transcript 17 August 2010, p. 46494; Transcript 13 August 2010, p. 46200.

<sup>5507</sup> Issa Sesay, Transcript 5 July 2010, pp. 43591; Transcript 13 August 2010, p. 46205.

<sup>5508</sup> Issa Sesay, Transcript 17 August 2010, pp. 46502-46503.

<sup>5509</sup> Issa Sesay, Transcript 17 August 2010, p. 46500. Sesay was confronted with Exhibit P-568 showing that "In the 1996 elections, the first round was held on 26 and 27 February 1996. The second round was held on 15 March 1996. When Maada Bio met with Foday Sankoh on 25 and 25 March, Ahmed Tejan Kabbah was President elect. The elections were over with".

Defence Witness John Vincent

2545. Witness John Vincent, a former RUF fighter,<sup>5510</sup> testified that in early 1996 he was assigned with the RUF to Kangari Hills, in the Northern Jungle.<sup>5511</sup> Vincent stated that the RUF was opposed to the 1996 elections in Sierra Leone, which took place before any peace was made between the RUF and the Sierra Leonean Government.<sup>5512</sup> The RUF developed a strategy to sabotage the elections by targeting the military personnel guarding the polling stations and harassing citizens so that they would be too scared to vote.<sup>5513</sup> Vincent stated that during the operation, the RUF did not intentionally target civilians, but that during the fighting civilians were accidentally killed.<sup>5514</sup> However, Vincent did not participate in this operation and did not know if any civilians were injured or amputated in the operation.<sup>5515</sup>

Defence Witness Fayia Musa

2546. Witness Fayia Musa, a former senior RUF officer,<sup>5516</sup> testified that the RUF External Delegation officially launched the RUF publication “Footpaths to Democracy”<sup>5517</sup> in December 1995 in Côte d’Ivoire<sup>5518</sup> in the context of peace process.<sup>5519</sup> Also in December 1995, a National Forum of all stakeholders was held in Freetown under the NPRC regime of Brig. Julius Maada Bio, where a decision was taken overwhelmingly to hold national elections before signing a peace accord.<sup>5520</sup> Although the RUF was invited to the forum, Sankoh did not send a representative and was unhappy about the outcome as he preferred a completion of the peace process before holding elections.<sup>5521</sup>

2547. Musa travelled to the RUF Headquarters in Zogoda in Sierra Leone in January 1996, taking with him copies of the publication “Footpaths to Democracy” for distribution in

<sup>5510</sup> John Vincent, Transcript 24 March 2010 pp. 37959-37960.

<sup>5511</sup> John Vincent, Transcript 25 March 2010 p. 38055; Transcript 30 March 2010, p. 38331.

<sup>5512</sup> John Vincent, Transcript 25 March 2010 p. 38055.

<sup>5513</sup> John Vincent, Transcript 25 March 2010 p. 38056.

<sup>5514</sup> John Vincent, Transcript 25 March 2010 pp. 38056-38057; Transcript 30 March 2010, p. 38334.

<sup>5515</sup> John Vincent, Transcript 25 March 2010 p. 38057; Transcript 30 March 2010, p. 38332.

<sup>5516</sup> Fayia Musa was part of the RUF External Delegation and served as RUF spokesman.

<sup>5517</sup> See Exhibit D-336, “Footpaths to Democracy”.

<sup>5518</sup> Fayia Musa, Transcript 14 April 2010, p. 38995. The witness stated at pp. 38999-39001 that immediately after the launch, the External Delegation met Charles Taylor in Hotel D’Ivoire in Abidjan, who congratulated the delegation upon “achieving the first leg of the peace process” and donated 10 million CFA francs (approximately \$USD 22,000) to the delegation for their upkeep in Côte d’Ivoire.

<sup>5519</sup> Fayia Musa, Transcript 14 April 2010, pp. 38995-38597.

<sup>5520</sup> Fayia Musa, Transcript 14 April 2010, p. 39016.

RUF-held territory.<sup>5522</sup> As representative of the RUF External Delegation, the purpose of Musa's journey to Zogoda was firstly, to try and persuade the RUF Leader to respect the peace process by accepting the decision of the National Forum in Freetown and secondly, to "come out of the bush" as the armed aspect of the struggle was no longer relevant and to encourage him to take refuge in Côte d'Ivoire pending the completion of the peace process and the transition to democratic elections in Sierra Leone.<sup>5523</sup>

2548. Musa confirmed that he attended a meeting in Zogoda in January 1996 where Sankoh told the RUF commanders present that in his opinion, the proposed elections could not be free or fair while part of the country was still at war and that it was necessary to attain peace first before holding democratic elections. Sankoh further stated that he had talked to Brig. Maada Bio who was also not in favour of holding elections before peace.<sup>5524</sup> Sankoh then instructed his combatants including "Mosquito" and "Fula Mon Ami",<sup>5525</sup> to "stop the election" by disrupting polling stations in all major towns including Kenema, Bo and Magburaka, and ensuring that any civilians insisting on turning up to vote have their hands amputated.<sup>5526</sup> After the meeting, Musa and Mohamed Tarawallie spoke to Sankoh expressing their displeasure at his instruction to amputate and harm the very civilians that the RUF claimed to save.<sup>5527</sup> Musa later learned that the RUF had carried out Sankoh's instructions by burning polling booths and amputating voters.<sup>5528</sup> He stated that this was the first time during the Sierra Leone conflict he heard of the RUF amputating civilians.<sup>5529</sup>

2549. After spending a week in Zogoda, Fayia Musa returned to Côte d'Ivoire.<sup>5530</sup> In March 1996 Foday Sankoh arrived in Yamoussoukro, Côte d'Ivoire for talks with, inter alia, officials of International Alert and of the Ivorian Government, seeking international support for the peace process.<sup>5531</sup>

<sup>5521</sup> Fayia Musa, Transcript 16 April 2010, p. 39176.

<sup>5522</sup> Fayia Musa, Transcript 14 April 2010, p. 38998.

<sup>5523</sup> Fayia Musa, Transcript 14 April 2010, pp. 39005-39006; Transcript 16 April 2010, pp. 39176-39177.

<sup>5524</sup> Fayia Musa, Transcript 16 April 2010, p. 39177.

<sup>5525</sup> Fayia Musa, Transcript 14 April 2010, p. 39017.

<sup>5526</sup> Fayia Musa, Transcript 16 April 2010, p. 39177.

<sup>5527</sup> Fayia Musa, Transcript 16 April 2010, p. 39178.

<sup>5528</sup> Fayia Musa, Transcript 14 April 2010, p. 39017.

<sup>5529</sup> Fayia Musa, Transcript 16 April 2010, p. 39178.

<sup>5530</sup> Fayia Musa, Transcript 14 April 2010, p. 39006.

<sup>5531</sup> Fayia Musa, Transcript 14 April 2010, pp. 39011-39014.

Prosecution Exhibit P-568

2550. Excerpts of a draft publication entitled "African Elections Database" admitted into evidence as Exhibit P-568 show that the first round of voting in the 1996 Sierra Leone election took place on 26-27 February 1996, while the run-off or second round took place on 15 March 1996.

Confidential Exhibit P-277

2551. An excerpt of Confidential Exhibit P-277 states in paragraph 5.5:

At the end of the National Forum on whether there should be elections before peace or Vice-versa held in Freetown in 1995, delegates from all walks of life in the country voted by a large majority for elections before peace. The only interest group conspicuously absent at that forum was the RUF though she was invited.

The RUF argued that peace before elections would provide a conducive atmosphere for democratic elections to be held in all parts of Sierra Leone. The National Elections Commission, using the mandate given her by the National Forum, set the time table for proportional representation (PR) system of elections for February 1996. Cpl. Sankoh then held a meeting with his senior battle front commanders at his Zogoda headquarters in February 1996 in the presence of RUF spokesman Fayia Musa who had travelled from Côte d'Ivoire to Zogoda on Cpl. Sankoh's instruction. In that meeting, Cpl. Sankoh launched "Operation Stop Election" and appointed Sam Bockarie (Mosquito) and Mohamed Jalloh (Fullah Monamie) as the mission commanders to Kenema and Bo, respectively.

Cpl. Sankoh informed his Commanders that he had received assurances from the NPRC that the Sierra Leone Army (SLA) would collaborate with the RUF in stopping the election process. He gave a very firm instruction that if citizens still came out of their homes to vote on that polling day, the very hands the citizens would use to cast their votes should be immediately chopped off. The then RUF Field Commander Mohamed Tarawallie (Zeno) arrived in Zogoda after the meeting was over and the missionaries had left. But he was disappointed that Cpl. Sankoh could instruct his combatants to cut the hands of the very Sierra Leonean his revolution came to save. He therefore tried to prevail on his leader (Sankoh) to reverse that instruction but to no avail.

The mission itself failed as the SLA was on full alert in every village and town on polling day thus preventing the RUF from entering Kenema and Bo. In the ensuing [sic] battle, the RUF sustained a lot of casualties, much to the dismay and anger of the RUF fighters and their leader Cpl. Sankoh. Though the cutting of hands was done during that mission on a small scale, it continued uncontrolled within RUF circles even after "Operation Stop Election". However, the amputations and mutilations on a very large scale was carried out by members of the AFRC that invaded Freetown on February 6, 1999.<sup>5532</sup>

Defence Exhibit D-062

2552. An excerpt of a document entitled "Chronology of Sierra Leone, Special Report, Africa Confidential: April 1998" admitted into evidence as Exhibit D-062 shows at p. 4 that

<sup>5532</sup> Exhibit P-277 (confidential).

on 26 February 1996 Presidential and Legislative elections were held but none of the presidential candidates won the required percentage of votes in the first round. On 15 March 1996 Ahmed Tejan Kabbah of the SLPP won the second round with a 59.9% of the votes.<sup>5533</sup>

### Deliberations

2553. The Trial Chamber observes that the evidence establishes the following sequence of events in Sierra Leone, leading up to “Operation Stop Election”. In December 1995, a National Forum was held in Freetown to decide whether the people of Sierra Leone wanted to hold elections before the peace process was completed or whether they preferred to complete the peace process before holding the elections.<sup>5534</sup> The RUF, although invited, did not attend or take part in the Forum, which decided by an over-whelming majority to hold elections before peace.<sup>5535</sup> Subsequently, the NPRC Government under Brig. Julius Maada Bio conducted elections in February and March of 1996 in which Ahmed Tejan Kabbah of the SLPP was elected President.<sup>5536</sup> Foday Sankoh, the RUF leader, opposed the decision to hold democratic elections before the completion of the peace process, and considering that holding the elections during a period when parts of the country were inaccessible due to the war would unfairly prejudice the RUF.<sup>5537</sup> Consequently, before the elections, Sankoh summoned a meeting or meetings of his commanders at the RUF headquarters in Zogoda and instructed them to disrupt the elections in an operation dubbed “Operation Stop Election”.<sup>5538</sup> The operation was carried out on polling day, with limited success, as Alhaji

<sup>5533</sup> Exhibit D-062, “How Diamonds Fuelled the Conflict, Chronology of Sierra Leone, Sierra Leone Diamonds, Africa Confidential, April 1998”, p. 4.

<sup>5534</sup> While TF1-168 surmised that the National Forum was held in January 1996, the most reliable account of when it actually took place is in the excerpt of Exhibit P-277 referred to above, as confirmed by Fayia Musa. However, evidence as to the purpose and outcome of the National Forum is consistent.

<sup>5535</sup> Augustine Mallah, TF1-168, Fayia Musa and Exhibit P-277.

<sup>5536</sup> Although testimonial accounts vary as to the actual dates of the 1996 Sierra Leone elections or the regime under which they were conducted, the Trial Chamber finds most reliable the documentary evidence in Exhibits P-568 and D-062 both of which establish that the first and second rounds of elections were held on 26-27 February 1996 and 15 March 1996, respectively.

<sup>5537</sup> Witnesses Isaac Mongor, Augustine Mallah, Martin George and Fayia Musa directly heard Sankoh express his disappointment with the decision to hold elections before peace, while TF1-168, TF1-371 were told about it by someone else. See also Exhibit P-277.

<sup>5538</sup> While accounts as to the timing of the Zogoda meeting vary, Witnesses Isaac Mongor, Augustine Mallah, Martin George Flomo and Fayia Musa all of whom attended the said meeting are consistent as to the location and purpose of the meeting called by the RUF leader. These witnesses are corroborated by Witnesses TF1-168, TF1-371, TF1-375, John Blamah Vincent, and Exhibit P-277. The Trial Chamber finds the evidence of witness Alice Pyne to the effect that Sankoh was in Côte d’Ivoire and not in Zogoda when he issued the instructions for Operation Stop Election by radio message, doubtful in light of the chronology of events discussed above.

Tejan Kabbah was elected President.<sup>5539</sup> In March 1996 Sankoh travelled to Yamoussoukro, Côte d'Ivoire to continue the peace process.<sup>5540</sup>

2554. Regarding the specific orders given by Foday Sankoh to the RUF commanders, the Trial Chamber is satisfied based on the testimony of witnesses Isaac Mongor, Augustine Mallah and Defence witness Fayia Musa, all of whom attended the Zogoda meeting or meetings, that Sankoh gave orders to attack and burn polling stations in all major towns including Kenema, Bo and Magburaka and to shoot and kill or to amputate the hands or fingers of any civilian believed to participate in the elections. The Trial Chamber is also satisfied that Sankoh's objective was to disrupt the elections by instilling terror in the civilian population and preventing them from voting, while at the same time raising concern of the Sierra Leone Government and international community about holding the said elections before the signing of the Abidjan Peace Agreement. The above evidence is corroborated by Witnesses Alice Pyne, TF1-168, TF1-375, Samuel Kargbo and Exhibit P-277. In the Trial Chamber's view, the fact that Martin George "did not hear such an order", or that Issa Sesay "was not aware of such an order" does not negate the credible evidence establishing that such an order was in fact issued.

2555. Furthermore, the Trial Chamber is satisfied based on the above evidence that Sankoh also issued orders assigning specific commanders to lead the attack on specific areas. These include CO Mohamed Tarawallie (a.k.a. Zino) and Denis Mingo (a.k.a. Superman) to attack Makeni and Magburaka;<sup>5541</sup> Sam Bockarie (a.k.a. Mosquito), Morris Kallon, Augustine Mallah, RUF Rambo and Issa Sesay to attack Kenema Town and Magburaka,<sup>5542</sup> Isaac Mongor to attack Matotoka and Masingbi,<sup>5543</sup> and Boston Flomo and Fula Monami to attack Bo.<sup>5544</sup>

<sup>5539</sup> Witnesses Isaac Mongor, Augustine Mallah, Alice Pyne, Samuel Kargbo and Issa Sesay all described "Operation Stop Election" as "partially successful" in that while the RUF carried out acts to disrupt the voting, its stated purpose of actually stopping the election was not achieved.

<sup>5540</sup> The Trial Chamber finds the detailed account of Fayia Musa to the effect that Sankoh travelled to Yamoussoukro, Côte d'Ivoire in March 1996 after the elections, credible. This account is corroborated by Exhibits P-277 and P-568. Alice Pyne's evidence as to where Sankoh was when he sent a radio message to Mohammed Tarawallie is not reliable as it is based on her speculation or assumption through monitoring various conversations rather than from direct knowledge. Issa Sesay conceded in cross-examination that Sankoh travelled to Yamoussoukro after Tejan Kabbah was elected President.

<sup>5541</sup> Witnesses Isaac Mongor and TF1-375.

<sup>5542</sup> Witnesses Isaac Mongor, Augustine Mallah, Martin George, Fayia Musa and TF1-375.

<sup>5543</sup> Witnesses Isaac Mongor, Alice Pyne and Issa Sesay.

<sup>5544</sup> Witnesses Martin George, Fayia Musa and Exhibit P-277.

2556. It is undisputed that it was Sankoh, not the Accused, who planned and ordered Operation Stop Election.<sup>5545</sup> Nonetheless, the Prosecution, relying solely on the evidence of Isaac Mongor, alleges that before ordering his troops to launch the operation, Sankoh received a radio call from the Accused during which he told the Accused of the plan to instil terror and amputate civilians to prevent or punish their participation in the elections, and the Accused commented that the plan to disrupt the elections “was not a bad one”.<sup>5546</sup>

2557. The Trial Chamber recalls its finding that Mongor is a generally credible witness.<sup>5547</sup> It has considered Mongor’s testimony that the alleged radio conversation took place inside a hut and that he was not inside the hut when he over-heard the conversation but rather was eavesdropping from outside the hut. Mongor further stated that apart from over-hearing the said radio conversation between Taylor and Sankoh, the latter in his subsequent address to the meeting of RUF commanders in Zogoda, told them that “he had discussed the planned offensive with Taylor who considered it not a bad plan at all”.<sup>5548</sup> However, of the other witnesses who attended a meeting or meetings in Zogoda, including Augustine Mallah, Martin George, and Fayia Musa, none mention hearing Sankoh openly make such a statement during the meeting. On the contrary, a number of these witnesses refer to Sankoh’s statement that he had consulted Brig. Julius Maada Bio of the NPRC (not Charles Taylor) who shared the RUF’s preference for “peace before elections” and who was prepared to “cooperate” with the RUF plan to sabotage the said election.<sup>5549</sup> The evidence of Fayia Musa in this regard is particularly noteworthy as he was part of the RUF External delegation and had on previous occasions met with and received assistance from the Accused. The Trial Chamber finds that Fayia Musa is a generally credible witness.

2558. The Trial Chamber has considered whether or not there may have been two meetings, as Augustine Mallah in his testimony did not name, other than Sankoh, any of the many commanders Mongor named as having attended the meeting, and the commander Mallah named to lead the attack, Morris Kallon, was not mentioned by Mongor in his

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<sup>5545</sup> Prosecution Final Trial Brief, paras 130-132 (“Although this plan was not devised by the Accused, the RUF leadership sought Taylor’s approval and guidance before going forward with the plan”); Defence Final Trial Brief, para. 1359; See also Defence Response to Prosecution Final Trial Brief, paras 13-14.

<sup>5546</sup> Prosecution Final Trial Brief, paras 132, 417 quoting Isaac Mongor, Transcript 10 March 2008, pp. 5689-5698.

<sup>5547</sup> Credibility Assessment, Isaac Mongor, paras 269-274.

<sup>5548</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5689-5692.

<sup>5549</sup> Fayia Musa, Augustine Mallah, Witness TF1-168 and Exhibit P-277.



testimony as having been present at the meeting. However, the content of the meeting described by both witnesses is fairly consistent, and the Trial Chamber is unable to conclude definitively that these were two separate meetings.

2559. In the light of the foregoing, the Trial Chamber is of the view that given that Mongor was not inside the hut where the conversation allegedly took place but rather was eavesdropping from outside, where he may have misheard or taken certain information out of context, and given that other witnesses at a meeting in Zogoda which may have been the same meeting did not say that Sankoh mentioned the radio conversation with the Accused to the meeting, the Trial Chamber cannot rely solely on the testimony of Mongor that Sankoh sought Taylor's approval and guidance in relation to the plan known as Operation Stop Election, and that Taylor told him in response that the plan was "not a bad one".

2560. Nevertheless, the Trial Chamber finds based on the above evidence that during Operation Stop Election the RUF did in fact carry out attacks on various areas including Bo,<sup>5550</sup> Kenema,<sup>5551</sup> Magburaka,<sup>5552</sup> Matotoka and Masingbi<sup>5553</sup> and carried out unlawful killings and amputation of hands or fingers of civilians.

### Findings

2561. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in early 1996 before the elections, Foday Sankoh ordered the RUF to attack and burn polling stations in all major towns including Kenema, Bo and Magburaka and to shoot and kill or to amputate the hands or fingers of any civilian believed to participate in the elections, an attack dubbed "Operation Stop Election".

2562. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that before ordering the attack, Sankoh sought the approval and guidance of the Accused.

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<sup>5550</sup> Issa Sesay and Flomo George.

<sup>5551</sup> Mallah, Kargbo and Sesay.

<sup>5552</sup> Mongor and TF1-375.

<sup>5553</sup> Pyne and Sesay.

Summary of Findings

2563. The Trial Chamber has found that -

- (i) Between 1986 and 1989, revolutionary movements and their leaders received training in Libya. The Trial Chamber further finds that at some point, between 1986 and 1989, the Accused, Foday Sankoh and Dr Manneh were in Libya, and that the Accused met Sankoh in Libya during this time.
- (ii) The Prosecution failed to prove beyond reasonable doubt that between 1986 and 1989, the Accused, Sankoh and Dr Manneh met together and established a common plan to terrorize the Sierra Leonean population and to forcibly control the population and territory of Sierra Leone.
- (iii) In 1989, after their training in Libya, the Accused and his Liberian revolutionary group and Dr Manneh and his Gambian revolutionary group went to Burkina Faso.
- (iv) The Prosecution failed to prove beyond reasonable doubt that in 1989, Foday Sankoh was also in Burkina Faso and that the Accused, Sankoh and Dr Manneh met and agreed to support each other in their respective wars.
- (v) From August 1990 until March 1991, the Accused provided the RUF with the training camp of Crab Hole, instructors, recruits and material support, including food and other supplies.
- (vi) The Prosecution failed to prove beyond a reasonable doubt that from August 1990 until March 1991, as a matter of policy NPFL instructors in Crab Hole taught terror methods to RUF recruits.
- (vii) The Prosecution failed to prove beyond reasonable doubt that Liberian and Sierra Leonean trainees at Camp Naama had no separate chain of command and were treated as one body under the command of the Accused.
- (viii) The Prosecution failed to prove beyond reasonable doubt that in Voinjama in March 1991, the Accused, Foday Sankoh and Dr Manneh together with NPFL

and RUF commanders held a meeting during which they planned and organised the invasion of Sierra Leone in accordance with the strategy hatched in Libya and Burkina Faso.

- (ix) The Accused supported the invasion of Sierra Leone.
- (x) After the invasion, NPFL troops committed crimes against Sierra Leonean civilians.
- (xi) The Prosecution failed to prove beyond reasonable doubt that the support of the Accused for the invasion of Sierra Leone was undertaken pursuant to a common purpose to terrorize the civilian population of Sierra Leone.
- (xii) Around November 1992, the Accused provided Sankoh with arms and ammunition for an attack on Kono.
- (xiii) During this time the Accused received diamonds from Sankoh.
- (xiv) The Prosecution failed to prove beyond reasonable doubt that in 1992 the Accused and Sankoh formed a common plan to capture Kono, or that the Accused directed Sankoh to capture Kono, because it was a diamondiferous area.
- (xv) In 1993, following a request from the Accused, Sankoh sent RUF personnel under the command of Morris Kallon to Liberia to fight with the NPFL against ULIMO.
- (xvi) The Prosecution failed to prove beyond reasonable doubt that the Accused instructed Joseph (a.k.a. Zigzag) Marzah to establish a relationship with persons in Guinea in order to take materiel into Guinea for the RUF.
- (xvii) In 1994, the Accused advised Sankoh to attack a major place in Sierra Leone, and pursuant to this advice Sankoh ordered the RUF to attack Sierra Rutile. Following the attack, the Accused gave Sankoh further advice with regard to the use of the money looted and the hostages abducted during the course of the attack on Sierra Rutile.

(xviii) In early 1996 before the elections, Foday Sankoh ordered the RUF to attack and burn polling stations in all major towns including Kenema, Bo and Magburaka and to shoot and kill or to amputate the hands or fingers of any civilian believed to participate in the elections, an attack dubbed "Operation Stop Election".

(xix) The Prosecution failed to prove beyond reasonable doubt that before ordering Operation Stop Election, Sankoh sought the approval and guidance of the Accused.

### Conclusion

2564. At the end of the 1980s, a number of West African revolutionaries were trained in Libya, including the Accused, Ali Kabbah and Foday Sankoh from Sierra Leone and Kukoi Samba Sanyang (a.k.a. "Dr Manneh") from the Gambia.<sup>5554</sup> The Accused met Sankoh in Libya, although the exact circumstances of their meeting are not known.<sup>5555</sup> Contrary to the Prosecution's submissions, the evidence did not establish that prior to 1996, the Accused, Sankoh and Dr Manneh participated in any common plan, nor that the three men even met together.

2565. After the invasion of Sierra Leone in 1991, the findings of the Trial Chamber relate only to the relationship between Sankoh and the Accused. The Trial Chamber finds that the Prosecution has failed to prove that Sankoh and the Accused established a common plan.<sup>5556</sup> The evidence rather shows that the Accused's NPFL and Sankoh's RUF had parallel goals and aspirations.

2566. During the pre-Indictment period, the Accused provided the RUF with a training camp, instructors, recruits and material support, including food and other supplies. However, again contrary to the Prosecution's submissions, the evidence did not establish that the RUF was under the superior authority of the Accused or the NPFL chain of command, or that they were instructed in NPFL terror tactics.

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<sup>5554</sup> Pre-Indictment Period (1988-1996): Alleged Meeting in Libya around 1989.

<sup>5555</sup> Pre-Indictment Period (1988-1996): Alleged Meeting in Libya around 1989.

<sup>5556</sup> Pre-Indictment Period (1988-1996): Alleged Meeting in Libya around 1989.

2567. The Accused supported the invasion of Sierra Leone in March 1991 and NPFL troops actively participated in it. However, the Prosecution failed to prove that the Accused participated in the planning of the invasion. The Prosecution also failed to prove that the support of the Accused for the invasion of Sierra Leone was undertaken pursuant to a common purpose to terrorize the civilian population. Rather, the evidence shows that the Accused and Sankoh had a common interest in fighting a common enemy, ULIMO, a Liberian insurgency group in Sierra Leone, and the Sierra Leonean Government forces which was supporting ULIMO.

2568. The Accused withdrew his NPFL troops from Sierra Leone after the fallout between the NPFL and RUF troops in 1992, culminating in Operations Top 20, Top 40, and Top Final. While the Defence maintains that the Accused had no further contact or cooperation with Sankoh after 1992 following Top Final, the Trial Chamber has found otherwise. Although the Liberia-Sierra Leone border was closed by ULIMO and the Sierra Leone Government forces, it remained porous, enabling the flow of arms, ammunition and other supplies from Liberia during the remainder of the pre-Indictment period. The Trial Chamber has found that the Accused provided arms and ammunition to Sankoh for an attack on Kono in November 1992, and that he advised Sankoh prior to and following the attack on Sierra Rutile. The Accused also asked Sankoh to send troops in 1993 to help him fight ULIMO.

2569. Having failed to prove the existence of a common plan formulated in Libya and Burkina Faso, the evidence relied on by the Prosecution indicates that during this pre-Indictment period Sankoh operated independently of the Accused, and while relying at times on his guidance and support, did not take orders from the Accused.



**B. The Role of Intermediaries**

2570. Before turning to the specific allegations of the Prosecution relating to the role of the Accused during the Indictment period, the Trial Chamber has considered generally the role of several intermediaries alleged to be acting on behalf of the Accused. The Trial Chamber notes that the roles of Benjamin Yeaten, Daniel Tamba (a.k.a. Jungle) and Ibrahim Bah during the Indictment period are heavily disputed by the parties throughout their submissions. For this reason, the Trial Chamber has considered their roles on the basis of the evidence as a whole, and has drawn some preliminary conclusions with respect to each of them individually. These preliminary conclusions are subject to further consideration in the context of specific events and in light of specific evidence related to those events as it is considered by the Trial Chamber.

1. Benjamin Yeaten

Submissions of the Parties

2571. From 1995 until 1997 Benjamin Yeaten served as Deputy Director of the Special Security Service (“SSS”) of the Government of Liberia. After the Accused’s election to the presidency, Yeaten became the Director of the SSS.<sup>5557</sup> He was promoted to Deputy Chairman of the Joint Chiefs of Staff in around 2000, putting him in charge of the generals of the Liberian armed forces for combat taking place within Liberia.<sup>5558</sup>

2572. The Prosecution refers to Yeaten as the Accused’s “most trusted military man” and his “trusted subordinate”.<sup>5559</sup> When the RUF submitted a request for materiel to Yeaten he indicated that he would pass the request on to his “dad” Taylor, or “the father” or “the pa”,<sup>5560</sup> and the Prosecution describes him as a “skilled, vicious subordinate who was completely loyal to Taylor, carrying out all of Taylor’s directives without a second thought”.<sup>5561</sup> The Prosecution contends that the claim of the Defence that Yeaten engaged in trading of arms and ammunition without the Accused’s knowledge is “both implausible and

<sup>5557</sup> Defence Final Trial Brief, paras 1096, 1098, 1118. Yeaten was promoted to Deputy Chairman of the Joint Chiefs of Staff in around 2000, putting him in command of the generals of the Liberian armed forces for combat taking place within Liberia.

<sup>5558</sup> Defence Final Trial Brief, para. 1118.

<sup>5559</sup> Prosecution Final Trial Brief, paras 170, 276, 367, 368.

<sup>5560</sup> Prosecution Final Trial Brief, paras 276-277, 318, 556.

<sup>5561</sup> Prosecution Final Trial Brief, para. 410.

incompatible with the Accused's own claims that his forces had no arms or ammunition to give because of disarmament.<sup>5562</sup>

2573. The Defence submits that “[d]ue to his access to President Taylor, Yeaten may have become more powerful than the vice-president and other ministers. Significantly, he became powerful enough that he could act without first receiving orders from Charles Taylor, and without Taylor learning of his actions”. In his supervisory capacity of the RUF Guesthouse in the second half of 1998, Yeaten was an intermediary between the RUF and the Accused, and possibly developed a “close personal relationship” with Bockarie during that time with “no hierarchy involved”.<sup>5563</sup>

2574. The Defence contends that under the directive of Yeaten, intermediaries such as Daniel Tamba (a.k.a. Jungle), Joseph Marzah (a.k.a. Zigzag), Sampson Weywhee<sup>5564</sup>, and other unnamed individuals, delivered arms and ammunition to the RUF throughout 1998 and possibly into 1999. The Defence describes this alleged operation as a “private enterprise that was mutually beneficial to themselves, but unknown to President Taylor”.<sup>5565</sup> The Defence submits that the evidence shows that Yeaten was “established as an intermediary, but it is not clear how much was actually relayed back to the Accused about Yeaten’s dealings with the RUF at the Guesthouse”, and that “even evidence to the effect that Yeaten gave Bockarie ammunition [...] stating that it was from Charles Taylor for Sankoh, says nothing about Taylor’s actual role or knowledge. Thus, based on circumstantial and incredible evidence, Taylor cannot be held responsible for any *ultra vires* dealings between the RUF and Yeaten”.<sup>5566</sup>

2575. The Defence additionally submits that it is possible that the Accused was unaware of Yeaten’s activities as from 1998 to 2003 Liberia was under threat from LURD and MODEL, and there were inadequate numbers of security personnel to patrol the border. The Accused had reason to send arms and ammunition with his own fighters to the border areas, “especially with Generals such as Yeaten and his SSS bodyguards. In a poverty-stricken, war-torn society it is quite understandable that these same people would look for any

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<sup>5562</sup> Prosecution Final Trial Brief, para. 1254.

<sup>5563</sup> Defence Final Trial Brief, paras 935, 1013, 1098.

<sup>5564</sup> Also spelled Weah.

<sup>5565</sup> Defence Final Trial Brief, para. 1091.

<sup>5566</sup> Defence Final Trial Brief, para. 1021.

possible way to supplement their meagre income". The Defence argues that nonetheless it is "not self-evident that Taylor should have known that some of it was given instead to the RUF by Yeaten".<sup>5567</sup> Further, the Accused denies that he supplied arms or ammunition to the RUF during the Indictment period.<sup>5568</sup>

2576. Concerning Yeaten's alleged role in this "private enterprise", the Defence relies on evidence from the Accused, TF1-371, DCT-008, Moses Blah, TF1-567, Sam Kolleh, Varmuyan Sherif, Abu Keita, Dauda Aruna Fornie, and Issa Sesay, as well as Exhibit P-018.

### Evidence

#### Prosecution Witness Moses Blah

2577. Witness Moses Blah, Inspector General of the NPFL from 1990 to 1997,<sup>5569</sup> Liberian Ambassador of Libya and Tunisia following Taylor's election to 2000,<sup>5570</sup> and Vice-President of Liberia from 2000 to 2003,<sup>5571</sup> testified that he first met Benjamin Yeaten in Tajura Camp in Libya when Yeaten was about 14 to 15 years old. Because Yeaten was very effective in training, Charles Taylor recognised him and drew him nearer to him by appointing him to be his bodyguard and to be director of certain units that would be close to the President at the time. Eventually Yeaten became the Director of the SSS. Yeaten maintained his relationship with Taylor until Taylor left Liberia.<sup>5572</sup> Only Taylor could give Yeaten orders. Blah stated that "[n]obody could disobey an order from Taylor. You would be punished severely, including myself. We could not disobey his orders".<sup>5573</sup>

2578. Blah testified that in 2003 Yeaten took a group of Liberian men who had been wounded in battle to the Mahare River and executed them. Blah was informed about the event a few days later but he did not ask Taylor or Yeaten about it in part because Blah had limited authority if the Executive Mansion Guards were involved and because he was "not authorised, more especially when Benjamin Yeaten was involved". Blah further testified that

<sup>5567</sup> Defence Final Trial Brief, para. 1135.

<sup>5568</sup> Defence Final Trial Brief, para. 1134.

<sup>5569</sup> Moses Blah, Transcript 15 May 2008, pp. 9943-9945.

<sup>5570</sup> Moses Blah, Transcript 14 May 2008, pp. 9882-9884.

<sup>5571</sup> Moses Blah, Transcript 14 May 2008, pp. 9882-9884; Blah became President of Liberia for 60 days from 11 August to 11 October 2003: Moses Blah, Transcript 16 May 2008, p. 10065.

<sup>5572</sup> Moses Blah, Transcript 14 May 2008, p. 9848.

<sup>5573</sup> Moses Blah, Transcript 14 May 2008, p. 9849.



“[k]nowing [Yeaten] to be a crucial man and a most powerful man working with the President, I left that up to him. It was up to him to find it out by himself”.<sup>5574</sup>

2579. Blah stated that there were various commanders in charge of each and every unit but Yeaten was the overall commander and could move from unit to unit taking instructions and carrying messages from President Taylor.<sup>5575</sup> During the latter part of Taylor’s presidency “Yeaten grew so powerful that he did not even have regard for the Vice-President of Liberia [...] and the defence minister also was not considered to be anything in the face of Benjamin Yeaten and his powers”.<sup>5576</sup> However, Yeaten was not more powerful than Taylor.<sup>5577</sup>

2580. Blah testified that even the commander of one unit could not give orders to the commander of another, and that commanders did not take orders from him, even as Inspector General and even as Vice President of Liberia. Taylor “was the sole commander of everything, even the defence minister could not give orders at that time. [Taylor] was the sole commander-in-chief of the entire operations of the army”.<sup>5578</sup>

2581. Blah testified that in 2003 he had a conversation with Taylor concerning Sam Bockarie’s presence in Liberia, as Sierra Leone was searching for him. Blah advised Taylor to turn Bockarie over to the Sierra Leonean government in order for the Liberian government to maintain “a good face”.<sup>5579</sup> Later Blah was driving back to Monrovia when he came upon a road block and could not pass through. Yeaten was at a nearby camp and asked to speak to Blah. Yeaten told Blah to look in his pick-up truck to see the mission he had been on the night before, and Blah saw the dead bodies of Sam Bockarie and another person. Yeaten said he was sending the pick-up with the corpses inside to the Chief in Monrovia. A week or two later, when they were back in Monrovia, Yeaten jokingly told Blah that he had killed Bockarie to destroy evidence so they would not be exposed, and that, in reference to Blah’s advice to Taylor concerning Bockarie, “[t]he way you were thinking was the wrong way”. When Blah arrived in Monrovia he went to White Flower and reported

<sup>5574</sup> Moses Blah, Transcript 15 May 2008, pp. 9936-9940.

<sup>5575</sup> Moses Blah, Transcript 16 May 2008, p. 10045.

<sup>5576</sup> Moses Blah, Transcript 16 May 2008, pp. 10045-10046.

<sup>5577</sup> Moses Blah, Transcript 16 May 2008, p. 10046.

<sup>5578</sup> Moses Blah, Transcript 16 May 2008, pp. 10044-10045.

<sup>5579</sup> Moses Blah, Transcript 15 May 2008, pp. 9975-9976.

what he had seen. Taylor told him that it was not his, Blah's, business as it was a military operation.<sup>5580</sup>

Prosecution Witness Joseph Marzah

2582. Witness Joseph Marzah, an SSS member,<sup>5581</sup> testified that he made 20 to 40 trips to Sierra Leone carrying arms, ammunitions and artillery. He testified that these trips were undertaken "on the direct instructions of Charles Taylor". He further stated that Taylor led the "government that had a constitution" which governed the country, "anything we did was by his orders".<sup>5582</sup>

Prosecution Witness TF1-371

2583. Witness TF1-371, an RUF member,<sup>5583</sup> testified that Issa Sesay had complained to him that Benjamin Yeaten had taken for himself \$USD 30,000 from the proceeds of mining that was meant to go to Charles Taylor. Sesay confronted Yeaten who admitted that he did take the money, but he also said that he would pay it back.<sup>5584</sup> The witness further testified that he agreed that behaviour such as this by Yeaten and other "honourables" was indicative "of a general sense of indiscipline and private enterprise which pervaded much of the behaviour of many people involved in this conflict".<sup>5585</sup>

2584. TF1-371 also testified on cross-examination that the commanders were in a habit of bribing Yeaten so that they would not be delayed in their missions in Monrovia. More specifically, when Sam Bockarie would go to Monrovia, "because Mr Taylor can be very busy [...] he takes some time with Benjamin Yeaten, the commander, before he sees Mr Taylor. So, they had this habit of giving him a present, sometimes diamonds or money, to have [...] quick access".<sup>5586</sup> TF1-371 said that all access to Taylor for the RUF, including

<sup>5580</sup> Moses Blah, Transcript 15 May 2008, pp. 9986-9991.

<sup>5581</sup> Joseph Marzah, Transcript 13 March 2008, pp. 6053-6055.

<sup>5582</sup> Joseph Marzah, Transcript 12 March 2008, pp. 5876-5877.

<sup>5583</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>5584</sup> TF1-371, Transcript 30 January 2008, pp. 2660-2661 (CS).

<sup>5585</sup> TF1-371, Transcript 30 January 2008, p. 2662 (CS).

<sup>5586</sup> TF1-371, Transcript 28 January 2008, p. 2409 (CS). This testimony was made in reference to questioning concerning Exhibit P-063, "RUF Defence Headquarters Forum with the External Delegates Led by the RUF Defence Staff, 2nd December 1998", p. 4. In this exhibit, which is a report on the meeting that Sam Bockarie convened in order to report on the external mission to Burkina Faso in December 1998, Bockarie "inferred re that he went with a two and half carats (2 1/2 carats) diamond and some other items which he gave as present to a senior security -- Benjamin in order [sic] to facilitate easy access to all chances for the undelayed success of our

even Sankoh, went through either Musa Cissé or Benjamin Yeaten.<sup>5587</sup> When asked on re-examination who, other than the RUF, was looking to line their own pockets, TF1-371 stated “[n]ormally like Sam Bockarie and Issa, I mean those that were in the position, I mean senior command”.<sup>5588</sup>

Prosecution Witness Dauda Aruna Fornie

2585. Dauda Aruna Fornie (“DAF”), an RUF radio operator<sup>5589</sup> who worked in Buedu from early 1998 until late April 1999,<sup>5590</sup> testified that throughout this period, Bockarie, through his radio operators, would contact Benjamin Yeaten or Taylor to request military supplies.<sup>5591</sup> Base 1 was the station that coordinated between Sam Bockarie and Mr Taylor. Sunlight would tell Bravo Zulu to inform Mosquito to switch on his satellite phone.<sup>5592</sup> Yeaten’s radio operator, Sunlight, would then respond that Bockarie should wait while Yeaten consulted with “the Papay”, or “the old man”<sup>5593</sup> or “Zero-Four-Seven”, which Fornie understood to refer to Taylor.<sup>5594</sup>

Prosecution Witness Perry Kamara

2586. Perry Kamara, an RUF radio operator,<sup>5595</sup> testified that Bockarie would send vehicles to collect deliveries of arms and ammunitions from Foya and bring them to Buedu. Civilians were used to carry loads from the Moa River. Bockarie would then send a message to his commanders “that he had brought ammunitions from Mr Charles Taylor”.<sup>5596</sup> Food, including rice, was also sent from Liberia, and Bockarie would send a message to the RUF that he had received food or ammunition - “whatever he get [sic] from Taylor”.<sup>5597</sup>

Prosecution Witness TF1-567

mission”.

<sup>5587</sup> TF1-371, Transcript 1 February 2008, p. 2828 (CS).

<sup>5588</sup> TF1-371, Transcript 4 February 2008, p. 2983 (CS).

<sup>5589</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21395; Transcript 2 December 2008, p. 21418.

<sup>5590</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21457-21458, 21615.

<sup>5591</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21477-21480.

<sup>5592</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21480.

<sup>5593</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21482.

<sup>5594</sup> The Accused testified that “Zero-Four-Seven” or “047” was one of the code names used for him by radio operators (Charles Ghankay Taylor, Transcript 16 September 2009, p. 28992).

<sup>5595</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>5596</sup> Perry Kamara, Transcript 5 February 2008, p. 3118.

<sup>5597</sup> Perry Kamara, Transcript 5 February 2008, p. 3117.

2587. Witness TF1-567, an RUF member,<sup>5598</sup> testified that the RUF guesthouse was established in 1999, pursuant to Taylor's instruction. Sankoh appointed a caretaker of the guesthouse with Benjamin Yeaten's agreement and told the caretaker that Benjamin Yeaten was his immediate boss because Yeaten was in Monrovia and because he was the security commander for Taylor. Sankoh also instructed the caretaker to take a record of everything that was going on. Yeaten instructed the caretaker that as he, Yeaten, was the security commander under Taylor's government, he would act as a "mediator" for any messages from Taylor because "his dad" Taylor had too many things to do to speak to them directly. The caretaker would also act as a "mediator" on behalf of the RUF for any messages from the RUF side. TF1-567 testified that when Issa Sesay wanted arms and ammunition, he would send the message, which the caretaker would take to Yeaten, and Yeaten would say "he will send it to his dad", meaning Taylor.<sup>5599</sup>

2588. TF1-567 testified that Sankoh instructed the caretaker to take "record of everything that was going on"<sup>5600</sup> but that Yeaten also instructed the caretaker that he should not keep any documents pertaining to any transaction between Taylor and the RUF. Yeaten explained that "he did not want there to be any proof in the future that would show a document between the RUF and Charles Taylor". Sometime in 2000, when Yeaten discovered that, despite his strict warning, the caretaker was maintaining records of materials, arms and ammunition that were being taken from the guesthouse, Yeaten punished him by sending him to the front line in the Voinjama area. Yeaten informed Issa Sesay of this incident, and Sesay responded that as Yeaten and others were their "big brothers" the caretaker should follow their instructions.<sup>5601</sup>

2589. TF1-567 testified that in 2000 to 2001 Yeaten was the overall commander in charge in the Foya area. He knew this because Yeaten said that Taylor had appointed him to be the Joint Chief of Staff to command all the other front line commanders and generals.<sup>5602</sup> TF1-567 further testified that "[a]t all times when ammunition were given Benjamin Yeaten will say that it is his dad Charles Taylor who provided them"<sup>5603</sup> and "as far as I was concerned, I

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<sup>5598</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS); Transcript 4 July 2008, pp. 12986-12988 (PS).

<sup>5599</sup> TF1-567, Transcript 7 July 2008, p. 12992 (PS).

<sup>5600</sup> TF1-567, Transcript 4 July 2008, p. 12987 (PS).

<sup>5601</sup> TF1-567, Transcript 4 July 2008, pp. 12987-12990 (PS).

<sup>5602</sup> TF1-567, Transcript 4 July 2008, pp. 13199-13201.

<sup>5603</sup> TF1-567, Transcript 7 July 2008, p. 13040.

knew that whatever arms and ammunition that were coming from Benjamin Yeaten and he himself told me, I knew that they were from Charles Taylor.<sup>5604</sup>

Prosecution Witness Varmuyan Sherif

2590. Witness Varmuyan Sherif, a former ULIMO-K fighter who was the Assistant Director of Operations for the SSS from August 1997 until the end of 1999, described the relationship between Taylor and Yeaten as being “like father and son”. Sherif testified that “Mr Taylor, made it clear to all of us, the SS members, that Benjamin Yeaten is like his son.” He said that if Yeaten did anything, he would not be questioned and that “sometimes in fact he did certain things before taking instruction from Mr Taylor and, even when Mr Taylor got to know about it, he would just forget about it”. He mentioned one occasion when the Special Court of Sierra Leone wanted to arrest Taylor in Ghana, and within an hour Yeaten had executed two of the ministers in Liberia and arrested the Vice-President. When Taylor came, he explained publicly on the radio to the Liberian people that they should consider this as just a mistake.<sup>5605</sup>

The Accused

2591. The Accused testified that he met Benjamin Yeaten in 1987 in Libya because he was one of his special forces who were taken to the base. Taylor did not closely follow the “progression” of Yeaten through the ranks until 1994, when Yeaten was identified to him as someone who showed promise in command capabilities throughout the combat period. The Accused testified that prior to this, he had met Yeaten many times. He thought that Yeaten spoke Gio and English, and was one of the few members of the Special Forces who had a high school education.<sup>5606</sup>

2592. From 1994 to 1995, when the Accused was serving on the Council of State, Yeaten was the Deputy Director of the SSS.<sup>5607</sup> He became Director of the SSS fairly quickly after the election of the Accused as President of Liberia. As Director of the SSS, he was responsible for the personal protection of the President, his family, and other senior members of the government and their families, VIPs, and all very important individuals

<sup>5604</sup> TF1-567, Transcript 7 July 2008, pp. 13097-13098.

<sup>5605</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 924-925.

<sup>5606</sup> Charles Ghankay Taylor, Transcript 19 November 2009, pp. 32118-32124.

<sup>5607</sup> Charles Ghankay Taylor, Transcript 19 November 2009, pp. 32124-32125.

within the government. According to the laws of Liberia, he reported directly to the Minister of State. The Accused testified that he could order Yeaten to instead report directly to him, but that he would not, as he thought that would be in violation of the law.<sup>5608</sup> The Accused chose Yeaten to be the Director of the SSS because he had fought brilliantly during the war, and had taken not just military but security and secret service training. He was recommended highly by the military and by the Minister of State during the vetting process, and he was nominated by the Senate.<sup>5609</sup>

2593. The Accused testified that the amount of contact he had with Yeaten depended on when he wanted to see Yeaten, as the Director of the SSS did not have any direct physical reason to be with the President. The Accused estimated that he would meet with Yeaten once or twice a week if he had to speak to him about a specific matter, but it was not a part of Yeaten's official duties to meet with him. However, beginning in 1998 Yeaten began to report to the Accused concerning specific assignments related to Sam Bockarie and "dealing with military situation [sic] of that sort". Otherwise Yeaten was only obligated to report to the Minister of State.<sup>5610</sup>

2594. The Accused elaborated on Yeaten's responsibilities towards Bockarie as falling under the duties of the SSS as "VIP Protection". The Accused explained further that when the RUF wanted to come to Liberia, the SSS was put in charge of the entry and exit of those military personnel into Liberia and their protection. Written reports regarding this were submitted to the Ministry of State, and the Accused would read them and ask to see Yeaten in his capacity as Director of the SSS if he had any questions. The Accused did not believe that Yeaten had contact with Bockarie until Bockarie's first trip to Monrovia to meet the Accused in September 1998.<sup>5611</sup>

2595. When questioned about the importance of the position of Director of the SSS, the Accused agreed that it was an important position as this person was charged with protecting the President's life. The Accused did not agree that the position required someone who was

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<sup>5608</sup> Charles Ghankay Taylor, Transcript 17 November 2009, pp. 31892-31893; Transcript 19 November 2009, pp. 32124-32126; But see Charles Ghankay Taylor, Transcript 2 February 2010, pp. 34637-34645 wherein on cross-examination the Accused disagreed with the Prosecution that the Director of the SSS actually reported to the Director General of National Security for the Administration of the SSS.

<sup>5609</sup> Charles Ghankay Taylor, Transcript 19 November 2009, pp. 32126-32127.

<sup>5610</sup> Charles Ghankay Taylor, Transcript 19 November 2009, pp. 32127-32128.

<sup>5611</sup> Charles Ghankay Taylor, Transcript 19 November 2009, pp. 32128-32129.

extremely loyal, and said instead that “we tried to make [the SSS] professional”, and that Yeaten was vetted and selected based on his qualifications at the time. The Accused agreed that Yeaten was loyal to him on a personal level from NPFL times, but that his loyalty lay first with the Republic and that he was also loyal to his President.<sup>5612</sup>

2596. During direct examination, the Accused was questioned on the testimony of Prosecution Witness TF1-579, who had testified that on his second trip to Liberia, which he took with Joseph Marzah (a.k.a. Zigzag), Daniel Tamba (a.k.a. Jungle), and Sampson Weah, they drove to Benjamin Yeaten’s house in Monrovia. Yeaten told them to follow him “to the warehouse which was right at Taylor’s house, on the left hand side” and which was located just up the hill from Yeaten’s house. Yeaten gave a list of things that they needed to the G4 section. The Commander there was Moses Duoh.<sup>5613</sup>

2597. The Accused denied that there was a warehouse attached to his residence in Monrovia and that Duoh was the G4. He stated that Duoh was one of the workers in the SSS building “located outside [...] in the vicinity of White Flower”, which was separated by a fence from White Flower. A man named Kai Sony was in charge of the warehouse, which was a two story building that hosted the SSS. On the top floor were the SSS offices, and on the bottom floors were where the SSS kept the supplies that they needed for presidential protection, including food. This warehouse was under the command of the SSS Director, Benjamin Yeaten. The Accused stated that Yeaten’s house is “a little, it’s far” and then stated that the house is located several houses away from White Flower. The Accused did not have direct access to the warehouse.<sup>5614</sup>

2598. The Accused was read the testimony of Moses Blah that “Benjamin was moving everywhere, wherever there was fighting. I didn’t know whether it was by the order of the President or himself [...] He became so powerful that he could do anything and go anywhere”.<sup>5615</sup> The Accused agreed that Yeaten could go practically anywhere, and stated that Blah was referring to the time period in 2001 and the war in Lofa against LURD. At this

<sup>5612</sup> Charles Ghankay Taylor, Transcript 19 November 2009, pp. 32129-32130.

<sup>5613</sup> Charles Ghankay Taylor, Transcript 28 October 2009, pp. 30621, 30637; 29 October 2009, p.30638. TF1-579 testified that this trip occurred in October of an unidentified year (TF1-579, Transcript 5 November 2008, pp. 19839-19840).

<sup>5614</sup> Charles Ghankay Taylor, Transcript 28 October 2009, pp. 30628-30631. See also Charles Ghankay Taylor, Transcript 19 November 2009, p. 32147 (testifying that Yeaten’s house was two to three city blocks away from White Flower “depending on normal city blocks”).

<sup>5615</sup> Charles Ghankay Taylor, Transcript 4 November 2009, p. 31108.

time Yeaten was not only Director of the SSS but a General, and one of the brave people that could go to the front lines. Further, Yeaten was moving to any place where there was major combat and he did not require the Accused's consent to move around. At this time the SSS was mostly being run by Montgomery, Yeaten's Deputy, and during the tough part of the war Yeaten was made Deputy Chairman of the Joint Chiefs in Charge of Combat. Therefore, he visited the different front lines and divisional headquarters.<sup>5616</sup>

2599. Concerning Blah's testimony that Yeaten "became so powerful that he could do anything", the Accused testified that he did not claim to know everything that Yeaten did, nor did he claim that he was aware of, or that he ordered Yeaten to do everything that he did. However, "as far as being so powerful that he could do anything within the law that reached to me, yes, there are a lot of things that he could do and a lot of things that Moses was powerful too that he could do". When asked again by Defence counsel whether "Yeaten was all powerful and could do anything", the Accused replied "No".<sup>5617</sup>

2600. The Accused addressed Blah's evidence that Yeaten could go anywhere with Taylor's permission, and that "Each time you see Benjamin you will see the chief. He had greater power in a way. The only person that was above Benjamin at that time that I know was President Taylor. Nobody else". The Accused responded that Blah saw things from a different perspective, and was "saying this in the context of Benjamin's refusal to take his order to carry out a coup d'etat" but that this "other power in the land" did not exist.<sup>5618</sup>

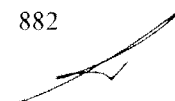
2601. The Accused was also questioned on the testimony of Varmuyan Sherif that Taylor and Yeaten had a very cordial relationship like father and son and that because of this "Yeaten would not be questioned". The Accused agreed that there were times when Yeaten acted without first seeking instructions from him because "[i]f a President had to operate with everyone calling and getting instructions before he could take certain crucial decisions I don't think the President would have a minute of his own. So most individuals in fact are

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<sup>5616</sup> Charles Ghankay Taylor, Transcript 4 November 2009, p. 31108. The Accused testified that by June 2003 Yeaten was not just Director of the SSS but also the Deputy Chairman of the Joint Chiefs of Staff, and he was in charge of the military operations of the entire Republic. Prior to this he carried the rank of lieutenant general but he did not perform with the army (Charles Ghankay Taylor, Transcript 19 November 2009, p. 32139).

<sup>5617</sup> Charles Ghankay Taylor, Transcript 4 November 2009, pp. 31109-31110.

<sup>5618</sup> Charles Ghankay Taylor, Transcript 4 November 2009, pp. 31110-31112.



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trained to take “prudent decisions”. The Accused added that there was nothing cordial between Yeaten and himself. Yeaten was a general, “[he] performed”.<sup>5619</sup>

2602. In reply to the evidence of TF1-567 of Yeaten’s role as a mediator between the caretaker of the RUF guesthouse and Taylor, the Accused testified that he disagreed with the characterisation of Yeaten as a mediator, and said that it was more accurate to say that Yeaten, as the Director of the SSS, was “just a security responsible for their protection”.<sup>5620</sup>

2603. The Accused testified that during the time that Yeaten, as Director of the SSS, had “total” involvement in supervising the RUF guesthouse, Yeaten and Bockarie developed a close relationship.<sup>5621</sup> The Accused further testified that Bockarie was a good friend of Yeaten and would visit him from time to time.<sup>5622</sup> However, Taylor also testified that he never appointed Yeaten to be “an immediate boss for the guesthouse.” The Accused explained that he would not have needed Yeaten to pass messages to him from the caretaker of the RUF guesthouse, because at that time the Accused was in direct contact with Foday Sankoh, who would only needed to have called him from Freetown.<sup>5623</sup>

2604. When questioned about TF1-375’s testimony that Benjamin Yeaten was the second man to the President, the Accused countered that this was total nonsense, asserting that “[t]here were a whole line of other people that [...] had ten times more power than the SSS Director. Far, far, far more”, including the Vice President, the Speaker, the Defence Minister, and the Chief of Staff of the Armed Forces.<sup>5624</sup>

2605. The Accused also testified that he never provided Sam Bockarie with arms or ammunition.<sup>5625</sup>

2606. When read the testimony of TF1-371 that RUF Commanders were in the habit of bribing Yeaten with diamonds and other items in order to facilitate quick access to Taylor, the Accused testified that if he had known that Yeaten was accepting these bribes he would have never been SSS Director. The Accused queried the necessity of such a bribe, asking

<sup>5619</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30801-30804

<sup>5620</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28773-28774 (PS).

<sup>5621</sup> Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26011-26012.

<sup>5622</sup> Charles Ghankay Taylor, Transcript 26 October 2009, p. 30309.

<sup>5623</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28776 (PS).

<sup>5624</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28891-28897.

<sup>5625</sup> Charles Ghankay Taylor, Transcript 10 September 2009, p. 28611.

“why would he want to pay Benjamin when either I sent for him or I know he is coming?”

He further explained that

I can see now that there were some things going on that I didn't know about. I would not have known that. But it's possible that they would have done that because [...] at this time there is a lot of corruption, there is a lot of things going on, but I am not aware of it.<sup>5626</sup>

2607. Further, when asked whether in hindsight he should have dismissed Yeaten rather than allowing him to maintain his position until Taylor left Liberia in August 2003, the Accused responded that “a person is innocent until proven guilty” and said he would reappoint him again today unless there was factual evidence that Yeaten had been charged and convicted of a crime, that “[u]ntil now and up until there was nothing before me or that had been brought in any way that would have led me to not reappointing him”.<sup>5627</sup>

Defence Witness DCT-008

2608. When questioned concerning the testimony of Prosecution Witness Mohamed Kabbah stating that the RUF and the government of Liberia were like brothers and sisters, Witness DCT-008, a Liberian radio operator,<sup>5628</sup> countered that it was incorrect because the connection between Sam Bockarie and Benjamin Yeaten was a personal connection, and not because Yeaten was representing the interests of the government of Liberia.<sup>5629</sup> He also denied Kabbah's testimony that there were daily communications from the RUF to Taylor through Sunlight stating that “Sunlight being used by Benjamin Yeaten to communicate with the RUF was not to the knowledge of the President of Liberia”.<sup>5630</sup>

2609. DCT-008 testified that Yeaten had told Sunlight, a radio operator assigned to Yeaten, that Charles Taylor did not know about the relationship between Yeaten and Bockarie, and that Sunlight must also keep it a secret.<sup>5631</sup> Yeaten said that this secret should be disclosed to

<sup>5626</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29580-29582 (PS). See also Charles Ghankay Taylor, Transcript 13 August 2009, p. 26716-26718 where Taylor testified that in 1999 corruption was at a very high level, and that it was “a very troubling period” in which as President, he “had no real control to a great extent”. The Accused believed that it was highly probable that officials in his government, such as Yeaten who he “was hearing about” were engaged in such activities.

<sup>5627</sup> Charles Ghankay Taylor, Transcript 27 January 2010, pp. 34205-34206.

<sup>5628</sup> DCT-008, Transcript 24 August 2010, pp. 46948-46951 (PS).

<sup>5629</sup> DCT-008, Transcript 1 September 2010, p. 47741.

<sup>5630</sup> DCT-008, Transcript 1 September 2010, p. 47742.

<sup>5631</sup> DCT-008 testified that Benjamin Yeaten told Sunlight that, “What I have told you should be kept to yourself and [sic] must not share it with any other government radio operator or anyone around you, not even your wife, because this relationship between myself and the friend over there,” that is Sam Bockarie, “the President does not know about it [...] and you should keep it as a secret to yourself.” He further went on to say

no one, because if Taylor discovered it, he would arrest Yeaten and “finish” him. Yeaten also threatened that he would “deal with” whoever disclosed this secret first.<sup>5632</sup>

2610. DCT-008 testified that there was never an occasion when Yeaten himself used the radio at Base 1 to communicate with the RUF, nor did he communicate on the radio on behalf of Liberia as he was afraid of being intercepted, and he did not know the communication codes.<sup>5633</sup> When asked whether in late 1998 there were communications between Base 1 in Monrovia and any other RUF stations, DCT-008 testified that the relationship between Bockarie and Yeaten was only between themselves, so the communication was only between Base 1 and Bravo Zulu 4 and was limited to the two of them.<sup>5634</sup>

2611. When asked why it was important to keep the communication between Bockarie and Yeaten secret, DCT-008 testified that after Bockarie’s first visit to Monrovia<sup>5635</sup> they became very close friends, and within this friendship they made secret deals between themselves. There were very many secret deals that Charles Taylor did not know about, mostly concerning the selling of ammunition to Bockarie for cash.<sup>5636</sup> These deals included Musa Cissé, who was also doing business with the RUF or with Bockarie at this time.<sup>5637</sup>

2612. When asked to clarify that his testimony was that Yeaten “was stealing ammunition under the nose of the President of Liberia and selling it to the RUF”, DCT-008 responded affirmatively that Yeaten used to send people all around to collect ammunition including from the ex-Liberian Peace Council (“LPC”) in the south-eastern part of Liberia, that he would then sell to Bockarie without the knowledge of Taylor.<sup>5638</sup> DCT-008 further explained

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that, “if this secret is disclosed to anyone and the President discovers this, I will be arrested by the President and I will be finished. But before the President deals with me, I would have dealt with that person first” (DCT-008, Transcript 24 August 2010, p. 47047). See also DCT-008 concerning the satellite phone conversations between Yeaten and Bockarie: “[Taylor], I believe, did not know about this communication. The reason is that, earlier, Ben had told Sampson, Sunlight, and those close to him that his relationship with Sam Bockarie was personal and secret, and [Taylor], or even the Government of Liberia, does not know about it, so they should be very careful so that they wouldn’t disclose this relationship to the President” (DCT-008, Transcript 24 August 2010, p. 47386).

<sup>5632</sup> DCT-008, Transcript 24 August 2010, pp. 47046-47047.

<sup>5633</sup> DCT-008, Transcript 27 August 2010, p. 47386.

<sup>5634</sup> DCT-008, Transcript 27 August 2010, p. 47387.

<sup>5635</sup> DCT-008 testified that Jungle, “the runner for Sam Bockarie”, told him that this September 1998 visit was Bockarie’s first visit (DCT-008, Transcript 27 August 2010, p. 47392).

<sup>5636</sup> DCT-008, Transcript 27 August 2010, pp. 47387-47388.

<sup>5637</sup> DCT-008, Transcript 27 August 2010, pp. 47388, 47393.

<sup>5638</sup> DCT-008 testified that Yeaten would send people to collect ammunition in the south-eastern part of Liberia,

that things were difficult during this time and as a result there was a lot of corruption by officials in the government that Taylor was unaware of, including these ammunition sales. Taylor was also unaware that the ex-ULIMO members in Lofa County were selling ammunition to the RUF.<sup>5639</sup> For example, on one occasion Bockarie told Jungle, who told DCT-008, that Varmuyan Sherif, an ex-ULIMO fighter, had sold ammunition to him. Yeaten's close bodyguards knew about these transactions so he instructed them to keep it very secret because if Taylor found out he would arrest and prosecute Yeaten, and Yeaten himself would "deal with" whoever exposed the secret before he was arrested.<sup>5640</sup>

2613. When asked how Taylor would not have gotten word of these clandestine sales as there would have been many people involved in handing the ammunition over to the RUF and transporting it out of Liberia, DCT-008 testified that Taylor was too far up the line to know what was going on. Further, because Yeaten, as Director of the SSS, and Cissé, as the President's Chief of Protocol, were high-ranking government officials, they and even their bodyguards would not be searched when they were driving around. Therefore these people used their positions to carry out these secret transactions without the knowledge of the President. DCT-008 testified that he knew these things because he travelled with Yeaten and saw that when they came to checkpoints, no one would check their car. He added that Yeaten was highly respected and that people feared him a lot.<sup>5641</sup>

2614. DCT-008 testified that these secret deals began in late 1998 after Bockarie's first visit to Monrovia. Because Bockarie and Yeaten were very close, Yeaten would send ammunition using Jungle or Sampson who would then take the ammunition to Bockarie. On some occasions they would pick up the ammunition from Yeaten or Cissé's yard at night. DCT-008 testified that "we" discussed these things, and that on most occasions Jungle would tell him about these things.<sup>5642</sup>

2615. The movement was always done at night by Sampson and Jungle because that is who Yeaten normally sent, and sometimes they would be escorted by Joseph Marzah (a.k.a.

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specifically Grand Gedeh, Sinoe, and Maryland because before the 1997 election those areas were occupied by the LPC (DCT-008, Transcript 27 August 2010, pp. 47389, 47393).

<sup>5639</sup> DCT-008 testified that Sampson told him that prior to the Liberian presidential election in 1997, ULIMO-K had not completely disarmed. Therefore, after the election Sampson and Jungle used to go there to buy ammunition from them (DCT-008, Transcript 24 August 2010, p. 47394).

<sup>5640</sup> DCT-008, Transcript 24 August 2010, pp. 47389, 47394.

<sup>5641</sup> DCT-008, Transcript 24 August 2010, p. 47390.

Zigzag), who was one of the drivers. Sometimes they would use Yeaten's pick-up and sometimes they used a four-tyred Nissan pick-up. Concerning the amount of ammunition, DCT-008 testified that on one occasion when he saw them leaving with ammunition, they had approximately five boxes of AK-47 rounds and a few RPG rockets in rice bags.<sup>5643</sup>

2616. During the times that Jungle came to Base 1, Jungle did not transmit any messages on behalf of Benjamin Yeaten.<sup>5644</sup> Sometimes Sellay from Base 1 asked for Jungle but Jungle was absent. However, there was one occasion in 1998 when Sellay gave a message to Sunlight asking him to tell Jungle that Bockarie wanted him to go to Cissé and tell him that they needed food. Sunlight gave the message to Jungle, who then left.<sup>5645</sup> Furthermore, at one point Bockarie, who was in Sierra Leone, contacted Jungle, who was at Base 1, and told him to tell Cissé and Yeaten that they were running out of food and asked for their assistance. This occurred after Jungle's first communication with Sellay. DCT-008 is unaware of whether Yeaten or Bockarie responded to this request.<sup>5646</sup>

2617. DCT-008 testified that the secret deals or radio contact between Bockarie and Yeaten ended in December 1999 when Bockarie moved to Liberia to seek refuge for himself and for his family from the Liberian government, because the deals were only between Bockarie and Yeaten, and not the RUF and Yeaten.<sup>5647</sup>

#### Defence Witness Issa Sesay

2618. Issa Sesay, senior RUF commander,<sup>5648</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>5649</sup> testified that around January or February 2000 Foday Sankoh appointed a caretaker of the RUF Guesthouse.<sup>5650</sup> As far as Sesay was aware, the caretaker's duties were limited to taking care of the house. He was not a radio operator, he did not have any assignments relating to the procurement of ammunition from any source, and did not have custody of any ammunition. Sesay testified that the caretaker only had contact with

<sup>5642</sup> DCT-008, Transcript 24 August 2010, p. 47391.

<sup>5643</sup> DCT-008, Transcript 24 August 2010, p. 47392.

<sup>5644</sup> DCT-008, Transcript 24 August 2010, p. 47396.

<sup>5645</sup> DCT-008, Transcript 24 August 2010, pp. 47396-47397.

<sup>5646</sup> DCT-008, Transcript 24 August 2010, pp. 47394-47395.

<sup>5647</sup> DCT-008, Transcript 24 August 2010, pp. 47395-47396.

<sup>5648</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>5649</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>5650</sup> Issa Sesay, Transcript 26 July 2010, p. 44556; Transcript 11 August 2010, p. 46032.

Yeaten when Sesay was in Monrovia and Yeaten came to the guesthouse to take Sesay to Roberts International Airport. The caretaker also did not run any errands specifically relating to the delivery of ammunition from Liberia to Sierra Leone during the time that he was based in Monrovia.<sup>5651</sup>

#### Defence Witness Sam Kolleh

2619. Sam Kolleh testified that he agreed with the statement that “corruption can occur in any army where people are selling small amounts of arms and ammunition for their own profit” but denied that the RUF sold ammunition.<sup>5652</sup> He said he did not know who Benjamin Yeaten was, and had never met him or heard about him.<sup>5653</sup>

#### Prosecution Exhibit P-018

2620. Exhibit P-018 is a Report of the Panel of Experts Established by Resolution 1306-S/2000/1195, adopted on 20 December 2000. In pertinent part, the report describes efforts made by the UN and ECOWAS to stop the trade of arms in West Africa in 1997 and 1998. It also states that

[g]uerilla armies receive weapons through interlinked networks of traders, criminals and insurgents moving across borders. Arms also travel from one unstable zone to another, and rebel movements or criminal gangs in one country sell their arms to groups they are aligned with elsewhere. In other instances governments may see opportunities for their own regional ambitions in West Africa, supplying rebel groups with weapons in order to further these ambitions [...] Few States in the region have the resources or the infrastructure to tackle smuggling, a situation that creates opportunities for the smuggling of weapons across all major borders in the region. Officials acknowledge the existence of a large and largely uncontrolled informal weapons trade and outright illicit trafficking. The extent of such practices, far beyond normal levels of informal trade, aggravate corruption and criminalization throughout the region.<sup>5654</sup>

#### Deliberations

2621. Both Prosecution and Defence witnesses testified that Yeaten was extremely powerful but still subject to the Accused’s authority. Moses Blah, whom the Trial Chamber has found to be a credible witness,<sup>5655</sup> said Yeaten had no regard for the Vice-President or

<sup>5651</sup> Issa Sesay, Transcript 11 August 2010, pp. 46032-46034.

<sup>5652</sup> Sam Kolleh, Transcript 3 November 2010, pp. 48653-48654.

<sup>5653</sup> Sam Kolleh, Transcript 5 November 2010, pp. 48892-48900.

<sup>5654</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306, S/2000/1195, adopted on 20 December 2000”, paras 167-172.

<sup>5655</sup> Credibility Assessment, Moses Blah, Pre-Indictment Period (1988-1996), para. 2222.

the Defence Minister and called him “the most powerful man working with the President”.<sup>5656</sup> The Accused agreed, responding to Blah’s testimony, that Yeaten was powerful and able to move around without Taylor’s consent, but when asked whether Yeaten was “all powerful and could do anything”, the Accused replied “No”.<sup>5657</sup> The Accused notably downplayed Yeaten’s power, saying that “[t]here were a whole line of other people that [...] had ten times more power than the SSS Director. Far, far, far more”.<sup>5658</sup>

2622. The Trial Chamber notes that when asked whether in hindsight he should have dismissed Yeaten, the Accused replied that that he would appoint him again today unless there was factual evidence that Yeaten had been charged and convicted of a crime, and that then and now “there was nothing before me or that had been brought in any way that would have led me to not reappointing him”.<sup>5659</sup> The Trial Chamber finds this testimony of the Accused inconsistent with a belief that Yeaten was trading arms and ammunitions without his knowledge.

2623. Varmuyan Sherif characterised the relationship between the Accused and Yeaten as one of father and son and said that there were times that he did things “even before taking instruction from Mr Taylor” but that Taylor, upon learning this, would “just forget about it”. The Trial Chamber notes its finding that Sherif is a generally credible witness.<sup>5660</sup> The Accused agreed that there were times when Yeaten acted without seeking instructions from him but explained that this was a normal delegation of decision-making as the President would not have time for everyone to call and get instruction before taking action. The Trial Chamber notes that in neither Sherif’s nor the Accused’s evidence on this point is there the suggestion that the actions taken were covert rather than simply without specific authorisation, and recalls Blah’s testimony that it was rare for someone to disobey Taylor as they would be severely punished.<sup>5661</sup> It is clear from the evidence that Yeaten had a close relationship with the Accused, which bypassed the line of reporting to the Minister of State

<sup>5656</sup> Moses Blah, Transcript 15 May 2008, pp. 9936-9940.

<sup>5657</sup> Charles Ghankay Taylor, Transcript 4 November 2009, p. 31109.

<sup>5658</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28891-28897.

<sup>5659</sup> Charles Ghankay Taylor, Transcript 27 January 2010, pp. 34205-34206.

<sup>5660</sup> Credibility Assessment, Varmuyan Sherif, Arms and Ammunition, para. 5324.

<sup>5661</sup> Moses Blah, Transcript 14 May 2008, p. 9849.

referred to by the Accused in his testimony and emboldened Yeaten to take action without prior direction from the Accused.

2624. There is also evidence that Yeaten did certain things on the Accused's behalf that were kept from others, though not from the Accused. Blah recalled his encounter with Yeaten after Blah had advised Taylor to turn Bockarie over to Sierra Leone. Yeaten showed him Bockarie's corpse and told him "The way you were thinking was the wrong way". When he reported back to Taylor, Taylor told Blah this was not his business. Similarly, TF1-567, whom the Trial Chamber has previously found to be a generally credible witness,<sup>5662</sup> testified that Yeaten punished the caretaker of the RUF Guesthouse for maintaining records of dealings between the RUF and Taylor, which Yeaten had warned him not to keep.<sup>5663</sup> There is no indication in his testimony that these private dealings did not involve the Accused. TF1-567 repeatedly maintained in cross-examination that Yeaten himself always said that the arms and ammunition in question came from Taylor.<sup>5664</sup> When the caretaker of the RUF Guesthouse sent messages from Sesay to Taylor seeking arms and ammunition, Yeaten would say "he will send it to his dad".<sup>5665</sup>

2625. The Trial Chamber notes that DCT-008 is the only witness who testified that Yeaten's arms trading was being carried out independently of and covertly from the Accused.<sup>5666</sup> The Trial Chamber recalls its finding that the testimony of DCT-008 must be treated with caution and requires corroboration<sup>5667</sup> and notes that the testimony of the Accused does not corroborate this testimony of DCT-008.

2626. Moreover, the Trial Chamber notes the evidence contradicting DCT-008's testimony, such as the testimony of Dauda Aruna Fornie that when Bockarie contacted Yeaten to request military supplies through his radio operators,<sup>5668</sup> Yeaten's radio operator Sunlight would respond that Bockarie should wait while Yeaten consulted with "Zero-Four-Seven", which Fornie understood to refer to Taylor.<sup>5669</sup> Perry Kamara testified that Bockarie would

<sup>5662</sup> Credibility Assessment, TF1-567, paras 313-317.

<sup>5663</sup> TF1-567, Transcript 4 July 2008, pp. 12987-12990 (PS).

<sup>5664</sup> TF1-567, Transcript 7 July 2008, pp. 13097-13098.

<sup>5665</sup> TF1-567, Transcript 7 July 2008, p. 12992 (PS).

<sup>5666</sup> DCT-008, Transcript 24 August 2010, p. 47046-47047.

<sup>5667</sup> Credibility Assessment, DCT-008, paras 373-380.

<sup>5668</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21479.

<sup>5669</sup> The Accused testified that "Zero-Four-Seven" or "047" was one of the code names used for him by radio operators (Charles Ghankay Taylor, Transcript 16 September 2009, p. 28992).





send messages to his commanders “that he had brought ammunitions from Charles Taylor”,<sup>5670</sup> and TF1-567 testified that Yeaten would say when ammunition was given to them “that it is his dad Charles Taylor who provided them”.<sup>5671</sup> The Trial Chamber recalls its findings that Fornie, Kamara and TF1-567 are all credible witnesses.<sup>5672</sup> At the same time, the Trial Chamber finds no corroboration of DCT-008’s evidence that Yeaten was acting independently of the Accused, while there is substantial evidence that Yeaten was representing, and was perceived to be representing, the Accused.

2627. The Defence also relies for support of its submission that Yeaten was acting independently of the Accused in arms transactions on the evidence of Prosecution Witness TF1-371 that “a general sense of indiscipline and private enterprise” spread through the actions of many involved in the conflict,<sup>5673</sup> as well as Exhibit P-018, a United Nations Panel of Experts Report which states that there was a significant amount of materiel being traded informally in a corrupt and uncontrolled environment.<sup>5674</sup> The Trial Chamber does not consider that this evidence rebuts the direct evidence that Yeaten was acting with the Accused’s knowledge and direction.

2628. Witness TF1-371, whom the Trial Chamber has found to be a generally credible witness,<sup>5675</sup> also testified that Yeaten took some money that was meant to go to Taylor and that when confronted, Yeaten admitted taking the money but said he would pay it back.<sup>5676</sup> TF1-371 further testified that Yeaten was regularly bribed with diamonds and money to get quick access to Taylor. This evidence indicates corruption in Yeaten’s conduct. However, it does not implicate Yeaten in covert arms trading independently of the Accused. To the contrary, TF1-371 testified that Yeaten pocketed the mining proceeds destined for Taylor.

### Findings

2629. In light of these considerations, the Trial Chamber finds that the Defence arguments and the evidence of DCT-008 do not in themselves establish that Yeaten was engaged in the

<sup>5670</sup> Perry Kamara, Transcript 5 February, 2008, p. 3118.

<sup>5671</sup> TF1-567, Transcript 7 July 2008, p. 13040.

<sup>5672</sup> Credibility Assessment, Dauda Aruna Fornie, paras 346-358; Credibility Assessment, Perry Kamara, paras 227-236; Credibility Assessment, TF1-567, paras 313-317.

<sup>5673</sup> Defence Final Trial Brief, para. 1091.

<sup>5674</sup> Defence Final Trial Brief, para. 1138.

<sup>5675</sup> Credibility Assessment, TF1-371, paras 220-226.

<sup>5676</sup> TF1-371, Transcript 30 January 2009, pp. 2660-2661 (CS).

trade of arms and ammunition for the RUF independently and without the knowledge of the Accused. More specific allegations relating to the role of Yeaten and the role of the Accused in transactions for arms and ammunitions will be addressed in the context of the Trial Chamber's consideration of those transactions.

2. Daniel Tamba (a.k.a. Jungle<sup>5677</sup>)

Submissions of the Parties

2630. The Prosecution submits that Daniel Tamba (a.k.a. Jungle), a Special Security Service (“SSS”) member, acted under the Accused’s orders as his subordinate.<sup>5678</sup> According to the Prosecution, Tamba was one of a number of escorts, couriers and liaisons that the Accused provided to the RUF.<sup>5679</sup> The Prosecution alleges that in this capacity, Jungle was a messenger who conveyed instructions, directions and guidance to the RUF and AFRC/RUF;<sup>5680</sup> a security escort who ensured that outside forces did not interfere with the Accused’s directives for movement of materiel or personnel;<sup>5681</sup> and, a courier of diamonds to the Accused from RUF, AFRC/RUF territories,<sup>5682</sup> and materiel from the Accused to the RUF, AFRC/RUF forces.<sup>5683</sup> In this way, Tamba acted as the Accused’s “eyes and ears”,<sup>5684</sup> spending a considerable amount of time in AFRC/RUF territory during the time crimes against civilians were being committed.<sup>5685</sup> The Prosecution further submits that Tamba was killed by the Accused’s men after the indictment against the Accused was issued, as Tamba was a key liaison between the Accused and the RUF throughout the Indictment period.<sup>5686</sup> The Prosecution relies upon witnesses TF1-371, TF1-579, TF1-567, Dauda Aruna Fornie, TF1-375, TF1-585, Jabaty Jaward, TF1-516, Mohamed Kabbah, John Vincent, Mustapha Mansaray, TF1-539, Joseph Marzah, Suwandi Camara, Abu Keita, Augustine Mallah, TF1-

<sup>5677</sup> TF1-371 distinguished Jungle from Jungle Jim, who was the chief diamond broker for Taylor at Lofa Bridge and not the same person as Daniel Tamba (a.k.a. Jungle) (TF1-371, Transcript 28 August 2008, p. 14837).

<sup>5678</sup> Prosecution Final Trial Brief, paras 194, 224.

<sup>5679</sup> Prosecution Final Trial Brief, para. 300.

<sup>5680</sup> Prosecution Final Trial Brief, paras 175, 194, 301, 305, 357.

<sup>5681</sup> Prosecution Final Trial Brief, para. 301.

<sup>5682</sup> Prosecution Final Trial Brief, paras 18, 349, 355-357, 368.

<sup>5683</sup> Prosecution Final Trial Brief, paras 268, 302-304.

<sup>5684</sup> Prosecution Final Trial Brief, para. 428.

<sup>5685</sup> Prosecution Final Trial Brief, para. 300.

<sup>5686</sup> Prosecution Final Trial Brief, paras 39, 1184. The Trial Chamber has considered this allegation in the section of this Judgement on the Suppression of Evidence. See Preliminary Issues: Suppression of Evidence.

367, Isaac Mongor, TF1-168, Karmoh Kanneh, DCT-008, and Albert Saidu as well as exhibits P-045A-B, P-068, P-153A-B, P-163, P-069 and P-600C in support of its allegations.

2631. The Defence challenges the Prosecution's evidence that Tamba was present in Kenema from May 1997 until the Intervention in February 1998, or that he delivered ammunition to the RUF during this period, arguing that the RUF's only source of ammunition at that time was the AFRC.<sup>5687</sup> The Defence also disputes the evidence that Daniel Tamba was a liaison between the Accused and Sam Bockarie.<sup>5688</sup> According to the Defence, it was Yeaten who coordinated with Tamba, as the Accused did not know Tamba and had no contact with him, and that Tamba and Bockarie formed their own relationship based on the time they spent together, and their tribal links.<sup>5689</sup> The Defence notes the significant body of evidence that arms and ammunition were delivered to the RUF throughout 1998 into 1999 under Yeaten. However, the Defence avers that Tamba, and others involved, acted independently of the Accused transporting arms and ammunition in the operation of their own private enterprise without the Accused's knowledge.<sup>5690</sup>

2632. The Defence contends that Tamba went with the RUF delegation to Lomé and that by December 1999 Tamba left Sierra Leone and the RUF along with Sam Bockarie. After leaving the RUF, Tamba joined Benjamin Yeaten in fighting against LURD.<sup>5691</sup> The Defence alleges that Tamba died during a gunfight in 2003, possibly from "friendly fire".<sup>5692</sup>

2633. The Defence relies upon the Accused, DCT-008, John Vincent, Sam Kolley, Issa Sesay, Jabaty Jaward, TF1-371, TF1-567, TF1-516, TF1-585 and Exhibit D-316 in support of its submissions.

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<sup>5687</sup> Defence Final Trial Brief, para. 1060.

<sup>5688</sup> Defence Final Trial Brief, para. 537.

<sup>5689</sup> Defence Final Trial Brief, para. 935.

<sup>5690</sup> Defence Final Trial Brief, paras 537, 935, 1091, 1095.

<sup>5691</sup> Defence Final Trial Brief, para. 1117.

<sup>5692</sup> Defence Final Trial Brief, para. 1117.

EvidenceProsecution Witness TF1-579

2634. Witness TF1-579, an SSS member,<sup>5693</sup> identified Jungle in Exhibit P-153A and Confidential Exhibit P-068.<sup>5694</sup> TF1-579 testified that around 1990 or 1991, he first came across Daniel Tamba (a.k.a. Jungle), in Gbarnga, when Jungle was assigned to Sankoh. The witness saw Jungle again around the time of the Camp Johnson Road incident in September 1998,<sup>5695</sup> when the witness, Tamba and Sampson Weah brought ammunition, including grenades, 106 rockets,<sup>5696</sup> LAR rounds and AK-47 rounds, to Sam Bockarie in Buedu.<sup>5697</sup> The witness knew Jungle to be Sankoh's senior *aide-de-camp* and the chief liaison officer between the RUF and NPFL.<sup>5698</sup> The witness testified that Tamba also used to receive \$USD 400 in pay from the SSS, and was issued an SSS ID card.<sup>5699</sup> The witness also testified that, prior to the September 1998 trip to bring ammunition to Bockarie, Jungle had been bringing ammunition to Sierra Leone on previous trips.<sup>5700</sup> According to the witness, in 1998, Tamba lived in a house that Bockarie rented at the Young Women's Christian Association ("YWCA") in Monrovia with his family, the witness, Joseph Marzah and Sampson Weah.<sup>5701</sup> The witness further testified that "Jungle was one of Mosquito's main men" and an RUF member,<sup>5702</sup> and that he took orders directly from Yeaten and Taylor.<sup>5703</sup> The witness explained that the RUF and NPFL were "one" at that point, meaning that the RUF

<sup>5693</sup> TF1-579, Transcript 5 November 2008, pp. 19822-19823.

<sup>5694</sup> TF1-579, Transcript 5 November 2008, pp. 19813, 19854-19855.

<sup>5695</sup> TF1-579, Transcript 5 November 2008, pp. 19793-19794, 19830. The Trial Chamber notes that the witness could not provide a year, but is satisfied based on the testimony of other witnesses that the Camp Johnson Road incident that the witness is referring to occurred in 1998.

<sup>5696</sup> The witness described "106 rockets" as a "very long rocket", which the Trial Chamber has distinguished from a quantity of 106 rockets (TF1-579, Transcript 5 November 2008, pp. 19832-19833).

<sup>5697</sup> TF1-579, Transcript 5 November 2008, pp. 19813, 19830-19831, 19834; Transcript 25 November 2008, pp. 21088, 21090, 21095, 21102, 21109, 21138-21140.

<sup>5698</sup> TF1-579, Transcript 5 November 2008, pp. 19830, 19832-19833; Transcript 25 November 2008, p. 21119; Transcript 26 November 2008, pp. 21273-21274. The witness explained that the NPFL became the NPRAG after the Accused became president of Liberia, but referred to the NPFL and NPRAG synonymously throughout his testimony.

<sup>5699</sup> TF1-579, Transcript 5 November 2008, p. 19832.

<sup>5700</sup> TF1-579, Transcript 25 November 2008, pp. 21089, 21095-21096, 21138-21141.

<sup>5701</sup> TF1-579, Transcript 5 November 2008, pp. 19832, 19847; Transcript 25 November 2008, pp. 21118, 21138-21139.

<sup>5702</sup> TF1-579, Transcript 25 November 2008, pp. 21103, 21107.

<sup>5703</sup> TF1-579, Transcript 26 November 2008, p. 21274.

commanders could go to Monrovia to a special guesthouse and the NPFL could go to RUF controlled areas.<sup>5704</sup>

Prosecution Witness Karmoh Kanneh

2635. Witness Karmoh Kanneh, an RUF commander,<sup>5705</sup> identified Jungle in Confidential Exhibit P-068.<sup>5706</sup> Kanneh testified that, sometime after Abidjan in late 1996,<sup>5707</sup> he was present at a meeting with Foday Sankoh and other senior commanders at Sankoh's Executive Mansion Ground ("EMG"), where he saw Jungle.<sup>5708</sup> At the meeting, Sankoh introduced Jungle as Mr Taylor's representative and Jungle reiterated what "the Pa", meaning Sankoh, had said.<sup>5709</sup> Bockarie also told the witness that Jungle was present when Bockarie was speaking to Mr Taylor over the satellite phone after the capture of Tongo Fields.<sup>5710</sup> Kanneh said that Jungle was "always with the top commanders from one commander to the other" but that on that day, he did not say anything.<sup>5711</sup>

2636. In 1998, after the Intervention, the witness was present at a meeting where Sam Bockarie told Johnny Paul Koroma and the AFRC that Jungle was Taylor's representative in RUF territory and the witness concluded that Jungle was the person that linked the RUF to Taylor.<sup>5712</sup> Jungle spoke and buttressed Bockarie's comments and said that "he would do his utmost best to see that things worked out well".<sup>5713</sup> On cross-examination, the witness clarified that during that meeting Sankoh told the men that Jungle was Taylor's representative, but the witness did not know if that had been arranged through Taylor. The witness understood that Jungle was Taylor's "eye in the movement", and before becoming Taylor's representative, he was an NPFL member.<sup>5714</sup>

<sup>5704</sup> TF1-579, Transcript 26 November 2008, p. 21281.

<sup>5705</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9390.

<sup>5706</sup> Exhibit P-068 (confidential); Karmoh Kanneh, Transcript 12 May 2008, pp. 9517, 9524.

<sup>5707</sup> Karmoh Kanneh, Transcript 13 May 2008, p. 9673.

<sup>5708</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9356.

<sup>5709</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9358-9359, 9371; Transcript 9 May 2008, p. 9436; Transcript 13 May 2008, pp. 9671-9672; Transcript 14 May 2008, p. 9756.

<sup>5710</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9369-9371.

<sup>5711</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9371.

<sup>5712</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9395, 9399; Transcript 9 May 2008, p. 9436; Transcript 14 May 2008, p. 9756.

<sup>5713</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9398.

<sup>5714</sup> Karmoh Kanneh, Transcript 13 May 2008, pp. 9671-9673.

Prosecution Witness TF1-371

2637. Witness TF1-371, an RUF member,<sup>5715</sup> testified that he met Dennis Tamba (a.k.a. Jungle) in Freetown around October 1997.<sup>5716</sup> Tamba came from Kenema to meet Sesay, who told the witness that Tamba was a liaison between the RUF and NPFL.<sup>5717</sup> The witness also learned from Foday Sankoh that Tamba had been a runner between the RUF and NPFL in 1992. In addition to Sesay's statements, the witness also learned, through his interactions with "other securities", like Sampson and Marzah, in 1998, that Tamba was a liaison between the RUF and NPFL.<sup>5718</sup> The witness understood that Jungle was a member of Mr Taylor's securities, and later learned that Jungle had been with Musa Cissé before he was "recognized" by Mr Taylor.<sup>5719</sup>

2638. During 1998, the witness was present at various meetings in Buedu with Bockarie, Jungle, Marzah and Sampson, where Bockarie briefed them on the movement of the operations to capture Kono and Freetown.<sup>5720</sup> At first they would stay at Bockarie's house, but during the latter part of 1998 they stayed with their girlfriends.<sup>5721</sup> The witness said that Tamba, Marzah and Sampson were runners who conveyed information about RUF actions to Taylor.<sup>5722</sup> The witness stated it was no secret that they did so as they were part of the senior security of Taylor, working with his SSS director.<sup>5723</sup>

Prosecution Witness TF1-567

2639. Witness TF1-567, an RUF member,<sup>5724</sup> testified that Daniel Tamba (a.k.a. Jungle), a Kissi Liberian, was not an RUF fighter. The witness first knew Jungle in 1992, when he came with Foday Sankoh to Gbarnga. Later, the witness saw Jungle "close" to Sam Bockarie, and later again with Foday Sankoh.<sup>5725</sup> The witness testified that at the end of 1997 he visited Bockarie in Kenema and met Daniel Tamba, who told the witness that

<sup>5715</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>5716</sup> TF1-371, Transcript 28 January 2008, p. 2372 (CS).

<sup>5717</sup> TF1-371, Transcript 28 January 2008, pp. 2372-2373 (CS).

<sup>5718</sup> TF1-371, Transcript 28 January 2008, p. 2373 (CS).

<sup>5719</sup> TF1-371, Transcript 28 January 2008, pp. 2372-2374 (CS); Transcript 29 January 2008, pp. 2454-2455 (CS).

<sup>5720</sup> TF1-371, Transcript 28 January 2008, pp. 2423-2424 (CS); Transcript 29 January 2008, p. 2453 (CS).

<sup>5721</sup> TF1-371, Transcript 28 January 2008, p. 2425 (CS).

<sup>5722</sup> TF1-371, Transcript 29 January 2008, pp. 2452-2453 (CS).

<sup>5723</sup> TF1-371, Transcript 29 January 2008, pp. 2452-2453 (CS).

<sup>5724</sup> TF1-567, Transcript 2 July 2008, p. 12833; Transcript 4 July 2008, pp. 12986-12988 (PS).

<sup>5725</sup> TF1-567, Transcript 8 July 2008, p. 13150.

Charles Taylor sent him and that he told Bockarie not to be too involved in the AFRC government.<sup>5726</sup>

2640. The witness stated that after diamonds were taken from Johnny Paul Koroma, he met Bockarie in Buedu, who had just returned from Monrovia with Tamba and other Liberian securities. Bockarie introduced them as “the Liberian brothers sent by Charles Taylor”. Tamba and Marzah were wearing blue/black overalls, and SOD was written on the side of the pocket. Later, Tamba told the witness that SOD meant “Special Operations Division”, which was a police branch directly under Taylor. Thereafter, the witness saw the Liberians at other occasions when he visited Buedu. Sampson, Tamba and others used to come to Buedu, and according to what they told the witness, they came with a truck which contained food, arms and ammunition from Taylor.<sup>5727</sup>

2641. TF1-567 also testified that when the RUF delegation was in Lomé for the peace negotiations, Tamba and Ibrahim Bah went to Lomé to speak to Sankoh on two occasions. During Tamba’s first visit, the witness overheard him telling Sankoh that Charles Taylor had sent him to come and see him to find out how the conditions were. The witness did not overhear their conversation during Tamba’s second visit. During Lomé Sankoh also sent Tamba and Bah to see Taylor.<sup>5728</sup>

#### Prosecution Witness Dauda Aruna Fornie

2642. Witness Dauda Aruna Fornie (“DAF”), an RUF radio operator,<sup>5729</sup> testified that Jungle was part of the Liberian SS unit that was with Yeaten, a direct security to Yeaten and “one of the liaisons from the Liberian side” between Yeaten and Sam Bockarie, or the RUF directly.<sup>5730</sup> Jungle frequently escorted ammunition from Monrovia to Sierra Leone and there were only a few trips where materials were brought to Sierra Leone in which Jungle

<sup>5726</sup> TF1-567, Transcript 2 July 2008, pp. 12889-12890, 13150-13152.

<sup>5727</sup> TF1-567, Transcript 2 July 2008, pp. 12903-12906.

<sup>5728</sup> TF1-567, Transcript 4 July 2008, pp. 12969-12972.

<sup>5729</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21395; Transcript 2 December 2008, p. 21418.

<sup>5730</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21491; Transcript 3 December 2008, p. 21534; Transcript 4 December 2008, p. 21755.

was not involved.<sup>5731</sup> Fornie also testified that Jungle visited Lomé during the negotiations.<sup>5732</sup>

#### Prosecution Witness Joseph Marzah

2643. Witness Joseph Marzah (a.k.a. Zigzag), an SSS member,<sup>5733</sup> testified that Jungle was “one of the key men operating under [Marzah] from the directive from Charles Taylor. He used to transport the ammo and arms to Freetown”.<sup>5734</sup>

#### Prosecution Witness Jabaty Jaward

2644. Witness Jabaty Jaward, a clerk for Issa Sesay and Sam Bockarie, Bockarie’s storekeeper<sup>5735</sup> and a member of the ATU from early 2000,<sup>5736</sup> identified Colonel Jungle,<sup>5737</sup> a Liberian, and Issa Sesay in exhibits P-045A and P-163.<sup>5738</sup> The witness testified that Jungle was an NPFL fighter who remained with him and the RUF in the jungle in 1994 for about a year.<sup>5739</sup> Jungle then crossed through Guinea and into Liberia, and became part of Charles Taylor’s securities.<sup>5740</sup> The next time that Jaward saw Jungle was in 1998 at Sam Bockarie’s house in Kenema.<sup>5741</sup> At that time, Jungle was a coordinator between Sam Bockarie and Charles Taylor, “especially in terms of the arms deal”.<sup>5742</sup> Later, when the witness went to Monrovia in 2000, he “recognised” Jungle as an SSS.<sup>5743</sup> Jaward testified that Jungle was well known “as one of the members of the Special Security Services of Charles Taylor”,<sup>5744</sup> and Jaward personally knew that Jungle was an SSS member because

<sup>5731</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21492.

<sup>5732</sup> Dauda Aruna Fornie, Transcript 11 December 2008, p. 22198.

<sup>5733</sup> Joseph Marzah, Transcript 13 March 2008, pp. 6053-6055.

<sup>5734</sup> Joseph Marzah, Transcript 12 March 2008, pp. 5931-5932.

<sup>5735</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13306, 13332; Transcript 10 July 2008, p. 13383.

<sup>5736</sup> Jabaty Jaward Transcript 10 July 2008, pp. 13455-13457.

<sup>5737</sup> The witness recalled Jungle’s real name to be Daniel Fallah. However, based on the context of Jaward’s entire testimony, and his identification of Jungle in Exhibit P-045A, the Trial Chamber is satisfied that Jaward’s testimony is about Daniel Tamba (a.k.a. Jungle) (Jabaty Jaward, Transcript 9 July 2008, p. 13357).

<sup>5738</sup> Exhibit P-045A, “Photograph 38533”; Jabaty Jaward, Transcript 14 July 2008, pp. 13642-13644.

<sup>5739</sup> Jabaty Jaward, Transcript 14 July 2008, p. 13642.

<sup>5740</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13354-13355.

<sup>5741</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13354-13355.

<sup>5742</sup> Jabaty Jaward, Transcript 16 July 2008, pp. 13827, 13830-13831.

<sup>5743</sup> Jabaty Jaward, Transcript 14 July 2008, p. 13642.

<sup>5744</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13387-13388.



Jungle “always used to say it”.<sup>5745</sup> Jaward further testified that Colonel Jungle was one of Benjamin Yeaten’s bodyguards who came with Yeaten to Gbankoi around 2002 or 2003.<sup>5746</sup>

2645. The witness testified that Colonel Jungle was one of the escorts that brought supplies of arms and ammunition and food from Liberia to Buedu in 1998 and 1999, under Charles Taylor’s instructions.<sup>5747</sup> He testified that the escorts used to “express their relationships” with Charles Taylor’s government in Liberia when they came.<sup>5748</sup> He said that Jungle went to Buedu once in a while, and sometimes he would spend some time there before returning to Liberia, as he had a girlfriend in Buedu.<sup>5749</sup>

2646. On cross-examination, the witness affirmed his prior statement to the Prosecution that, after Bockarie left Sierra Leone for Liberia in 1999, “Colonel Jungle came with [...] additional messages from” Taylor to Bockarie, that “Bockarie supporters could either be trained as ATU and put on salary, or they could stay on their own in Liberia, where they would not be protected by anyone”.<sup>5750</sup>

#### Prosecution Witness Augustine Mallah

2647. Witness Augustine Mallah, a security officer to Mike Lamin from 1996 to disarmament,<sup>5751</sup> testified that when he was in Zogoda and Danané in 1994, he heard about CO Jungle from RUF commanders like Mosquito, Superman, and Issa in the Kailahun area. They told him that Jungle was a liaison and protocol officer who would go from Taylor’s base in Gbarnga to Buedu, Kailahun District, and “from Sierra Leone, to Liberia and back”.<sup>5752</sup> On the two occasions that the witness saw Jungle in Buedu, he was with two other people.<sup>5753</sup>

<sup>5745</sup> Jabaty Jaward, Transcript 9 July 2008, p. 13353; Transcript 10 July 2008, pp. 13387-13388.

<sup>5746</sup> Jabaty Jaward, Transcript 11 July 2008, pp. 13543-13544.

<sup>5747</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13385-13386, 13443; Transcript 16 July 2008, p. 13823; Transcript 18 July 2008, pp. 14035-14036.

<sup>5748</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13387.

<sup>5749</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13392.

<sup>5750</sup> Jabaty Jaward, Transcript 16 July 2008, p. 13851.

<sup>5751</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20092-200923, 20102-20103; Transcript 13 November 2008, pp. 20209-20210.

<sup>5752</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20130-20131, 20133.

<sup>5753</sup> Augustine Mallah, Transcript 17 November 2008, p. 20437.

2648. Mallah clarified that Jungle was not permanently based in Buedu in 1998.<sup>5754</sup> Mallah further testified that in 1999, Jungle left the RUF,<sup>5755</sup> and from that point on, he was not familiar with the movements of Jungle. After Mosquito left Sierra Leone, he did not hear about Jungle anymore.<sup>5756</sup> On cross-examination, the witness testified that between December 1998 through to October 1999, Mosquito and Jungle moved ammunition between Liberia and Sierra Leone in spite of the border closure.<sup>5757</sup>

Prosecution Witness TF1-375

2649. Witness TF1-375, an RUF fighter,<sup>5758</sup> testified that Jungle<sup>5759</sup> was an SSS member in Liberia, and a bodyguard to Taylor, as part of a close protection unit.<sup>5760</sup> The witness testified that he knew Jungle from 1997 to 1999,<sup>5761</sup> but was officially introduced to him in 1998 at the Gbarnga farm.<sup>5762</sup> Jungle explained to the witness that “the President” sometimes sent him to get ammunition from “White Flower, the Executive Mansion”, to take it to Sam Bockarie in Kenema.<sup>5763</sup> He told the witness that he was serving as a liaison between Bockarie and Taylor and that he took diamonds to Taylor in return for ammunition to take to Sierra Leone.<sup>5764</sup>

2650. The witness further testified that, in 1999, he saw Jungle with Bockarie, Varmuyan Sherif and a senior officer in a car going to the Executive Mansion.<sup>5765</sup> The witness testified that Jungle had a satellite phone.<sup>5766</sup>

2651. The witness became very close to Jungle until his death, before which Jungle explained that he was having personal problems with Bockarie in 2001.<sup>5767</sup> Jungle had said

<sup>5754</sup> Augustine Mallah, Transcript 17 November 2008, p. 20427.

<sup>5755</sup> Augustine Mallah, Transcript 17 November 2008, p. 20435.

<sup>5756</sup> Augustine Mallah, Transcript 17 November 2008, pp. 20429-20430, 20432, 20434-20435.

<sup>5757</sup> Augustine Mallah, Transcript 17 November 2008, p. 20439. The witness confirmed on cross-examination that they did not transport arms, only ammunition (Augustine Mallah, Transcript 17 November 2008, p. 20436).

<sup>5758</sup> TF1-375, Transcript 23 June 2008, p. 12485.

<sup>5759</sup> The witness clarified that Jungle is not the same person as Jungle Jim (TF1-375, Transcript 28 August 2008, p. 14837).

<sup>5760</sup> TF1-375, Transcript 23 June 2008, pp. 12490, 12535; Transcript 27 August 2008, p. 14744.

<sup>5761</sup> TF1-375, Transcript 22 August 2008, p. 14744.

<sup>5762</sup> TF1-375, Transcript 27 August 2008, p. 14749.

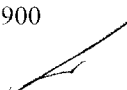
<sup>5763</sup> TF1-375, Transcript 23 June 2008, p. 12491.

<sup>5764</sup> TF1-375, Transcript 23 June 2008, p. 12492.

<sup>5765</sup> TF1-375, Transcript 24 June 2008, p. 12631; Transcript 27 August 2008, p. 14806.

<sup>5766</sup> TF1-375, Transcript 24 June 2008, p. 12631.

<sup>5767</sup> TF1-375, Transcript 23 June 2008, pp. 12491-12495. On cross-examination, the witness explained that the





that Bockarie was side-lining him, and that he, Jungle, was the one who created contact between Taylor and Bockarie, that he talked to Taylor about Bockarie and the diamonds they used to give.<sup>5768</sup>

Prosecution Witness TF1-367

2652. Witness TF1-367, an RUF member,<sup>5769</sup> described Jungle as “Charles Taylor’s bodyguard and [...] a friend of the RUF”.<sup>5770</sup> Later he was a bodyguard in a special unit for Taylor, the SSU (Special Security Unit), which the witness knew from his own observation.<sup>5771</sup> The SSU had special black uniforms, which Jungle wore, and Jungle was friendly to all of the officers including the witness.<sup>5772</sup> The witness also saw Jungle in Liberia and Buedu, when ECOMOG was deployed in Lofa district before the AFRC coup.<sup>5773</sup> The witness further saw Jungle when Jungle met Issa Sesay in Sierra Leone during the Junta time period, and Jungle said he was going to Sam Bockarie in Kenema because “he was his best friend”.<sup>5774</sup>

2653. During cross-examination, the witness clarified that Jungle was an NPFL, who was also an RUF member because the NPFL and RUF were families.<sup>5775</sup>

Prosecution Witness TF1-516

2654. Witness TF1-516, an RUF radio operator,<sup>5776</sup> testified that Jungle was a Liberian soldier “working under command” from 50, who obtained commands from his chief, Charles Taylor.<sup>5777</sup>

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Prosecution was in error by writing that the witness described himself as Jungle’s “best friend” (TF1-375, Transcript 27 August 2008, p. 14744).

<sup>5768</sup> TF1-375, Transcript 23 June 2008, pp. 12492-12495.

<sup>5769</sup> TF1-367, Transcript 20 August 2008, p. 14158.

<sup>5770</sup> TF1-367, Transcript 20 August 2008, pp. 14126, 14129, 14133.

<sup>5771</sup> TF1-367, Transcript 20 August 2008, pp. 14129-14130.

<sup>5772</sup> TF1-367, Transcript 20 August 2008, pp. 14129-14130.

<sup>5773</sup> TF1-367, Transcript 20 August 2008, pp. 14130-14131.

<sup>5774</sup> TF1-367, Transcript 20 August 2008, pp. 14132-14133.

<sup>5775</sup> TF1-367, Transcript 29 August 2008, pp. 14986-14987.

<sup>5776</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>5777</sup> TF1-516, Transcript 9 April 2008, pp. 7000-7002.

Prosecution Witness TF1-585

2655. Witness TF1-585, an RUF radio operator,<sup>5778</sup> identified Jungle in confidential Exhibits P-068 and P-169.<sup>5779</sup> TF1-585 testified that Jungle was Liberian and an SSS member in Liberia for Charles Taylor.<sup>5780</sup> According to the witness, between early 1998 to mid-1999, Jungle frequently brought arms, ammunition, food, clothing, shoes and many other things to Buedu whenever Sam Bockarie requested it.<sup>5781</sup> According to the witness, in 2000 Sampson, Jungle and Bockarie lived in four houses in Monrovia given to them by Charles Taylor.<sup>5782</sup>

Prosecution Witness Albert Saidu

2656. Witness Albert Saidu, an RUF adjutant from 1991 to 2001,<sup>5783</sup> also gave accounts of an RUF meeting in 1998, after they were “pushed out of the city”, in which Colonel Jungle and Ibrahim Bah were introduced as guests while sitting at a high table in front of the meeting facing the delegates. Colonel Jungle addressed the meeting saying that he was there to tell them that the relationship between the RUF and AFRC was recognised by Charles Taylor. Bah reiterated Jungle’s speech, that Taylor sent them to prove to the RUF that he was still with them, and that the relationship between Taylor and the RUF was still strong.<sup>5784</sup>

Prosecution Witness Mohamed Kabbah

2657. Witness Mohamed Kabbah, an RUF radio operator,<sup>5785</sup> testified that Jungle became a member of the RUF during the Intervention. He explained that Jungle was part of the RUF since he was the one moving directly from Charles Taylor’s mansion to the RUF with information and ammunition. He stated that even during the Junta regime, he saw Jungle going to Bockarie in Kenema, through Kailahun, because he was now part of the RUF. At that time there was no “war” and therefore Jungle would see Bockarie to “take whatever

<sup>5778</sup> TF1-585, Transcript 5 September 2008, pp.15589-15592 (PS).

<sup>5779</sup> Exhibit P-068 (confidential); TF1-585, Transcript 9 September 2008, p. 15788.

<sup>5780</sup> TF1-585, Transcript 5 September 2008, pp. 15606-15607; Transcript 8 September 2008, p. 15639.

<sup>5781</sup> TF1-585, Transcript 8 September 2008, pp. 15652, 15682-15683, 15686, 15732; Transcript 9 September 2008, p. 15793 (PS).

<sup>5782</sup> TF1-585, Transcript 8 September 2008, pp. 15743-15744; Transcript 11 September 2008, pp. 16012-16015.

<sup>5783</sup> Albert Saidu, Transcript 4 June 2008, p. 10895.

<sup>5784</sup> Albert Saidu, Transcript 5 June 2008, pp. 11054-11056, 11059-11060.

little things” Bockarie had. He did that until ECOMOG pushed the Junta out of power, but Jungle’s movement even continued when Bockarie moved to Buedu.<sup>5786</sup>

Prosecution Witness TF1-168

2658. Witness TF1-168, an RUF member,<sup>5787</sup> testified that Jungle was an NPFL member that he met in 1993.<sup>5788</sup> After May 1996, the witness testified, Bockarie sent Jungle to Danané via Liberia to meet Corporal Sankoh in Abidjan.<sup>5789</sup> Sankoh gave Jungle \$USD 7,000, of which \$USD 2,000 was for food and \$USD 5,000 for ammunition, which Jungle gave to Bockarie, who said that he could get ammunition from ULIMO fighters along the Sierra Leone-Liberian border.<sup>5790</sup> According to the witness, Sankoh knew Jungle was coming for the money because Bockarie told Sankoh on the radio that Jungle would come.<sup>5791</sup> During cross-examination, the witness testified that over time, Jungle became a trusted member of the RUF.<sup>5792</sup>

Prosecution Witness Abu Keita

2659. Witness Abu Keita, a former deputy chief of staff and commander of ULIMO-K who later became commander of the Scorpion Unit,<sup>5793</sup> identified Jungle in exhibits P-045A and P-045B.<sup>5794</sup> Keita testified that Jungle was a bodyguard to Benjamin Yeaten.<sup>5795</sup> According to Keita, Jungle only went to Sierra Leone when Yeaten sent him.<sup>5796</sup> Keita testified that he saw Jungle often during the couple of years that he was with the RUF in Sierra Leone.<sup>5797</sup>

<sup>5785</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>5786</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16165-16168.

<sup>5787</sup> TF1-168, Transcript 22 January 2009, pp. 23275-23282 (CS).

<sup>5788</sup> TF1-168, Transcript 22 January 2009, p. 23282 (CS).

<sup>5789</sup> TF1-168, Transcript 22 January 2009, pp. 23282-23283 (CS); Transcript 26 January 2009, pp. 23536-23537, 23539, 23545, 23552 (CS).

<sup>5790</sup> TF1-168, Transcript 22 January 2009, pp. 23284-23285 (CS); Transcript 26 January 2009, pp. 23536-23537, 23545, 23552 (CS).

<sup>5791</sup> TF1-168, Transcript 26 January 2009, p. 23537 (CS).

<sup>5792</sup> TF1-168, Transcript 26 January 2009, p. 23536 (CS).

<sup>5793</sup> Abu Keita, Transcript 22 January 2008, pp. 1953-1954; Transcript 23 January 2008, pp. 1970, 2000; Transcript 24 January 2008, pp. 2110, 2145.

<sup>5794</sup> Exhibit P-045A, “Photograph 38533”; Exhibit P-045B, “Photograph 38519”; Abu Keita, Transcript 23 January 2008, pp. 1989-1990.

<sup>5795</sup> Abu Keita, Transcript 23 January 2008, pp. 1967-1968, 1990; Transcript 24 January 2008, p. 2125.

<sup>5796</sup> Abu Keita, Transcript 23 January 2008, p. 1991.

<sup>5797</sup> Abu Keita, Transcript 23 January 2008, p. 1991.

When in Liberia, Jungle reported to Yeaten, and when he would go to Sierra Leone, he would go to either Sam Bockarie or Issa Sesay.<sup>5798</sup>

Prosecution Witness TF1-539

2660. Witness TF1-539, a member of various fighting groups,<sup>5799</sup> testified that Colonel Jungle was an SSS or SS member, that he was always with Mosquito and that he represented the Liberian Government.<sup>5800</sup> The witness also referred to Colonel Jungle as one of “Bockarie’s men”.<sup>5801</sup> Sometime after March 1999<sup>5802</sup> the witness was arrested by the RUF. Upon his release, he travelled with Colonel Jungle and others to Kangama to see Johnny Paul Koroma.<sup>5803</sup> The meeting with Koroma was recorded and Jungle was given a cassette of the recording, to take to Monrovia to “His Excellency”.<sup>5804</sup> After the meeting, Jungle, the witness and others travelled to Buedu.<sup>5805</sup>

Prosecution Witness Isaac Mongor

2661. Witness Isaac Mongor, an RUF senior commander,<sup>5806</sup> testified that Jungle was in Buedu as a liaison officer between the RUF and NPFL. Jungle carried messages and brought ammunition from Monrovia.<sup>5807</sup> In 1998, Jungle was part of the Executive Mansion guards, but the name later changed to the “SS unit”. Jungle told the witness that he reported to Mr Taylor.<sup>5808</sup>

The Accused

2662. The Accused testified that he did not personally know Jungle or Daniel Tamba and that the first time that he heard those names was before this Trial Chamber.<sup>5809</sup> The Accused

<sup>5798</sup> Abu Keita, Transcript 23 January 2008, p. 1990; Transcript 24 January 2008, p. 2125.

<sup>5799</sup> TF1-539, Transcript 9 June 2008, p. 11374 (PS); Transcript 10 June 2008, p. 11391, 11469-11471; Transcript 11 June 2008, pp. 11532, 11561-11562.

<sup>5800</sup> TF1-539, Transcript 11 June 2008, pp. 11519, 11522, 11527, 11530, 11542.

<sup>5801</sup> TF1-539, Transcript 11 June 2008, p. 11522.

<sup>5802</sup> TF1-539, Transcript 11 June 2008, p. 11509.

<sup>5803</sup> TF1-539, Transcript 11 June 2008, p. 11526.

<sup>5804</sup> TF1-539, Transcript 11 June 2008, pp. 11527, 11530; Transcript 12 June 2008, p. 11715.

<sup>5805</sup> TF1-539, Transcript 11 June 2008, p. 11531.

<sup>5806</sup> See for example: Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March 2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>5807</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5784-4785.

<sup>5808</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5785-5786.

<sup>5809</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28717-28718; Transcript 15 September 2009,

did not recognise Jungle in the photographs identified by other witnesses during the Prosecution case.<sup>5810</sup> The Accused generally denied that Jungle worked directly with or for him, and that Jungle reported to or had any association with him.<sup>5811</sup>

2663. The Accused testified that the “Daniel Tamba” mentioned on a list of SSS personnel, Exhibit D-316,<sup>5812</sup> as a member of the “Presidential Advance Team”, was not the same individual known as Daniel Tamba (a.k.a. Jungle) and testified about by other witnesses.<sup>5813</sup> An individual who was the Accused’s runner and assumed the duties asserted by other witnesses to have been carried out by Jungle would have at least been at the rank of Major or Lieutenant Colonel, and the “Daniel Tamba” listed in Exhibit D-316 had the rank of a Second Lieutenant, which was a very low rank.<sup>5814</sup> The Accused testified that he had no reason to disbelieve the evidence of other witnesses that there was an individual named Daniel Tamba or Jungle who was in the SSS, but he did not personally know that individual.<sup>5815</sup> The Accused also testified that Exhibit D-316 was not a complete listing of all SSS personnel. Rather it was an assignment roster of those that have responsibility with the President, either in escorting him or at his residence. He confirmed that every SSS member charged with the security of the President or VIPs was named in that document.<sup>5816</sup> When counsel asked whether the list was time specific, noting that Exhibit D-316 is dated 9 November 2001, the Accused confirmed that it was, but qualified his answer by explaining that while the individuals listed were not always assigned to the same duties listed in the document, the document faithfully represented the organisational structure of those

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p. 28859; Transcript 16 September 2009, p. 29018; Transcript 22 September 2009, p. 29334; Transcript 30 September 2009, pp. 29918-29919; Transcript 1 October 2009, pp. 30102-30103; Transcript 28 January 2010, pp. 34354-34355.

<sup>5810</sup> Charles Ghankay Taylor, Transcript 31 August 2009, p. 28016.

<sup>5811</sup> Charles Ghankay Taylor, Transcript 26 October 2009, p. 30231; Transcript 27 October 2009, p. 30414; Transcript 28 January 2010, p. 34355.

<sup>5812</sup> See Exhibit D-316, “Assignment Roster, Republic of Liberia, Special Security Service, Executive Mansion, Monrovia, Liberia, November 9 2001”, p. 4 (No. 9 on the list).

<sup>5813</sup> Charles Ghankay Taylor, Transcript 31 August 2009, pp. 27989-27990.

<sup>5814</sup> Charles Ghankay Taylor, Transcript 31 August 2009, pp. 27989-27990.

<sup>5815</sup> Charles Ghankay Taylor, Transcript 31 August 2009, pp. 28011-28012 (“A. I really think that Jungle was in the SSS. I want to believe so. From what I have seen here I - you know, unless I'm told to the contrary, I have no - I'll put it this way: I have no reason to doubt that there was someone in the SSS called Jungle or Denis Tamba, but I don't know him personally”). See also Charles Ghankay Taylor, Transcript 31 August 2009, pp. 27988-27990 (stating that Jungle could have been assigned to Benjamin Yeaten but since he did not know Jungle personally, he was not sure).

<sup>5816</sup> Charles Ghankay Taylor, Transcript 31 August 2009, pp. 28011-28012.

responsible for the various duties and the persons generally responsible for this type of VIP protection.<sup>5817</sup>

2664. While acknowledging that Jungle may have been in the SSS, the Accused denied, as a number of Prosecution witnesses asserted, that Jungle served as his bodyguard or close protection officer.<sup>5818</sup> Referring to Exhibit D-316, he stated there was no such person named Jungle or Daniel Tamba on the list of persons assigned to the close protection unit of the SSS.<sup>5819</sup> Of the three men that Abu Keita testified were “close protection” to the President, Sampson, Jungle and Marzah, the Accused stated that he only knew Sampson as a cousin of Benjamin Yeaten and that all three were personal bodyguards to the SSS director, Benjamin Yeaten.<sup>5820</sup> Similarly, in response to the testimony of TF1-371, the Accused stated that although he was not certain whether Jungle was an SSS member, he was sure that Jungle never provided personal security for him.<sup>5821</sup>

2665. The Accused denied, as TF1-375 testified, that Jungle was a liaison between the Accused and Bockarie.<sup>5822</sup> The Accused stated that there was no need for a liaison between himself and Bockarie because whenever he wanted to communicate with Bockarie, he called him directly by radio, and all their communications were conducted via official channels. The Accused denied that Jungle established initial contact between himself and Bockarie, stating that instead, he received a letter in August 1998, from Ambassador Taigen Wantee that Sam Bockarie and Eddie Kanneh wanted to meet the Accused and with the approval of ECOWAS Committee of Five.<sup>5823</sup> The Accused also queried why there would be any necessity for “runners” such as Jungle, Marzah and Sampson, as TF1-371 testified, to facilitate communications between Bockarie and the Accused, stating that as of late 1998, he

<sup>5817</sup> Charles Ghankay Taylor, Transcript 31 August 2009, pp. 27012-27014.

<sup>5818</sup> See TF1-375, Transcript 23 June 2008, p. 12488; Abu Keita, Transcript 23 January 2008, p. 1968; TF1-371, Transcript 28 January 2008, p. 2372.

<sup>5819</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28853-28856.

<sup>5820</sup> Charles Ghankay Taylor, Transcript 22 September 2009, p. 29334.

<sup>5821</sup> Charles Ghankay Taylor, Transcript 23 September 2009, p. 29560 (PS); Transcript 28 January 2010, p. 34354. The Accused made other similar denials throughout his testimony: Charles Ghankay Taylor, Transcript 15 September 2009, p. 28854; Transcript 22 September 2009, pp. 29333-29334; Transcript 23 September 2009, p. 29560 (PS) (testifying that there was no individual called Jungle or Daniel Tamba in the close protection unit of the SSS and there was no individual called Jungle who was always with Taylor when he moved around and that Jungle was never close to him).

<sup>5822</sup> Charles Ghankay Taylor, Transcript 15 September 2009, p. 28858; see also Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29004-29005 (denying that Jungle was a liaison between the Accused and the RUF); Transcript 26 October 2009, pp. 30267-30268 (denying that Jungle was a coordinator between the Accused and Bockarie).



sent for Bockarie whenever he needed to and whenever Bockarie wanted to go to Liberia.<sup>5824</sup> The Accused further denied that he ever gave Jungle instructions over the radio to promote Bockarie or Johnny Paul Koroma.<sup>5825</sup>

2666. The Accused expressed scepticism that Jungle, who was “not even a commander in Lofa at the time of the [Liberian civil] war”, would then become a principal link between himself and the RUF.<sup>5826</sup> The Accused denied that Jungle carried ammunition or arms on his behalf to Sierra Leone,<sup>5827</sup> and that Jungle was his runner in relation to diamonds transactions.<sup>5828</sup> The Accused also denied that Jungle, Sampson and Junior were his envoys to Johnny Paul Koroma.<sup>5829</sup> In response to evidence from Albert Saidu that whenever RUF saw Jungle they were expecting Jungle to be coming directly from the Accused, the Accused denied that Jungle ever worked directly with him.<sup>5830</sup>

2667. The Accused denied, as TF1-371 testified, that Jungle acted as a liaison between Musa Cissé and the RUF. He doubted that Jungle was “hooked up to Musa Cissé” or living in Cissé’s house, as alleged by TF1-371. He considered it was more likely that Jungle knew Benjamin Yeaten.<sup>5831</sup>

2668. The Accused testified that the only person that told the truth about Jungle before this Trial Chamber was TF1-168,<sup>5832</sup> who according to the Accused, testified that Jungle was “one of those men that were left behind after ULIMO cut off the NPFL. He was a Gissi boy who got in touch with his brother Sam Bockarie and they were together since 1993”.<sup>5833</sup> He believed that Jungle was like a brother to Bockarie because they were both Kissi.<sup>5834</sup> The Accused testified that Jungle was the deputy commander to “General Fayia” who was

<sup>5823</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28858-28860.

<sup>5824</sup> Charles Ghankay Taylor, Transcript 23 September 2009, p. 29591 (PS).

<sup>5825</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30860, 30889-30890.

<sup>5826</sup> Charles Ghankay Taylor, Transcript 27 October 2009, p. 30407.

<sup>5827</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28853-28856; Transcript 16 September 2009, pp. 29016-29017; Transcript 27 October 2009, p. 30414.

<sup>5828</sup> Charles Ghankay Taylor, Transcript 1 October 2009, pp. 30089-30091, 30100-30103 (in relation to Augustine Mallah’s evidence); see also Charles Ghankay Taylor, Transcript 26 October 2009, pp. 30267-30268 (denying TF1-388’s evidence that Jungle took diamonds from Sam Bockarie to the Accused in 1998).

<sup>5829</sup> Charles Ghankay Taylor, Transcript 1 October 2009, pp. 30147-30149.

<sup>5830</sup> Charles Ghankay Taylor, Transcript 26 October 2009, pp. 30231-30232.

<sup>5831</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29556-29559 (PS).

<sup>5832</sup> Charles Ghankay Taylor, Transcript 23 September 2009, p. 29558 (PS).

<sup>5833</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29556-29558 (PS). Trial Chamber notes that “Gissi” is a variant spelling of “Kissi”.

commanding the forces in Lofa at the time that ULIMO cut off border access to Sierra Leone.<sup>5835</sup> On the basis of information garnered during the course of the current proceedings,<sup>5836</sup> the Accused maintained throughout his testimony that Jungle was a member of the RUF since 1992 or 1993.<sup>5837</sup> The Accused accepted that because Jungle was Liberian, he could also pass easily between borders and “switch between the two”. Jungle was Kissi, located on the border between Liberia and Sierra Leone, which would explain why, as TF1-371 testified, he was able to speak both Liberian and Sierra Leonean dialects.<sup>5838</sup>

2669. Concerning Karmoh Kanneh’s evidence that Sankoh introduced Jungle to a meeting of Bockarie, Issa Sesay and others as the “pa’s representative” in 1996, the Accused recalled another Prosecution witness who testified that it was in fact Bockarie who introduced Jungle to Sankoh. In any case, the Accused maintained that if, according to TF1-168, Jungle joined the RUF around 1992 or 1993, they would have known him for four years before this point and would not have required any introduction.<sup>5839</sup> Similarly, the Accused noted that TF1-371 had given evidence about first meeting Jungle in 1997, and pointed out that anyone who had spent time with the RUF “long enough” would have known Jungle prior to 1997.<sup>5840</sup>

2670. In relation to TF1-585’s testimony that he bought a house or compound for Bockarie in Monrovia, in which Jungle also resided, he acknowledged that the Liberian government leased a compound for Bockarie, his family, senior officials and his entourage in December 1999. Although the Accused did not dispute that Jungle and Sampson visited Bockarie at that residence, he denied that Sampson and Jungle ever lived there.<sup>5841</sup>

2671. Concerning TF1-371’s testimony that Jungle took a route through Danané, Côte d’Ivoire and Guinea into Sierra Leone in around 1993 and 1994 when he was sent by Musa Cissé to meet with Sankoh, the Accused testified that Jungle would not have to use such a route if Jungle were working for him in Liberia. The Accused stated that at the point at

<sup>5834</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29017-29019.

<sup>5835</sup> Charles Ghankay Taylor, Transcript 30 September 2009, pp. 29918-29919.

<sup>5836</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29017-29019.

<sup>5837</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29017-29019; Transcript 24 September 2009, p. 29717; Transcript 28 October 2009, pp. 30561-30562.

<sup>5838</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29559-29560 (PS).

<sup>5839</sup> Charles Ghankay Taylor, Transcript 28 October 2009, p. 30562.

<sup>5840</sup> Charles Ghankay Taylor, Transcript 23 September 2009, p. 29558 (PS); Transcript 1 October 2009, pp. 30090 (the Accused made a similar point in relation to Augustine Mallah’s evidence about meeting Jungle at Bockarie’s residence in Kenema in 1997-1998).

which Jungle was alleged to have used that route in 1993 and 1994, when the border with Sierra Leone was occupied by ULIMO, Jungle was in Sierra Leone and was not under the Accused's control. If Jungle was "sent" by anyone, he was sent by Sankoh.<sup>5842</sup>

2672. The Accused denied, as TF1-567 had testified, that Jungle was an SBU, whom he had sent with a message to Bockarie not to be involved with the AFRC, noting that Foday Sankoh had already instructed Mosquito and RUF to join the AFRC in May 1997.<sup>5843</sup> The Accused further denied sending Jungle to the Lomé Peace negotiations, testifying that if Jungle went to Lomé, he went with Sankoh because he was with the RUF.<sup>5844</sup> The Accused asserted that TF1-567 lied when he testified that Jungle and Ibrahim Bah visited him, the Accused, in Monrovia.<sup>5845</sup>

#### Defence Witness Issa Sesay

2673. Witness Issa Sesay, a senior RUF commander,<sup>5846</sup> testified that he knew Daniel Tamba personally. He stated that Jungle came from Foya Tinkia and was born to a Sierra Leonean mother and Liberian father.<sup>5847</sup> Sesay stated that Jungle spoke only Kissi, not Mende.<sup>5848</sup>

2674. Sesay testified that he first met Daniel Tamba (a.k.a. Jungle) in 1992 when Jungle, then an NPFL fighter based in Foya, crossed the border after ULIMO took control of Lofa and joined the RUF in Bendu.<sup>5849</sup> Sesay described Jungle as his friend, explaining that the two of them became close "before Sam Bockarie"<sup>5850</sup> because they had been together in Kailahun since November 1993. They were at the border together until 1994 and in 1995 in Giema,<sup>5851</sup> where they lived in the same village, they would see each other daily. Sesay then

<sup>5841</sup> Charles Ghankay Taylor, Transcript 26 October 2009, pp. 30200-30202.

<sup>5842</sup> Charles Ghankay Taylor, Transcript 24 September 2009, pp. 29653-29654.

<sup>5843</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28718.

<sup>5844</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28741, 28744; Transcript 24 September 2009, p. 29616.

<sup>5845</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28744.

<sup>5846</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>5847</sup> Issa Sesay, Transcript 29 July 2010, p. 45020 (PS).

<sup>5848</sup> Issa Sesay, Transcript 29 July 2010, p. 45021 (PS).

<sup>5849</sup> Issa Sesay, Transcript 6 July 2010, p. 43802.

<sup>5850</sup> The witness explained that Bockarie was in Kenema, not Kailahun, between 1994 and 1995 (Issa Sesay, Transcript 6 July 2010, p. 43806).

<sup>5851</sup> The witness explained that Jungle stayed in Koindu until Sankoh left in 1994 and then went to Giema (Issa Sesay, Transcript 6 July 2010, pp. 43802-43803; Transcript 27 July 2010, p. 44792; Transcript 29 July 2010, p.

left Jungle to go to Côte d'Ivoire.<sup>5852</sup> When Jungle came to Freetown during the Junta period, they were still friends and spent time together there.<sup>5853</sup>

2675. Sesay identified Jungle in a number of photographs: Exhibit P-045A,<sup>5854</sup> Exhibit P-163,<sup>5855</sup> Exhibit P-153A<sup>5856</sup> and Exhibit P-153B.<sup>5857</sup>

2676. Sesay noted the existence of other individuals called Jungle. He testified that when Senegalese came with Mike Lamin in 1997, he came with ULIMO Jungle, not Daniel Tamba. This Jungle became commander for the RUF in Matotoka in the late part of 2000 and 2001.<sup>5858</sup>

2677. Sesay testified that Daniel Tamba (a.k.a. Jungle) was a member of the RUF from 1992.<sup>5859</sup> Sesay testified that Jungle was not a liaison between the RUF and NPFL, was not a runner between the RUF and NPFL in 1992 and the early 1990s, and was not a runner between Taylor and Mosquito.<sup>5860</sup>

2678. Between April and June 1996, Sankoh called Jungle to Abidjan to join him there as one of his security guards. Sesay did not know Jungle as an agent of Charles Taylor at this time and between 1992 and 1996, Jungle did not travel to Liberia.<sup>5861</sup> Specifically, Sesay testified that he did not hear of any occasion when Sankoh sent Jungle to Liberia to meet

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45021 (PS)).

<sup>5852</sup> Issa Sesay, Transcript 6 July 2010, p. 43806.

<sup>5853</sup> Issa Sesay, Transcript 6 July 2010, p. 43808.

<sup>5854</sup> Exhibit P-045A, "Photograph 3853". Issa Sesay testified that the man in the middle of the three men is Jungle (Issa Sesay, Transcript 25 August 2010, p. 47141).

<sup>5855</sup> Exhibit P-163, "Photograph 29865". Issa Sesay identified himself as the man on the right and Jungle as the man in the vertically striped top on the left, sitting next to him holding his hand. He testified that the photograph was taken in July or August 1997. Sesay explained that they were holding hands because they were friends (Issa Sesay, Transcript 6 July 2010, pp. 43808-43810).

<sup>5856</sup> Exhibit P-153A, "Photograph P672". Sesay identifies the man in the front with the helmet, camouflage vest and pink shirt with the automatic weapon as Benjamin Yeaten and the other man over his right shoulder with a blue shirt as Jungle (Issa Sesay, Transcript 25 August 2010, p. 47139).

<sup>5857</sup> Exhibit P-153B, "Photograph P772". Sesay recognised Daniel Tamba as the man in the middle wearing the blue gown (Issa Sesay, Transcript 25 August 2010, pp. 47134-47135).

<sup>5858</sup> Issa Sesay, Transcript 11 August 2010, pp. 45953-45956.

<sup>5859</sup> Issa Sesay, Transcript 6 July 2010, p. 43803.

<sup>5860</sup> Issa Sesay, Transcript 6 July 2010, pp. 43801-43802, 43809; Transcript 29 July 2010, pp. 45019-45020 (PS), 45073 (PS); Transcript 11 August 2010, p. 45962.

<sup>5861</sup> Issa Sesay, Transcript 6 July 2010, p. 43804; Transcript 8 July 2010, pp. 44096-44103.

Taylor while Jungle was in Côte d'Ivoire.<sup>5862</sup> Jungle remained at Sankoh's Cocody house until after the Intervention in 1998.<sup>5863</sup>

2679. In response to the testimony of Karmoh Kanneh regarding a meeting called by Sankoh in Giema in November 1996, Sesay testified that when Sankoh returned from Abidjan, there was a meeting of senior officers at Sankoh's mansion ground but denied that Sankoh said Jungle was Taylor's representative during this meeting, and denied that Jungle was even present at the meeting in Kailahun because he was in Abidjan at the time and did not travel with Sankoh to the meeting.<sup>5864</sup>

2680. Also in response to Kanneh's testimony, Sesay testified that Jungle was in Abidjan when Tongo Fields was captured in August 1997. He was not in Sierra Leone with the commanders after the attack, as Kanneh claims.<sup>5865</sup>

2681. When Sankoh went to Nigeria, he would call Jungle on the telephone to pass a message on to Bockarie and this continued until the 1997 coup.<sup>5866</sup> During the AFRC time period, Pa Kallon sent Jungle to Freetown to get supplies "food money" from Bockarie and that was the only time that Jungle went to Sierra Leone during the days of the AFRC; he was there for three days.<sup>5867</sup>

2682. Jungle remained at Sankoh's Cocody house until after the Intervention in 1998.<sup>5868</sup> Sesay denied that Jungle was in Buedu in 1998. In 1998, Sesay only saw Jungle when he was in Monrovia in April 1998.<sup>5869</sup>

2683. When Sesay travelled to Monrovia in April 1998, Jungle travelled from Abidjan under the instruction of Sam Bockarie to meet Sesay there.<sup>5870</sup> It was on this trip that Sesay

<sup>5862</sup> Issa Sesay, Transcript 6 July 2010, p. 43806.

<sup>5863</sup> Issa Sesay, Transcript 6 July 2010, pp. 43799, 43802-43804, 43808; Transcript 8 July 2010, pp. 44099-44100; Transcript 27 July 2010, pp. 44792, 44797-44798; Transcript 29 July 2010, p. 44996 (PS); 2 August 2010, p. 45184; Transcript 11 August 2010, pp. 45963-45964.

<sup>5864</sup> Issa Sesay, Transcript 27 July 2010, pp. 44792-44793; Transcript 28 July 2010, pp. 44843-44844.

<sup>5865</sup> Issa Sesay, Transcript 27 July 2010, pp. 44797-44799.

<sup>5866</sup> Issa Sesay, Transcript 6 July 2010, p. 43799; Transcript 2 August 2010, pp. 45184-45185.

<sup>5867</sup> Issa Sesay, Transcript 6 July 2010, pp. 43804, 43808-43809; Transcript 8 July 2010, p. 44099; Transcript 27 July 2010, pp. 44797-44798; Transcript 29 July 2010, pp. 44982 (PS), 44987 (PS), 44995-44996 (PS), 45017-45018 (PS); Transcript 11 August 2010, pp. 45956-45957.

<sup>5868</sup> Issa Sesay, Transcript 6 July 2010, pp. 43799, 43802-43804, 43808; Transcript 8 July 2010, pp. 44099-44100; Transcript 27 July 2010, pp. 44792, 44797-44798; Transcript 29 July 2010, p. 44996 (PS); Transcript 2 August 2010, p. 45184; Transcript 11 August 2010, pp. 45963-45964.

<sup>5869</sup> Issa Sesay, Transcript 30 July 2010, pp. 45141-45142.

lost the parcel of diamonds in the rain.<sup>5871</sup> Jungle was transiting from Abidjan through Monrovia on his way to Buedu to answer a summons from Bockarie. He was staying with his brother while he was in Monrovia. Jungle delayed going to Buedu until June 1998 because he was afraid to face Bockarie after the diamonds were lost.<sup>5872</sup>

2684. Around June 1998, Jungle came to Buedu in Sierra Leone. From then until about December 1998, Bockarie sent Jungle to Liberia to buy cocoa and coffee from two Lebanese men based in Monrovia.<sup>5873</sup> Jungle told Sesay that he would also buy rice, medicines and other supplies; Sesay described Jungle as a runner for Sam Bockarie.<sup>5874</sup> When Jungle went on these trips, he would sometimes stay for one week to one month and at times visited his family in Foya Tengia or his mother in Foya.<sup>5875</sup> Sesay did not witness Jungle bringing ammunition from Liberia.<sup>5876</sup>

2685. Sesay did not recall that Jungle worked with Musa Cissé during the time that he was with the RUF and Sesay was not aware that Jungle was a bodyguard to Taylor, or a member of the SSS at any time before he left the RUF in December 1999<sup>5877</sup> and testified that he never saw Jungle wearing a Liberian uniform.<sup>5878</sup> However, Sesay stated that he would not dispute the possibility that Jungle joined the SSS.<sup>5879</sup>

2686. According to Sesay, Jungle was not a middle man between the RUF and Taylor, he was not Taylor's agent and Sesay was not aware that Jungle was working for Taylor.<sup>5880</sup>

<sup>5870</sup> Issa Sesay, Transcript 12 July 2010, p. 44307; Transcript 30 July 2010, pp. 45141-45142; Transcript 4 August 2010, p. 45405; Transcript 11 August 2010, pp. 45963-45964; Transcript 8 July 2010, p. 44101; Transcript 27 July 2010, p. 44799; Transcript 30 July 2010, pp. 45141-45142.

<sup>5871</sup> Issa Sesay, Transcript 12 July 2010, p. 44307; Transcript 30 July 2010, pp. 45141-45142; Transcript 4 August 2010, p. 45405; Transcript 11 August 2010, pp. 45963-45964.

<sup>5872</sup> Issa Sesay, Transcript 8 July 2010, pp. 44096-44103.

<sup>5873</sup> Issa Sesay, Transcript 6 July 2010, pp. 43803-43805; Transcript 8 July 2010, pp. 44101-44102; Transcript 28 July 2010, pp. 44865-44866.

<sup>5874</sup> Issa Sesay, Transcript 6 July 2010, pp. 43805-43808; Transcript 8 July 2010, pp. 44094-44098, 44101; Transcript 12 July 2010, pp. 44274-44275; Transcript 29 July 2010, pp. 45072-45074 (PS); Transcript 30 July 2010, pp. 45141-45142; Transcript 4 August 2010, p. 45405.

<sup>5875</sup> Issa Sesay, Transcript 8 July 2010, pp. 44101-44102.

<sup>5876</sup> Issa Sesay, Transcript 4 August 2010, p. 45405.

<sup>5877</sup> Issa Sesay, Transcript 29 July 2010, p. 45020 (PS).

<sup>5878</sup> Issa Sesay, Transcript 12 August 2010, p. 46087.

<sup>5879</sup> Issa Sesay, Transcript 8 July 2010, p. 44102; Transcript 29 July 2010, pp. 45020-45021 (PS), 45073 (PS), 45078 (PS); Transcript 2 August 2010, p. 45184; Transcript 25 August 2010, pp. 47133-47135, 47137, 47140; Transcript 26 August 2010, p. 47229.

<sup>5880</sup> Issa Sesay, Transcript 6 July 2010, p. 43804; Transcript 2 August 2010, p. 45184; Transcript 11 August 2010, pp. 45957, 45963-45965; Transcript 12 August 2010, p. 46087; Transcript 25 August 2010, p. 47140.

Sesay did not know that Daniel Tamba had created contact between Charles Taylor and Sam Bockarie.<sup>5881</sup> Sesay testified that Jungle left the RUF with Bockarie in 1999 and never came back to Sierra Leone until the end of disarmament by the RUF.<sup>5882</sup>

2687. Seasy denied that, in his role as a runner, Jungle met him in early 2001 and conveyed him to Monrovia.<sup>5883</sup>

2688. When presented with Exhibit D-316<sup>5884</sup>, Sesay did not comment upon Jungle's alleged position in the SSS as "because that was in Liberia" but confirmed that Tamba was not a member of the RUF between January 2000 and November 2001.<sup>5885</sup>

#### Defence Witness DCT-008

2689. Witness DCT-008, a Liberian radio operator,<sup>5886</sup> identified Daniel Tamba (a.k.a. Jungle) in exhibits P-153A, P-153B and P-068,<sup>5887</sup> as a Liberian RUF member from Lofa County, Foya district.<sup>5888</sup> In late September 1998, Sampson introduced Daniel Tamba to Sunlight, and informed him that Benjamin Yeaten said the witness should bring Tamba to Sunlight so that he could use the radio to Sierra Leone.<sup>5889</sup> The witness testified that this was the first time that Sunlight saw Jungle.<sup>5890</sup> Sunlight understood that Jungle was one of "Sankoh's boys".<sup>5891</sup> When Sampson brought Jungle to Sunlight at Yeaten's house, he explained that he had previously taken Jungle to the seventh floor of the Executive Mansion, for Jungle to secretly communicate with the RUF in Sierra Leone, without the President or

<sup>5881</sup> Issa Sesay, Transcript 11 August 2010, p. 45965.

<sup>5882</sup> Issa Sesay, Transcript 29 July 2010, p. 45078 (PS).

<sup>5883</sup> Issa Sesay, Transcript 29 July 2010, p. 45078 (PS).

<sup>5884</sup> Exhibit D-316, "Assignment Roster, Republic of Liberia, Special Security Service, Executive Mansion, Monrovia. Liberia, November 9 2001".

<sup>5885</sup> Issa Sesay, Transcript 26 August 2010, p. 47229.

<sup>5886</sup> DCT-008, Transcript 24 August 2010, pp. 46948-46951 (PS).

<sup>5887</sup> Exhibit P-153A, "Photograph P672"; Exhibit P-153B, "Photograph P772"; Exhibit P-068 (confidential); DCT-008, Transcript 31 August 2010, pp. 47535-47537; Transcript 3 September 2010, p. 47875; Transcript 6 September 2010, pp. 47811-17812 (PS).

<sup>5888</sup> DCT-008, Transcript 24 August 2010, pp. 47035-47036, 47043-47044; Transcript 30 August 2010, p. 47448; Transcript 6 September 2010, p. 48029 (PS).

<sup>5889</sup> DCT-008, Transcript 24 August 2010, pp. 47035-47036, 47040, 47042-47043, 47045, 47049; Transcript 30 August 2010, p. 47448; Transcript 31 August 2010, pp. 47533, 47535-47537; Transcript 1 September 2010, p. 47761; Transcript 6 September 2010, pp. 47949, 48028-48029 (PS); Transcript 7 September 2010, pp. 48141, 48143, 48147, 48161-48163.

<sup>5890</sup> DCT-008, Transcript 24 August 2010, p. 47041; Transcript 1 September 2010, p. 47761; Transcript 7 September 2010, pp. 48148-48149.

<sup>5891</sup> DCT-008, Transcript 24 August 2010, p. 47036.

government, or other radio operators knowing about it.<sup>5892</sup> However, Yeaten had ordered Sunlight to permit Jungle to come to his home from that point on.<sup>5893</sup> Yeaten had also told Sunlight that his relationship with Sam Bockarie was a secret, and that neither the President, nor the government of Liberia knew about it.<sup>5894</sup> Upon arriving to use the radio, Jungle gave Sunlight the RUF's frequency or call signal.<sup>5895</sup> Jungle then connected to Buedu, and communicated with Sella, the RUF's chief radio operator assigned to Bockarie, in Krio.<sup>5896</sup> The witness testified that Jungle came to Yeaten's house a few more times after that occasion to use Sunlight's radio to connect to Sella in Buedu.<sup>5897</sup>

2690. Following the first time Jungle came to use the radio, he returned with Sampson to use the radio again. Sella, in Buedu, connected him to "the Brother", who was Sam Bockarie.<sup>5898</sup> The men spoke in Krio, and Sunlight did not understand, but Jungle told Sunlight that Bockarie had said that they were running out of food and that he, Jungle, should give the message to Yeaten and Musa Cissé in order for them to assist Bockarie with food.<sup>5899</sup> Jungle came again a week after the second time and told Sunlight that Bockarie wanted to see him at the Young Women's Christian Association and subsequently, Sunlight, Sampson and Jungle went there, where Jungle introduced Sunlight to Bockarie.<sup>5900</sup> The witness testified that Jungle did not transmit any messages on behalf of Yeaten.<sup>5901</sup> On occasion in late 1998, Sella radioed to Base 1 looking for Jungle when Jungle was not around. On one occasion, Sella asked Sunlight to tell Jungle that Bockarie wanted Jungle to

<sup>5892</sup> DCT-008, Transcript 24 August 2010, pp. 47040-47041, 47048; Transcript 27 August 2010, p. 47374; Transcript 1 September 2010, pp. 47696, 47706; Transcript 2 September 2010, p. 47799; Transcript 7 September 2010, pp. 48132, 48136-48139, 48141-48142, 48149, 48161.

<sup>5893</sup> DCT-008, Transcript 24 August 2010, p. 47049; Transcript 30 August 2010, p. 47416.

<sup>5894</sup> DCT-008, Transcript 24 August 2010, p. 47047.

<sup>5895</sup> DCT-008, Transcript 24 August 2010, pp. 47036-47037, 47042; Transcript 27 August 2010, p. 47379; 30 August 2010, p. 47485; Transcript 7 September 2010, pp. 48166-48167.

<sup>5896</sup> DCT-008, Transcript 24 August 2010, pp. 47042-47043, 47046, 47048; Transcript 30 August 2010, pp. 47485-47486; Transcript 3 September 2010, p. 47906; Transcript 7 September 2010, pp. 48146, 48148-48149, 48157-48158, 48161-48163.

<sup>5897</sup> DCT-008, Transcript 24 August 2010, p. 47048.

<sup>5898</sup> DCT-008, Transcript 24 August 2010, p. 47048; Transcript 27 August 2010, pp. 47394-47395, 47397.

<sup>5899</sup> DCT-008, Transcript 24 August 2010, p. 47049; Transcript 27 August 2010, pp. 47394-47395, 47397; Transcript 30 August 2010, p. 47409.

<sup>5900</sup> DCT-008, Transcript 24 August 2010, pp. 47050-47052, 47054; Transcript 27 August 2010, pp. 47370-47371.

<sup>5901</sup> DCT-008, Transcript 27 August 2010, p. 47396.



go to Pa Musa to inform him that they needed food. Sunlight gave Jungle the message and Jungle then left.<sup>5902</sup>

2691. The witness knew that Jungle had been a member of the RUF since the beginning of the RUF, but did not know how he became a member.<sup>5903</sup> Jungle was not a senior security to Charles Taylor,<sup>5904</sup> and the witness never saw or heard of any movement of Jungle into Sierra Leone under Yeaten's instruction or by himself after Bockarie's entry into Liberia.<sup>5905</sup>

2692. During cross-examination, the witness testified that he knew only one Daniel Tamba.<sup>5906</sup> The witness said that Jungle was able to enter the Executive Mansion under the "protective wings" of Sampson Wehyee and that it was common for SSS officers to bring other people.<sup>5907</sup>

#### Defence Witness John Vincent

2693. John Vincent, an RUF member,<sup>5908</sup> identified Daniel Tamba (a.k.a. Jungle) in exhibit P-045A.<sup>5909</sup> In 1998, on the day of the Waterworks meeting near Buedu, the witness met Jungle for the first time in Buedu at Jungle's house, and Vincent was "made to understand that Jungle was always in and out" of Liberia and Sierra Leone.<sup>5910</sup>

#### Prosecution Exhibit P-045A-B

2694. Exhibit P-045A is a photograph depicting three men.<sup>5911</sup> Exhibit P-045B<sup>5912</sup> is a photocopy of the same photograph as P-045A with identifications of the man on the left-had side of the photo as Zigzag Marzah, the man in the middle as "Daniel Jungle" and the man on the right as Abu Keita.

<sup>5902</sup> DCT-008, Transcript 27 August 2010, p. 47397; Transcript 3 September 2010, pp. 47905-47906.

<sup>5903</sup> DCT-008, Transcript 31 August 2010, p. 47575.

<sup>5904</sup> DCT-008, Transcript 2 September 2010, p. 47818 (PS).

<sup>5905</sup> DCT-008, Transcript 31 August 2010, p. 47624.

<sup>5906</sup> DCT-008, Transcript 6 September 2010, pp. 47949, 48028 (PS).

<sup>5907</sup> DCT-008, Transcript 7 September 2010, pp. 48137, 48139-48141.

<sup>5908</sup> John Vincent, Transcript 26 March 2010, pp. 38107, 38114-38116, 38118, 38137, 38145; Transcript 30 March 2010, pp. 38226, 38239; Transcript 31 March 2010, p. 38390, 38408, 38460, 38461.

<sup>5909</sup> Exhibit P-045A, "Photograph 38533"; John Vincent, Transcript 26 March 2010, pp. 38106, 38109; Transcript 30 March 2010, p. 38260; Transcript 31 March 2010, pp. 38451-38452.

<sup>5910</sup> John Vincent, Transcript 26 March 2010, p. 38110; Transcript 30 March 2010, p. 38260.

<sup>5911</sup> Exhibit P-045A, "Photograph 38533".

<sup>5912</sup> Exhibit P-045B "Photograph 38519".

Prosecution Exhibit P-068

2695. Exhibit P-068 is a confidential photographic exhibit.<sup>5913</sup>

Prosecution Exhibit P-153 A

2696. Exhibit P-153A is a photograph of a man wearing a red t-shirt, camouflaged vest, a camouflaged hat and holding an automatic gun. There are several other men in the background of the photo.<sup>5914</sup>

Prosecution Exhibit P-153B

2697. Exhibit P-153B is a photograph depicting three men.<sup>5915</sup>

Prosecution Exhibit P-163

2698. Exhibit P-163 is a photograph of two men sitting on a sofa. The man on the left-hand side is identified as "Col. Jungle" and the man on the right-hand side is identified as "Gen. Issah Sesay".<sup>5916</sup>

Prosecution Exhibit P-069

2699. Exhibit P-069 is a confidential photographic exhibit.<sup>5917</sup>

Prosecution Exhibit P-600C

2700. Exhibit P-600C is a photograph marked, signed and dated by Sam Koleh. The photo depicts three men, one of whom is labelled "Issa Sesay", and a second man is labelled "bodyguard".<sup>5918</sup>

Defence Exhibit D-316

2701. Exhibit D-316 is entitled "Assignment Roster, Republic of Liberia, Special Security Service, Executive Mansion, Monrovia, Liberia".<sup>5919</sup> It is dated 9 November 2001. The

<sup>5913</sup> Exhibit P-068 (confidential).

<sup>5914</sup> Exhibit P-153A, "Photograph P672".

<sup>5915</sup> Exhibit P-153B, "Photograph P772".

<sup>5916</sup> Exhibit P-163, "Photograph 29865 (Marked by TF1-388)".

<sup>5917</sup> Exhibit P-069 (confidential).

<sup>5918</sup> Exhibit P-600C, "Photograph 3 Marked, Signed and Dated by DCT-102".





document is addressed to “U-50”, who the Accused testified was Unit 50, meaning Benjamin Yeaten, the director of the SSS.<sup>5920</sup> The document was submitted by the Deputy and Assistant Director’s of Administration, the Deputy Director of Operations and the Chief of Protective Services of the Liberian Government,<sup>5921</sup> and offers recommendations for “out-station assignments” for military personnel.<sup>5922</sup> The name Daniel Tamba appears once as a “2/Lt.”, under the heading “Assignment, Presidential Advance Team”.<sup>5923</sup>

### Deliberations

2702. The parties generally agree, and the evidence clearly establishes, that Daniel Tamba (a.k.a. Jungle) was a Kissi-Liberian, who was a member of the NPFL until about 1992 when ULIMO pushed the NPFL from Lofa County. Jungle was part of a group of NPFL soldiers who then joined the RUF and remained with them until about 1994.<sup>5924</sup> TF1-168 testified that Jungle was an NPFL member in 1993, and later became a “trusted member of the RUF”. Although the parties dispute Tamba’s whereabouts and activity from about 1994 to 1996,<sup>5925</sup>

<sup>5919</sup> Exhibit D-316, “Assignment Roster, Republic of Liberia, Special Security Service, Executive Mansion, Monrovia, Liberia, November 9 2001”.

<sup>5920</sup> Exhibit D-316, “Assignment Roster, Republic of Liberia, Special Security Service, Executive Mansion, Monrovia, Liberia, November 9 2001”, p.1; Charles Ghankay Taylor, Transcript 31 August 2009, pp. 27979-27986.

<sup>5921</sup> Exhibit D-316, “Assignment Roster, Republic of Liberia, Special Security Service, Executive Mansion, Monrovia, Liberia, November 9 2001”, p. 15.

<sup>5922</sup> Exhibit D-316, “Assignment Roster, Republic of Liberia, Special Security Service, Executive Mansion, Monrovia, Liberia, November 9 2001”, p. 1.

<sup>5923</sup> Exhibit D-316, “Assignment Roster, Republic of Liberia, Special Security Service, Executive Mansion, Monrovia, Liberia, November 9 2001”, p. 4.

<sup>5924</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9357; TF1-371, Transcript 28 January 2008, pp. 2372-2374 (CS); TF1-168, Transcript 21 January 2009, pp. 23243-23245 (CS); Transcript 22 January 2009, p. 23282 (CS); Transcript 26 January 2009, pp. 23534-23535 (CS); TF1-567, Transcript 2 July 2008, p. 12890; Suwandi Camara, Transcript 11 February 2008, pp. 3509-3512, 3533-3536; Abu Keita, Transcript 23 January 2008, pp. 1991-1992; TF1-585, Transcript 5 September 2008, pp. 15606-15607; Jabaty Jaward, Transcript 9 July 2008, pp. 13353-13354, 13357; Transcript 10 July 2008, pp. 13387-13388; Transcript 14 July 2008, p. 13642; Transcript 15 July 2008, p. 13758; Transcript 16 July 2008, p. 13823-13825, 13830-13831; TF1-367, Transcript 20 August 2008, pp. 14126-14129; Transcript 1 September 2008, p. 15011; Transcript 29 August 2008, p. 14987; Isaac Mongor, Transcript 10 March 2008, pp. 5682-5683, 5687; Transcript 11 March 2008, pp. 5782-5784; Transcript 2 April 2008, pp. 6486, 6504; Transcript 3 April 2008, p. 6508; TF1-516, Transcript 8 April 2008, pp. 6914-6915, 6951-6952; Transcript 9 April 2008, p. 7128; Transcript 16 April 2008, pp. 7780-7782; Mustapha Mansaray, Transcript 5 March 2008, pp. 5296-5298; John Vincent, Transcript 26 March 2010, pp. 38109, 38112; Transcript 31 March 2010, p. 38414; Sam Kolleh, Transcript 1 November 2010, pp. 48385, 48427, 48500; Transcript 4 November 2010, p. 48748; Issa Sesay, Transcript 6 July 2010, pp. 43799, 43802-43804, 43808; Transcript 8 July 2010, p. 44100; Transcript 27 July 2010, pp. 44792, 44797-44798; Transcript 29 July 2010, pp. 44966, 45021 (PS); Transcript 2 August 2010, p. 45184; Transcript 4 August 2010, p. 45405.

<sup>5925</sup> The Defence alleges that in 1994-1995, Tamba fought with the RUF in Sierra Leone, and in May 1996 Bockarie sent him to Côte d’Ivoire where he remained, apart from a detour to Freetown to request financial support for the Côte d’Ivoire delegation in 1997, until the Intervention in February 1998. In mid-1998 Tamba returned to Sierra Leone as a station commander in Kono. In July 1998 he returned to Bockarie, to whom he

the Trial Chamber considers a finding on that dispute to be unnecessary for purposes of the Prosecution's submissions.

2703. In considering Jungle's relationship to the Accused from 1997, the Trial Chamber notes the multiple characterisations and descriptions reflected in the witnesses's testimony about Jungle's role or position. Many Prosecution witnesses, including Fornie, Mallah, Mongor, TF1-371 and TF1-375, testified that Jungle was a liaison between the RUF and the NPFL. TF1-579 even referred to Jungle as the "chief liaison" between the RUF and NPFL, although he characterised him as an RUF member. Witnesses Karmoh Kanneh and TF1-539 characterised Jungle as a "representative" of the Accused or the Liberian government, and TF1-579 testified that he was present in meetings with RUF commanders where Jungle was referred to before those congregated as the Accused's representative. Albert Saidu testified that at one meeting, Jungle sat at a "high table" and addressed the meeting, stating that he was there to tell them that the relationship between the RUF and AFRC was recognised by Charles Taylor.

2704. The Trial Chamber recalls its findings that Albert Saidu is a generally credible witness<sup>5926</sup> while the evidence of both TF1-539 and TF1-579 must be treated with caution and requires corroboration.<sup>5927</sup> With regard to Karmoh Kanneh, the Trial Chamber considers that he provided generally clear, calm and well-organised evidence and openly admitted when he did not know the answer to questions.<sup>5928</sup> When confronted by prior inconsistent statements on cross-examination, the Trial Chamber found Kanneh's testimony to be largely consistent and observed that he was candid about failures on his part to provide corrections to his prior statements.<sup>5929</sup> There were occasions on which the witness appeared to experience difficulty under cross-examination in answering Defence Counsel's questions but the Trial Chamber considers that this was as a result of confusion about the nature of what was being asked rather than an attempt by Kanneh to evade the question.<sup>5930</sup> Similarly, the

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reported henceforth. The Trial Chamber notes that the Defence challenges the evidence that Tamba was in Kenema during the Junta period (Defence Final Trial Brief, paras 1060-1061, 1093). Issa Sesay testified that Tamba did not enter Liberia from 1992 to 1996 (Issa Sesay, Transcript 6 July 2010, p. 43803).

<sup>5926</sup> Credibility Assessment, Albert Saidu, Pre-Indictment Period (1988-1996), para. 2384.

<sup>5927</sup> Credibility Assessment, TF1-539, paras 296-303; Credibility Assessment, TF1-579, paras 339-345.

<sup>5928</sup> See for example Karmoh Kanneh, Transcript 8 May 2008, pp. 9351, 9356-9357, 9379-9380,

<sup>5929</sup> See for example Karmoh Kanneh, Transcript 12 May 2008, pp. 9544-9547, 9587-9590; Transcript 13 May 2008, pp. 9641-9645.

<sup>5930</sup> See for example Karmoh Kanneh, Transcript 13 May 2008, pp. 9678-9679.

Trial Chamber does not find Kanneh's occasional confusion regarding specific dates<sup>5931</sup> detrimental to his overall credibility. Moreover, the Trial Chamber notes that the majority of Kanneh's evidence was corroborated by other witnesses. The Trial Chamber therefore finds Karmoh Kanneh to be generally credible and will consider further issues relating to his credibility in context as they may arise.

2705. The Trial Chamber notes that a number of witnesses testified that Jungle was an NPFL turned RUF member, or that he was at times both an NPFL or Special Security Services member and an RUF member. Mohamed Kabbah, whom the Trial Chamber has found to be a credible witness,<sup>5932</sup> testified that Jungle was an RUF member during the Intervention, not a liaison or an SSS member; however, the Trial Chamber notes that his basis for concluding that Jungle was an RUF member was Jungle's constant movement between the RUF and the Accused's mansion with "information and ammunition". TF1-539, who testified that Jungle was an SSS member, and a representative of the Liberian government, also referred to him as "one of Bockarie's men". TF1-579 testified that Jungle possessed an SSS identification card and that he received pay as an SSS; however he later testified that "Jungle was one of Mosquito's main men" and an RUF member. TF1-579 explained that around 1998 the RUF and NPFL were like "one". The Trial Chamber does not consider that witness testimony characterising Jungle as both RUF and later, or simultaneously, an SSS member to be contradictory, but rather a reflection of the perception that he was tied closely to both the RUF and the Accused. By virtually all accounts, Jungle was constantly back and forth from Sierra Leone to Liberia.

2706. Witnesses TF1-579, Fornie, Keita, TF1-585, Jaward, Mallah, TF1-539, Mongor and TF1-375 all testified explicitly that Jungle worked for the Special Security Services of the Accused, a Liberian governmental agency under the direction of Benjamin Yeaten. TF1-367 testified that Jungle was "Taylor's bodyguard and a friend of the RUF", who later joined the "Special Security Unit" (SSU), and that Jungle wore the SSU's "special black uniform".<sup>5933</sup> Kanneh testified that prior to being appointed as the Accused's representative, Jungle was an NPFL member,<sup>5934</sup> and TF1-371 testified that Jungle was part of the Accused's "senior

<sup>5931</sup> See Karmoh Kanneh, Transcript 8 May 2008, p. 9393; Transcript 13 May 2008, pp. 9600-9601, 9678 regarding the date of the meeting at which the Fitti-Fatta Operation was announced.

<sup>5932</sup> Credibility Assessment, Mohamed Kabbah, paras 334-338.

<sup>5933</sup> TF1-367, Transcript 20 August 2008, pp. 14126, 14129-14130, 14133.

<sup>5934</sup> Karmoh Kanneh, Transcript 13 May 2008, pp. 9661-9673.

security”.<sup>5935</sup> TF1-567 saw Jungle sometime after April 1998 wearing blue/black overalls with SOD written on them, and Jungle told him that SOD stood for “Special Operations Division”.<sup>5936</sup> TF1-516 referred to Jungle as a “Liberian soldier”.<sup>5937</sup> The Trial Chamber notes that TF1-371, TF1-567, TF1-516 and TF1-367 are all generally credible witnesses.<sup>5938</sup>

2707. The Trial Chamber notes the significant amount of testimony that Jungle worked under Benjamin Yeaten and/or that he took orders from Yeaten. TF1-567 testified that Jungle took orders from the Accused and Yeaten, TF1-371 testified that Jungle worked with the “SSS director”, and Jabaty Jaward and Abu Keita both testified that Jungle was one of Yeaten’s bodyguards. Witness TF1-516 also testified that Jungle worked under “50”’s command, who in turn took commands from the Accused.

2708. The Trial Chamber recalls that Abu Keita is a generally credible witness.<sup>5939</sup> With regard to Jabaty Jaward, the Trial Chamber observed that he provided clear, comprehensive and measured testimony during which he showed a good recollection of events and patently endeavoured to ensure that his evidence was as accurate as possible,<sup>5940</sup> discerning carefully between his own first-hand and hearsay evidence. Jaward did not exaggerate his own role, admitting that he was a low level individual within the RUF with whom Bockarie would not have discussed important matters.<sup>5941</sup> Jaward’s testimony remained consistent throughout his cross-examination although the Defence raised a number of inconsistencies with Jaward’s prior statements. The Trial Chamber finds these to be generally minor<sup>5942</sup> and is largely satisfied by the explanations Jaward provided. The witness openly confirmed that he had received around \$USD 1,500 from the OTP as well as 32,685,000 leones (approximately \$USD 10,895)<sup>5943</sup> from the Witness and Victims Service for himself and his family<sup>5944</sup> and

<sup>5935</sup> TF1-371, Transcript 29 January 2008, pp. 2452-2453 (CS).

<sup>5936</sup> TF1-567, Transcript 2 July 2008, pp. 12903-12906.

<sup>5937</sup> TF1-516, Transcript 9 April 2008, pp. 7000-7002.

<sup>5938</sup> Credibility Assessment, TF1-371, paras 220-226; Credibility Assessment, TF1-567, paras 313-317; Credibility Assessment, TF1-516, paras 275-284. Credibility Assessment, TF1-367, Pre-Indictment period (1988-1996), para. 2446.

<sup>5939</sup> Credibility Assessment, Abu Keita, paras 213-219.

<sup>5940</sup> See for example Jabaty Jaward, Transcript 15 July 2008, p. 13801.

<sup>5941</sup> Jabaty Jaward, Transcript 15 July 2008, pp. 13797-13801.

<sup>5942</sup> For example whether the witness lived in Sam Bockarie or Issa Sesay’s house or both in Buedu in 1998-1999 (Jabaty Jaward, Transcript 16 July 2008, pp. 13839-13843)

<sup>5943</sup> Conversion based on the rate of approximately 3,000 Leones/US dollar.

<sup>5944</sup> Jabaty Jaward, Transcript 14 July 2008, pp. 13674-13675.

that WVS continued to be his only source of income.<sup>5945</sup> The Trial Chamber accepts Jaward's testimony that he initially refused payment from the Prosecution and was motivated to testify against the Accused not by money but because he felt he had important information to give to the international community about the Accused's involvement in the Sierra Leonean war and to abide by the pledge he had made to do so.<sup>5946</sup> In light of the foregoing, the Trial Chamber finds Jabaty Jaward to be generally credible and will consider further issues relating to his credibility in context as they arise.

2709. The Trial Chamber notes TF1-516's cross-examination testimony in which he was confronted with a prior statement to the Prosecution in which he said that Daniel Tamba "was a Liberian soldier in the ATU" but that he did not know Tamba by an alias. The witness testified that he made a correction to that statement to the effect that Daniel Tamba was the same person as Jungle,<sup>5947</sup> although he could not explain why he had not made the correction earlier.<sup>5948</sup> TF1-516 was also confronted with a prior statement that Jungle Jim and Jungle was the same person. The witness testified that the statement was not correct and that he changed the statement before giving his testimony, a change that was reflected in the witness's interview record.<sup>5949</sup> In spite of these inconsistencies, the Trial Chamber notes that TF1-516's prior statement was consistent on the point that Daniel Tamba (a.k.a. Jungle) reported to Yeaten (a.k.a. 50).<sup>5950</sup> Furthermore, the witness maintained on cross-examination that he knew Jungle before 1998.<sup>5951</sup> Because the witness was forthright about his prior error and because he corrected it of his own accord, in addition to the Trial Chamber's finding that he is a credible witness, the Trial Chamber does not consider these inconsistencies to be detrimental to his credibility. Moreover, the Trial Chamber notes that TF1-516's testimony on this point is corroborated by the testimony of TF1-371, TF1-567, Jabaty Jaward and Abu Keita, all of whom were consistent regarding their testimony of Jungle and were not successfully challenged on cross-examination.

<sup>5945</sup> Jabaty Jaward, Transcript 15 July 2008, p. 13680.

<sup>5946</sup> Jabaty Jaward, Transcript 14 July 2008, pp. 13673-13676; Transcript 15 July 2008, pp. 13678, 13681-13682, 13684, 13687.

<sup>5947</sup> TF1-516, Transcript 16 April 2008, p. 7780.

<sup>5948</sup> TF1-516, Transcript 16 April 2008, p. 7784.

<sup>5949</sup> TF1-516, Transcript 16 April 2008, pp. 7780-7784.

<sup>5950</sup> TF1-516, Transcript 16 April 2008, p. 7780.

<sup>5951</sup> TF1-516, Transcript 16 April 2008, p. 7784.

2710. The Trial Chamber has made findings elsewhere in the Judgement with regard to the role of Jungle in transporting arms to the RUF and diamonds to the Accused throughout the Indictment period, as well as messages back and forth. The Trial Chamber has elsewhere considered and rejected<sup>5952</sup> the Defence contention that the movement of arms and ammunitions, and diamonds, between Sierra Leone and Liberia was undertaken in the context of a “private enterprise” under Benjamin Yeaten, unbeknownst to the Accused.<sup>5953</sup>

2711. In addition to testimony of Jungle’s role as a member of or liaison between the RUF, NPFL and/or SSS, as a subordinate of Benjamin Yeaten, the Trial Chamber notes the testimony of several witnesses who connected Jungle directly to the Accused. For example, TF1-579 testified that Jungle took orders directly from Yeaten and the Accused, while TF1-516 testified that Jungle “worked under 50” but took “commands” from the Accused. TF1-371 testified that Jungle, in his capacity as an SSS, delivered information to the Accused. Isaac Mongor testified that Jungle told him that he reported to the Accused, and Kanneh testified that he heard Bockarie tell Koroma that Jungle was the RUF’s “link” to the Accused. Mongor’s testimony that he was told by Jungle that Jungle directly reported to the Accused is corroborated by the evidence of TF1-579, TF1-516, TF1-371 and Kanneh. The Trial Chamber notes that on cross-examination Isaac Mongor testified that he recalled that Jungle’s last name was Tamba, but that he was familiar with calling him Jungle. Mongor was then confronted with a prior statement in which Mongor stated that he only knew Jungle as Jungle and that he did not know “Daniel Tamba or anything else”. Based on this contradiction, the Defence submitted that Mongor did not know Jungle at all. In the Trial Chamber’s view, this inconsistency, in light of the fact that the witness was consistent throughout that he knew “Jungle” in spite of whether he knew or had forgotten “Tamba”, does not undermine Mongor’s credibility on this point.<sup>5954</sup> It is clear from the context of Mongor’s testimony about Jungle in comparison with the testimony of other witnesses about Jungle, that he is testifying about the same individual. Moreover, the Trial Chamber recalls its finding that Mongor is generally a credible witness.<sup>5955</sup> Although TF1-579’s testimony should be considered with caution and requires corroboration, and did not contain a basis of knowledge for his assertion that Jungle took orders directly from the Accused, the Trial

<sup>5952</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockarie’s Leadership (February 1998-December 1999).

<sup>5953</sup> Defence Final Trial Brief, para. 1091.

<sup>5954</sup> Isaac Mongor, Transcript 2 April 2008, pp. 6486, 6504-6506; Transcript 3 April 2008, p. 6508.



Chamber considers that the corroboration of the other witnesses lends reliability to his testimony. Similarly, the Trial Chamber considers that the corroboration by other witnesses regarding Jungle's role corroborates the testimony of TF1-539 to the extent that his testimony regarding Jungle in this context is reliable.

2712. The Trial Chamber notes the Accused's testimony that he knew a Daniel Tamba who was not the same as the Tamba known as Jungle, whom other witnesses testified about, and was not the same Daniel Tamba listed in D-316, as well as Sesay's testimony that there were other individuals called Jungle. However, the Trial Chamber also notes that witnesses Jaward, Vincent and DCT-008 consistently identified Jungle in Exhibit P-045A and that witnesses Kanneh, TF1-585 and DCT-008 consistently identified Jungle in Exhibit P-068. Moreover, the Trial Chamber notes that Sesay's identification of Jungle in P-163 is consistent with the other witnesses' identification of Jungle in P-068. Based on these identifications and the context of the testimony of the identifying witnesses, together with the testimony of witnesses who did not identify Jungle in photographs, the Trial Chamber is satisfied that all of the relevant witnesses testified about the same Daniel Tamba (a.k.a. Jungle).

2713. The Defence denies that Jungle carried out his actions as the Accused's subordinate. The Accused himself also denied knowing the Daniel Tamba testified about by other witnesses as "Jungle", saying he first heard of him in these trial proceedings. He further stated that the Daniel Tamba, a Second Lieutenant appearing in the roster, Exhibit D-316, could not have been a "runner" for him because he was not ranked highly enough. The Accused conceded that Jungle could have been an SSS member, but maintained that he never provided the Accused with personal security. The Accused also testified that he did not have, and had no need for, a liaison between himself and Sam Bockarie. The Trial Chamber does not find these arguments convincing, and in particular finds it telling that Tamba's name appears on the official assignment roster for the Executive Mansion security services, Exhibit D-316. In the Trial Chamber's view the testimony of the Accused does not raise a doubt with regard to the overwhelming evidence of Prosecution witnesses, as well as the documentary evidence, that Daniel Tamba (a.k.a. Jungle) worked for the SSS and was a subordinate of the Accused.

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<sup>5955</sup> Credibility Assessment, Isaac Mongor, paras 269-274.

2714. The Trial Chamber notes DCT-008's inconsistent testimony on cross-examination regarding Jungle's position, first stating that he did not know if Jungle was an SSS, and moments later stating that Jungle was not an SSS, without explanation.<sup>5956</sup> The Trial Chamber also recalls its finding that the testimony of DCT-008 must be treated with caution and requires corroboration.<sup>5957</sup>

2715. Although the Trial Chamber notes that there is evidence to support the accusation that the Accused facilitated the murder of Tamba,<sup>5958</sup> the Trial Chamber recalls its discussion of allegations pertaining to the suppression of evidence, elsewhere in the judgement.<sup>5959</sup> Therefore, the Trial Chamber has not considered that evidence here.

2716. Finally the Trial Chamber notes that Defence witness Issa Sesay confirmed that the Tamba listed in Exhibit D-316, the official roster of the Executive Mansion, is the same Tamba as Jungle and said he would not dispute the possibility that Jungle joined the SSS.<sup>5960</sup> The Trial Chamber notes that D-316 is a document created and issued by officials in the Accused's government, and that its authenticity has not been challenged by either party. In the Trial Chamber's view, the presence of Daniel Tamba's name on page 11 of the document, as well as Sesay's confirmation that that Daniel Tamba is the Jungle at issue, establishes that Daniel Tamba (a.k.a. Jungle) was a member of the SSS. The Trial Chamber therefore rejects the Accused's evidence that the Daniel Tamba appearing in the document is not the same as the Daniel Tamba (a.k.a. Jungle) at issue here.

2717. Based upon the evidence of the aforementioned witnesses, as well as the documentary evidence admitted as Exhibit D-316, the Trial Chamber finds that Jungle was an SSS member who worked for Benjamin Yeaten and the Accused as a courier of arms, diamonds, and messages back and forth between the Accused and the AFRC/RUF throughout the Indictment period.

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<sup>5956</sup> DCT-008, Transcript 7 September 2010, pp. 48141, 48149.

<sup>5957</sup> Credibility Assessment, DCT-008, paras 373-380.

<sup>5958</sup> TF1-579, Transcript 5 November 2008, pp. 19989-19990; Transcript 6 November 2008, pp. 19997-20001; TF1-375, Transcript 26 August 2008, pp. 14558-14559 (PS); Transcript 28 August 2008, p. 14844 (PS). But see, Charles Ghankay Taylor, Transcript 30 September 2009, pp. 29916, 29921; Transcript 27 October 2009, p. 30372; DCT-008, Transcript 30 August 2010, pp. 47509-47512; Transcript 6 September 2010, p. 47997; John Vincent, Transcript 31 March 2010, pp. 38368-38369.

<sup>5959</sup> Preliminary Issues: Suppression of Evidence.

<sup>5960</sup> Issa Sesay, Transcript 25 August 2010, p. 47138.

## Findings

2718. The Trial Chamber finds the Prosecution has proved beyond reasonable doubt that Daniel Tamba (a.k.a. Jungle) worked for the SSS as a subordinate of Benjamin Yeaten and the Accused and served as a courier of arms, diamonds and message back and forth between the AFRC/RUF and the Accused throughout the Indictment period.

### 3. Ibrahim Bah

#### Submissions of the Parties

2719. The Prosecution refers to Ibrahim Bah as the Accused's "personal liaison", "representative", "long-time associate", "trusted subordinate", and "emissary".<sup>5961</sup> It submits that Ibrahim Bah met Sam Bockarie and Johnny Paul Koroma in Freetown and arranged the Magburaka shipment on the Accused's directive and under his instructions.<sup>5962</sup> The Prosecution further submits that after the Intervention, Ibrahim Bah spoke on behalf of the Accused at a meeting regarding the preparation of an airstrip, convened by Bockarie with Daniel Tamba.<sup>5963</sup> According to the Prosecution, when the AFRC and RUF were taking steps to preserve their hold on Kono in the post-Intervention period, there was a secret meeting in which Ibrahim Bah said that he was part of the Liberian government working for the Accused, and he spoke on the Accused's behalf, stating that the AFRC/RUF relationship was recognised and that they should work together to take hold of Kono District in order to obtain diamonds.<sup>5964</sup> The Prosecution submits that during Bockarie's and Sesay's leadership, Sesay gave Eddie Kanneh diamonds, and he in turn gave them to Ibrahim Bah, who would deliver them to the Accused.<sup>5965</sup> Furthermore, the Prosecution submits that Bah reported to the Accused to keep him informed of the activities of the RUF and the AFRC/RUF.<sup>5966</sup>

2720. The Prosecution states that when Liberian security closed the border throughout 1998 and 1999, Ibrahim Bah was the only person who was allowed to cross into Sierra Leone with trucks filled with mining equipment.<sup>5967</sup> According to the Prosecution, in 1999

<sup>5961</sup> Prosecution Final Trial Brief, paras 3, 18, 20, 154, 194, 227, 354, 367-368, 381, 428, 612.

<sup>5962</sup> Prosecution Final Trial Brief, paras 18, 227-228, 354, 367-368.

<sup>5963</sup> Prosecution Final Trial Brief, para. 149.

<sup>5964</sup> Prosecution Final Trial Brief, para. 154.

<sup>5965</sup> Prosecution Final Trial Brief, para. 381.

<sup>5966</sup> Prosecution Final Trial Brief, para. 428.

<sup>5967</sup> Prosecution Final Trial Brief, paras 20, 368, 611, 1264; Arms and Ammunition: Preliminary Issues, Closure

the Accused used Daniel Tamba (a.k.a. Jungle), his SSS subordinate, and Ibrahim Bah, his long-time associate, as personal liaisons to Sankoh during the Lomé peace negotiations. The Accused also sent Ibrahim Bah and Memunatu Deen with \$USD 20,000 for Sankoh's personal use. Prior to travelling to Lomé, Ibrahim Bah and Omrie Golley met with the Accused in Monrovia and received instructions to pass on to Sankoh in relation to positions to take at Lomé<sup>5968</sup>

2721. The Defence submits that Ibrahim Bah met the Accused in 1990, when he "was part of the Gambian force that entered Liberia during the NPFL invasion, but [they] had limited contact thereafter" and that the Accused was not in a position to issue orders to Ibrahim Bah after RUF/NPFL cooperation disintegrated.<sup>5969</sup> According to the Defence, Ibrahim Bah left the NPFL in 1993, remained in Sierra Leone, and began dealing directly with the RUF.<sup>5970</sup> The Defence argues that he was not the Accused's emissary or agent, "Taylor did not communicate with the Junta through any subordinates or intermediaries such as Ibrahim Bah" and that Ibrahim Bah had an "independent relationship with the RUF, which even predated the Sierra Leonean war".<sup>5971</sup> Bah never fought for the RUF, but "became close friends with Foday Sankoh", whom he met in Libya.<sup>5972</sup> He was a "liaison who coordinated with the RUF's affairs outside of Sierra Leone" and a key player throughout the 1990s in "arranging weapons and munitions transactions on behalf of the RUF and/or Junta", particularly from Burkina Faso and Libya.<sup>5973</sup> According to the Defence, he provided the RUF with radio equipment, "vehicles, food, mining equipment, computers, telephones, and other items".<sup>5974</sup> Ibrahim Bah also introduced various business partners to Bockarie and Sankoh.<sup>5975</sup>

2722. The Defence submits that Sankoh encouraged the Junta to work with Ibrahim Bah to purchase arms in Burkina Faso for the Magburaka shipment and that the "shipment was

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of Border/Arms Embargo.

<sup>5968</sup> Prosecution Final Trial Brief, paras 194-195.

<sup>5969</sup> Defence Final Trial Brief, para. 1044.

<sup>5970</sup> Defence Final Trial Brief, para. 1044.

<sup>5971</sup> Defence Final Trial Brief, paras 861, 935, 1079, 1088, 1201.

<sup>5972</sup> Defence Final Trial Brief, paras 861, 935, 1044.

<sup>5973</sup> Defence Final Trial Brief, paras 458, 619, 864, 1044-1046, 1073, 1079.

<sup>5974</sup> Defence Final Trial Brief, paras 996-997, 1002, 1079.

<sup>5975</sup> Defence Final Trial Brief, paras 939, 1002, 1079-1080.

based on a pre-arranged deal, funded by Sankoh, arranged by Bah, and renewed by JP Koroma”.<sup>5976</sup>

2723. The Defence argues that Ibrahim Bah was a “businessman who operated throughout the sub-region and could have obtained mining equipment from any source in the diamond trade industry, other than Taylor”.<sup>5977</sup> The Defence agrees that the Accused saw Ibrahim Bah and Omrie Golley before they left Liberia for Lomé.<sup>5978</sup>

### Evidence

#### Prosecution Witness TF1-371

2724. Witness TF1-371, an RUF member,<sup>5979</sup> testified that during the Junta, in 1997, Sam Bockarie and Ibrahim Bah said that Mr Taylor sent Ibrahim Bah to Freetown, and he received diamonds and money from Sam Bockarie and Johnny Paul Koroma in order to organise the Magburaka shipment to get arms and ammunition for the Junta; Ibrahim Bah came upon the instruction of and with the “directive from Mr Taylor”.<sup>5980</sup> He testified that Ibrahim Bah fought with the NPFL, was an advisor and good friend to Foday Sankoh, that Ibrahim Bah doubled with Omrie Golley as a member of the External Delegation, and that both Ibrahim Bah and Mr Sankoh were “military advisors to Mr Taylor” at one point in time.<sup>5981</sup> TF1-371 added that “[Bah] stuck with Mr Taylor throughout”.<sup>5982</sup> The witness testified that he learned through an “interaction” with Ibrahim Bah, whom the witness called a middle man and conduit of Mr Taylor, that he came to Buedu in 1998 “upon the instruction of Mr Taylor” to see Sam Bockarie and he was given diamonds to take to Mr

<sup>5976</sup> Defence Final Trial Brief, para. 1052.

<sup>5977</sup> Defence Final Trial Brief, paras 592-593, 862, 864, 936, 1046, 1052, 1162, 1555.

<sup>5978</sup> Defence Final Trial Brief, paras 94, 571.

<sup>5979</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>5980</sup> TF1-371, Transcript 24 January 2008, pp. 2111-2113; Transcript 28 January 2008, pp. 2308-2310, 2313-2314, 2374 (CS); Transcript 30 January 2008, p. 2671 (CS); Transcript 31 January 2008, pp. 2682-2686, 2701-2702, 2704, 2736, 2738 (CS); Transcript 4 February 2008, pp. 2955-2956, 2978-2979 (CS).

<sup>5981</sup> TF1-371, Transcript 25 January 2008, p. 2291 (CS); Transcript 28 January 2008, pp. 2437-2438 (CS); Transcript 31 January 2008, pp. 2736, 2754 (CS).

<sup>5982</sup> TF1-371, Transcript 31 January 2008, p. 2736 (CS).

Taylor to help Taylor get more arms and ammunition for the RUF.<sup>5983</sup> According to TF1-371, Sam Bockarie trusted Ibrahim Bah.<sup>5984</sup>

2725. The witness testified that before November or December 1998, Sam Bockarie told him that Ibrahim Bah would escort Sam Bockarie and others to Ouagadougou to get a shipment of ammunition for a major attack.<sup>5985</sup> According to TF1-371, General Abraham is Ibrahim Bah.<sup>5986</sup> The witness stated that Ibrahim Bah was a liaison with Charles Taylor, and the witness was present in 1999 when Ibrahim Bah, who said he was sent by Mr Taylor, gave \$USD 20,000 to Mr Sankoh in Lomé.<sup>5987</sup>

#### Prosecution Witness TF1-567

2726. Witness TF1-567, an RUF member,<sup>5988</sup> testified that Foday Sankoh said that Ibrahim Bah, from Burkina Faso, was his friend, that Ibrahim Bah was with the NPFL, and that he was helping the establishment of the RUF movement as an agent for the RUF.<sup>5989</sup> According to the witness, any time Jungle went to see Charles Taylor, Ibrahim Bah would join him, and Sankoh told "us" that he often sent Ibrahim Bah on missions to see Taylor.<sup>5990</sup> Issa Sesay told the witness that he gave diamonds to Ibrahim Bah, who said that he had business partners, and Ibrahim Bah provided satellite phones, computers, food, and \$USD 50,000 for the RUF movement between 1999 and 2001.<sup>5991</sup> The testified that he and others went to Hotel Boulevard with diamonds to meet General Ibrahim to make arrangements, and Benjamin Yeaten would take Issa Sesay and General Ibrahim to bring the diamonds to Charles Taylor.<sup>5992</sup>

<sup>5983</sup> TF1-371, Transcript 28 January 2008, pp. 2366-2368, 2370, 2374-2375, 2377, 2407-2408 (CS); Transcript 31 January 2008, pp. 2705, 2754-2755 (CS).

<sup>5984</sup> TF1-371, Transcript 31 January 2008, p. 2705 (CS).

<sup>5985</sup> TF1-371, Transcript 28 January 2008, pp. 2402-2403 (CS).

<sup>5986</sup> TF1-371, Transcript 28 January 2008, p. 2407 (CS).

<sup>5987</sup> TF1-371, Transcript 28 January 2008, p. 2438 (CS); Transcript 29 January 2008, pp. 2442, 2510 (CS).

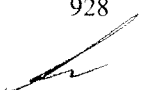
<sup>5988</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS); Transcript 4 July 2008, pp. 12986-12988 (PS).

<sup>5989</sup> TF1-567, Transcript 4 July 2008, p. 12971; Transcript 7 July 2008, p. 13121.

<sup>5990</sup> TF1-567, Transcript 4 July 2008, p. 12972.

<sup>5991</sup> TF1-567, Transcript 4 July 2008, p. 13006 (PS); Transcript 7 July 2008, p. 13121.

<sup>5992</sup> TF1-567, Transcript 4 July 2008, pp. 13004-13007 (PS); Transcript 7 July 2008, pp. 13020 (PS), 13121.





Prosecution Witness Isaac Mongor

2727. Witness Isaac Mongor, an RUF senior commander,<sup>5993</sup> testified that in 1991 Ibrahim Bah was a general who was present at a meeting with Mr Taylor, General Dopoe, Francis Mewon, Foday Sankoh, Lamin and others.<sup>5994</sup> Ibrahim Bah was a soldier of the Special Forces and of the foreign forces which were part of the NPFL.<sup>5995</sup> During the time that Mongor was a member of the Supreme Council,<sup>5996</sup> Ibrahim Bah came to meet Mongor and other RUF authorities who had fought alongside him before in Sierra Leone, at Bockarie's house in Freetown.<sup>5997</sup> Ibrahim Bah said that he was sent by Mr Taylor with a message "asking" that the AFRC and RUF work together.<sup>5998</sup> He said that Ibrahim Bah was a liaison officer who had been with the RUF.<sup>5999</sup> After this meeting, the witness took Ibrahim Bah to Johnny Paul Koroma's house and Ibrahim Bah said again that Mr Taylor sent him with the message that they should work together.<sup>6000</sup>

Prosecution Witness Foday Lansana

2728. Witness Foday Lansana, an RUF radio operator,<sup>6001</sup> testified that General Ibrahim was a businessman working with Sam Bockarie when Mr Sankoh was in prison in Nigeria, and after the release of Mr Sankoh, he became finance controller of the RUF; he gave money to people who needed it when they were in Liberia, under the instruction of Sam Bockarie.<sup>6002</sup> Foday Lansana met Ibrahim Bah in December 1999 at Hotel Boulevard.<sup>6003</sup> Later, Ibrahim Bah said that he was instructed by Mr Sankoh to give \$USD 500 to the witness for shopping; the money was given to the witness at the Congo Town guesthouse on 22 December.<sup>6004</sup> Ibrahim Bah told Foday Lansana that he was an international businessman

<sup>5993</sup> See for example: Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March 2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>5994</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5672, 5706; Transcript 11 March 2008, p. 5712.

<sup>5995</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5672, 5705-5706.

<sup>5996</sup> Isaac Mongor testified that the Supreme Council was where "authorities" including Johnny Paul Koroma, Tamba Brima, SO Williams, Issa Sesay, Gullit, and Mosquito, would discuss and plan "things" during the war, in order to continue the war (Isaac Mongor, Transcript 10 March 2008, p. 5704).

<sup>5997</sup> Isaac Mongor, Transcript 10 March 2008, p. 5705; Transcript 11 March 2008, p. 5712.

<sup>5998</sup> Isaac Mongor, Transcript 10 March 2008, p. 5705; Transcript 11 March 2008, pp. 5712-5717.

<sup>5999</sup> Isaac Mongor, Transcript 11 March 2008, p. 5713.

<sup>6000</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5713-5714.

<sup>6001</sup> Foday Lansana, T. 20 February 2008, pp. 4361-4362.

<sup>6002</sup> Foday Lansana, Transcript 21 February 2008, pp. 4473-4474.

<sup>6003</sup> Foday Lansana, Transcript 21 February 2008, p. 4473

<sup>6004</sup> Foday Lansana, Transcript 21 February 2008, pp. 4473-4474.

who purchased diamonds and gold and that he and Sam Bockarie were friends and business partners.<sup>6005</sup>

Prosecution Witness Albert Saidu

2729. Witness Albert Saidu, an RUF adjutant from 1991 to 2001,<sup>6006</sup> testified that during a meeting in 1998 or 1999, after Issa Sesay had diamonds that went missing, Sam Bockarie introduced General Ibrahim as a guest.<sup>6007</sup> The witness thought he was a Liberian general.<sup>6008</sup> General Ibrahim was sitting at the high table and introduced himself as part of the Liberian government working under Charles Taylor and said that he was sent directly by the Accused, that the Accused was still with the AFRC/RUF and they should not worry, that he was trying to get more materials for them to capture more places like Kono.<sup>6009</sup>

Prosecution Witness Abu Keita

2730. Witness Abu Keita, a former deputy chief of staff and commander of ULIMO-K who later became commander of the Scorpion Unit,<sup>6010</sup> testified that others told him that Ibrahim Bah was a former fighter of the NPFL and Ibrahim Bah said that he would find a buyer for RUF diamonds in order to help the RUF get radio communication.<sup>6011</sup> In 2000, the witness was present when Ibrahim Bah showed Sam Bockarie diamonds at the Boulevard Hotel and the witness also saw Ibrahim Bah in Kono with Eddie Kanneh and four Lebanese in order to get RUF diamonds.<sup>6012</sup>

Prosecution Witness Suwandi Camara

2731. Witness Suwandi Camara, an SSS member,<sup>6013</sup> testified that his nephew, Mustapha Jallow, who was close to Ibrahim Bah, told the witness in 2002 that Ibrahim Bah was a

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<sup>6005</sup> Foday Lansana, Transcript 21 February 2008, pp. 4473-4474.  
<sup>6006</sup> Albert Saidu, Transcript 4 June 2008, p. 10895.  
<sup>6007</sup> Albert Saidu, Transcript 5 June 2008, pp. 11055, 11059, 11068, 11135.  
<sup>6008</sup> Albert Saidu, Transcript 5 June 2008, p. 11055.  
<sup>6009</sup> Albert Saidu, Transcript 5 June 2008, pp. 11059-11060.  
<sup>6010</sup> Abu Keita, Transcript 22 January 2008, pp. 1953-1954; 23 January 2008, pp. 1970, 2000; 24 January 2008, pp. 2110, 2145.  
<sup>6011</sup> Abu Keita, Transcript 23 January 2008, pp. 1974-1975.  
<sup>6012</sup> Abu Keita, Transcript 23 January 2008, pp. 1974-1976, 2025-2026.  
<sup>6013</sup> Suwandi Camara, Transcript 8 February 2008, pp. 3458-3459, 3472, 3477-3479; 11 February 2008, pp. 3523, 3525.



liaison officer between the NPFL and RUF, and that he was engaged in the diamond business between the RUF and Charles Taylor.<sup>6014</sup>

Prosecution Witness TF1-168

2732. Witness TF1-168, an RUF member,<sup>6015</sup> testified that Ibrahim Bah was one of the Gambian Special Forces attached to Dr Manneh and that he was involved in setting up business deals for Sankoh.<sup>6016</sup> Ibrahim Bah knew members of the Burkina government and he went to Libya with Pa Sankoh.<sup>6017</sup>

The Accused

2733. The Accused testified that he met Ibrahim Bah, a member of the NPFL, in 1990 when Bah went into Liberia with Kukoi Samba Sanyan (a.k.a. Dr Manneh), but Ibrahim Bah left in 1993 or 1994.<sup>6018</sup> The Accused said that Ibrahim Bah was Senegalese and that he “was one of the regular security personnel and was not assigned directly with [him]” when he met him in 1990.<sup>6019</sup> The Accused testified that Ibrahim Bah was an “ordinary officer”, but not his associate, friend, special bodyguard, agent, or military advisor, and that he never had a business relationship with Ibrahim Bah, nor did Ibrahim Bah ever work for him, the Accused, after he left Liberia.<sup>6020</sup> The Accused testified that General Abdulai Bah was “the most senior Gambian military officer” and is not the same person as Ibrahim Bah.<sup>6021</sup> He maintained that Ibrahim Bah was not a Liberian general.<sup>6022</sup> The Accused heard that after 1994 and after he became president, Bah came to Liberia a few times as a businessman.<sup>6023</sup>

<sup>6014</sup> Suwandi Camara, Transcript 11 February 2008, pp. 3572-3574, 3577-3578.

<sup>6015</sup> TF1-168, Transcript 22 January 2009, pp. 23275-23282 (CS).

<sup>6016</sup> TF1-168, Transcript 23 January 2009, pp. 23461-23462 (CS).

<sup>6017</sup> TF1-168, Transcript 23 January 2009, p. 23462 (CS).

<sup>6018</sup> Charles Ghankay Taylor, Transcript 5 August 2009, p. 26039; Transcript 11 August 2009, p. 26516; Transcript 25 August 2009, pp. 27563-27564; Transcript 14 September 2009, pp. 28743-28744; Transcript 17 September 2009, p. 29263; Transcript 23 September 2009, pp. 29551 (PS), 29562 (PS); Transcript 27 October 2009, p. 30360.

<sup>6019</sup> Charles Ghankay Taylor, Transcript 25 August 2009, pp. 27563, 27662, 27664; Transcript 17 September 2009, pp. 29264-29265.

<sup>6020</sup> Charles Ghankay Taylor, Transcript 5 August 2009, p. 26039; Transcript 25 August 2009, p. 27564; Transcript 9 September 2009, p. 28479; Transcript 14 September 2009, p. 28813 (PS); Transcript 15 September 2009, pp. 28910-28911; Transcript 23 September 2009, pp. 29539, 29551 (PS), 29562 (PS); Transcript 29 September 2009, p. 29785; Transcript 27 October 2009, pp. 30359-30361; Transcript 5 November 2009, pp. 31275, 31315; Transcript 9 November 2009, pp. 31449, 31453, 31456.

<sup>6021</sup> Charles Ghankay Taylor, Transcript 9 September 2009, pp. 28476-28479.

<sup>6022</sup> Charles Ghankay Taylor, Transcript 26 October 2009, p. 30234.

<sup>6023</sup> Charles Ghankay Taylor, Transcript 25 August 2009, pp. 27563-27564.

He testified that Ibrahim Bah “is now fully with Foday Sankoh, based on even evidence before this court” and that he had no reason to doubt that Ibrahim Bah helped Foday Sankoh coordinate RUF affairs outside of Sierra Leone between 1996 and 1999.<sup>6024</sup>

2734. The Accused testified that he never connived with Ibrahim Bah in diamond trading, never received diamonds from Ibrahim Bah and did not organise a Magburaka shipment through Ibrahim Bah.<sup>6025</sup> He testified that he had no knowledge of Ibrahim Bah purchasing satellite phones and computers for the RUF.<sup>6026</sup> He also testified that he had no knowledge of Ibrahim Bah being in Monrovia in early October 1997 but that it would not be unusual as Ibrahim Bah was a businessman.<sup>6027</sup> He said he did not know that Ibrahim Bah and senior members of the RUF were dealing in diamonds in Monrovia.<sup>6028</sup> He also said that Ibrahim Bah was not a liaison officer between the NPFL and RUF.<sup>6029</sup> The Accused testified that he never sent Ibrahim Bah to Freetown to meet Johnny Paul Koroma or to Buedu to meet Sam Bockarie or anywhere else.<sup>6030</sup>

2735. According to the Accused, Ibrahim Bah was a “senior individual” and “official of the RUF” delegation; he was “working for and with Foday Sankoh;” and he was a “special guest” who was representing the RUF at Lomé; the Accused said that he saw Ibrahim Bah for the last time before he left for Lomé in April 1999.<sup>6031</sup> The Accused testified that he did not give Ibrahim Bah \$USD 20,000 to give to Sankoh in Lomé.<sup>6032</sup>

<sup>6024</sup> Charles Ghankay Taylor, Transcript 11 August 2009, p. 26516; Transcript 17 September 2009, pp. 29262-29264; Transcript 26 October 2009, p. 30235; Transcript 27 October 2009, pp. 30359, 30413.

<sup>6025</sup> Charles Ghankay Taylor, Transcript 18 August 2009, p. 27106; Transcript 25 August 2009, pp. 27562, 27565, 27596; Transcript 9 September 2009, p. 28529; Transcript 14 September 2009, pp. 28810-28811 (PS); Transcript 15 September 2009, pp. 28910-28911; Transcript 23 September 2009, pp. 29564-29565 (PS); Transcript 29 September 2009, pp. 29781, 29787-29788; Transcript 27 October 2009, p. 30361; Transcript 5 November 2009, pp. 31276, 31278.

<sup>6026</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28812 (PS); Transcript 22 September 2009, p. 29350; Transcript 24 September 2009, pp. 29669-29670.

<sup>6027</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29349-29350; Transcript 23 September 2009, p. 29541.

<sup>6028</sup> Charles Ghankay Taylor, Transcript 25 August 2009, p. 27565.

<sup>6029</sup> Charles Ghankay Taylor, Transcript 9 September 2009, p. 28525.

<sup>6030</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29550-29551 (PS); Transcript 29 September 2009, pp. 29765-29766, 29768; Transcript 26 October 2009, p. 30235; Transcript 27 October 2009, pp. 30361, 30413-30414.

<sup>6031</sup> Charles Ghankay Taylor, Transcript 11 August 2009, pp. 26503-26504, 26509, 26516, 26534-26535; Transcript 13 August 2009, p. 26787; Transcript 25 August 2009, pp. 27575-27576; Transcript 9 September 2009, pp. 28524, 28530; Transcript 14 September 2009, p. 28742; Transcript 17 September 2009, pp. 29262-29263; Transcript 22 September 2009, p. 29302; Transcript 23 September 2009, pp. 29551-29552 (PS); Transcript 24 September 2009, pp. 29609-29610, 29737; Transcript 11 November 2009, p. 31611; Transcript 28

Defence Witness Issa Sesay

2736. Witness Issa Sesay, senior RUF commander,<sup>6033</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>6034</sup> testified that Ibrahim Bah was not an advisor, but instead was an agent and “a runner to Mr Sankoh” and the RUF.<sup>6035</sup> He explained that Ibrahim Bah brought business partners for Mr Sankoh and diamond dealers to Sam Bockarie and himself.<sup>6036</sup> In July or August 1997, Johnny Paul Koroma gave Ibrahim Bah \$USD 90,000 to hire a flight to transport arms and ammunition from Burkina Faso for the AFRC and RUF.<sup>6037</sup> Ibrahim Bah was based in Ouagadougou and would take the RUF delegation to Burkina Faso, as he was working with Mr Sankoh and he was his friend.<sup>6038</sup> Issa Sesay testified that Johnny Paul Koroma only sent people whom he trusted with Ibrahim Bah and Bah arrived on the plane with the ammunition.<sup>6039</sup> The witness went to Burkina Faso with General Ibrahim Bah to get ammunition in April.<sup>6040</sup> According to Issa Sesay, Ibrahim Bah introduced Michel and Louis, “two white men” from Belgium, to Issa Sesay and Bockarie in Buedu in June of July of 1999 and introduced them to Sankoh in Monrovia.<sup>6041</sup> Issa Sesay heard from the commander in Buedu that the Liberian border was closed between mid-December 1999 to May 2000 and the only person who crossed was Ibrahim Bah in December 1999.<sup>6042</sup>

Prosecution Exhibit P-018

2737. Exhibit P-018 is a report of the Panel of Experts from 20 December 2000, which was sent to the President of the Security Council. According to this report, internal RUF reports show that Bah took diamonds to the Accused late in 1998.<sup>6043</sup> Bah is “said to be a Burkinabe

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January 2010, pp. 34333-34334.

<sup>6032</sup> Charles Ghankay Taylor, Transcript 24 September 2009, p. 29610.

<sup>6033</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596, and

<sup>6034</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>6035</sup> Issa Sesay, Transcript 29 July 2010, p. 44980 (PS).

<sup>6036</sup> Issa Sesay, Transcript 29 July 2010, p. 44980 (PS).

<sup>6037</sup> Issa Sesay, Transcript 7 July 2010, pp. 43857, 43859-43862, 43872.

<sup>6038</sup> Issa Sesay, Transcript 7 July 2010, pp. 43860, 43911-43912.

<sup>6039</sup> Issa Sesay, Transcript 7 July 2010, pp. 43869-43870.

<sup>6040</sup> Issa Sesay, Transcript 7 July 2010, p. 43981.

<sup>6041</sup> Issa Sesay, Transcript 14 July 2010, pp. 44476-44479, 44481.

<sup>6042</sup> Issa Sesay, Transcript 14 July 2010, pp. 44464-44465, 44476-44479, 44482, 44485, 44490; Arms and Ammunition: Preliminary Issues, Closure of Border/Arms Embargo.

<sup>6043</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306, S/2000/1195, Adopted on 20 December 2000”, p. 17, ERN 4387.

military officer” and is also known as “Ibrahima Baldé and Baldé Ibrahima”, a key player in the AFRC/RUF axis, and “instrumental in the movement of RUF diamonds from Sierra Leone into Liberia and from there to Burkina Faso”.<sup>6044</sup> According to the report, Ibrahim Bah helped make arrangements for the procurement of military equipment.<sup>6045</sup> It also states that Ibrahim Bah is said to handle much of the “financial, diamond and weapons transactions between the RUF, Liberia and Burkina Faso”, shuttling regularly between Monrovia and Ouagadougou and he is a “senior logistics expert in the movement of weapons and diamonds between Burkina Faso, Liberia and Sierra Leone”.<sup>6046</sup>

#### Prosecution Exhibit P-067

2738. Exhibit P-067 is a situation report to Foday Sankoh from the Black Guard Commander. According to this report, a large quantity of diamonds was taken from Johnny Paul Koroma and given to “Mr Ibrahim (General) [...] to travel with the parcels directly to President Taylor” and “to this development, the High Command was able to receive the first satellite phone”.<sup>6047</sup> This exhibit also states that Ibrahim Bah had important contacts for “materials” such as ammunition and arms.<sup>6048</sup>

#### Prosecution Exhibit P-063

2739. Exhibit P-063, dated 2 December 1998, is the minutes of a forum with the external delegates led by the RUF Defence Staff, which was held at the RUF Defence Headquarters. According to this document, Eddie Kanneh asked those present at the forum to “remember outstanding external friends of his movement like General Abraham”, and the CDS (Sam Bockarie)<sup>6049</sup> congratulated General Abraham for his “sincerity and honesty in delivering the parcels that were given to [him] for our father across”.<sup>6050</sup>

<sup>6044</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306, S/2000/1195, Adopted on 20 December 2000”, p. 17, ERN 4387.

<sup>6045</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306, S/2000/1195, Adopted on 20 December 2000”, pp. 17, 20, ERN 4387, 4390.

<sup>6046</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306, S/2000/1195, Adopted on 20 December 2000”, pp. 35, 60, ERN 4405, 4430.

<sup>6047</sup> Exhibit P-067, “RUF People’s Arm, Situation Report to Foday Sankoh from the Black Guard Commander”, ERN 9675.

<sup>6048</sup> Exhibit P-067, “RUF People’s Arm, Situation Report to Foday Sankoh from the Black Guard Commander”, ERN 9675-9676.

<sup>6049</sup> Exhibit P-063 begins with “The Chairman CDS-Brigadier Sam Bockarie welcomed [...]” which indicates that CDS is Sam Bockarie. CDS stands for Chief of Defence Staff (see TF1-371, Transcript 28 January 2008, p.

Prosecution Exhibit D-003

2740. Exhibit D-003 is a radio log book. According to this log book, on 12 January 2000, General Ibrahim informed "Smile" that he was leaving for Monrovia that day as all their provisions were finished and "the longer we delay for now, the more we accumulate losses". He wrote that he had identified all the problems and knew the needs in order to "speed up the process". He wrote that he would give "excellent info" when he had access to communication and he pleaded to "info Monrovia" to pick him up at the border that same day or the following day.<sup>6051</sup>

Defence Exhibit D-030

2741. Exhibit D-030 is Volume Two of a report of the Sierra Leone Truth and Reconciliation Commission. According to this report, Ibrahim Bah was classified as one of the prominent leaders within the AFRC Faction under the heading "Miscellaneous AFRC "Special Envoys".<sup>6052</sup>

Defence Exhibit D-393

2742. Exhibit D-393 is a summary report of a Belgian criminal investigation. According to this investigation, various notes by Ossaily Samih, a Belgian diamond dealer, indicate that he had extensive contacts with Ibrahim Bah in Hotel Boulevard in Monrovia.<sup>6053</sup>

Deliberations

2743. The Trial Chamber notes that there is a broad range of evidence in the record regarding the role of Ibrahim Bah. There is evidence that Bah was part of the Liberian Government and represented the Accused. There is also evidence that he was working for the RUF. Other evidence indicates that Ibrahim Bah was an independent businessman, working as an intermediary between the RUF and the Accused and/or as an agent involved

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2326 (CS)).

<sup>6050</sup> Exhibit P-063, "RUF Defence Headquarters, Forum with the External Delegates Led by the RUF Defence Staff, 2nd December 1998", p. 3, ERN 15489.

<sup>6051</sup> Exhibit D-003, "Radio Log Book Three", ERN 8779; Arms and Ammunition: Preliminary Issues, Closure of Border/Arms Embargo.

<sup>6052</sup> Exhibit D-030, "Witness to the Truth: Report of the Sierra Leone TRC, VOL 2, Names of the AFRC Leadership, 2004", p. 65.

<sup>6053</sup> Exhibit D-393, "Belgian Investigation made at the Request of Former Prosecutor for the Special Court for Sierra Leone, David Crane, November 2002", pp. 10, 18, ERN 102152, 102160.





in certain transactions for the RUF and other transactions for the Accused. With regard to specific events, the Trial Chamber has reviewed the evidence in the context of its consideration of those events. More generally, the Trial Chamber has reviewed the evidence in an effort to come to preliminary general conclusions with regard to Ibrahim Bah's alleged role and affiliation with the Accused and/or the RUF.

2744. It is not contested that in the early 1990s Ibrahim Bah was a member of the NPFL and there is some evidence that he came to the NPFL with the Gambian Special Forces of Dr Manneh. Isaac Mongor testified that in 1991, Bah was a soldier of the Special Forces and foreign forces, which were part of the NPFL, and TF1-168 also testified that before he met him, Ibrahim Bah was a fighter for the Gambian Special Forces, attached to Dr Manneh.<sup>6054</sup> TF1-371 testified that Bah fought with the NPFL.<sup>6055</sup> The Accused testified that Bah was a member of the NPFL in 1990 but that he left the NPFL in 1993 or 1994.<sup>6056</sup> Abu Keita testified that he heard Bah was a former NPFL fighter.<sup>6057</sup> TF1-567 testified that Foday Sankoh told him that Ibrahim Bah was from Burkina Faso, and that he was with the NPFL.<sup>6058</sup> The Trial Chamber recalls its findings that Isaac Mongor, TF1-168, TF1-371, Abu Keita and TF1-567 are generally credible witnesses<sup>6059</sup>.

2745. Ibrahim Bah was referred to as General Ibrahim by a number of witnesses,<sup>6060</sup> and TF1-371 testified that General Abraham was Ibrahim Bah.<sup>6061</sup> The Accused testified that Bah was an "ordinary officer" and distinguished him from General Abdulai Bah, a senior Gambian military officer who was not the same person.<sup>6062</sup> However, the evidence does not

<sup>6054</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5672, 5705-5706; TF1-168, Transcript 23 January 2009, pp. 23461-23462 (CS).

<sup>6055</sup> TF1-371, Transcript 25 January 2008, p. 2291 (CS).

<sup>6056</sup> Charles Ghankay Taylor, Transcript 5 August 2009, p. 26039; Transcript 11 August 2009, p. 26516; Transcript 25 August 2009, pp. 27563-27564; Transcript 14 September 2009, pp. 28743-28744; Transcript 17 September 2009, p. 29263; Transcript 23 September 2009, pp. 29551 (PS), 29562 (PS); Transcript 27 October 2009, p. 30360.

<sup>6057</sup> Abu Keita, Transcript 23 January 2008, pp. 1974-1975.

<sup>6058</sup> TF1-567, Transcript 4 July 2008, p. 12971.

<sup>6059</sup> Credibility Assessment, Isaac Mongor, paras 269-274; Credibility Assessment, TF1-371, paras 220-226; Credibility Assessment, Abu Keita, paras 213-219; Credibility Assessment, TF1-567, paras 313-317. Credibility Assessment, TF1-168, Pre-Indictment Period (1988-1996), para. 2328.

<sup>6060</sup> TF1-567, Transcript 4 July 2008, pp. 12971, 13004-13007 (PS); Transcript 7 July 2008, pp. 13020 (PS), 13029 (PS), 13121-13122; Foday Lansana, Transcript, 21 February 2008, pp. 4473-4474; Albert Saidu, Transcript 5 June 2008, pp. 11055, 11059-11060, 11083, 11085, 11087; Issa Sesay, Transcript 7 July 2010, pp. 43856, 43981.

<sup>6061</sup> TF1-371, Transcript 28 January 2008, p. 2407 (CS).

<sup>6062</sup> Charles Ghankay Taylor, Transcript 9 September 2009, pp. 28476-28479.

suggest any confusion between these two men, as Ibrahim Bah was not referred to as General Bah but rather as General Ibrahim. There is little evidence other than this title that Ibrahim Bah was a general for the NPFL. Mongor testified that he was a general in 1991.<sup>6063</sup> Albert Saidu testified that he thought Bah was a Liberian general because at a meeting he introduced himself as part of the Liberian Government working under Charles Taylor.<sup>6064</sup> The Accused denied that Bah was a Liberian general.<sup>6065</sup> While it is clear that Bah was a part of the NPFL at some time in the early 1990s, the Trial Chamber cannot conclude, in the light of such divergent evidence regarding his role, that he was in fact a Liberian government official or military officer during the Indictment period.

2746. A number of witnesses testified that Ibrahim Bah worked for the Accused or represented the Accused during the Indictment period. TF1-371 testified that Bah “stuck with Mr Taylor throughout” and mentioned a number of specific incidents in which the Accused sent Bah on his behalf – to Buedu in 1998 and to give Sankoh \$USD 20,000 in 1999.<sup>6066</sup> Several witnesses, including TF1-371, testified that Bah was sent by Taylor to arrange for the Magburaka arms shipment.<sup>6067</sup>

2747. However, the Trial Chamber notes that a number of witnesses who testified that Bah worked for the Accused testified that he also worked for the RUF. Mongor, for example, testified that the Accused sent a message with Bah that the AFRC and RUF should work together, but he also testified that Bah was a liaison officer who had been with the RUF.<sup>6068</sup> Suwandi Camara testified that he was told in 2002 that Bah was a liaison officer between the NPFL and RUF, and engaged in the diamond business between the RUF and Taylor.<sup>6069</sup> The Trial Chamber recalls its finding that Suwandi Camara is a generally credible witness.<sup>6070</sup>

<sup>6063</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5672, 5706.

<sup>6064</sup> Albert Saidu, Transcript 5 June 2008, pp. 11059-11060.

<sup>6065</sup> Charles Ghankay Taylor, Transcript 26 October 2009, p. 30234.

<sup>6066</sup> TF1-371, Transcript 28 January 2008, pp. 2366-2368, 2370, 2374-2375, 2377, 2407-2408, 2438 (CS); Transcript 29 January 2008, pp. 2442, 2510 (CS); Transcript 31 January 2008, pp. 2736, 2754-2755 (CS).

<sup>6067</sup> Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Magburaka Shipment; TF1-371, Transcript 24 January 2008, pp. 2111-2113; Transcript 28 January 2008, pp. 2308-2310, 2313-2314, 2374 (CS); Transcript 30 January 2008, p. 2671 (CS); Transcript 31 January 2008, pp. 2682-2686, 2701-2702, 2704, 2736, 2738 (CS); Transcript 4 February 2008, pp. 2955-2956, 2978-2979 (CS).

<sup>6068</sup> Isaac Mongor, Transcript 10 March 2008, p. 5705; Transcript 11 March 2008, pp. 5712-5717.

<sup>6069</sup> Suwandi Camara, Transcript 11 February 2008, pp. 3572-3574, 3577-3578.

<sup>6070</sup> Credibility Assessment, Suwandi Camara, Pre-Indictment Period (1988-1996), para. 2222.

2748. The Trial Chamber notes that evidence from TF1-371, TF1-567, Suwandi Camara, as well as Exhibits P-018, P-063, and P-067, all indicate that Ibrahim Bah delivered diamonds to the Accused.<sup>6071</sup> Witness TF1-371 testified that the Ibrahim Bah was the Accused's middle man and conduit.<sup>6072</sup> However, much of the evidence does not clearly indicate any affiliation for Bah to a particular person or group; it shows that he acted as an intermediary. The report of the Panel of Experts, for example, states that Bah handled financial, diamond and weapons transactions "between the RUF, Liberia and Burkina Faso".<sup>6073</sup> Similarly, Exhibits P-067 and P-063 both indicate that diamonds were given to Ibrahim Bah to deliver to Taylor, without expressly stating his role other than as an intermediary.<sup>6074</sup>

2749. The Trial Chamber notes that Issa Sesay testified that Bah brought business partners and diamond dealers to himself, Bockarie and Sankoh.<sup>6075</sup> Foday Lansana described Ibrahim Bah as a businessman and business partner of Bockarie, but also as a finance controller for the RUF.<sup>6076</sup> TF1-567 testified that Bah was an agent for the RUF, whom Sankoh often sent on missions to the Accused.<sup>6077</sup> Abu Keita testified that Bah said he would find the RUF a buyer for diamonds to help them get radio communication.<sup>6078</sup> TF1-168 testified that Bah set up business deals for Sankoh.<sup>6079</sup> However, Exhibit P-063, the minutes of an RUF meeting, indicates that Eddie Kanneh referred in the meeting to General Abraham as an "external

<sup>6071</sup> TF1-371, Transcript 24 January 2008, pp. 2111-2113; Transcript 28 January 2008, pp. 2308-2310, 2313-2314, 2366-2368, 2370, 2374-2375, 2377, 2407-2408 (CS); Transcript 30 January 2008, p. 2671 (CS); Transcript 31 January 2008, pp. 2682-2686, 2701-2702, 2704-2705, 2736, 2738, 2754-2755 (CS); Transcript 4 February 2008, pp. 2955-2956, 2978-2979 (CS); TF1-567, Transcript 4 July 2008, pp. 13004-13007 (PS); Transcript 7 July 2008, pp. 13020 (PS), 13121; Suwandi Camara, Transcript 11 February 2008, pp. 3572-3574, 3577-3578; Exhibit P-018, "Report of the Panel of Experts Established by Resolution 1306, S/2000/1195, Adopted on 20 December 2000", pp. 17, 35, 60, ERN 4387, 4405, 4430; Exhibit P-063, "RUF Defence Headquarters, Forum with the External Delegates Led by the RUF Defence Staff, 2nd December 1998", p. 3, ERN 15489; Exhibit P-067, "RUF People's Arm, Situation Report to Foday Sankoh from the Black Guard Commander", ERN 9675.

<sup>6072</sup> TF1-371, Transcript 31 January 2008, pp. 2705, 2754-2755 (CS); Transcript 1 February 2008, p. 2851 (CS).

<sup>6073</sup> Exhibit P-018, "Report of the Panel of Experts Established by Resolution 1306, S/2000/1195, Adopted on 20 December 2000", pp. 35, 60, ERN 4405, 4430.

<sup>6074</sup> Exhibit P-063, "RUF Defence Headquarters, Forum with the External Delegates Led by the RUF Defence Staff, 2nd December 1998", p. 3, ERN 15489; Exhibit P-067, "RUF People's Arm, Situation Report to Foday Sankoh from the Black Guard Commander", ERN 9675.

<sup>6075</sup> Issa Sesay, Transcript 14 July 2010, pp. 44476-44479, 44481; Transcript 29 July 2010, p. 44980 (PS).

<sup>6076</sup> Foday Lansana, Transcript 21 February 2008, pp. 4473-4474.

<sup>6077</sup> TF1-567, Transcript 4 July 2008, pp. 12971-12972; Transcript 7 July 2008, p. 13121.

<sup>6078</sup> Abu Keita, Transcript 23 January 2008, pp. 1974-1976, 2025-2026.

<sup>6079</sup> TF1-168, Transcript 23 January 2009, pp. 23461-23462 (CS).



friend”.<sup>6080</sup> The Trial Chamber notes that TF1-371, TF1-567, and Issa Sesay all testified that Ibrahim Bah was a good friend of Foday Sankoh.<sup>6081</sup> TF1-371 testified that Sam Bockarie trusted Ibrahim Bah and Foday Lansana testified that Bah was a best friend of Sam Bockarie.<sup>6082</sup>

2750. Although none of the witnesses suggested that Bah was an agent of the AFRC, the report of the Sierra Leone Truth and Reconciliation Commission classified Bah as a miscellaneous AFRC “Special Envoy”.<sup>6083</sup>

2751. The Trial Chamber notes that the Accused testified that he never sent Ibrahim Bah anywhere and that he never received diamonds from him.<sup>6084</sup> In light of the overwhelming evidence to the contrary, the Trial Chamber finds the testimony of the Accused in this regard lacking in credibility.

2752. In light of all the evidence indicating that Ibrahim Bah was perceived by various witnesses as working for the RUF, or the Accused, or both the RUF and the Accused, the Trial Chamber concludes that Ibrahim Bah was a trusted emissary who represented the RUF at times and the Accused at times, and served as a liaison between them at times. He was a businessman who helped arrange arms and diamond transactions, and did not maintain an ongoing affiliation as a subordinate or agent with either the RUF or the Accused. At times, however, he did represent the RUF and the Accused in specific transactions or on specific missions. With regard to particular events, the Trial Chamber considers that his status and relationship to the parties involved is to be determined on the basis of relevant evidence in the context of those particular events.

<sup>6080</sup> Exhibit P-063, “RUF Defence Headquarters, Forum with the External Delegates Led by the RUF Defence Staff, 2nd December 1998”, p. 3, ERN 15489.

<sup>6081</sup> TF1-371, Transcript 31 January 2008, pp. 2736 (CS); TF1-567, Transcript 4 July 2008, p. 12971; Issa Sesay, Transcript 7 July 2010, pp. 43911-43912.

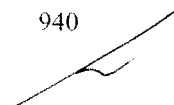
<sup>6082</sup> TF1-371, Transcript 31 January 2008, p. 2705 (CS); Foday Lansana, Transcript 21 February 2008, pp. 4473-4474.

<sup>6083</sup> Exhibit D-030, “Witness to the Truth: Report of the Sierra Leone TRC, VOL 2, Names of RUF Leadership, 2004”, p. 65.

<sup>6084</sup> Charles Ghankay Taylor, Transcript 18 August 2009, p. 27106; Transcript 25 August 2009, pp. 27562, 27565, 27596; Transcript 9 September 2009, p. 28529; Transcript 14 September 2009, pp. 28810-28811 (PS); Transcript 15 September 2009, pp. 28910-28911; Transcript 23 September 2009, pp. 29550-29551, 29564-29565 (PS); Transcript 29 September 2009, pp. 29765-29766, 29768, 29781, 29787-29788; Transcript 26 October 2009, p. 30235; Transcript 27 October 2009, pp. 30361, 30413-30414; Transcript 5 November 2009, pp. 31276, 31278.

Findings

2753. The Trial Chamber finds beyond reasonable doubt that Ibrahim Bah was an independent businessman who worked, at various times and for particular purposes, for both the RUF and the Accused. He also served as a liaison between the RUF and the Accused but had no permanent affiliation with either the RUF or the Accused.



## C. Military Operations

### 1. Alleged Message from Base 1 to Troops Retreating from Kono

#### Submissions of the Parties

2754. The Prosecution alleges that during the Intervention, while the forces in Kono were communicating with Buedu, they received a message from Base 1, Yeaten's radio station in Monrovia, to the AFRC/RUF forces asking why they were pulling out of Kono while other AFRC/RUF were still in Makeni and other areas toward Freetown.<sup>6085</sup>

2755. The Defence submits that TF1-516's evidence regarding the radio message from Base 1 is "suspicious" and should be approached with caution for six reasons. First, the allegation is unsupported. Second, on TF1-516's evidence, this communication is the first from Base 1 to the RUF, "yet the witness seems to treat such communication as standard" rather than the RUF expressing outrage or surprise that they were being monitored by a radio station in Monrovia. Third, there is evidence that Base 1 had not been established at this time. Fourth, Prosecution evidence suggests that Base 1 was not then in possession of the RUF radio codes. Fifth, there is evidence that the Liberian codes are different from the RUF codes. Finally, "this account seems to be contradicted" by Mohamed Kabbah's evidence that he did not see or hear any message from Taylor ordering the RUF to hold Kono.<sup>6086</sup> The Defence submits that "although Kabbah referred to Taylor in this context, Kabbah's treatment of Sunlight is as an extension of Taylor, so if he knew of Sunlight sending such a message, he is likely to have mentioned this".<sup>6087</sup>

#### Evidence

##### Prosecution Witness TF1-516

2756. Witness TF1-516, an RUF radio operator,<sup>6088</sup> testified that during the Junta rule, while he was in Buedu, Mohamed Kabbah commanded him to go to Kono to collect battery acid from the station commander CO Nya. When he arrived, Perry Kamara (a.k.a. King Perry) assigned him to the mining site at Koidu where he remained engaged in overseeing

<sup>6085</sup> Prosecution Final Trial Brief, para. 151.

<sup>6086</sup> Defence Final Trial Brief, para. 1497.

<sup>6087</sup> Defence Final Trial Brief, para. 1497, footnote 4063.

<sup>6088</sup> TF1-516, Transcript 8 April 2008, p. 6845.

mining in a designated RUF pit and a private mining pit, and undertaking some radio work until 1998 after the ECOMOG Intervention when Alex Tamba Brima (a.k.a. Gullit), the overall commander in Kono, ordered everyone back to Buedu.<sup>6089</sup> The witness testified that while he was in Kono, he went to the radio room in the morning to transmit any messages before going to the mining site.<sup>6090</sup>

2757. The witness testified that while he was communicating with the station in Buedu to inform them that the AFRC/RUF forces were about to pull out from Kono, he received a call from “across the other side”, meaning it was from Liberia;<sup>6091</sup> it was from Sunlight at Base 1, enquiring why they were pulling out from Kono. The witness indicated that Base 1 had ascertained that the troops were withdrawing by Sunlight monitoring AFRC/RUF radio communications and intercepting their call.<sup>6092</sup> Gullit ordered the witness to communicate the response to Base 1 that “he had something very much important to discuss with Sam Bockarie” and accordingly he was insisting that the fighters pull out from Kono down to Kailahun.<sup>6093</sup> TF1-516 identified Base 1 as a radio set assigned to Benjamin Yeaten, the SSS director of Liberia situated in Congo Town.<sup>6094</sup>

2758. On re-examination the witness explained that during his time in Kono, he did not transmit any messages for the AFRC with the exception of the message he sent to Buedu on Gullit’s behalf when it was time for them to retreat.<sup>6095</sup>

#### Prosecution Witness Mohamed Kabbah

2759. Witness Mohamed Kabbah (a.k.a. Tourist), an RUF radio operator,<sup>6096</sup> testified that he did not see or hear any message from Charles Taylor ordering the RUF to hold Kono after the AFRC/RUF retreat from Freetown in early 1998, nor did he recall hearing or seeing any radio message that would have come from Charles Taylor whereby orders were given about operations in Kono or any other aspect of the retreat from Freetown.<sup>6097</sup>

<sup>6089</sup> TF1-516, Transcript 8 April 2008, pp. 6846, 6848-6852; Transcript 14 April 2008, pp. 7512-7513.

<sup>6090</sup> TF1-516, Transcript 14 April 2008, p. 7517.

<sup>6091</sup> TF1-516, Transcript 8 April 2008, p. 6853.

<sup>6092</sup> TF1-516, Transcript 8 April 2008, p. 6940.

<sup>6093</sup> TF1-516, Transcript 8 April 2008, p. 6852; Transcript 14 April 2008, pp. 7518-7519.

<sup>6094</sup> TF1-516, Transcript 8 April 2008, p. 6853.

<sup>6095</sup> TF1-516, Transcript 16 April 2008, p. 7827.

<sup>6096</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>6097</sup> Mohamed Kabbah, Transcript 16 September 1998, pp. 16338-16339.

Defence Witness DCT-008

2760. When TF1-516's evidence about the February 1998 communication was put to Defence Witness DCT-008, a Liberian radio operator,<sup>6098</sup> who was in a position to know the activities of the radio operator Sunlight, he denied that Sunlight intercepted Gullit's communication about the retreat from Kono to Kailahun in February 1998. In February 1998, Sunlight was not under the direct supervision of Benjamin Yeaten; he was a radio operator at the Executive Mansion where he did not intercept any radio communications from Sierra Leone and to the best of his knowledge, the Executive Mansion or Government of Liberia was not communicating with the RUF. Further, there was no radio in Liberia in February 1998 with the call sign Base 1.<sup>6099</sup> He stated that Base 1 was not established until after the Camp Johnson Road incident in mid-September 1998 when Sunlight also became the radio operator there.<sup>6100</sup>

Deliberations

2761. The Trial Chamber notes that TF1-516's evidence on the alleged radio message from Base 1 is uncorroborated, and contradicted by DCT-008. DCT-008 denied that a radio message was sent and denied further that Base 1 was operational at the time the radio message allegedly was sent, having only been established at Yeaten's house in September 1998.<sup>6101</sup>

2762. With regard to the Defence's submission that Base 1 was not in operation at the time TF1-516 allegedly received the radio message from Sunlight, the Trial Chamber recalls its finding that Base 1 was operational at the time of the Intervention.<sup>6102</sup>

2763. The Defence has given a number of other reasons why, in its submission, it has not been proven beyond reasonable doubt that TF1-516's evidence is true. The Trial Chamber will address these in turn.

2764. The Defence submits that TF1-516's evidence should not be believed because he seemed "to treat such communication as standard" when, in its submission, the RUF is more

<sup>6098</sup> DCT-008, Transcript 24 August 2010, pp. 46948-46951 (PS).

<sup>6099</sup> DCT-008, Transcript 31 August 2010, pp. 47600-47601.

<sup>6100</sup> DCT-008, Transcript 24 August 2010, pp. 47026-47030.

<sup>6101</sup> DCT-008, Transcript 24 August 2010, pp. 47026-47030; Transcript 31 August 2010, pp. 47600-47601.

<sup>6102</sup> Operational Support: Communications, RUF and NPFL Radio Codes and Communications.

likely to have expressed surprise or outrage at the first call received from Base 1 which would have alerted them to its monitoring of RUF communications. The Trial Chamber is unable to draw conclusions based on speculation as to how a radio operator should or would respond to such a communication and therefore places no weight on such considerations. Moreover, the Trial Chamber notes its finding that RUF radio codes were shared with the NPFL<sup>6103</sup> and that NPFL radio operators were therefore able to monitor transmissions.<sup>6104</sup> It is therefore not surprising that the transmissions were monitored.

2765. The Defence maintains that the Liberian and RUF codes differed and that the radio operators in Liberia were not in possession of the RUF radio codes in February 1998, citing the evidence of Dauda Aruna Fornie.<sup>6105</sup> The Defence submits that Fornie testified that “the Liberians were only given the RUF radio code when he took the code to them on Bockarie’s second visit, later in 1998”. The Trial Chamber has reviewed the evidence cited and notes that the witness testified that he brought new radio codes to Base 1 during this visit to Monrovia in mid-1998 because they, together with the frequencies, were changed every two or three months.<sup>6106</sup> This evidence does not in itself preclude the possibility that the Liberians had the radio codes in February 1998. It is therefore irrelevant that the Liberian codes were different. Furthermore, the Trial Chamber recalls its finding that the codes were necessary for purposes of security and confidentiality, but that the codes were not necessary for communication to take place.<sup>6107</sup>

2766. The Trial Chamber notes that communications were restricted between the Liberian and Sierra Leonean radio stations.<sup>6108</sup> However, the evidence shows that this was a matter of protocol rather than a technical barrier.<sup>6109</sup> Nevertheless, the Trial Chamber notes that a communication from Base 1 to Gullit’s forces in Kono rather than RUF headquarters would not have been in accordance with the protocol. In light of the circumstances suggested by the message, namely concern over the imminent withdrawal from Kono by Gullit, the Trial Chamber is of the view that a direct communication might well have been undertaken due to

<sup>6103</sup> Operational Support: Communications, RUF and NPFL Radio Codes and Communications.

<sup>6104</sup> Operational Support: Communications, RUF and NPFL Radio Codes and Communications.

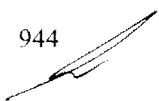
<sup>6105</sup> Defence Final Trial Brief, para. 1497, in which it refers to the testimony of Dauda Aruna Fornie, Transcript 2 December 1998, p. 21516.

<sup>6106</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21516-21519.

<sup>6107</sup> Operational Support: Communications, RUF and NPFL Radio Codes and Communications.

<sup>6108</sup> Operational Support: Communications, RUF and NPFL Radio Codes and Communications.

<sup>6109</sup> Operational Support: Communications, RUF and NPFL Radio Codes and Communications.





the urgency of the situation and does not find that this breach of protocol raises a doubt as to the credibility of the allegation.

2767. The Trial Chamber does not find dispositive Mohamed Kabbah's evidence that he did not see or hear any message from Charles Taylor ordering the RUF to hold Kono or any radio message that could have come from Charles Taylor whereby orders were given about operations in Kono or the retreat from Freetown. First, the communication in question, asking why the troops were retreating from Kono, does not fall into any of the categories of message he was cross-examined on, even if it had clearly emanated from the Accused. Second, the message was said to have come from Sunlight, and the Trial Chamber does not agree with the Defence's assertion that Kabbah treated Sunlight as an extension of Taylor. There are instances in Kabbah's testimony where he makes a clear distinction between messages emanating from Sunlight and from Taylor.<sup>6110</sup> Finally, notwithstanding the foregoing, the evidence of one radio operator that he never saw a particular message is not conclusive of the fact that it was not transmitted, particularly in view of the fact that it was allegedly sent to a radio station in Kono, not Buedu or Kailahun where Kabbah was based during this period.

2768. While the testimony of TF1-516 with regard to the message received from Base 1 is uncorroborated, the Trial Chamber notes its finding that TF1-516 is a generally credible witness.<sup>6111</sup> In light of the foregoing considerations, the Trial Chamber does not find that the arguments of the Defence raise doubts as to the credibility of his testimony with regard to this message.

### Findings

2769. In light of the foregoing, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that when the AFRC/RUF forces were pulling out of Kono during the Intervention, the radio station of Benjamin Yeaten in Monrovia, intercepted a radio transmission between AFRC/RUF radio stations about the withdrawal and intervened to ask why the forces were withdrawing.

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<sup>6110</sup> See for example Mohamed Kabbah, Transcript 16 September 2008, p. 16365.

<sup>6111</sup> Credibility Assessment, TF1-516, paras 275-284.

## 2. Operations in Kono<sup>6112</sup> (Early 1998)

### Submissions of the Parties

2770. The Prosecution alleges that when Johnny Paul Koroma was retreating from Freetown after the Intervention, the Accused told him to secure Kono, following which Koroma gave orders to all the fighters and commanders to go and capture Kono. After the initial attempt was unsuccessful, the Accused again instructed Koroma to try to capture Kono, which the forces then did.<sup>6113</sup> The Prosecution submits that the instruction was given in order to enable the Accused to send a helicopter from Monrovia to pick up Koroma and his family.<sup>6114</sup> The Prosecution alleges that, consistent with the earlier instruction from the Accused, Koroma held a meeting after he arrived in Koidu Town and talked about the necessity to hold the ground in Kono.<sup>6115</sup>

2771. The Prosecution also submits that the Accused instructed Bockarie to hold Kono because it was one of the prominent diamond mining areas of the country. Bockarie passed this message on repeatedly, making it clear that securing Kono would enable the RUF to obtain materiel and other supplies from Taylor. Finally, the Prosecution alleges that the instruction to hold Kono was reiterated by the Accused at a secret meeting of AFRC/RUF fighters through his representatives Ibrahim Bah and Daniel Tamba (a.k.a. Jungle).<sup>6116</sup>

2772. The Defence challenges the allegation that the Accused instructed Johnny Paul Koroma to attack on Koidu Town based on the fact that the key witness to the alleged conversation, Samuel Kargbo, admitted that he did not actually hear the conversation between Taylor and Koroma and on Mohamed Kabbah's evidence that he did not hear or see any message from Taylor telling the RUF to hold Kono.<sup>6117</sup> The Defence denies that the

<sup>6112</sup> The Trial Chamber notes that witnesses also refer to Koidu Town, the principal town in Kono District as (most frequently) Kono and (occasionally) Sefadu. See for example Perry Kamara, Transcript 5 February 2008, pp. 3102, 3163 where he explains that although people use all the names, Kono is more frequent. See also Alice Pyne, 19 June 2008, p. 12238; TF1-263, Transcript 8 October 2008, p. 18054.

<sup>6113</sup> Prosecution Final Trial Brief, paras 145, 151, 359.

<sup>6114</sup> Prosecution Final Trial Brief, paras 145, 151, 359.

<sup>6115</sup> Prosecution Final Trial Brief, paras 152.

<sup>6116</sup> Prosecution Final Trial Brief, paras 153-154, 359.

<sup>6117</sup> Defence Response to Prosecution Final Trial Brief, para. 29.



Accused communicated with Johnny Paul Koroma via satellite phone at any time until 1999.<sup>6118</sup>

2773. The Defence also denies that Taylor instructed Bockarie to hold Kono.<sup>6119</sup>

### Evidence

#### Prosecution Witness Samuel Kargbo

2774. Witness Samuel Kargbo, an AFRC Supreme Council member,<sup>6120</sup> testified that during the Intervention, he travelled from Kono and drove Johnny Paul Koroma, his family members, radio man, Banjah Marrah, and his bodyguards from Fogbo to Masiaka, where they stayed part of the night, and then to Magbonkineh via Makeni.<sup>6121</sup> Upon their arrival in Magbonkineh, Koroma used a satellite phone to make two calls. The first call was to the BBC, telling them that he was “up the hills” in Freetown and would soon return to the city. Kargbo stated that Koroma did not mention Operation Pay Yourself in this call.<sup>6122</sup> The second call was to Taylor requesting him to send a helicopter to pick them up.<sup>6123</sup> Taylor told Koroma that a helicopter could not land in Magbonkineh on account of ECOMOG jet raids, and so Koroma decided that the group should move to Kabala. The witness explained that he could hear Koroma speaking but not Taylor.<sup>6124</sup>

2775. Kargbo then travelled with Koroma and his group to a village close to the Guinean border near Kabala, but Koroma’s wife was recognised and so the group returned to the outskirts of Magbonkineh in order to avoid detection.<sup>6125</sup> At that point, Koroma told the

<sup>6118</sup> Defence Final Trial Brief, para. 860.

<sup>6119</sup> Defence Response to Prosecution Final Trial Brief, paras 29-30.

<sup>6120</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10439, 10448, 10450; Exhibit P-058, “Excerpts from the Sierra Leone Gazette No. 52, 4 September 1997”, ERN 7703-7704.

<sup>6121</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10484-10486.

<sup>6122</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10486-10487; Transcript 3 June 2008, p. 10793.

<sup>6123</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10487.

<sup>6124</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10486-10487, 10491. In the witness’s first account of this call he testified that afterwards, Koroma told them they were going to wait for the helicopter (Samuel Kargbo, Transcript 21 May 2008, p. 10487). In the second account, Kargbo testified that Taylor told Koroma that it was not possible for the helicopter to come to Magbonkineh because of the Alpha Jet raids by ECOMOG and that Johnny Paul Koroma therefore decided to move to Kabala (Samuel Kargbo, Transcript 21 May 2008, p. 10491). On cross-examination, Kargbo stated that after this phone call with Taylor, Koroma told him that the helicopter would not be possible and they, Koroma and Kargbo, then decided to go to the Liberian border through Kailahun (Samuel Kargbo, Transcript 2 June 2008, p. 10753).

<sup>6125</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10491-10494.

witness that he had spoken to Taylor again who had instructed him to capture Kono<sup>6126</sup> as it would be easier to collect them via a helicopter from there.<sup>6127</sup> Kargbo testified that on Koroma's orders he, Akim, Rambo and Superman then went back to Kabala to call all the RUF and AFRC commanders in the villages there to a meeting in Kabala Town. At the meeting they made arrangements for the attack on Kono and thereafter "everyone" headed for Makeni, where they joined other AFRC and RUF fighters and assembled as a team to advance on Kono.<sup>6128</sup> Superman, Akim Turay and Hassan Papa Bangura were in the advance team. Koroma was in the middle group with the witness and SAJ Musa and Issa Sesay's group was at the back.<sup>6129</sup>

2776. Kargbo testified that after the initial attack on Kono failed because they had met resistance at the Mamudu checkpoint, he returned with Koroma and others to Makeni, where Koroma contacted Taylor via satellite phone. Taylor reiterated the instruction to capture Kono and said that if Koroma did so, Taylor would send a helicopter for Koroma and his family. Kargbo said that he knew about this conversation because he was close to Koroma although he did not hear what Taylor was saying. At that point, the credit in Koroma's satellite phone ran out.<sup>6130</sup> Kargbo gave evidence that following this phone call, Koroma told *inter alia* Superman and the witness to go talk to the AFRC/RUF troops to convince them to advance again on Kono. They did so and this time the Junta fighters were successful.<sup>6131</sup> The witness noted that Johnny Paul Koroma did not disclose to the troops that a helicopter would be picking him up.<sup>6132</sup>

2777. One or two weeks after Koidu Town was captured, Koroma decided to travel to Kailahun when Superman delivered a radio message from Bockarie in Buedu to the effect that Bockarie had spoken with Taylor, who had instructed that Koroma and his group should travel to Kailahun, since it would not be possible to land a helicopter in Koidu Town on

<sup>6126</sup> The Trial Chamber notes that Kargbo tends to use Kono and Koidu interchangeably. When asked directly what he means by Kono, he refers to the whole District but when then asked where the fighters recaptured, he says Koidu Town despite having referred to it as Kono (Samuel Kargbo, Transcript 21 May 2008, pp. 10499-10500).

<sup>6127</sup> The witness gave contradictory testimony as to whether the Accused called Koroma (Samuel Kargbo, Transcript 21 May 2008, p. 10492) or vice versa (Samuel Kargbo, Transcript 21 May 2008, p. 10494) on this occasion.

<sup>6128</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10494-10496.

<sup>6129</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10496, 10499.

<sup>6130</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10496-10497.

<sup>6131</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10497-10498.

<sup>6132</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10497; Transcript 22 May 2008, pp. 10511-10512.

account of the jet raids. Kargbo testified that Koroma could not contact Taylor himself using his satellite phone since he had no credit after the last call with Taylor and he did not possess a radio set.<sup>6133</sup>

2778. Koroma accordingly convened a meeting of the AFRC and RUF high command at which he announced that he was going to meet Taylor in Monrovia but would be back. He ordered the fighters to “hold the ground” in his absence.<sup>6134</sup> The witness testified that he and Rambo were appointed to accompany Koroma to Kailahun together with Issa Sesay and Mike Lamin.<sup>6135</sup>

2779. Kargbo testified that they arrived in Buedu in the last week of February or early March. The next day, Sam Bockarie met Koroma in the witness’s presence and told him that Charles Taylor had told him that he would send vehicles to pick Koroma up. About one or two weeks into March, four or five white Land Rovers arrived without registration plates. The witness saw Colonel Jungle and a few SS men in blue combat uniforms as well as some men in civilian clothes. These men were subsequently introduced to him by Bockarie as Jungle, General Ibrahim, Mohamed Sekou Toure and Abu Keita. As they were preparing to leave, the witness then described an attack by the RUF commanders on Koroma’s party, including himself, during which he testified that he was flogged. They told Koroma to hand over the diamonds he was planning to take to Liberia. Following the attack, Kargbo testified that he was put into a dungeon with Koroma’s entire family, with the exception of Koroma himself, and Moses Kabia and his family, and their diamonds were taken from them.<sup>6136</sup> Issa Sesay later told Kargbo that the attack had been provoked when Moses Kabia (a.k.a. Rambo) had started complaining that Koroma’s party was planning to escape to Liberia with diamonds.<sup>6137</sup> Upon his subsequent release, Kargbo was told that the vehicles and men had returned to Liberia and that Bockarie had accompanied them.<sup>6138</sup>

<sup>6133</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10500-10501. On cross-examination, the witness explained that although they had two radio handsets with them, one belonging to Johnny Paul Koroma’s radio operator Banjah Marrah and Kargbo’s own, they stopped functioning as they reached Masiaka/Makeni because Nigerian forces had tampered with the receiver (Samuel Kargbo, Transcript 3 June 2008, pp. 10791-10792).

<sup>6134</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10501.

<sup>6135</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10501-10504.

<sup>6136</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10520, 10523-10540.

<sup>6137</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10530-10531.

<sup>6138</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10542-10543, 10618-10619.

Prosecution Witness TF1-371

2780. Witness TF1-371, a senior RUF member, testified that he retreated from Freetown with Johnny Paul Koroma and the Junta leaders after the Intervention.<sup>6139</sup> After a meeting in Masiaka to discuss, *inter alia*, the location of a new AFRC command post the group proceeded to Makeni. Koroma had already moved to his home village on the Makeni-Kabala highway.<sup>6140</sup> In Makeni, a second meeting was convened at Teko barracks at which Kailahun Town in Kailahun District was chosen as the new AFRC headquarters. A convoy was then organised to head for Kailahun via Kono District.<sup>6141</sup> The witness testified that he stayed in both Masiaka and Makeni for a couple of days.<sup>6142</sup>

2781. When the first attack on Koidu Town failed due to heavy resistance on the outskirts of Koidu, a number of the Junta commanders, including the witness and Issa Sesay, decided to retreat but others, one of whom was Koroma's Chief Security Officer Rambo and "one called Papa", remained in the outskirts of Koidu and reorganized for a second attack.<sup>6143</sup> During the retreat from Koidu, but "halfway to Makeni", someone from the frontline came and informed the retreating commanders that Koidu Town had been captured. Johnny Paul Koroma was with the witness when he entered Koidu.<sup>6144</sup>

2782. After a short time in Koidu, the witness moved with Johnny Paul Koroma, his securities, Moses Kabia (a.k.a CSO Rambo), Issa Sesay, Morris Kallon and most of the AFRC ministers to Kailahun, arriving some time in mid-March.<sup>6145</sup> The witness testified that the order to take Johnny Paul Koroma to Kailahun Town came from Sam Bockarie.<sup>6146</sup> Throughout the journey from Kono to Kailahun, they had a VHF radio on which they were communicating with Bockarie.<sup>6147</sup>

<sup>6139</sup> TF1-371, Transcript 28 January 2008, pp. 2348-2349 (CS).

<sup>6140</sup> TF1-371, Transcript 28 January 2008, pp. 2350-2352 (CS).

<sup>6141</sup> TF1-371, Transcript 28 January 2008, pp. 2354-2356 (CS).

<sup>6142</sup> TF1-371, Transcript 28 January 2008, pp. 2352; 2354 (CS).

<sup>6143</sup> TF1-371, Transcript 28 January 2008, pp. 2357-2358 (CS).

<sup>6144</sup> TF1-371, Transcript 28 January 2008, pp. 2358-2359, 2361 (CS).

<sup>6145</sup> TF1-371, Transcript 28 January 2008, pp. 2361-2363 (CS).

<sup>6146</sup> TF1-371, Transcript 28 January 2008, p. 2361 (CS).

<sup>6147</sup> TF1-371, Transcript 28 January 2008, p. 2363 (CS).

2783. Shortly after they arrived in Buedu, the witness saw Ibrahim Bah who told him that he was there on Taylor's orders.<sup>6148</sup> The witness described how, while Bah was in Buedu, there was a disagreement between Moses Kabia and Johnny Paul Koroma's wife, as a result of which Kabia told the witness, Issa Sesay and Morris Kallon that Johnny Paul Koroma was intending to escape with diamonds.<sup>6149</sup> Sam Bockarie ordered that the diamonds be taken from from Koroma.<sup>6150</sup> Bockarie then travelled with Ibrahim Bah back to Monrovia to take the diamonds to Taylor.<sup>6151</sup> When Bockarie returned from Monrovia, Daniel Tamba (a.k.a. Jungle)<sup>6152</sup> was accompanying him.<sup>6153</sup>

2784. When Exhibit D-008 was put to the witness on cross-examination, TF1-371 confirmed that "Big Brother"<sup>6154</sup> is Charles Taylor but he did not know who "Benjamin"<sup>6155</sup> was.<sup>6156</sup> "Bra"<sup>6157</sup> is Sam Bockarie.<sup>6158</sup> TF1-371 then testified that the Adjutant General, Rashid Sandi, who was with Bockarie at the time, was trying to explain about the meeting that they had with Benjamin Yeaten at Koindu. The reference to an instruction "to sneak with J.P.Koroma to Monrovia to avoid suspicion",<sup>6159</sup> comes from Rashid Sandi's report about the meeting with Benjamin Yeaten in Koindu and was to be done to avoid the alarm of ECOMOG who were still in the axis on the "Lofa, Gbarnga and Monrovia" highway.<sup>6160</sup> TF1-371 agreed<sup>6161</sup> that they later decided to send Issa Sesay on the mission to Burkina Faso for "logistical materials".

<sup>6148</sup> TF1-371, Transcript 28 January 2008, pp. 2366-2367 (CS).

<sup>6149</sup> TF1-371, Transcript 28 January 2008, p. 2367 (CS).

<sup>6150</sup> TF1-371, Transcript 28 January 2008, p. 2368 (CS).

<sup>6151</sup> TF1-371, Transcript 28 January 2008, pp. 2370-2371 (CS).

<sup>6152</sup> The witness called this person "Denis Tamba" but given the similarity of this name to Daniel Tamba and the witness's use of the pseudonym "Jungle", the Trial Chamber is satisfied that the witness is referring to Daniel Tamba.

<sup>6153</sup> TF1-371, Transcript 28 January 2008, p. 2372 (CS).

<sup>6154</sup> With reference to Exhibit D-008, "Unofficial Translation – Verbatim Report on a Recorded Discussion between Cpl. Foday Sankoh and his Cohorts on his Return from Detention", ERN 12959 and ERN 12960.

<sup>6155</sup> With reference to Exhibit D-008, "Unofficial Translation – Verbatim Report on a Recorded Discussion between Cpl. Foday Sankoh and his Cohorts on his Return from Detention", ERN 12959. The witness was read the passage "this...coincided with Benjamin leaving for Monrovia also".

<sup>6156</sup> TF1-371, Transcript 1 February 2008, pp. 2940, 2942, 2944 (CS).

<sup>6157</sup> With reference to Exhibit D-008, "Unofficial Translation – Verbatim Report on a Recorded Discussion between Cpl. Foday Sankoh and his Cohorts on his Return from Detention", ERN 12959 and ERN 12960.

<sup>6158</sup> TF1-371, Transcript 1 February 2008, pp. 2940, 2943 (CS).

<sup>6159</sup> With reference to Exhibit D-008, "Unofficial Translation – Verbatim Report on a Recorded Discussion between Cpl. Foday Sankoh and his Cohorts on his Return from Detention", ERN 12959.

<sup>6160</sup> TF1-371, Transcript 1 February 2008, p. 2941 (CS).

<sup>6161</sup> With reference to Exhibit D-008, "Unofficial Translation – Verbatim Report on a Recorded Discussion

2785. TF1-371 also testified that after one of the trips to Monrovia in 1998, Bockarie came back excited because he had made contact with Taylor and confirmed that the diamonds that had been taken from Johnny Paul Koroma were in Taylor's possession.<sup>6162</sup> At a meeting attended by the witness after Bockarie's return, Bockarie mentioned that he had received a "specific instruction" from Taylor that the RUF should "ensure that we maintain Kono". The witness explained that, after that, Bockarie intensified the mining in Kono and Tongo Fields "so as to enable [him] to pay for those materials". He stated that Kono had always been the "bread basket" for the Junta – the only source of sustaining the armed rebellion through the diamond products.<sup>6163</sup>

Prosecution Witness Isaac Mongor

2786. Witness Isaac Mongor, an RUF senior commander,<sup>6164</sup> testified that he was amongst those who fled Freetown during the Intervention.<sup>6165</sup> The witness testified to a pre-existing plan made in Freetown during the Junta period for Johnny Paul Koroma to visit Taylor in Monrovia.<sup>6166</sup> During the retreat from Freetown, he received a radio message from Johnny Paul Koroma to go to Makeni. Upon his arrival, he met a number of the AFRC/RUF commanders like Superman, Gullit, Issa Sesay and Five-Five. Koroma was not there, however, as he was in his village, Magbonkineh, which is situated around 1.5 miles from Binkolo.<sup>6167</sup>

2787. While in Makeni, Mongor received an instruction from Sam Bockarie, telling him to bring Johnny Paul Koroma to Kailahun and to stay with him in the meantime to ensure that nothing happens to him. When the witness met with Koroma in his village, he explained Bockarie's order and they agreed that it was time to execute the plan to visit Taylor; Koroma told the witness that he would move to Buedu in order to enable him to cross over into

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between Cpl. Foday Sankoh and his Cohorts on his Return from Detention", ERN 12957.

<sup>6162</sup> TF1-371, Transcript 28 January 2008, p. 2384 (CS).

<sup>6163</sup> TF1-371, Transcript 28 January 2008, pp. 2384-2385 (CS).

<sup>6164</sup> See for example: Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March 2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>6165</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5733-5735.

<sup>6166</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5717-5718, 5725-5726.

<sup>6167</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5735-5736.

Liberia easily because it was so close. The witness then returned to Makeni to organise the attack on Koidu Town with Superman.<sup>6168</sup>

2788. Mongor was one of those at the front of the convoy heading to Koidu Town. He testified that he told Superman that it would be better for him to stay with “the Pa”, Koroma, while the witness led the advance. During the advance, the AFRC/RUF fighters were ambushed, which forced some of them to retreat with Johnny Paul Koroma to Makeni. Mongor was one of those who did not retreat, but continued fighting and managed to successfully enter Koidu Town. He stated that he was later told that Johnny Paul Koroma had retreated so he went back to Makeni and brought Koroma to Koidu Town.<sup>6169</sup> A while after they arrived in Koidu Town, the BBC announced that Koroma was there so they decided to send him to Kailahun straightaway. The witness testified that he therefore cleared the road to Gandorhun before sending for Koroma who then advanced with Issa Sesay, Akim Turay, Leatherboot and some other commanders to Kailahun.<sup>6170</sup> Prior to leaving for Buedu, Johnny Paul Koroma restructured the AFRC/RUF troops in Koidu Town and informed the commanders that he had spoken to Taylor and was going to meet him in Monrovia.<sup>6171</sup>

2789. Mongor said that Sam Bockarie gave the order to hold Kono. He thought that the order was given “because it was in Kono we did our mining. It was there we got our diamonds from”.<sup>6172</sup>

#### Prosecution Witness Perry Kamara

2790. Witness Perry Kamara, an RUF radio operator,<sup>6173</sup> who was in Makeni in February 1998,<sup>6174</sup> testified that after the Intervention, the main RUF commanders, including Johnny Paul Koroma, escaped Freetown and came to Makeni.<sup>6175</sup> Kamara attended the Junta meeting in the Flamingo area at which the Kono attack was organised. The meeting had

<sup>6168</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5735-5737.

<sup>6169</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5737-5738.

<sup>6170</sup> Isaac Mongor, Transcript 11 March 2008, p. 5738.

<sup>6171</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5740-5742.

<sup>6172</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5744-5745.

<sup>6173</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>6174</sup> Perry Kamara, Transcript 5 February 2008, p. 3094.

<sup>6175</sup> Perry Kamara, Transcript 5 February 2008, pp. 3094-3095.

been established on the orders of Bockarie who had sent a radio message, to which the witness had been privy, instructing them to call an immediate meeting to discuss how to get Johnny Paul Koroma from Makeni to Buedu, how to feed the fighters in the jungle and how to organise themselves for the move from Makeni to Kono. The witness testified that he left the meeting early but was told later back at Teko Barracks by Gullit and Morris Kallon that they would be attacking Kono.<sup>6176</sup>

2791. After the meeting, the group divided into three, with the first group consisting of RUF, AFRC and STF forces headed by Superman, followed by Issa Sesay and Johnny Paul Koroma in the second group. The witness was in the third group.<sup>6177</sup> The convoy travelled through Magburaka, Matotoka, Makali, Sewafe and arrived at Bumpe from where they entered Koidu Town. Each group had a radio operator and while the troops were advancing, Superman kept them informed of progress.<sup>6178</sup>

2792. Kamara, who was working for Superman,<sup>6179</sup> said that immediately after the Junta fighters captured Koidu Town, he monitored and wrote down a radio message from Sam Bockarie to the RUF commanders Issa Sesay and Superman, telling them that he had consulted with Taylor in Liberia and said “as long as we have Kono, we will not fail in taking over the rest of Sierra Leone again”. The witness explained, “because we already knew that Kono was one of the prominent diamond mining areas in Sierra Leone”.<sup>6180</sup> Bockarie said that Taylor had told him that he should not lose Kono because from there he could get diamonds which he could trade with Taylor for ammunition. To that end, Bockarie instructed Issa Sesay to appoint Superman as commander and Morris Kallon as Deputy in Kono while Sesay was to escort Koroma to Buedu. Bockarie told them to “hold fast to the ground” and “not allow to lose the ground”.<sup>6181</sup> Kamara also testified that Bockarie sent a message telling Superman that “he had finally had an arrangement with Mr Taylor because we were now in Kono and we should be able to take care of Kono”.<sup>6182</sup> The witness testified that Bockarie repeated the message to hold Kono “almost all the time but not every day”,

<sup>6176</sup> Perry Kamara, Transcript 5 February 2008, pp. 3095-3098.

<sup>6177</sup> Perry Kamara, Transcript 5 February 2008, pp. 3098-3100.

<sup>6178</sup> Perry Kamara, Transcript 5 February 2008, pp. 3100-3101.

<sup>6179</sup> Perry Kamara, Transcript 5 February 2008, p. 3103.

<sup>6180</sup> Perry Kamara, Transcript 5 February 2008, p. 3102.

<sup>6181</sup> Perry Kamara, Transcript 5 February 2008, pp. 3102, 3142.

<sup>6182</sup> Perry Kamara, Transcript 5 February 2008, p. 3105.



saying that mining in Kono was very important for the RUF and would enable them to get arms and ammunition, food and drugs from Charles Taylor.<sup>6183</sup>

Prosecution Witness Alimamy Bobson Sesay

2793. Witness Alimamy Bobson Sesay, an AFRC member<sup>6184</sup> and officer<sup>6185</sup> testified that he was part of the force retreating from Freetown under the command of Hassan Papa Bangura (a.k.a. Bomb Blast).<sup>6186</sup> When he arrived in Masiaka, he met the ‘most important commanders’ such as Johnny Paul Koroma, who was still in charge of the RUF and SLA command, as well as Issa Sesay, SAJ Musa, SFY Koroma, Mike Lamin and Superman. The witness also saw a number of commanders who had come from Kono District, including Samuel Kargbo. They said that when they heard that the AFRC had been dislodged from Freetown, they had come to collect Johnny Paul Koroma.<sup>6187</sup>

2794. Before leaving Masiaka, Koroma announced Operation Pay Yourself over the international media, telling Robin White (of the BBC) that he was still in the Peninsula and did not have enough money to pay his soldiers.<sup>6188</sup> Koroma then moved towards Makeni because he said he was moving to his village, Magbonkineh, which lies shortly after Binkolo.<sup>6189</sup>

2795. After an expedition to Bo to rescue some troops who were trapped there, the witness testified that he moved on to Makeni where he stayed for two days before moving on to Kabala where he met SAJ Musa and Superman. The witness stated that he did not see Johnny Paul Koroma in Kabala.<sup>6190</sup> In Kabala, the witness attended a meeting of RUF and SLA senior commanders, including Superman, convened by SAJ Musa in which he announced:

Gentlemen, now the ECOMOG have pushed us out of Freetown and now we've got information that Gullit ha[s] withdrawn from Kono. So it would be good for us, the troops, together with the RUF combined forces, to

<sup>6183</sup> Perry Kamara, Transcript 5 February 2008, p. 3135.

<sup>6184</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7859-7867, 7869; 28 April 2008, pp. 8684, 8689.

<sup>6185</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7865-7866.

<sup>6186</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7929-7931.

<sup>6187</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7930-7933.

<sup>6188</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7934.

<sup>6189</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7935.

<sup>6190</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7937-7938.





go back and recapture Kono so Kono will serve as a strong base, since it [is] a diamondiferous area, and we will serve as a force to reckon with by the Government of Sierra Leone and the international community.

2796. Musa then instructed Superman and Hassan Papa Bangura to mobilise forces.<sup>6191</sup>

2797. The witness then saw Hassan Papa Bangura, Superman and their respective soldiers mount radio sets and contact Mosquito. Bockarie ordered the witness and Hassan Papa Bangura to collect Johnny Paul Koroma from his village near Binkolo and head towards Kono. They also informed Bockarie that SAJ Musa had mobilised troops to march on Kono.<sup>6192</sup> A convoy with SAJ Musa, Superman, Hassan Papa Bangura and other commanders moved to Johnny Paul Koroma's village where they met him, together with his wife, CSO Rambo (a.k.a Moses Kabia), Akim Turay, and Samuel Kargbo (a.k.a Jungler). Koroma reinforced what SAJ Musa had said and re-confirmed that the troops should prepare to move towards Kono because it is a diamondiferous area and he wanted the troops to build a strong junta base in Kono. Johnny Paul Koroma then moved with the group back to Makeni. The witness testified that, at this point, Koroma was in command of the SLA and RUF troops.<sup>6193</sup>

2798. In Makeni, Bobson Sesay witnessed Koroma brief the troops, telling them that they should recapture Kono and establish a strong Junta base there against ECOMOG attacks. After that, the troops reorganised and arranged a fighting force to move ahead with Koroma to Kono; Hassan Papa Bangura was in charge of the SLA and Superman was in charge of the RUF. Johnny Paul Koroma was in overall charge of the advance on Kono.<sup>6194</sup>

2799. According to the witness, the advance on Kono began in early March 1998. The troops moved as far as Sewafe, around 22 miles outside Koidu Town, without meeting resistance from ECOMOG. The entire convoy, including Johnny Paul Koroma, then moved to Bumpe from where they advanced on Koidu Town. Close to Koidu Town, near Five-Five Spot, the troops encountered a heavy attack from the Kamajors and hastily withdrew to Bumpe. At that point, Johnny Paul Koroma withdrew because he had been detected by the Kamajors.<sup>6195</sup> After Koroma left, Issa Sesay, who was then in command, took out his pistol

<sup>6191</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7939-7940.

<sup>6192</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7940-7941; Transcript 18 April 2008, p. 7975.

<sup>6193</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7941-7943.

<sup>6194</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7943.

<sup>6195</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7943-7946.

and shot one of the soldiers and told the troops to recapture Koidu Town, which the witness, along with Hassan Papa Bangura, RUF Rambo and Superman successfully did.<sup>6196</sup>

2800. When Koidu Town had been captured, Superman went to look for Johnny Paul Koroma. He was unable to find him in Masingbi so a group including the witness went to look in Makeni, onto Kabala then onto Magbonkineh where they picked up *inter alia* Koroma and brought him to Koidu Town and then on to a village close to Gandorhun between Woama and Tankoro.<sup>6197</sup>

2801. In around February or March 1998, shortly after the AFRC/RUF re-took Koidu Town, Johnny Paul Koroma held a meeting in the village near Gandorhun at which he declared that Kono should serve as a strong base for the Junta forces. He stated that he was going to see Taylor in Liberia, for the purpose of securing “logistics”, including arms, ammunition and food so that they could continue to “hold the ground” in Kono because Kono was a diamondiferous area whose control would bring the AFRC/RUF international recognition.<sup>6198</sup> At that same meeting, Koroma announced that he would travel to Burkina Faso and Libya.<sup>6199</sup> Ultimately Issa Sesay, Samuel Kargbo and other RUF/SLA troops escorted Koroma to Kailahun while the witness returned to Koidu Town.<sup>6200</sup>

2802. The witness testified that from 25 May 1997 until he was arrested in June 2000, he never heard any conversation or reference to any conversation between any high-ranking AFRC commanders and Charles Taylor.<sup>6201</sup>

#### Prosecution Witness Foday Lansana

2803. Witness Foday Lansana, (a.k.a. Co Nya) an RUF radio operator,<sup>6202</sup> was in Makeni when the fighting started in Freetown.<sup>6203</sup> A week later, a number of commanders including Johnny Paul Koroma, SAJ Musa and Issa Sesay convened in Makeni where they mobilised themselves in order to go to Kono. Lansana explained that according to Koroma, occupation

<sup>6196</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7946-7947.

<sup>6197</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7947-7950.

<sup>6198</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7950-7952.

<sup>6199</sup> Alimamy Bobson Sesay, Transcript 25 April 2008, p. 8668.

<sup>6200</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7958.

<sup>6201</sup> Alimamy Bobson Sesay, Transcript 25 April 2008, p. 8665.

<sup>6202</sup> Foday Lansana, Transcript 20 February 2008, pp. 4361-4362.

of Kono and Tongo was very important to the junta so he urged Sesay and Superman to ensure that both places were under the supervision or control of the AFRC and RUF forces. He testified that they stayed in Makeni for over a week while the fighting was taking place between Makeni and Kono after which time he travelled to Koidu with Denis Mingo.<sup>6204</sup>

2804. The witness then stayed in Kono with his commander, Denis Mingo, for over a month after it had fallen to the AFRC/RUF junta. He testified that after Kono had been recaptured, Bockarie sent a radio message to Issa Sesay requesting him to escort Johnny Paul Koroma and his staff to Buedu. Later, Bockarie sent another message promoting Denis Mingo to battle group commander. He said that Superman should be in charge of any fighting between the AFRC and ECOMOG in Kono. He should ensure that he “consolidates” the area and fortify it if possible.<sup>6205</sup>

#### Prosecution Witness TF1-375

2805. Witness TF1-375, an RUF fighter,<sup>6206</sup> testified that around one month after the Intervention, there were two attempts to re-take Koidu Town from the Kamajors. The witness described the advance of troops in terms of three ‘teams’. Isaac Mongor and RUF Rambo were in the advance team; they were “moving along with Johnny Paul’s [team]”. There was then a middle team and a back team. The first attack was led by RUF Rambo and Isaac Mongor’s advance team but it was unsuccessful because the troops met resistance from the Kamajors. Their troops then retreated to Bumpe where they met the witness’s troops which were under the control of Superman. Johnny Paul Koroma was also in Bumpe at this point. In Bumpe, a fresh attack was planned under Superman’s command which commenced about two to three hours later and was ultimately successful.<sup>6207</sup>

#### Prosecution Witness TF1-539

<sup>6203</sup> Foday Lansana, Transcript 21 February 2008, p. 4498.

<sup>6204</sup> Foday Lansana, Transcript 21 February 2008, pp. 4498-4499.

<sup>6205</sup> Foday Lansana, Transcript 21 February 2008, pp. 4499-4500.

<sup>6206</sup> TF1-375, Transcript 23 June 2008, p. 12485.

<sup>6207</sup> TF1-375, Transcript 23 June 2008, pp. 12502-12504, 12508-12509.

2806. Witness TF1-539, a member of various fighting groups,<sup>6208</sup> testified that he retreated from Freetown after the Intervention, arriving in Fogbo, from where he proceeded to Masiaka and Makeni. From Makeni, he travelled with a number of commanders, including Johnny Paul Koroma, Issa Sesay, Isaac Mongor and others to Kono. At Kokuima, they came up against resistance from Kamajors and retreated to Bumpe where they re-organised. Superman and Rambo mounted an ambush against the Kamajors which enabled the RUF to push into Koidu Town.<sup>6209</sup>

Prosecution Witness TF1-585

2807. Witness TF1-585, an RUF radio operator,<sup>6210</sup> testified that when she had reached Buedu after their retreat from Kenema, but before Johnny Paul Koroma arrived there, she saw Sam Bockarie talking on the satellite phone. After the conversation, Bockarie came to eat with Eddie Kanneh and the witness overheard Bockarie explaining to Kanneh that Benjamin Yeaten (a.k.a. “50”) had just given him instructions that they needed Johnny Paul Koroma in Buedu. Bockarie said that Yeaten had told him that his dad, Charles Taylor, had said that he, Taylor, and Sankoh had spoken regarding Johnny Paul Koroma and that Bockarie, should try “by all possible means” to help bring Johnny Paul to Buedu since “they have something for them” although at the time, she did not know what that meant.<sup>6211</sup> Bockarie then said that he was going to instruct Superman to bring Johnny Paul Koroma to Buedu and that, immediately after the meal he went to the radio room to do so. The witness confirmed that Bockarie called Superman and that “Superman brought him. Johnny Paul came to Buedu”.<sup>6212</sup> Later in her testimony, the witness testified that she was in the radio room when Bockarie sent the instruction to Superman in Kono District.<sup>6213</sup>

2808. TF1-585 testified that she understood that later, when Issa Sesay “raided” Johnny Paul Koroma and took his diamonds, the “something for them” had been diamonds. She witnessed Issa Sesay telling Bockarie in Bockarie’s bedroom, “you see, the Pa had arrived

<sup>6208</sup> TF1-539, Transcript 9 June 2008, p. 11374 (PS); Transcript, 10 June 2008, p. 11391, 11469-11471; Transcript, 11 June 2008 pp. 11532, 11561-11562.

<sup>6209</sup> TF1-539, Transcript 20 August 2008, pp. 14136-14137, 14139-14140.

<sup>6210</sup> TF1-585, Transcript 5 September 2008, pp. 15589-15592 (PS).

<sup>6211</sup> TF1-585, Transcript 5 September 2008, pp. 15610-15611, 15613-15617; Transcript 8 September 2008, pp. 15641-15642; Transcript 10 September 2008, pp. 15908-15915.

<sup>6212</sup> TF1-585, Transcript 5 September 2008, p. 15616.

<sup>6213</sup> TF1-585, Transcript 8 September 2008, pp. 15641-15642, 15646.

and had not wanted to hand over the diamonds, so if we had not raided him he wouldn't have handed over the diamonds to us". Sesay said that Koroma had wanted to escape with the diamonds to Monrovia.<sup>6214</sup>

2809. TF1-585 recalled that about two or three weeks after Johnny Paul Koroma and his wife arrived in Buedu, she heard gunshots into the air for over 30 minutes so they ran into the bush. After a few hours, they returned and saw bullet holes in Bockarie's house but Johnny Paul Koroma and his wife were not there. The witness was told that Koroma was in Kangama and the following day they took his wife, Makuta, to him.<sup>6215</sup> The witness stated that during the raid, they took Johnny Paul Koroma's diamonds, his foreign currencies and "all the things they had brought from Freetown". TF1-585 described it as "an arrangement between Issa Sesay and Sam Bockarie" explaining that it had been Issa Sesay who had carried out the operation and that Bockarie had had little to do with it; he had been at the old school building while the raid was being carried out.<sup>6216</sup>

2810. On cross-examination, TF1-585 testified that the reason why Sesay attacked Johnny Paul Koroma was that "Rambo"<sup>6217</sup> told Sam Bockarie that Johnny Paul Koroma had come with a lot of diamonds and he "wanted to hide to go to Monrovia".<sup>6218</sup>

#### Prosecution Witness Augustine Mallah

2811. Witness Augustine Mallah, a security officer to Mike Lamin from 1996 to disarmament,<sup>6219</sup> testified that in February 1998 he travelled from Kenema to Buedu with Bockarie after the Intervention and then went to Gandorhun to meet Johnny Paul Koroma, Issa Sesay and Mike Lamin to bring them back to Buedu.<sup>6220</sup> Mallah stated that on his arrival in Buedu, Koroma held a meeting on the veranda of Bockarie's house which *inter alia* the witness, CSO Rambo and Samuel Kargbo attended, in which Koroma told Sam

<sup>6214</sup> TF1-585, Transcript 8 September 2008, pp. 15644-15645.

<sup>6215</sup> TF1-585, Transcript 8 September 2008, p. 15646.

<sup>6216</sup> TF1-585, Transcript 8 September 2008, pp. 15646-15647.

<sup>6217</sup> The witness explained that the Rambo that she was referring to was the one she had been told "had been an ECOMOG before [he] was an SLA" and that she did not know anyone called Boston Flomo (TF1-585, Transcript 10 September 2008, p. 15917).

<sup>6218</sup> TF1-585, Transcript 10 September 2008, p. 15917.

<sup>6219</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20092-200923, 20102-20103; Transcript 13 November 2008, pp. 20209-20210.

<sup>6220</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20189, 20192-20196.

Bockarie that he had been receiving diamonds from the mines in Kono and Tongo. Koroma said that he had not been in touch with Charles Taylor whereas Bockarie was, so he wanted Bockarie to take him and a few other commanders to Monrovia to meet with Charles Taylor with the diamonds so that Taylor would find ways and means by which they could get arms, ammunitions and medicine to continue attacking ECOMOG.<sup>6221</sup>

2812. Mallah testified that Bockarie and the others did not want Koroma to go on the mission to see Taylor so, at this point, Bockarie told Johnny Paul Koroma that he (Bockarie) was now the leader of the RUF and AFRC, that he would not take Koroma and his commanders to Monrovia, and he demanded that Koroma hand over his diamonds. When Koroma tried to resist, he was forced to hand over the diamonds at gunpoint.<sup>6222</sup> Mallah explained that they were afraid that if they gave Koroma more time, he would escape with the diamonds so Bockarie and Issa Sesay were anxious to have them.<sup>6223</sup>

2813. On cross-examination, Mallah testified that he did not know anyone by the name of Ibrahim Bah and that he, therefore, did not know anyone with that name in Buedu at the time the diamonds were taken from Koroma.<sup>6224</sup> Mallah conceded that it was possible that CSO Rambo had told Sesay and others before the meeting about Koroma having diamonds on him but maintained that Koroma also told them in the meeting.<sup>6225</sup>

#### Prosecution Witness Mohamed Kabbah

2814. Witness Mohamed Kabbah (a.k.a. Tourist), an RUF radio operator,<sup>6226</sup> testified that he did not see or hear any message from Charles Taylor ordering the RUF to hold Kono after the AFRC/RUF retreat from Freetown in early 1998, nor did he recall hearing or seeing any radio message that would have come from Charles Taylor whereby orders were given about operations in Kono or any other aspect of the retreat from Freetown.<sup>6227</sup>

<sup>6221</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20194-20195; Transcript 18 November 2008, pp. 20480-20485.

<sup>6222</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20195-20196; Transcript 18 November 2008, p. 20486.

<sup>6223</sup> Augustine Mallah, Transcript 18 November 2008, p. 20487.

<sup>6224</sup> Augustine Mallah, Transcript 18 November 2008, pp. 20481-20482.

<sup>6225</sup> Augustine Mallah, Transcript 18 November 2008, p. 20488.

<sup>6226</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>6227</sup> Mohamed Kabbah, Transcript 16 September 1998, pp. 16338-16339.

The Accused

2815. The Accused testified that the first time he ever met, spoke to or had any kind of dealing with Johnny Paul Koroma was in August 1999. He did not speak to him during the Junta period, by radio or phone.<sup>6228</sup>

2816. When Samuel Kargbo's evidence was put to the Accused, he denied speaking to Johnny Paul Koroma on a telephone or having either a helicopter or any means to rescue Koroma in early 1998. He said that if he had wanted Koroma to go Liberia he would have just driven him across the border and that in any case, there were two Sierra Leonean helicopters.<sup>6229</sup> Furthermore, Taylor denied giving Johnny Paul Koroma any instructions to capture Kono or repeating those instructions when the initial attempt failed.<sup>6230</sup> He denied sending vehicles to Koroma when he had arrived in Buedu, noting that Koroma was arrested shortly after he arrived at Buedu and never left Sierra Leone.<sup>6231</sup>

2817. When presented with Perry Kamara's evidence, the Accused denied any knowledge of messages from Bockarie to his troops re-affirming the importance of the diamond mines in Kono so that diamonds could be traded with Taylor for arms and ammunition, and denied that any such messages came from him.<sup>6232</sup>

Defence Witness Issa Sesay

2818. Witness Issa Sesay, a senior RUF commander,<sup>6233</sup> testified that he was not in Freetown at the time of the Intervention but travelled immediately to Fogbo to meet his wife and child who had been trapped in Freetown. He then drove to Masiaka where all of the main AFRC/RUF commanders were assembling.<sup>6234</sup> He explained that he saw Johnny Paul Koroma there being collected by Samuel Kargbo, who had driven from Kono when he heard news of the Intervention. Koroma was driven by Kargbo to Masiaka, Makeni and onto his

<sup>6228</sup> Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25436-25437; Transcript 23 September 2008, p. 29546.

<sup>6229</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30834-30839.

<sup>6230</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30834-30839.

<sup>6231</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30841-30842.

<sup>6232</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29019-29020.

<sup>6233</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>6234</sup> Issa Sesay, Transcript 7 July 2010, pp. 43953-43954, 43957-43960.



village, Magbonkineh, which is located 10 miles from Makeni.<sup>6235</sup> Sesay testified that after moving south to attack Bo, he returned to Makeni.<sup>6236</sup> At that point, Koroma was not there because he had already left for his village.<sup>6237</sup>

2819. After three days in Makeni, the witness testified that Koroma called a meeting in his village for Honourables and AFRC/RUF commanders, including the witness, Mike Lamin, Isaac Mongor, Superman and 'the Honourables'. At the meeting, Koroma ordered the AFRC/RUF to withdraw to Kono because he was going to withdraw to Bockarie's location in Kailahun. Koroma said that he had spoken to Bockarie who had agreed with the plan, something which Bockarie confirmed during a conversation with the witness when he had contacted Bockarie to report the failed Bo operation. Koroma wanted them to attack Kono because they should not keep running away from ECOMOG. The witness explained that taking Kono was part of the strategy for Johnny Paul Koroma to get to Kailahun. Sesay understood that Koroma wanted to withdraw to Kailahun because he was growing indifferent to his commanders whom he considered uncooperative and who were leaking out information to ECOMOG and the SLPP and therefore considered Kailahun a safer alternative.<sup>6238</sup> Sesay testified that at no point in that meeting did Koroma say that the idea came from Taylor or that he was making plans to visit Taylor, nor had Sesay ever heard that he had such discussions with Bockarie.<sup>6239</sup> Acting on those orders, the troops went and mobilised in Makeni to advance to Kono which they successfully captured from the Kamajors.<sup>6240</sup> The witness confirmed that, at this time, Johnny Paul Koroma, not Bockarie, was in command of the troops in Makeni.<sup>6241</sup>

2820. After Koidu Town had been captured, Superman came saying that he was going to collect Johnny Paul Koroma from his village. At that point, Sesay and others set off to move towards Kono.<sup>6242</sup> Koroma was accompanied by AFRC commanders including Samuel

<sup>6235</sup> Issa Sesay, Transcript 7 July 2010, pp. 43966, 43982.

<sup>6236</sup> Issa Sesay, Transcript 7 July 2010, pp. 43968, 43974, 43980-43981.

<sup>6237</sup> Issa Sesay, Transcript 7 July 2010, p. 43982.

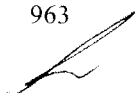
<sup>6238</sup> Issa Sesay, Transcript 7 July 2010, p. 43986; Transcript 8 July 2010, pp. 43990-43994; Transcript 30 July 2010, p. 45139.

<sup>6239</sup> Issa Sesay, Transcript 30 July 2010, pp. 45139-45140.

<sup>6240</sup> Issa Sesay, Transcript 8 July 2010, pp. 43994-43995; Transcript 18 July 2010, pp. 46579-46581.

<sup>6241</sup> Issa Sesay, Transcript 8 July 2010, p. 43994.

<sup>6242</sup> Issa Sesay, Transcript 8 July 2010, pp. 43995, 43997.



Kargbo and Hassan Papa Bangura on his journey to Kono. Koroma arrived in Kono the same evening.<sup>6243</sup>

2821. According to Sesay, on his third day in Kono, Johnny Paul Koroma chaired a meeting at his house in Kimberlite which the witness attended. Koroma encouraged unity between the AFRC and the RUF, saying that he did not want any further conflict between the parties as they were fighting for the same goal, and that it was time for them to stop running away from ECOMOG. He promised the troops that when he got to Kailahun, he would speak to Bockarie and ask him to send ammunition and rations to help the troops to defend Kono.<sup>6244</sup> Sesay and Mike Lamin then moved with Koroma to Kailahun where they arrived in late February or early March.<sup>6245</sup>

2822. Sesay remembered Koroma having a satellite phone during the retreat and was making calls on it in Kailahun but while he was in Kailahun, he ran out of credit. He took the phone to Kangama but it was never topped up.<sup>6246</sup> Sesay confirmed that up to the point Koroma was sent to Kangama, he was in possession of a radio set called Control Station.<sup>6247</sup> Sesay testified that when Koroma was in Masiaka, he spoke to the BBC saying that he was just outside Freetown and would be returning.<sup>6248</sup>

2823. When Samuel Kargbo's evidence was put to Sesay, he explained that he had left Johnny Paul Koroma in Masiaka for his journey to Bo before Koroma travelled to Magbonkineh but in the time that he was travelling with Koroma, Sesay never heard any discussion about him seeking to arrange to be picked up by a helicopter sent by Taylor. Koroma only said that he had phoned Bockarie on the field radio, telling him that he was going to Kailahun.<sup>6249</sup>

2824. Sesay testified that Koroma told the RUF in Buedu that he had diamonds with him which he was planning to take to Ghana to buy fighting materials, a proposal which Bockarie accepted. Moses Kabia (a.k.a. Rambo) then 'leaked' that Koroma was planning to

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<sup>6243</sup> Issa Sesay, Transcript 7 July 2010, pp. 43982-43983; Transcript 8 July 2010, p. 43999.

<sup>6244</sup> Issa Sesay, Transcript 8 July 2010, pp. 43999-44001; Transcript 18 August 2010, p. 46581.

<sup>6245</sup> Issa Sesay, Transcript 18 August 2010, pp. 46583-46584.

<sup>6246</sup> Issa Sesay, Transcript 30 July 2010, p. 45133

<sup>6247</sup> Issa Sesay, Transcript 8 July 2010, p. 44027.

<sup>6248</sup> Issa Sesay, Transcript 18 August 2010, p. 46579.

<sup>6249</sup> Issa Sesay, Transcript 30 July 2010, pp. 45135-45137.

flee permanently to Ghana with his family and securities. Sesay explained that diamonds were considered as belonging to the organisation – the AFRC and the RUF. As head of the organisation, Koroma had the right to have diamonds in his possession, but he was expected to use them in the interests of the organisation. If Koroma went to Ghana with the diamonds and did not return, as Rambo claimed, then the RUF would have been left in the “hot fire”. The RUF and AFRC forces in Kailahun and Kono did not have materials at this time. For this reason, Bockarie stopped Koroma from travelling, had him hand over the diamonds, and then sent him to Kangama.<sup>6250</sup>

2825. Sesay refuted Kargbo’s story that, after Koroma’s arrival in Buedu in late February/early March 1998, Taylor sent Land Rovers with Jungle and other SS men to pick Koroma up to take him to Monrovia. Jungle was not in Buedu in 1998; Sesay only saw Jungle when he was in Monrovia in April 1998.<sup>6251</sup>

Prosecution Exhibit P-067

2826. Exhibit P-067, an undated “Situation Report” from the Black Revolutionary Guards to “the Leader” states:

...when the High-Command returned from Liberia, he briefed J.P.K. pertaining to the latest development, and met him personally to give him a helping hands [sic] with diamonds or any foreign currency he had brought from Freetown for him to impress President Taylor.

As a result, J.P.K. denied bitterly that he had brought no diamond [sic] with him whereas [sic] the High Command had gathered informations [sic] that J.P.K. has brought lots of diamond [sic] with him, but he wants to keep it on his own without financing the movement as we are now under one umbrella. Therefore the High Command gave instruction to Brigadier Issah Sesay [sic] and Brigadier Mike Lamin for them to properly search J.P.K. and his bodyguards. Later parcels of diamond was [sic] given to Mr Ibrahim (General) and sister Memuna for them to travel with the parcels directly to President Taylor.

...

After General Ibrahim returned back to Burkina Faso, the High Command also received a good caraiage [sic] of diamond [sic] from Kono. He also plan [sic] to send another good parcel to General Ibrahim in Burkina Faso... The High Command therefore decided to hand-over the said parcel of diamond to the B.G.C Brigadier Issah Sesay inother [sic] for him to pass through Monrovia and make his way to Burkina Faso and meet General Ibrahim...

... He did not make his way through as he only stop in Monrovia and Information was later recieved [sic] ...that the parcel of diamond has dropped [sic] from Brigadier Issa.<sup>6252</sup>

<sup>6250</sup> Issa Sesay, Transcript 14 July 2010, pp. 44410-44416.

<sup>6251</sup> Issa Sesay, Transcript 30 July 2010, pp. 45141-45142.

<sup>6252</sup> Exhibit P-067, “RUF People’s Army– Situation Report to Foday Sankoh from the Black Guard Commander”, ERN 9675-9676.

Prosecution Exhibit P-132

2827. Exhibit P-132 is a news update from the United Nations Office for the Coordination of Humanitarian Affairs Integrated Regional Information Network for West Africa. It records that it was announced on BBC radio on either 14 February or 15 February 1998 that Koroma had called the BBC from what he said was a location in the hills above Freetown threatening that the AFRC “are going to fight back”.<sup>6253</sup> Further, it states that on Sunday, 15 February 1998, the BBC had announced that Koroma “was reported to be heading for Liberia by way of Kailahun, in the northeast of the country”.<sup>6254</sup>

Defence Exhibit D-008

2828. Exhibit D-008, an undated unofficial translation of a verbatim report on a recorded discussion between Cpl. Foday Sankoh and his cohorts on his return from detention in Nigeria in 1999 explaining their activities during his detention in 1996 to 1999, reports:

Brigadier Mike:

... Rambo the CSO to Johnny Paul Koroma informed us that Johnny Paul Koroma is in possession of a plastic containing diamonds including some United State Dollars, which he intends to escaped [sic] with together with his family. Notwithstanding this, we have been monitoring him through intelligence source [sic] that he had intentions to escape so we intimated Mosquito and Issa suggesting that we confront this brother and ask him to hand over all government properties he had in his possession to enable us procure [sic] all the logistical materials to carry out the operations they agreed with us and therefore confronted Johnny Paul Koroma in a non-violent manner. Johnny Paul Koroma had to reason with us and handed over nine plastics containing diamonds. We in turn handed over these diamond [sic] to mosquito for safe keeping and utility... Not too long, Mosquito informed me that he wanted us to contact the other brothers in Monrovia. Although he had already made some contact with them, but [sic] he needs some of the gem stones to give to the leader in Monrovia to facilitate these contacts. Before this, of course, we were aware that some transactions was going on as on several occasions he made visit to Monrovia through the help of one Benjamin Legon, a Liberia Security personnel; in collaboration with the Adjutant General.<sup>6255</sup>

...

Pa Rogers:

...Next I was not present on the issue about Johnny Paul Koroma. I was made to understand that General Ibrahim was presence [sic] at the time of that operation.

...

<sup>6253</sup> Exhibit P-132, “IRIN-West Africa Update 146, 98.2.16, University of Pennsylvania – African Studies Center, 14-16 February 1998”, ERN 100146, para. 1.

<sup>6254</sup> Exhibit P-132, “IRIN-West Africa Update 146, 98.2.16, University of Pennsylvania – African Studies Center, 14-16 February 1998”, ERN 100147, para. 3.

<sup>6255</sup> Exhibit D-008, “Unofficial Translation – Verbatim Report on a Recorded Discussion between Cpl. Foday Sankoh and his Cohorts on his Return from Detention”, ERN 12957.

Adjutant General:

These diamonds were with Mosquito when we decided that we should made good use of it by creating an avenue for outside contacts since the pressure was high against us. Then luckily, General Ibrahim arrived the same day. There and then, we all agreed to move to Monrovia to meet the big brother this move coincided with Benjamin leaving for Monrovia also... Bra told Benjamin that they had something that they want to presence [sic] to Big Brother in Monrovia so that he will help us.

...Benjamin further said that he was instructed to sneak with J.P. Koroma to Monrovia to avoid suspicion. Then 'Bra' replied that J.P. was not around, he then asked which area is J.P. presently. Brat [sic] said J.P. is about fairly [sic] miles away from where we where [sic] at the time hence Benjamin has [sic] to leave.<sup>6256</sup>

JRR (Junior Rambo):

Yes, Sir, pertaining to the diamonds that General handed over to Brigadier Issa. I was with general when these diamonds were brought from Kono. ... the High Command further instructed Issa to try his level best to reach Burkina Faso to meet General Ibrahim for the said diamond sales. He was on this until we heard from Jungle that he dropped these diamonds in Monrovia.<sup>6257</sup>

#### Defence Exhibit D-009

2829. Exhibit D-009, a Salute Report from Sam Bockarie to Foday Sankoh, dated 26 September 1999, states that after the RUF and SLAs retreated from Freetown:

We also rescued JP Koroma and his family and under the escort of Brig. Issa and Brig. Mike he was brought to Kailahun as was advised by your brother.<sup>6258</sup>

#### Defence Exhibit D-084

2830. Exhibit D-084, a Salute Report from Issa Sesay to Foday Sankoh, dated 27 September 1999, states that after Sesay had sustained an injury fighting in Bo following the Intervention, he moved back to Makeni in search of medical treatment.

<sup>6256</sup> Exhibit D-008, "Unofficial Translation – Verbatim Report on a Recorded Discussion between Cpl. Foday Sankoh and his Cohorts on his Return from Detention", ERN 12959-12960.

<sup>6257</sup> Exhibit D-008, "Unofficial Translation – Verbatim Report on a Recorded Discussion between Cpl. Foday Sankoh and his Cohorts on his Return from Detention", ERN 12961.

<sup>6258</sup> Exhibit D-009, "RUF Defence Headquarters, Salute Report to the Leader of the Revolution from Major Sam Bockarie", ERN 9661. The Accused and Issa Sesay both denied that 'your brother' referred to the Accused: Charles Ghankay Taylor, Transcript 13 August 2009, pp. 26779-26780; Issa Sesay, Transcript 18 August 2010, p. 46608. The Trial Chamber notes that Foday Sankoh referred to Taylor as his "brother" (see e.g. TF1-362, Transcript 2008, pp. 4803-4804; Isaac Mongor, Transcript 11 March 2008, pp. 5741-5742; TF1-567, Transcript 4 July 2008, p. 12968) as did others e.g. JP Koroma (see e.g. Isaac Mongor, Transcript 11 March 2008, pp. 5740-5742). However, there is also evidence that "brother" was widely used to denote someone of the same village, tribe or country (see e.g. TF1-375, Transcript 26 August 2008, pp. 14606-14607; TF1-516, 9 April 2008, p. 7081; Samuel Kargbo, Transcript 22 May 2008, p. 10567; Transcript 19 September 2008, p. 16727) or an associate or ally (see e.g. P-272, a letter dated 4 December 1998 from Foday Sankoh to "Brother Mohamed Tabili" in Ghana in which Foday Sankoh asks "you and your brothers" for \$USD 700,000; D-008, "Unofficial Translation – Verbatim Report on a Recorded Discussion between Cpl. Foday Sankoh and his Cohorts on his Return from Detention, ERN 12957 which records "Brigadier Mike" talking about "the Brother in Burkina").

Whilst in Makeni, I went to visit J P Koroma who was hiding in his village. J P Koroma asked me to arrange and supervise the movement of his entire family to Kailahun as ECOMOG were advancing and the Clandestine Radio 98.1 FM, had accounted that he was hiding in his village.

I contacted General Mosquito and the order was given to escort the Former Head of State to our Kailahun base. First we had to open a road to Kono. This was done in conjunction with Superman and Brig. Mike Lamin.

...

One morning [in Buedu], the Chief Security Officer to the former AFRC Chairman J P Koroma informed me that his boss was planning to escape to Ghana along with his entire family. The CSO further told me that J P Koroma had a parcel of diamonds that he was planning on selling once out of the country.

This information came as a surprise to me and found it hard to believe that at a time when we were trying to put the fighting-men under command and control and provide necessary logistics to halt our retreat and move forward, J P Koroma would keep diamonds for his own use and flee leaving us with a problem that he had created.

Accompanied by Brig Mike Lamin and the CSO to J P Koroma I asked the latter to present the diamonds for the use of the Revolution. He complied and the matter was settled.

While in Buedu, Captain Michael Comber of the Mining Unit reported with a parcel of diamonds from Kono. The parcel was placed in my care by General Mosquito with the instructions to move with it to a transit point where I could be met by General Ibrahim and together we were to travel to a business associate of the Leader for arrangements and procurement of Military Equipment.<sup>6259</sup>

## Deliberations

### (a) Order to Attack Kono

2831. The evidence unequivocally demonstrates that after ECOMOG attacked Freetown, the AFRC and RUF fighters and their families fled the Freetown Peninsula on or about 13 or 14 February 1998 using boats which took them to Fogbo, from where they advanced to Masiaka<sup>6260</sup> and onto Makeni,<sup>6261</sup> where combined AFRC/RUF forces re-organised to attack

<sup>6259</sup> Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, From Brigadier Issa H Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999", ERN 7760-7762.

<sup>6260</sup> *Prosecutor v Taylor*, SCSL-03-1-T, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, Annex A, Fact AD; *Prosecutor v Taylor*, SCSL-03-1-T, Decision on Judicial Notice, 23 March 2009, Annex A, Fact 5; Exhibit D-155, "UN Security Council, Fourth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/249, 18 March 2008", p. 2, para 6; Samuel Kargbo, Transcript 21 May 2008, p. 10484; TF1-371, 28 January 2008, pp. 2349-2350 (CS); Isaac Mongor, 11 March 2008, pp. 5734-5735; Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7930; TF1-539, 20 August 2008, p. 14134; TF1-375, 23 June 2008, p. 12500; Issa Sesay, Transcript 7 July 2010, p. 43960.

<sup>6261</sup> TF1-371, Transcript 28 January 2008, pp. 2353-2354 (CS); Samuel Kargbo, Transcript 21 May 2008, pp. 10495-10496; Isaac Mongor, 11 March 2008, p. 5735; Perry Kamara, Transcript 5 February 2008, p. 3095; Foday Lansana, 21 February 2008, p. 4498; TF1-375, 23 June 2008, pp. 12501; TF1-539, 20 August 2008, p. 14136; Issa Sesay, Transcript 8 July 2010, pp. 43991-43995.

Koidu Town, the primary town in Kono District.<sup>6262</sup> The first attack was unsuccessful, but in a second attack, the AFRC/RUF forces managed to recapture Koidu Town.<sup>6263</sup>

2832. The Trial Chamber notes that Samuel Kargbo is the only witness who testified regarding several satellite phone calls between Koroma and the Accused. Kargbo testified that in Magbonkineh, Koroma used a satellite phone to talk with the Accused regarding arrangements for Koroma and his family to get to Liberia by helicopter. The Accused told him that the helicopter could not land in Magbonkineh because of jet raids.<sup>6264</sup> Koroma then went with Kargbo to a village near Kabala but returned from there when his wife was recognised and told Kargbo he had spoken again with the Accused who had told him to capture Kono as it would be easier to pick him up there by helicopter.<sup>6265</sup> Koroma then waited in the bush while Kargbo and others rallied commanders in Kabala who then all moved to Makeni to reorganise for the attack on Kono.<sup>6266</sup> When the attack failed, Koroma spoke again with the Accused by satellite phone from Makeni, where they had retreated, and the Accused reiterated his instruction to Koroma to capture Kono and said that if he did so, the Accused would send a helicopter.<sup>6267</sup>

2833. Kargbo said he witnessed the calls made in Koroma's village and after the retreat to Makeni, although he only heard Koroma speaking.<sup>6268</sup> Kargbo was not a witness to the first call instructing Koroma to capture Kono. He said that Koroma told him that he had spoken again with the Accused.<sup>6269</sup> The Trial Chamber notes that Kargbo did not hear the content of what the Accused is alleged to have said to Koroma and relied on Koroma for a report of the call as well as the fact that Koroma was speaking with the Accused. The Trial Chamber takes into account, however, when assessing the weight of his testimony, the fact that

<sup>6262</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7943; TF1-371, Transcript 28 January 2008, p. 2355 (CS); Samuel Kargbo, Transcript 21 May 2008, p. 10496; Perry Kamara, Transcript 5 February 2008, pp. 3098-3099; TF1-539, Transcript 20 August 2008, p. 14139.

<sup>6263</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10497; TF1-371, Transcript 28 January 2008, pp. 2358-2359 (CS); Isaac Mongor, Transcript 11 March 2008, pp. 5737-5738; Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7946-7947; TF1-375, Transcript 23 June 2008, pp. 12503-12504; TF1-539, Transcript 20 August 2008, pp. 14139-14140.

<sup>6264</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10486-10487, 10491.

<sup>6265</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10491-10494.

<sup>6266</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10495-10496.

<sup>6267</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10496-10497.

<sup>6268</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10491 (regarding the call in Koroma's village); Transcript 21 May 2008, p. 10497 (regarding the call in Makeni).

<sup>6269</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10492, 10494.

Kargbo was in close proximity to Koroma during two of the calls and able to hear his side of the alleged conversation with the Accused.

2834. The Trial Chamber recalls that Samuel Kargbo is a generally credible witness.<sup>6270</sup> However, as the evidence of the phone calls with the Accused relies entirely on the testimony of Kargbo, the Trial Chamber has carefully reviewed the extent to which his account of these particular events is corroborated in other respects by witnesses who testified with regard to the attack on and recapture of Kono. In doing so, the Trial Chamber is cogniscent of Kargbo's testimony that Koroma's plans to flee Sierra Leone by helicopter were intended to be secret and were not therefore disclosed to other members of the AFRC/RUF.<sup>6271</sup>

(i) Events surrounding the first call with the Accused at Johnny Paul Koroma's village

2835. Alimamy Bobson Sesay and Issa Sesay corroborate Kargbo's account that, immediately after the retreat from Freetown in mid-February 1998, he drove Koroma to his village in Magbonkineh where Kargbo says the first call to the Accused was made.<sup>6272</sup>

2836. Kargbo's testimony with regard to Koroma's call to the BBC immediately prior to the call to the Accused is corroborated by the testimony of Issa Sesay,<sup>6273</sup> as well as Prosecution Exhibit P-132,<sup>6274</sup> which indicates that a call almost identical in content was made to the BBC. Bobson Sesay also testified that Koroma spoke to Robin White explaining that he was still in the Peninsula although according to Bobson Sesay's account, Koroma also announced Operation Pay Yourself, something which Kargbo denied happened during the call.<sup>6275</sup> However, Kargbo testified that Koroma made this call at the same time as he

<sup>6270</sup> Credibility Assessment, Samuel Kargbo, paras 290-295.

<sup>6271</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10497; Transcript 22 May 2008, pp. 10511-10512.

<sup>6272</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7941-7942; Issa Sesay, Transcript 7 July 2010, p. 43966.

<sup>6273</sup> Issa Sesay, Transcript 18 August 2010, p. 46579.

<sup>6274</sup> Exhibit P-132, "IRIN-West Africa Update 146, 98.2.16, University of Pennsylvania – African Studies Center, 14-16 February 1998", ERN 100146, para. 1.

<sup>6275</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7934.



called the Accused, upon their arrival in Magbonkineh,<sup>6276</sup> while Alimamy Bobson Sesay and Issa Sesay both testified that Koroma made the call in Masiaka.<sup>6277</sup>

(ii) Events prior to the first attack on Kono

2837. No witnesses other than Kargbo testified with regard to Koroma's trip to the Kabala area. The Trial Chamber is, however, cogniscent of Kargbo's evidence that he was travelling alone with Koroma's party at this time. Bobson Sesay's testimony corroborates Kargbo's account that there was a meeting in Kabala Town, attended by AFRC and RUF commanders at which plans were made for the attack on Kono.<sup>6278</sup> Both Kargbo and Bobson Sesay testified that this meeting took place in Koroma's absence and both testified that Denis Mingo (a.k.a Superman) attended. The Trial Chamber notes that each of these two witnesses excluded, either expressly or impliedly, the presence of the other at this meeting: Kargbo testified that although he knew Bobson Sesay to be one of those who retreated from Freetown, he was never with him and did not see him again until they met in Liberia,<sup>6279</sup> Bobson Sesay testified that after the meeting in Kabala the group moved to Koroma's village where they then met, *inter alia*, Samuel Kargbo.<sup>6280</sup> Bobson Sesay testified that SAJ Musa convened this meeting and ordered the attack on Kono there. Kargbo did not mention SAJ Musa as having convened or attended this meeting but he said arrangements were made at the meeting for the attack, which in the Trial Chamber's view is not inconsistent with Bobson Sesay's testimony, though less specific.

2838. The Trial Chamber notes that witnesses Isaac Mongor, Issa Sesay and Bobson Sesay testified that prior to the attack on Kono, they attended a meeting with Koroma in his village, Magbonkineh, at which the attack on Kono was ordered by Koroma.<sup>6281</sup> Both Issa Sesay and Bobson Sesay testified that Denis Mingo also attended this meeting.<sup>6282</sup> Bobson Sesay testified that Kargbo was present at this meeting. Sesay testified that "the

<sup>6276</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10486-10487.

<sup>6277</sup> Issa Sesay, Transcript 18 August 2010, p. 46579; Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7934.

<sup>6278</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10494-10496; Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7939-7940.

<sup>6279</sup> Samuel Kargbo, Transcript 2 June 2008, p. 10663.

<sup>6280</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7942.

<sup>6281</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5735-5737; Issa Sesay, Transcript 8 July 2010, pp. 43991-43994; Transcript 30 July 2010, p. 45139; Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7941-7943. See also Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, From Brigadier Issa H Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999", ERN 7760.

<sup>6282</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7941; Issa Sesay, Transcript 8 July 2010, p. 43992.

Honourables” were present<sup>6283</sup> and Isaac Mongor also testified to the presence of Koroma’s “securities”.<sup>6284</sup> These accounts are inconsistent with Kargbo’s testimony in a number of ways. First, Kargbo did not testify to a meeting in Magbonkineh. Second, Kargbo testified that Mingo had moved with him from Kabala Town directly to Makeni<sup>6285</sup> before the troops assembled for the Kono attack. In this case, Koroma and Kargbo would not have been in Koroma’s village for the meeting described by the other witnesses. By Kargbo’s account, Koroma did not return to his village after he had left following the first call to the Accused. This contradicts Mongor’s and Bobson Sesay’s testimony that they travelled with Koroma from the meeting in Magbonkineh to Makeni before the attack on Kono.<sup>6286</sup> However, the Trial Chamber notes that in cross-examination when Kargbo repeated his account, he omitted reference to the journey to Kabala and stated that having received the first call from the Accused, Koroma decided at that point to travel to Kailahun,<sup>6287</sup> presumably from his village where he received the call.

2839. Issa Sesay, Isaac Mongor and Foday Lansana corroborate Kargbo’s testimony that Koroma ordered the attack on Kono.<sup>6288</sup> Alimamy Bobson Sesay testified that SAJ Musa gave the original order which Koroma ‘re-inforced’ when the commanders reconvened in Koroma’s village.<sup>6289</sup> Perry Kamara testified that the decision to attack Kono was taken at a meeting in Makeni convened on the orders of Bockarie partly for the purpose of discussing how to get Koroma from Makeni to Buedu.<sup>6290</sup> The Trial Chamber notes, however, the testimonies of Issa Sesay and Alimamy Bobson Sesay that Johnny Paul Koroma was in

<sup>6283</sup> Issa Sesay, Transcript 8 July 2010, p. 43992.

<sup>6284</sup> Isaac Mongor, Transcript 11 March 2008, p. 5736.

<sup>6285</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10496: after the meeting in Kabala “everybody” came down to Makeni.

<sup>6286</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7942; Isaac Mongor, Transcript 11 March 2008, p. 5735: Mongor testified that before he moved to Magbonkineh, Bockarie told him to remain with Koroma at all times and “not allow anything to happen to him”.

<sup>6287</sup> Samuel Kargbo, Transcript 2 June 2008, p. 10753.

<sup>6288</sup> Issa Sesay, Transcript 8 July 2010, pp. 43990-43992; Isaac Mongor, Transcript 11 March 2008, p. 5736; Foday Lansana, Transcript 21 February 2008, pp. 4498-4499.

<sup>6289</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7939-7942.

<sup>6290</sup> Perry Kamara, Transcript 5 February 2008, pp. 3095-3098. The Trial Chamber notes that although Perry Kamara did not explicitly testify that Johnny Paul Koroma attended this meeting in Makeni, he testified “During this meeting, all the names I have made mention of, they were present”. Immediately prior to this, the witness had given the names of several commanders, one of whom was Johnny Paul Koroma.

command of the forces in Makeni at that time and would therefore have had the ultimate responsibility for the decision to attack Kono.<sup>6291</sup>

(iii) Events surrounding the second attack on Kono

2840. With regard to the second attack, there are varying accounts of what happened. When the forces met resistance on their first attempt to take the Koidu Town, according to Kargbo, they retreated to Makeni where Koroma received another order from the Accused to re-attack, pursuant to which Koroma sent Kargbo and others to the front line with an order for the troops to re-organise themselves for a second, successful, attack on Koidu Town.<sup>6292</sup> None of the other witnesses testified that Koroma expressly ordered the second attack on Koidu Town or that the Accused ultimately issued such an order. In the main, however, their testimonies do not substantially contradict Kargbo's account.

2841. The testimony of Isaac Mongor corroborates Kargbo's testimony that Koroma retreated to Makeni.<sup>6293</sup> Several other witnesses testified that Koroma withdrew when the forces met resistance. Witness TF1-371 testified that he withdrew half-way to Makeni when he heard that Koidu Town had been captured. His testimony that Koroma was with him when he entered Koidu Town indicates that Koroma had also withdrawn.<sup>6294</sup> Bobson Sesay testified that upon learning of the initial retreat to Bumpe, Koroma retreated further and after Koidu Town was captured, Bobson Sesay and others, including Denis Mingo, picked Koroma up from Magbonkineh and brought him to Koidu Town.<sup>6295</sup> That Koroma was picked up from his village by Mingo is also corroborated by Issa Sesay.<sup>6296</sup> Only Witness TF1-375 testified that Koroma stayed with the advancing troops as they re-organised for the second attack.<sup>6297</sup>

2842. While Bobson Sesay testified that the order for the second attack on Kono came from Issa Sesay,<sup>6298</sup> Isaac Mongor, TF1-371, Bobson Sesay, TF1-539 and TF1-375 all testified

<sup>6291</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7943; Issa Sesay, Transcript 8 July 2010, p. 43994.

<sup>6292</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10497-10498.

<sup>6293</sup> Isaac Mongor, Transcript 11 March 2008, p. 5738.

<sup>6294</sup> TF1-371, Transcript 28 January 2008, pp. 2358-2359, 2361 (CS).

<sup>6295</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7946-7949.

<sup>6296</sup> Issa Sesay, Transcript 8 July 2010, p. 43995.

<sup>6297</sup> TF1-375, Transcript 23 June 2008, p. 12504.

<sup>6298</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 7946;

that this attack was organised amongst those who remained at the front line.<sup>6299</sup> The Trial Chamber is of the view that this does not preclude an order having been given by Koroma.

(iv) Koroma's Decision to move to Monrovia via Kailahun

2843. Following the recapture of Koidu Town, Koroma was taken to Kailahun. Initially, Kargbo testified that after the recapture of Koidu Town, Koroma received a radio message from Bockarie, via Denis Mingo (a.k.a. Superman), directing him to go to Buedu.<sup>6300</sup> Koroma then announced that he was going to meet the Accused in Monrovia and ordered the fighters to "hold the ground" in his absence.<sup>6301</sup> Kargbo testified that the message came through Bockarie because Koroma's satellite phone had run out of credit and they did not have a functioning radio set.

2844. There is substantial evidence that Bockarie wanted Koroma to travel to Buedu. Perry Kamara testified that the convoy which attacked Koidu Town was organised in Makeni for the purpose of escorting Koroma to Kailahun.<sup>6302</sup> TF1-371's evidence that the convoy was organised for the purpose of moving the AFRC headquarters to Kailahun is also consistent with Kamara's testimony.<sup>6303</sup> According to Isaac Mongor, Bockarie instructed him to bring Koroma to Kailahun<sup>6304</sup> and Issa Sesay testified that Koroma ordered the AFRC/RUF to withdraw to Kono because he said Koroma had agreed with Bockarie that he would withdraw to Kailahun.<sup>6305</sup> Sesay's evidence is corroborated by Defence Exhibit D-084, Sesay's own Salute Report written in September 1999 in which Sesay reported "I contacted General Mosquito and the order was given to escort the Former Head of State to our Kailahun base".<sup>6306</sup> Although all this evidence relates to the period before Koidu Town was recaptured, the Trial Chamber considers that, in demonstrating Bockarie's intention to move Koroma to Kailahun, it is consistent with Kargbo's testimony that Bockarie sent the message to Denis Mingo (a.k.a. Superman) that Koroma should come to Buedu.

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<sup>6299</sup> Isaac Mongor, Transcript 11 March 2008, p. 5738; TF1-371, Transcript 28 January 2008, p. 2358 (CS); Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7946-7947; TF1-539, Transcript 20 August 2008, p. 14140; TF1-375, Transcript 23 June 2008, pp. 12502-12504, 12508-12509.

<sup>6300</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10500-10501.

<sup>6301</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10501.

<sup>6302</sup> Perry Kamara, Transcript 5 February 2008, p. 3095.

<sup>6303</sup> TF1-371, Transcript 28 January 2008, p. 2355 (CS).

<sup>6304</sup> Isaac Mongor, Transcript 11 March 2008, p. 5735.

<sup>6305</sup> Issa Sesay, Transcript 8 July 2010, p. 43992.

2845. TF1-585's testimony that after Bockarie returned to Buedu, she heard him say that Benjamin Yeaten told him to call Koroma down to Buedu, after which he said that he was going to call Superman to bring Koroma to Buedu also corroborates the testimony of Kargbo that Bockarie was conveying a message from the Accused. According to TF1-585, Bockarie said that Yeaten had told him that the instruction came from Charles Taylor.<sup>6307</sup> TF1-585 also testified to seeing Bockarie make the call to Superman.<sup>6308</sup> While the timing of the message to bring Koroma to Buedu is unclear, the message itself was attested to by many witnesses and their testimony is supported by contemporaneous documentary evidence.

2846. The Trial Chamber notes that Issa Sesay corroborated Kargbo's testimony that the satellite phone Koroma was using ran out of credit around this time. However, Sesay testified that this happened when Koroma had already arrived in Kailahun,<sup>6309</sup> which would not have prevented him from calling the Accused after the recapture of Kono. The Trial Chamber also notes that Witness TF1-371 testified that throughout the journey from Kono to Kailahun, there was a VHF radio on which they were communicating with Bockarie. Perry Kamara testified that after the meeting in Makeni, where the attack on Kono was planned, the convoy travelled in three groups, each of which had a radio operator. The evidence therefore suggests that, even if his own radio set could not be used, Koroma appears to have had access to radio communications. However, the Trial Chamber notes Kargbo's testimony that Koroma's discussions with the Accused regarding a helicopter were not disclosed to others. The Trial Chamber also notes that satellite phones were a more secure and confidential means of communication and that the radio stations in Monrovia were "restricted frequencies".<sup>6310</sup>

(v) The Accused's attempt to evacuate Koroma from Buedu

2847. The Trial Chamber notes that other than Kargbo, no witnesses testified about Land Rovers sent by the Accused to Buedu with the intention of transporting Koroma's party to

<sup>6306</sup> Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, From Brigadier Issa H Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999", ERN 7761.

<sup>6307</sup> TF1-585, Transcript 5 September 2008, pp. 15610-15611, 15613-15617; Transcript 8 September 2008, pp. 15641-15642; Transcript 10 September 2008, pp. 15908-15915.

<sup>6308</sup> TF1-585, Transcript 5 September 2008, p. 15616; Transcript 8 September 2008, pp. 15641-15642, 15646.

<sup>6309</sup> Issa Sesay, Transcript 30 July 2010, p. 45133.

<sup>6310</sup> See Operational Support, RUF and NPFL Codes and Communications.

Monrovia. However, Exhibit D-008 reports that the Liberian security Benjamin<sup>6311</sup> “said that he was instructed to sneak with J.P. Koroma to Monrovia to avoid suspicion” but that he left without Koroma when Bockarie told him that Koroma was already “fairly [sic] miles away”, presumably in Kangama.<sup>6312</sup> D-008 further corroborates Kargbo’s evidence of a continuing plan at this stage to transfer Koroma out of Sierra Leone to Monrovia, although the details of who was to do that are unclear, as Kargbo did not mention a “Benjamin” in his testimony.

2848. Issa Sesay refuted Kargbo’s account regarding the Land Rovers, testifying that Daniel Tamba (a.k.a. Jungle) was not in Buedu in 1998.<sup>6313</sup> The Trial Chamber notes, however, that it has heard evidence from numerous credible witnesses that Tamba travelled frequently to Buedu with ammunition during 1998.<sup>6314</sup> Sesay also denied that Ibrahim Bah was in Buedu at this time, testifying that he, Sesay, was the one who took Koroma’s diamonds to Ibrahim Bah in Monrovia and that these were the diamonds that he lost there.<sup>6315</sup> Kargbo’s testimony that Bah was present in Buedu around the time the diamonds were taken from Koroma is corroborated by the testimony of TF1-371 that Ibrahim Bah arrived in Buedu on the Accused’s orders shortly after Koroma’s party came<sup>6316</sup> and by Exhibit D-008,<sup>6317</sup> while Sesay’s testimony is at odds with his own contemporaneous Salute Report, D-084, in which he stated that the diamonds that he lost at his “transit point”<sup>6318</sup> were brought to Buedu from Kono by a member of the Mining Unit and were not those taken from Koroma.<sup>6319</sup> D-008 and P-067 both report that the diamonds taken from Koroma

<sup>6311</sup> The Trial Chamber notes that “Benjamin” is a reference to Benjamin Legon, Liberian Security personnel described by “Brigadier Mike” in the same document. See Exhibit D-008, “Unofficial Translation – Verbatim Report on a Recorded Discussion between Cpl. Foday Sankoh and his Cohorts on his Return from Detention”, ERN 12957. Whilst TF1-371 initially testified that he did not know who this Benjamin was (TF1-371, Transcript 1 February 2008, p. 2940 (CS)), he later implied that it may in fact be Benjamin Yeaten since the reference to an instruction “to sneak with J.P.Koroma to Monrovia to avoid suspicion”, referred to a meeting with Benjamin Yeaten in Koindu and that the instruction was given to sneak Koroma away to avoid the alarm of ECOMOG who were still in the axis on the “Lofa, Gbarnga and Monrovia” highway (TF1-371, Transcript 1 February 2008, p. 2941 (CS)).

<sup>6312</sup> Exhibit D-008, “Unofficial Translation – Verbatim Report on a Recorded Discussion between Cpl. Foday Sankoh and his Cohorts on his Return from Detention”, ERN 12959-12960.

<sup>6313</sup> Issa Sesay, Transcript 30 July 2010, pp. 45141-45142.

<sup>6314</sup> Arms and Ammunitions, February 1998 to December 1999.

<sup>6315</sup> Issa Sesay, Transcript 29 July 2010, pp. 45015-45016; Transcript 11 August 2010, pp. 46008, 46010.

<sup>6316</sup> TF1-371, Transcript 28 January 2008, pp. 2366-2367, 2370-2371 (CS).

<sup>6317</sup> Exhibit D-008, “Unofficial Translation – Verbatim Report on a Recorded Discussion between Cpl. Foday Sankoh and his Cohorts on his Return from Detention”, ERN 12959.

<sup>6318</sup> The Trial Chamber recalls its finding that the “transit point” referred to in Exhibit D-084 is Monrovia. See Diamonds, Loss of Diamonds by Sesay.

<sup>6319</sup> Exhibit D-084, “RUF, Sierra Leone, Defence Headquarters, Salute Report, From Brigadier Issa H Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999”, ERN 7761-7762.

were given to Bah for forward transport to Liberia and that the diamonds taken by Sesay to Monrovia originated in Kono.<sup>6320</sup> In view of Augustine Mallah's own testimony that he did not know anyone by the name of Ibrahim Bah, the Trial Chamber does not place any weight on his testimony that he did not see Bah in Buedu at the time the diamonds were taken from Koroma.<sup>6321</sup> In light of these considerations, the Trial Chamber does not accept Sesay's challenge to Kargbo's evidence and finds it to be without foundation.

2849. Contemporaneous documentary evidence as well as several witnesses who were in Buedu at the time corroborate aspects of Kargbo's account concerning the diamonds that were taken from Koroma, in particular his evidence that new information that Koroma was planning to use diamonds for his own benefit precipitated Bockarie's order to search Koroma for diamonds. The testimony of witnesses TF1-371 and TF1-585 as well as Exhibit D-008 corroborate Kargbo's evidence that the diamonds incident was precipitated by Moses Kabia (a.k.a. Rambo) alerting the RUF to Koroma's plan to escape with diamonds.<sup>6322</sup> Issa Sesay also testified that the diamonds incident was triggered by a disclosure by Moses Kabia that Koroma was planning to escape, although Sesay's testimony was that Koroma was planning to travel to Ghana, not Liberia, for the purpose of buying weapons.<sup>6323</sup> The fact that Koroma's Chief Security Officer, Moses Kabia alerted the RUF to Koroma's intention to escape to Ghana is also reflected in Sesay's Salute Report, D-084.<sup>6324</sup> Exhibit P-067<sup>6325</sup> also corroborates Kargbo's evidence that new information that Koroma was planning to use diamonds for his own benefit prompted Bockarie's order to search Koroma for diamonds. Augustine Mallah testified that Koroma himself brought the diamonds to Bockarie's attention at a meeting in Buedu, which led Bockarie to take the diamonds away from him. While Mallah recounts this sequence of events as immediate, without mention of Moses Kabia, it is consistent with Issa Sesay's account that Koroma first told the RUF in Buedu

<sup>6320</sup> Exhibit P-067, "RUF People's Army-- Situation Report to Foday Sankoh from the Black Guard Commander", ERN 9675-9676; D-008, "Unofficial Translation - Verbatim Report on a Recorded Discussion between Cpl. Foday Sankoh and his Cohorts on his Return from Detention", ERN 12959, 12961.

<sup>6321</sup> Augustine Mallah, Transcript 18 November 2008, pp. 20481-20482.

<sup>6322</sup> TF1-371, Transcript 28 January 2008, p. 2367 (CS); TF1-585, Transcript 10 September 2008, p. 15917; Exhibit D-008, "Unofficial Translation - Verbatim Report on a Recorded Discussion between Cpl. Foday Sankoh and his Cohorts on his Return from Detention", ERN 12957.

<sup>6323</sup> Issa Sesay, Transcript 14 July 2010, pp. 44410-44416.

<sup>6324</sup> Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, From Brigadier Issa H Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999", ERN 7761.

<sup>6325</sup> Exhibit P-067, "RUF People's Army-- Situation Report to Foday Sankoh from the Black Guard Commander", ERN 9675.

that he had diamonds with him, and it is consistent with the other accounts that the diamonds were confiscated by Bockarie.<sup>6326</sup> Even though she did not know what was meant when Bockarie said that he had been told to bring Koroma and his party to Buedu because “they have something for them”, TF1-585’s evidence also suggests that Bockarie may already have known that Koroma was in possession of diamonds when he arrived in Buedu.

2850. While noting the discrepancies in detail regarding the accounts of the various witnesses of what happened in Buedu, the Trial Chamber finds the larger picture to be relatively consistent with Kargbo’s testimony that Koroma was intending to travel with diamonds to Monrovia, and that Bockarie intervened and confiscated the diamonds.

(vi) The Defence

2851. The Accused testified that he could not have promised to send Koroma a helicopter as he did not have a helicopter at this time.<sup>6327</sup> The Trial Chamber notes that Augustine Mallah and Karmoh Kanneh both testified to the use of helicopters by the Accused or his subordinates in 1998.<sup>6328</sup> The Trial Chamber recalls its findings that Mallah and Kanneh are generally credible witnesses.<sup>6329</sup> The Accused also gave conflicting testimony as to the date at which the Liberian government acquired its own helicopters. First he stated that the Liberian authorities first obtained helicopters in 2000.<sup>6330</sup> However, later in his testimony, the Accused stated that the Liberian government was in possession of Mi-2 helicopters from the beginning of 1999.<sup>6331</sup> He then affirmed on cross-examination that the Liberian government had one Mi-2 helicopter as of 1999, and two Mi-2 helicopters as of the end of 1999.<sup>6332</sup> In light of the inconsistencies in the Accused’s testimony and the corroborative evidence of Mallah and Kanneh that the Accused did use helicopters in 1998, the Trial

<sup>6326</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20194-20195.

<sup>6327</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30834-30839.

<sup>6328</sup> Augustine Mallah, Transcript 13 November 2008, p. 20209; Mallah testified that the Accused sent a helicopter to transport Bockarie from Foya to Monrovia in 1998; Karmoh Kanneh, Transcript 9 May 2008, pp. 9453-9455; Kanneh testified that he accompanied Bockarie to Foya where a helicopter carrying Benjamin Yeaten arrived from Monrovia.

<sup>6329</sup> Credibility Assessment, Augustine Mallah, Pre-Indictment period (1988-1996), para. 2522; Credibility Assessment, Karmoh Kanneh, The Role of Intermediaries, para. 2704.

<sup>6330</sup> Charles Ghankay Taylor, Transcript 25 August 2009, p. 27664.

<sup>6331</sup> Charles Ghankay Taylor, Transcript 28 October 2009, p. 30605; see also Transcript 16 September 2009, p. 29032 (“We don’t get a helicopter until about 1999”).

<sup>6332</sup> Charles Ghankay Taylor, Transcript 20 January 2010, pp. 33723-33724.



Chamber considers that the Accused has not raised a reasonable doubt as to Kargbo's account on this basis.

2852. The Accused also made reference to two helicopters owned by the Sierra Leonean government.<sup>6333</sup> The Trial Chamber understands the Accused to imply that it would not have been necessary for him to supply a helicopter when there were two already at the Koroma's disposal. The Trial Chamber notes, however, that both these helicopters had already been used on or around 13 February 1998 to fly other Junta commanders, including Victor King, out of Freetown and been forced by ECOMOG to land in Monrovia<sup>6334</sup> where they were impounded. They were not therefore available to the retreating Koroma. Taylor himself testified that ECOMOG detained the helicopters and their occupants in Liberia for "at least a couple of weeks or more".<sup>6335</sup> In any event, any helicopters in Sierra Leone may not have been at Koroma's disposal after he fled Freetown following the collapse of the Junta.

2853. The Defence submits that the Accused did not communicate with Johnny Paul Koroma via satellite phone at any time until 1999.<sup>6336</sup> The Accused testified more broadly that he had neither radio nor phone contact with Koroma before August 1999.<sup>6337</sup> In addition to assessing the credibility of the Accused's assertion more generally, it is relevant to the Trial Chamber to consider in the context of the current allegation whether the Accused and Koroma had communicated before the Intervention, such that Koroma therefore had a prior relationship with the Accused and the means to contact him when he was seeking to escape from Sierra Leone after the flight from Freetown. In that regard, the Trial Chamber has heard credible evidence that Gibril Massaquoi brought telephone numbers for, *inter alia*, the Accused to Koroma in the early days of the Junta regime<sup>6338</sup> following which Koroma

<sup>6333</sup> Charles Ghankay Taylor, Transcript 2 November 2009, p. 30836.

<sup>6334</sup> Charles Ghankay Taylor, Transcript 29 July 2009, pp. 25575-25576; Exhibit P-132, "IRIN-West Africa Update 146, 98.2.16, University of Pennsylvania – African Studies Center, 14-16 February 1998", ERN 100147, para. 1. See also Exhibit D-141, "Presidential Papers, Policies, Speeches, Statements and Record of Activities of the Chief Executive of Liberia, August 2 1997 – December 31 1998", p. 239, which records that two helicopters flew into James Spriggs Payne Airport where they were intercepted by ECOMOG. The Liberian Minister of Defence requested ECOMOG to hand the personnel and helicopters over to the Liberian Government to which ECOMOG responded that the personnel would be handed over at some future time.

<sup>6335</sup> Charles Ghankay Taylor, Transcript 29 July 2009, p. 25576.

<sup>6336</sup> Defence Final Trial Brief, para. 860.

<sup>6337</sup> Charles Ghankay Taylor, Transcript 23 September 2008, p. 29546.

<sup>6338</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10442; Transcript 2 June 2008, pp. 10666-10667, 10737. See Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Junta Period.

engaged in several telephone conversations with the Accused.<sup>6339</sup> That the evidence indicates that these conversations took place on a landline telephone is irrelevant since it demonstrates that Koroma had the Accused's telephone number and had communicated with him by telephone before the February 1998 Intervention. The Trial Chamber also notes Isaac Mongor's evidence that before the Intervention, the Accused and Koroma had discussed by radio the prospect of Koroma visiting the Accused in Monrovia.<sup>6340</sup> In light of the foregoing evidence, the Trial Chamber does not find the Accused's testimony credible.

2854. The Defence also contests the allegation by reference to Mohamed Kabbah's evidence that he did not see or hear any message from Charles Taylor ordering the RUF to hold Kono or any radio message that could have come from Charles Taylor whereby orders were given about operations in Kono or the retreat from Freetown.<sup>6341</sup> It is Kargbo's testimony that if such an instruction or advice was given to Koroma, this happened during confidential conversations on a satellite phone, not over the radio where Kabbah could have overheard them. As such, the Trial Chamber is not of the view that Kabbah's evidence contradicts Kargbo's testimony.

(vii) Conclusions

2855. The Trial Chamber notes that Kargbo's evidence is substantially corroborated in various aspects. With regard to some details it is inconsistent with the testimony of other witnesses, but the Trial Chamber notes that there are numerous inconsistencies among all the witnesses with regard to precisely when and where meetings took place, who was present at those meetings, and how the military events relating to the recapture of Kono unfolded. The Trial Chamber considers that these discrepancies are not major and can be explained by the disorder that generally surrounds a military retreat and regrouping. In the Trial Chamber's view there is broad correlation among the accounts of the various witnesses. Recalling that Kargbo's testimony is often imprecise,<sup>6342</sup> the Trial Chamber finds that the inconsistencies noted do not challenge his credibility and it accepts his testimony that the Accused was in contact with Koroma and twice instructed him to capture Kono.

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<sup>6339</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10445-10447, 10455; Transcript 2 June 2008, pp. 10667-10668, 10671-10672, 10738. Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Junta Period.

<sup>6340</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5717-5718, 5725-5726.

<sup>6341</sup> Defence Response to Prosecution Final Trial Brief, para. 29.

<sup>6342</sup> Credibility Assessment, Samuel Kargbo, para 290-295.

(b) Order to hold Kono

2856. With regard to the order allegedly given by the Accused to hold Kono after it had been recaptured, the most detailed evidence in support of this allegation is in the testimony of Perry Kamara. The Trial Chamber recalls its finding that Kamara is a generally credible witness.<sup>6343</sup> Perry Kamara testified that he took down a radio message from Bockarie to Issa Sesay and Superman telling them that he had consulted with the Accused who told him not to lose Kono because from there he could get diamonds to trade with Taylor for ammunition.<sup>6344</sup> Kamara said Bockarie repeated this message frequently saying that mining in Kono would enable them to get arms and ammunition, food and drugs from Taylor.<sup>6345</sup>

2857. TF1-371, whom the Trial Chamber also finds to be generally credible,<sup>6346</sup> testified that after one of his trips to Monrovia in 1998, Bockarie mentioned that he had received an instruction from the Accused that the RUF should “ensure that we maintain Kono”.<sup>6347</sup> The Trial Chamber considers it most likely that this trip to Monrovia and the instruction mentioned occurred later in time, because the witness mentions the diamonds that were subsequently taken from Koroma as having been given to the Accused. Nevertheless, the Trial Chamber notes that the instruction is consistent with Kamara’s testimony, and that Kamara testified that Bockarie repeated it frequently.<sup>6348</sup> Mongor’s account corroborates Kamara’s testimony in so far as he testified that Bockarie gave the order to hold Kono although he did not mention the Accused in this context.<sup>6349</sup>

2858. Samuel Kargbo testified that after Koroma received a message from Bockarie to travel to Kailahun, he convened a meeting of the AFRC and RUF high command and announced that he was going to meet Taylor in Monrovia but would be back. He ordered the fighters to “hold the ground” in his absence.<sup>6350</sup> However, there is no indication in Kargbo’s

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<sup>6343</sup> Credibility Assessment, Perry Kamara, paras 227-236.

<sup>6344</sup> Perry Kamara, Transcript 5 February 2008, pp. 3102, 3142.

<sup>6345</sup> Perry Kamara, Transcript 5 February 2008, p. 3135.

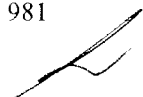
<sup>6346</sup> Credibility Assessment, TF1-371, paras 220-226.

<sup>6347</sup> TF1-371, Transcript 28 January 2008, pp. 2384-2385 (CS).

<sup>6348</sup> Perry Kamara, Transcript 5 February 2008, p. 3135.

<sup>6349</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5744-5745.

<sup>6350</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10500-10501.





testimony that the order ultimately came from the Accused. Similarly, Issa Sesay testified that Koroma told the troops to “defend Kono” without any reference to the Accused.<sup>6351</sup>

2859. The Trial Chamber does not find dispositive Mohamed Kabbah’s evidence that he did not see or hear any message from Charles Taylor ordering the RUF to hold Kono or any radio message that could have come from Charles Taylor whereby orders were given about operations in Kono or the retreat from Freetown. It is Kamara’s testimony that if such an instruction or advice was given to Bockarie, this happened in person in Monrovia<sup>6352</sup> and not over the radio.

2860. The Defence contests the Prosecution’s allegation regarding the Accused’s order to hold Kono by reference to Karmoh Kanneh’s evidence regarding the meeting in December 1998 at which the offensive against Kono was planned. The Defence also relies on TF1-371’s evidence that Bockarie made plans with Issa Sesay and Morris Kallon after the failed Fitti-Fatta mission in mid-1998.<sup>6353</sup> The Trial Chamber does not find this evidence relevant in deciding whether the Accused told Bockarie to hold Kono in February/March 1998. The Trial Chamber will deal with this evidence in relation to the allegations regarding the mission to attack Kono in December 1998.

2861. The Accused denied that any instructions that Bockarie may have made to his troops to hold Kono originated from him.<sup>6354</sup> In light of the credible evidence the Trial Chamber has heard from both Perry Kamara and TF1-371 that Bockarie was told by the Accused that the AFRC/RUF should maintain control over Kono, the Trial Chamber does not accept this denial.

2862. The Trial Chamber has reviewed the Prosecution’s submission that the order to hold Kono was reiterated by the Accused at a secret meeting through his representatives Ibrahim Bah and Daniel Tamba (a.k.a. Jungle)<sup>6355</sup> and notes that the testimony of Mohamed Kabbah and Albert Saidu cited does not contain any evidence relating to an order to hold Kono. Indeed, the Prosecution’s own summary of the evidence refers to an alleged direction from

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<sup>6351</sup> Issa Sesay, Transcript 8 July 2010, p. 44001.

<sup>6352</sup> Perry Kamara, Transcript 5 February 2008, pp. 3102-3142.

<sup>6353</sup> Defence Response to Prosecution Final Trial Brief, para. 29.

<sup>6354</sup> Charles Ghankay Taylor, Transcript 16 September 2009, p. 29020.

<sup>6355</sup> Prosecution Final Trial Brief, para. 154.

the Accused to “take hold” i.e. capture, rather than to “hold” Kono.<sup>6356</sup> This evidence will be dealt with by the Trial Chamber in relation to the allegations regarding the subsequent Fitti-Fatta mission in mid-1998.

### Findings

2863. The Prosecution has proved beyond reasonable doubt that the Accused told Johnny Paul Koroma to capture Kono, and after a first failed attempt, the Accused gave instructions for a second attack, which led to the ultimate recapture of Koidu Town in Kono District by the AFRC/RUF in late February/early March 1998.

2864. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused told Bockarie to be sure to maintain control of Kono for the purpose of trading diamonds with him for arms and ammunition.

### 3. Operation Fitti-Fatta

#### Submissions of the Parties

2865. The Prosecution alleges that when the AFRC/RUF were again pushed out of Koidu Town, the Accused ordered them through his own Liberian subordinates and through Sam Bockarie, to retake Koidu Town. Thereafter, “Taylor continually issued directives and encouragement to Bockarie concerning the urgency of recapturing Kono District”.<sup>6357</sup>

2866. The Prosecution also alleges that the Accused planned Fitti-Fatta, the attack on Koidu Town in June 1998,<sup>6358</sup> as the first step in a “big mission” to recapture Freetown and thus control Sierra Leone. According to that plan, the initial attacks would aim to first secure the Kono District in the North-East but formed part of a greater multi-axis operation encompassing attacks from the North via Koinadugu and Bombali and from the East via Kenema District, with all groups converging on Masiaka before moving on to Waterloo.<sup>6359</sup>

2867. The Defence does not contest that the RUF, specifically Bockarie and Denis Mingo (a.k.a. Superman), or Bockarie, Mingo and Mike Lamin planned the Fitti-Fatta operation

<sup>6356</sup> Prosecution Final Trial Brief, para. 154.

<sup>6357</sup> Prosecution Final Trial Brief, paras 155, 158.

<sup>6358</sup> Prosecution Final Trial Brief, paras 6, 150, 157.

<sup>6359</sup> Prosecution Final Trial Brief, paras 150, 156, 159, 418.

which was launched in July 1998,<sup>6360</sup> or August 1998,<sup>6361</sup> and which ended in failure.<sup>6362</sup> It submits, however, that the Accused neither planned nor participated in the Fitti-Fatta mission<sup>6363</sup> and that the meeting to plan the mission was nothing more than that – a meeting to plan an attack on Kono and there were no other targets discussed.<sup>6364</sup> The Defence challenges specific aspects of Perry Kamara’s testimony regarding the overarching plan to capture Freetown and thus Sierra Leone.<sup>6365</sup>

## Evidence

### Prosecution Witness Perry Kamara

2868. In early 1998, witness Perry Kamara, an RUF radio operator,<sup>6366</sup> was based with Superman in Kono after the first attack on Koidu Town in 1998.<sup>6367</sup> He testified that around April or May 1998, he accompanied Superman to Buedu. Superman had been called to Buedu in order for Sam Bockarie to explain to him the plan that he had brought from Charles Taylor in Liberia so that Superman, in return, could come and explain this to the other fighters and other camps on the ground. After they arrived, he and Superman attended a meeting called by Bockarie at his house which was also attended by Mike Lamin, Isaac Mongor and Pa Rogers, as well as “other authorities on the ground”. He testified that most of the battalion and brigade commanders were there.<sup>6368</sup>

2869. The first item on the agenda was Sesay’s loss of the diamonds he had taken to Monrovia. Bockarie confirmed that Sesay had been sent to Pendembu as part of his punishment and that the matter would finally be dealt with when Foday Sankoh was released from Nigeria.<sup>6369</sup> Bockarie then showed the group to two rooms in his house where they saw

<sup>6360</sup> Defence Final Trial Brief, para. 607.

<sup>6361</sup> Defence Final Trial Brief, para. 1108.

<sup>6362</sup> Defence Final Trial Brief, paras 606-607, 924, 1108, 1110.

<sup>6363</sup> Defence Final Trial Brief, paras 530, 877.

<sup>6364</sup> Defence Final Trial Brief, paras 606, 896; Defence Response to Prosecution Final Trial Brief, para. 31, footnote 29.

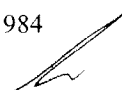
<sup>6365</sup> Defence Final Trial Brief, paras 891-898.

<sup>6366</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>6367</sup> Perry Kamara, Transcript 5 February 2008, pp. 3103, 3112-3115.

<sup>6368</sup> Perry Kamara, Transcript 5 February 2008, pp. 3159-3161.

<sup>6369</sup> Perry Kamara, Transcript 5 February 2008, pp. 3161-3162.





arms and boxes of ammunition, a commercial radio and a satellite phone.<sup>6370</sup> In the meeting, Bockarie also discussed the building of an airstrip in Buedu.<sup>6371</sup>

2870. Kamara explained that Bockarie had recently returned from visiting Taylor who had given him a “very big plan” to take over Sierra Leone. After the group had inspected the ammunition, they brought out a map of Sierra Leone and Bockarie said “this is how Taylor has planned and he told [me] to come and implement it”. Bockarie showed the attendees on a map the towns that Taylor had told them to attack: Koidu Town (a.k.a. Kono, a.k.a. Sefadu), Kabala, Makeni, Magburaka, Matotoka, Mile 91, Masiaka, Waterloo, Port Loko and Kambia. Kamara said Bockarie “said that was what they planned before he left Mr Taylor”.<sup>6372</sup>

2871. Kamara testified that Taylor’s plan required Superman and SAJ Musa to be jointly responsible attacking Kabala and Makeni. The group that was going to join Gullit in Rosos were going to be responsible for Port Loko and Kambia, including Lungi Airport. Those who were left behind in Kono after Superman left were going to be responsible for Kono, Sewafe, Makali, Magburaka and Mile 91. The meeting point for all the troops would then be Masiaka because that was a main junction in Sierra Leone. After the troops reached Waterloo, they should then make “a fresh plan, a new one”. Bockarie said that that was what Taylor had told him.<sup>6373</sup> The ultimate destination was to be Freetown after all these district headquarters had been captured.<sup>6374</sup>

2872. Kamara explained that the Fitti-Fatta mission was supposed to happen before, not as part of, the big mission. The focus of Fitti-Fatta to attack and capture Koidu Town in order to create panic among ECOMOG so that they would be confined to Koidu Town and “would not be able to make moves towards us”. Bockarie told them that the arms and ammunition he had showed them were not for “this first mission plan”. He said that Taylor had told him that he would provide more ammunitions for this “big mission” later.<sup>6375</sup>

<sup>6370</sup> Perry Kamara, Transcript 5 February 2008, pp. 3162-3163.

<sup>6371</sup> Perry Kamara, Transcript 5 February 2008, p. 3167.

<sup>6372</sup> Perry Kamara, Transcript 5 February 2008, pp. 3163-3164, 3179-3180.

<sup>6373</sup> Perry Kamara, Transcript 5 February 2008, pp. 3163-3164, 3174; Transcript 6 February 2008, p. 3220.

<sup>6374</sup> Perry Kamara, Transcript 5 February 2008, p. 3164.

<sup>6375</sup> Perry Kamara, Transcript 5 February 2008, pp. 3167, 3169-71; Transcript 6 February 2008, p. 3180.





2873. According to Kamara, as part of the plan, Bockarie told Superman to join SAJ Musa in Koinadugu District “for a fast and smooth operation, because SAJ Musa was not so good at jungle operations”. Bockarie therefore gave Superman ammunition for that location too, saying that he should carry them directly to SAJ Musa’s place after Fitti-Fatta.<sup>6376</sup> Kamara explained that SAJ Musa was already aware of this plan for Superman to go and join him because before Superman left Superman Ground to come to Buedu, SAJ Musa, Superman and Mosquito “always discussed on that”. Kamara stated that there was a message to that effect following a radio discussion: that Bockarie had gone and got instructions about a mission from Taylor in Liberia. Bockarie said that Superman was to go to Buedu and that Superman should go to SAJ Musa to explain to him anything that was discussed in Buedu. Kamara explained that at times the three men called each other and sometimes they sent messages.<sup>6377</sup> While Superman, Mosquito and SAJ Musa had a relationship at that time and spoke about this issue, SAJ Musa accepted that Superman should go to meet him so that they could carry out their military exercise together.<sup>6378</sup>

2874. Kamara testified that the Fitti-Fatta mission commenced at night at 7.00pm and ended the next morning. It was short-lived because so many fighters were wounded and killed.<sup>6379</sup> After the Fitti-Fatta mission, around end-May 1998, Superman moved to Koinadugu where SAJ Musa was stationed.<sup>6380</sup>

2875. Kamara testified that, around a week after Johnny Paul Koroma and Issa Sesay arrived in Buedu, Koroma met with Sam Bockarie and transmitted a radio message for all AFRC, RUF and STF saying that because he did not understand jungle exercise, he was asking all the AFRC and RUF to be taking command from Mosquito and that, from the date he wrote the message, Sam Bockarie should be leader for the movement from then on.<sup>6381</sup> In response to the order, SAJ Musa said that he was an old military man and that Mosquito was a guerrilla so he would not allow Mosquito to control him and he was not part of that order.<sup>6382</sup> Another group, comprising Gullit, Five-Five, Bazy, Papa and Junior Lion, who

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<sup>6376</sup> Perry Kamara, Transcript 5 February 2008, pp. 3164, 3167, 3169, 3171.

<sup>6377</sup> Perry Kamara, Transcript 5 February 2008, p. 3168.

<sup>6378</sup> Perry Kamara, Transcript 5 February 2008, pp. 3166-3169.

<sup>6379</sup> Perry Kamara, Transcript 5 February 2008, p. 3171.

<sup>6380</sup> Perry Kamara, Transcript 5 February 2008, p. 3172.

<sup>6381</sup> Perry Kamara, Transcript 5 February 2008, pp. 3110-3111.

<sup>6382</sup> Perry Kamara, Transcript 5 February 2008, p. 3111.



were not happy with the order, “went and had their own area that was far from Kono”.<sup>6383</sup> Kamara later testified that they moved to Rosos in Bombali District when this incident occurred.<sup>6384</sup> Once they had established themselves at Rosos, Gullit contacted SAJ Musa who informed Bockarie that they were there. Kamara explained that by that time they were only able to communicate a little with SAJ Musa because the radio was not good at all. Sometimes they could only manage once a week but SAJ Musa was able to give the details to Sam Bockarie.<sup>6385</sup>

#### Prosecution Witness TF1-371

2876. Witness TF1-371, an RUF commander<sup>6386</sup> who was in Buedu between March 1998 and April 1999,<sup>6387</sup> testified that he did not recall any meeting between Denis Mingo and Bockarie before Mingo moved to the Kabala axis. TF1-371 also testified that after one of the trips to Monrovia in 1998, Bockarie mentioned that he had received a “specific instruction” from Taylor that the RUF should “ensure that we maintain Kono...and at the same time to ensure that we recapture Freetown, recapture Freetown”.<sup>6388</sup> TF1-371 testified that Bockarie ordered a mission around mid-1998 led by “Kallon and others” which was called Fitti-Fatta. It was aborted when they met strong resistance from ECOMOG. By “aborted”, the witness meant that they were unsuccessful in their mission to capture Kono.<sup>6389</sup>

<sup>6383</sup> Perry Kamara, Transcript 5 February 2008, p. 3111.

<sup>6384</sup> Perry Kamara, Transcript 5 February 2008, pp. 3173-3174.

<sup>6385</sup> Perry Kamara, Transcript 5 February 2008, pp. 3173-3174.

<sup>6386</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>6387</sup> TF1-371, Transcript 28 February 2008, p. 2389 (CS).

<sup>6388</sup> TF1-371, Transcript 28 January 2008, pp. 2384-2385 (CS) (“There was one particular time he came back he was really very excited. Once he was able to establish contact with Mr Taylor, once he met Mr Taylor himself and confirmed that the diamonds that he took from Johnny Paul Koroma were actually in the possession of Mr Taylor, he was excited about that. Once he came we had a meeting where he mentioned about a specific instruction that he had received from Mr Taylor and that was what he said: To ensure that we maintain Kono, and that was the time when he intensified the mining operation in Kono so as to enable to pay for those materials, and at the same time to ensure that we recapture Freetown, recapture Freetown. He mentioned that briefly, one of those trips. So after that the mining at Tongo and Kono District were intensified. ... Well, Kono was -- had always been the bread basket for the junta, for the RUF. It had always been the source of supporting, or sustaining, the armed rebellion through the diamond products and that was the only source. I mean, in fact, we had all the diamonds. That was the source that Johnny Paul Koroma had the diamonds from in the first place, so that was the reason why he said he received that instruction, so I mean it was nothing really of surprise to any of us”).

<sup>6389</sup> TF1-371, Transcript 28 January 2008, p. 2394 (CS).

2877. TF1-371 testified that Bockarie made “a series of trips” to Monrovia throughout “the latter part of 1998”,<sup>6390</sup> “after June, July, August”,<sup>6391</sup> “from 1998 ending to early 1999”.<sup>6392</sup> While he could specifically recall three trips that were essential, there were other trips, the precise number of which he could not recall.<sup>6393</sup>

Prosecution Witness TF1-375

2878. Witness TF1-375, an RUF fighter,<sup>6394</sup> testified that about three weeks after they retreated from Koidu Town, Bockarie contacted Superman via radio to advise that he was sending “guests” from Buedu who had come from Liberia. Superman sent people to receive them at the Moa River, and they returned accompanied by up to eight Liberians. The men had Liberian accents and brought arms and ammunition, as well as two medicine men who marked the fighters to protect them. The medicine men told the fighters that they had done the same to fighters “during the NPFL time under Taylor”. TF1-375 testified that one of the Liberians was an SSS officer named “Osebo Demy”, whom he came to know subsequently in Liberia as one of Yeaten’s subordinates in the SSS.<sup>6395</sup>

2879. The witness testified that two forums of senior officers were called. The witness attended the first, an open forum, where the Liberians said that they had brought arms and ammunition from Liberia. He stated that the Liberians “want[ed] us to retake Kono, Koidu Town... because it would be important for us. When we take back Koidu Town, mining would be going on and we would have a lot of support.”<sup>6396</sup> The second, closed-door forum, took place at Superman’s house between Superman, the Liberians, Rambo, and Honourable Adams of the AFRC. Superman also told the witness after his meeting with the Liberians that they had also told him to take over Kono so that mining could take place there and that that would help them move faster with the war.<sup>6397</sup>

<sup>6390</sup> TF1-371, Transcript 1 February 2008, p. 2825 (CS).

<sup>6391</sup> TF1-371, Transcript 1 February 2008, p. 2826 (CS).

<sup>6392</sup> TF1-371, Transcript 1 February 2008, p. 2382 (CS) (“[...] from 1998 ending to early 1999 there were a lot of activities, people coming into RUF controlled territories and Mosquito frequenting Monrovia”).

<sup>6393</sup> TF1-371, Transcript 28 January 2008, pp. 2382-2383 (CS).

<sup>6394</sup> TF1-375, Transcript 23 June 2008, p. 12485.

<sup>6395</sup> TF1-375, Transcript 23 June 2008, pp. 12523-12528.

<sup>6396</sup> TF1-375, Transcript 23 June 2008, pp. 12524-12525.

<sup>6397</sup> TF1-375, Transcript 23 June 2008, pp. 12524-12535, 12530.

2880. TF1-375 stated that the goal of the Fitti-Fatta mission was “to just go on the rampage and retake over Koidu Town” but that it was unsuccessful.<sup>6398</sup> TF1-375 testified that Superman instructed him to go to Wordu to join Komba Gbundema, to hand over the ammunition to him and to go to Kurubonla to meet SAJ Musa to work with him to attack Mongo Bendugu. On the basis of that instruction, the witness went to Wordu two days after the Fitti-Fatta mission.<sup>6399</sup>

#### Prosecution Witness Karmoh Kanneh

2881. Witness Karmoh Kanneh, a senior commander in the RUF,<sup>6400</sup> testified to a meeting called by Bockarie and attended by around 600 commanders and soldiers, including Johnny Paul Koroma, Jungle, Issa Sesay, Alex Tamba Brima (a.k.a. Gullit), Denis Mingo (a.k.a. Superman), Isaac Mongor, Eddie Kanneh, “AB”, “FOC”, Akim Turay and SYB Rogers, taking place on the Foya Road between Waterworks and Buedu between April and June 1998,<sup>6401</sup> before the death of Sani Abacha. Kanneh said that Sam Bockarie had just returned from Monrovia at this time and that the meeting took place in thick forest because they were afraid of the air raids. Bockarie spoke at the meeting about, *inter alia*, his new promotion, the command structure between the AFRC and RUF, the Fitti-Fatta mission, difficulties with SAJ Musa, Bockarie’s planned trip to Burkina Faso with General Ibrahim and the diamonds that Issa Sesay had lost in Monrovia.<sup>6402</sup> SAJ Musa was not at the meeting as he was in the northern area.<sup>6403</sup>

2882. Kanneh stated that Bockarie said that “he would want us to go and clear the mining area, that is Kono, and that the Pa, Charles Taylor, had told him that nothing goes for nothing and that he had no machine to make arms”.<sup>6404</sup> Bockarie was planning to go to

<sup>6398</sup> TF1-375, Transcript 23 June 2008, p. 12541; Transcript 28 August 2008, pp. 14824-14825.

<sup>6399</sup> TF1-375, Transcript 23 June 2008, pp. 12543-12544.

<sup>6400</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9390.

<sup>6401</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9393. The Trial Chamber notes that the witness gave several different accounts about when the meeting took place. On cross-examination, Kanneh testified twice that the meeting took place after the death of Sani Abacha in June 1998 (Karmoh Kanneh, Transcript 13 May 2008, pp. 9600-9601, 9678). On the second of these occasions, he stated that it could have been around August or September. Kanneh also denied that he had told the Prosecution Investigators in a prior statement that the meeting took place before the death of Sani Abacha (Karmoh Kanneh, Transcript 13 May 2008, p. 9689).

<sup>6402</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9392-9394, 9399; Transcript 13 May 2008, p. 9683-9684, 9689.

<sup>6403</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9395; Transcript 13 May 2008, p. 9687.

<sup>6404</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9396.

Burkina Faso “in that same month. After the month that we held the meeting, after the Fitti-Fatta operation..”<sup>6405</sup>

2883. Kanneh testified that Bockarie had told Taylor about “Operation Free the Leader”, the mission in which the RUF planned to capture Freetown and release Foday Sankoh. As this plan would require heavy weaponry, Taylor had offered to “link us up where we would be able to get direct material”.<sup>6406</sup>

2884. Kanneh testified that after Bockarie had spoken, Jungle spoke and buttressed the introduction Sam Bockarie had given and said that he would try his utmost best to see that things worked out well. Johnny Paul Koroma and others also spoke during the meeting that lasted for eight hours.<sup>6407</sup> Jungle did not give any order on Taylor’s behalf at the meeting.<sup>6408</sup>

Prosecution Witness Albert Saidu

2885. Witness Albert Saidu, an RUF adjutant,<sup>6409</sup> testified that in around April 1998<sup>6410</sup> he was among those called by Bockarie to a forum in a secret location between Buedu and Dawa. It was attended by a number of senior commanders including Issa Sesay, Peter Vandi, Augustine Gbao and Superman. Colonel Jungle and General Ibrahim were also there as guests. The witness was told by a colleague that the Liberian General seated close to Colonel Jungle at the high table was General Ibrahim. Bockarie subsequently introduced him and General Ibrahim subsequently introduced himself because “most of us did not actually know him.”<sup>6411</sup> At this forum, Sesay’s loss of the diamonds in Monrovia, pressure on the AFRC/RUF from ECOMOG and the CDF, and the building of an airstrip in Buedu were discussed. Bockarie said that the reason he called the meeting was for him to explain the situation with the diamonds to everyone and that in the RUF they did not have any other

<sup>6405</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9397.

<sup>6406</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9397-9398.

<sup>6407</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9398.

<sup>6408</sup> Karmoh Kanneh, Transcript 13 May 2008, p. 9684.

<sup>6409</sup> Albert Saidu, Transcript 3 June 2008, p. 10887; Transcript 4 June 2008, p. 10895.

<sup>6410</sup> Albert Saidu, Transcript 9 June 2008, p. 11353.

<sup>6411</sup> Albert Saidu, Transcript 5 June 2008, pp. 11054-11055, 11057-11059.

way or means to get materials: it was only through the diamonds they passed over to Charles Taylor in exchange for arms and ammunition.<sup>6412</sup>

2886. Saidu stated that Colonel Jungle addressed the meeting, thanking Sam Bockarie and all of those who came saying that:

[H]e was praying that the cause of the revolution will be successful. He said he was there to tell us that the RUF and the AFRC and the relationship between them was recognised by Charles Taylor, and that he was saying that although we have been pushed out of the city, we shouldn't worry ourselves, but that he was advising that we try and get hold over Kono, that was where we will get our resources.<sup>6413</sup>

2887. General Ibrahim then addressed the meeting:

[He] buttressed what they came to do. What Colonel Jungle had already addressed us about, that Charles Taylor sent them to come and prove to us that he is still with us, that we shouldn't worry, although we have been pushed out he is trying to – we should be prepared to settle down and he is trying for us to get more materials to strike again and so that we will be able to capture places like Kono and so many other places.<sup>6414</sup>

... He said that although most of us had seen Colonel Jungle before but [sic] he had now come to tell us that indeed he is coming directly from Charles Taylor and that both of them, they have come to address us on the relationship between Charles Taylor and the RUF and that the relationship was still going strong, that we shouldn't mind although we have been pushed out. He said that the only thing that he was advising was that we should try and recapture Kono and that the AFRC and us, we should always try and work hand in glove because if there were infightings amongst us we will not be able to concentrate on the fighting.<sup>6415</sup>

2888. Saidu testified that when General Ibrahim introduced himself, he said that he was part of the Liberian government working under Charles Taylor and that was why he came.<sup>6416</sup>

2889. The witness explained:

Well, Kono - we know that Kono is where diamonds are. That was where we were able to mine and get diamonds very fast to speed up the revolution that we were fighting. But if we hadn't grips on Kono for us to get money or diamonds to fight the revolution, because the materials were being bought, we will not be able to get the materials except we will fight hard to get Kono for us to be able to sponsor the revolution.<sup>6417</sup>

#### Prosecution Witness Mohamed Kabbah

<sup>6412</sup> Albert Saidu, Transcript 5 June 2008, pp. 11054-11056.

<sup>6413</sup> Albert Saidu, Transcript 5 June 2008, pp. 11055-11056.

<sup>6414</sup> Albert Saidu, Transcript 5 June 2008, p. 11059.

<sup>6415</sup> Albert Saidu, Transcript 5 June 2008, p. 11060.

<sup>6416</sup> Albert Saidu, Transcript 5 June 2008, p. 11060.

<sup>6417</sup> Albert Saidu, Transcript 5 June 2008, pp. 11060-11061.

2890. Witness Mohamed Kabbah (a.k.a. Tourist), an RUF radio operator<sup>6418</sup> in Buedu after the Intervention,<sup>6419</sup> testified that around a month after he arrived in Buedu and after Bockarie had been to Monrovia and returned, he attended a meeting at a place called Waterworks on the Dawa Road leading towards Foya.<sup>6420</sup> Kabbah stated that a “large crowd” attended including Issa Sesay, Denis Mingo, Monkey Brown, Operator Zedman, King Perry, AFRC fighters and advisers such as Pa Rogers.<sup>6421</sup>

2891. At the meeting, chaired by Bockarie, Kabbah testified that the fighters discussed the construction of an airstrip at a village near Buedu, how they were to take Kono from ECOMOG so that they could undertake mining to get ammunition to continue the struggle, and the issue of Sesay losing diamonds.<sup>6422</sup> Kabbah explained that because Sesay had lost the diamonds that he was supposed to be taking to Charles Taylor, Bockarie had gone back to Monrovia. Kabbah said:

So the struggle had reached a point when these bits and pieces of ammunition that we were getting from Liberia was dwindling because the area of the struggle had become large and, you know, it is ammunition that fights war. So when Sam Bockarie returned it was at that time that he spoke about that, that he had discussed that with Charles Taylor, that we should try and get Kono and when we would have taken Kono we would get ammunition because when we get Kono we will get diamonds and he will help us to get ammunition. That was the discussion; the retaking of Kono so that we can mine and get enough ammunition, because the bits and pieces that he's<sup>6423</sup> been giving us used to help us. But what we wanted did not happen. That was a clear example, when he took that diamond the type of ammunition that he brought.<sup>6424</sup>

...  
[W]hat I mean is that you want - you wanted a hundred boxes and when you go there somebody gives you ten, you will take it because you had no option. So the hundred that we wanted, if we had our diamonds, when we take them we will get our hundred.<sup>6425</sup>

### Prosecution Witness TF1-585

<sup>6418</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>6419</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16126.

<sup>6420</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16145-16147.

<sup>6421</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16147.

<sup>6422</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16147-16148, 16151.

<sup>6423</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16151 (by “he”, he was referring to Charles Taylor).

<sup>6424</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16149.

<sup>6425</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16150.

2892. Witness TF1-585, an RUF radio operator,<sup>6426</sup> testified that in September 1998,<sup>6427</sup> Sam Bockarie convened a meeting in his compound with Issa Sesay, Junior Rambo (CO Isaac), Five-Five and Jungle. The purpose of the meeting was, in part, to discuss Sesay's punishment for losing diamonds in Monrovia and how to encourage the disgruntled soldiers to attack Kono in order to compensate for the diamonds lost by Sesay. TF1-585 knew that the meeting was called for these reasons because she heard Bockarie discussing with Eddie Kanneh about how Issa had lost the diamonds, that was a big setback for the movement and that the soldiers were all disgruntled. Bockarie said Issa feared being sent to the front lines so he wanted to convene that meeting "for the boys to be happy and everybody would come up with the decision as to what punishment was to be meted out to Issa and to organise that". The witness testified that Sam Bockarie was to organise the punishment and give more arms and ammunition to send missions out to Kono and they would name the mission Fitti-Fatta. TF1-585 stated that she did not attend the meeting herself but that those who attended told her the same things about it. The outcome of the meeting was a decision to send Sesay to the front line as punishment where he would lead the mission to recapture Kono Town: "He should be there until Kono was captured. He should clear Kono".<sup>6428</sup>

2893. TF1-585 testified that after the meeting, she saw Bockarie supply arms and ammunition to Issa Sesay, Rambo and the other fighters from the warehouse in front of his house, as well as used clothing and brand new white sneakers. Everything was in abundance.<sup>6429</sup>

2894. TF1-585 said that the Fitti-Fatta mission was carried out around two to three weeks after the meeting. She later read in the log-book that Superman, who was also around Kono at the time, had sent a radio message to Sam Bockarie reporting that the soldiers had failed to capture Koidu Town but had succeeded in capturing some ammunition and some Guinean

<sup>6426</sup> TF1-585, Transcript 5 September 2008, pp. 15582-15584, 15589-15592 (PS).

<sup>6427</sup> During her examination-in-chief, TF1-585 testified that three meetings took place in June, September and December 1999. On cross-examination, she corrected her testimony to say that they occurred in 1998 (TF1-585, Transcript 11 September 2008, pp. 15972-15973). In view of TF1-585's testimony in chief that the three meetings took place in the June, September and December before "January 6" (TF1-585, Transcript 8 September 2008, p. 15682), and that they took place within the same year that Johnny Paul Koroma was removed from power in Freetown (TF1-585, Transcript 8 September 1998, p. 15672), together with the witness's correction during her cross-examination, the Trial Chamber is satisfied that the witness is referring to events that she recalled occurring in 1998.

<sup>6428</sup> TF1-585, Transcript 8 September 2008, pp. 15666-15668; Transcript 11 September 2008, p. 15975.

<sup>6429</sup> TF1-585, Transcript 8 September 2008, pp. 15668-15669.

soldiers. She explained that Superman sent the message because Issa Sesay was too afraid.<sup>6430</sup>

2895. TF1-585 testified that the invasion of Freetown on 6 January 1999 was discussed at the next (third) meeting which was held in Buedu.<sup>6431</sup>

Prosecution Witness Isaac Mongor

2896. Witness Isaac Mongor, a senior commander of the RUF<sup>6432</sup> based in Kono District after the Intervention,<sup>6433</sup> testified that about a month after he arrived in Koidu, ECOMOG flushed them out of Koidu Town.<sup>6434</sup> Mongor stated that he, along with Superman and other commanders and Vanguarders in Koidu, was called to Buedu for a meeting but that he was unable to go. Mongor clarified that he was unable to go to the meeting because he and Superman, as the two commanders, could not leave at the same time so Mongor sent someone to represent him.<sup>6435</sup>

2897. After the meeting, Superman met Mongor at Gandorhun where he was based and explained what had happened. Mongor stated that Superman came with a lot of ammunition. Superman told Mongor that the meeting they had was for “us” to run a mission to capture Koidu and dislodge ECOMOG there. The name of the mission was to be Fitti-Fatta. After his conversation with Superman, Mongor then received a call from Mosquito who confirmed what Superman had told him, saying that a small amount of ammunition had arrived and that “Brother Jungle” had taken it from Taylor. Bockarie explained that they had sent them the ammunition for them to endeavour to take Koidu Town from ECOMOG. Mongor said “he showed me the ammunition and I agreed for us to go on that mission”.<sup>6436</sup> Mongor testified that in that mission, “we were to ensure that we recaptured Koidu ... and we were to kill anybody whom we could lay hands on”. The attack on Kono was not successful.<sup>6437</sup> The witness could not remember the precise month of Fitti-Fatta but confirmed that it was not

<sup>6430</sup> TF1-585, Transcript 8 September 2008, pp. 15669-15670, 16974-16975.

<sup>6431</sup> TF1-585, Transcript 8 September 2008, pp. 15691-15692, Transcript 11 September 2008, p. 15981.

<sup>6432</sup> See for example Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March 2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>6433</sup> Isaac Mongor, Transcript 11 March 2008, p. 5742.

<sup>6434</sup> Isaac Mongor, Transcript 11 March 2008, p. 5751.

<sup>6435</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5747-5748.

<sup>6436</sup> Isaac Mongor, Transcript 11 March 2008, p. 5748.



long after they had been pushed out of Koidu Town that they undertook the mission and that it took place in the dry season of 1998, before the inception of the rainy season.<sup>6438</sup>

Prosecution Witness TF1-567

2898. Witness TF1-567, an RUF member,<sup>6439</sup> testified that while he was stationed at Balahun in Kailahun District, he received information that Superman had organised troops who called themselves Fitti-Fatta and tried to re-attack Koidu Town. Superman had received his ammunition for the attack from Sam Bockarie.<sup>6440</sup>

Prosecution Witness Alice Pyne

2899. Witness Alice Pyne, an RUF radio operator,<sup>6441</sup> testified that at some time after Issa Sesay had lost diamonds in Monrovia<sup>6442</sup> but before Sani Abacha died,<sup>6443</sup> Bockarie called a meeting in Buedu to decide what to do about the diamonds. There had been some disquiet among the commanders following the incident because they felt that Bockarie had shown favouritism to Sesay by punishing him so lightly, so Bockarie had called them to Buedu to tell them what had happened and what they had to do.<sup>6444</sup> The witness, Superman and around 150 of his men attended.<sup>6445</sup> Pyne testified that when she arrived in Buedu, Sam Bockarie's radio operator Sebatu came and told her that Bockarie was going to Foya in Liberia, following which the witness saw Bockarie and his bodyguards leave in their vehicles from her house, which was not far from Bockarie's. Later the same afternoon, Bockarie returned.<sup>6446</sup> The witness testified that she did not see the things they brought but when she was ready to return to Superman Ground, the things that they gave to Superman

<sup>6437</sup> Isaac Mongor, Transcript 11 March 2008, p. 5750.

<sup>6438</sup> Isaac Mongor, Transcript 11 March 2008, p. 5751.

<sup>6439</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS).

<sup>6440</sup> TF1-567, Transcript 2 July 2008, p. 12907.

<sup>6441</sup> Alice Pyne, Transcript 17 June 2008, p. 12074.

<sup>6442</sup> Alice Pyne, Transcript 18 June 2008, pp. 12209-12211; Transcript 19 June pp. 12233-12234.

<sup>6443</sup> Alice Pyne, Transcript 18 June 2008, p. 12211; Transcript 19 June 2008, p. 12246.

<sup>6444</sup> Alice Pyne, Transcript 18 June 2008, pp. 12209-12211; Transcript 19 June 2008, p. 12233.

<sup>6445</sup> Alice Pyne, Transcript 18 June 2008, p. 12211.

<sup>6446</sup> Alice Pyne, Transcript 19 June 2008, pp. 12236-12237.

included arms, ammunition and alcoholic drinks and they said they had brought them from Foya.<sup>6447</sup>

2900. At Bockarie's request, Pyne then went with Superman into the zoebush outside Buedu where there were up to seven herbalists and juju men who said they would mark the RUF fighters to make them bulletproof at the "war front".<sup>6448</sup> Pyne testified that she also saw Colonel Jungle in the zoebush at this time.<sup>6449</sup> Pyne explained that she knew the herbalists were from Liberia, both from the language they spoke and because that was what Bockarie told Superman when he was handing them over to him. Pyne also testified that an elderly Gbandi woman had told her that the herbalists had been sent to Bockarie by Charles Taylor to help protect the RUF fighters, particularly those who would go to recapture Koidu Town from ECOMOG, against bullets.<sup>6450</sup> They then travelled back to Kono together with the herbalists, where Pyne described further markings taking place.<sup>6451</sup>

2901. The witness confirmed that the mission in question was called Fitti-Fatta.<sup>6452</sup> Pyne testified that before they left for the mission, Superman met with commanders and the men whom these commanders had brought, and the men who were at her own base, and they planned how to carry out this operation in Koidu, whereby all these commanders were to attack Koidu from their own positions.<sup>6453</sup> Pyne confirmed that she herself went on the mission which lasted one night and was unsuccessful. However, she testified that when they engaged the Guineans in combat, the Guineans ran away, abandoning their arms, heavy weapons and "a lot" of ammunition, which the rebels took and put in a vehicle.<sup>6454</sup> Pyne explained that they withdrew because ECOMOG launched a bomb at Five-Five bridge, killing over 20 RUF men. The witness was not sure exactly what time the other troops withdrew but she left Koidu Town around 4.30am.<sup>6455</sup>

#### Prosecution Witness Foday Lansana

<sup>6447</sup> Alice Pyne, Transcript 19 June 2008, p. 12237.

<sup>6448</sup> Alice Pyne, Transcript 19 June 2008, pp. 12236-12238.

<sup>6449</sup> Alice Pyne, Transcript 19 June 2008, pp. 12236, 12310-12313.

<sup>6450</sup> Alice Pyne, Transcript 19 April 2008, p. 12238.

<sup>6451</sup> Alice Pyne, Transcript 19 June 2008, pp. 12239, 12241-12244.

<sup>6452</sup> Alice Pyne, Transcript 19 June 1998, p. 12239.

<sup>6453</sup> Alice Pyne, Transcript 19 June 1998, p. 12245.

<sup>6454</sup> Alice Pyne, Transcript 19 June 2008, pp. 12246-12247.

<sup>6455</sup> Alice Pyne, Transcript 19 June 2008, p. 12248.

2902. Witness Foday Lansana (a.k.a. Co Nya), an RUF radio operator,<sup>6456</sup> was based with Bai Bureh in Tefiya after the rebel forces were pushed out of Koidu.<sup>6457</sup> He testified that Superman sent Bai Bureh a message calling him to Superman Ground to discuss some “pertinent issues”. Bockarie had told Superman that Issa Sesay had lost diamonds in Liberia and fighters in the jungle had become annoyed, so Bockarie had invited them to a general forum in Buedu to try to calm things down.<sup>6458</sup>

2903. After consulting with his troops, including the witness, Superman travelled to Buedu, returning a month later with some troops as well as arms and ammunition for an attack on Koidu Town that he had been instructed to undertake, called Fitti-Fatta. Lansana explained that the purpose of the operation was to attack and capture Koidu Town and to get sufficient arms and ammunitions.<sup>6459</sup> Lansana testified that King Perry and Alice Pyne both accompanied Superman on his trip to Buedu and communicated with him while they were there.<sup>6460</sup>

2904. The result of the mission was severe casualties for the RUF and ECOMOG which prevented the RUF from pushing further into Koidu.<sup>6461</sup> Superman evacuated the wounded soldiers from Koidu and he continued to Kurubonla in order to attack Sama Bendugu in the Koinadugu District.<sup>6462</sup>

#### Prosecution Witness Alimamy Bobson Sesay

2905. Alimamy Bobson Sesay, an AFRC member<sup>6463</sup> and officer<sup>6464</sup>, who was part of the group led by Gullit in mid-1998, testified that they were based at Camp Rosos from around July/August to September 1998.<sup>6465</sup> After the operation to Foro Loko, the witness described how Gullit said that somebody should go ahead and search for a suitable place for them to

<sup>6456</sup> Foday Lansana, T. 20 February 2008, pp. 4361-4362.

<sup>6457</sup> Foday Lansana, Transcript 21 February 2008, pp. 4504, 4507.

<sup>6458</sup> Foday Lansana, Transcript 21 February 2008, pp. 4508, 4515.

<sup>6459</sup> Foday Lansana, Transcript 21 February 2008, pp. 4515-4516, 4518.

<sup>6460</sup> Foday Lansana, Transcript 21 February 2008, p. 4516.

<sup>6461</sup> Foday Lansana, Transcript 21 February 2008, p. 4518.

<sup>6462</sup> Foday Lansana, Transcript 21 February 2008, p. 4518.

<sup>6463</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7859-7867, 7869; Transcript 28 April 2008, pp. 8684, 8689.

<sup>6464</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7865-7866.

<sup>6465</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, p. 8111.

base and a Temne SLA support firer among them called Captain Olangba who knew the area, was chosen. Olangba returned saying that he had seen a nice village, called Rosos, surrounded by water and recommended the group base there. So the troops left and captured Rosos, Bombali District and based themselves there. This became Camp Rosos.<sup>6466</sup>

### The Accused

2906. The Accused testified that he did not know about the Fitti-Fatta mission for re-attacking Koidu Town, or what Fitti-Fatta means, and stated that he first heard about it during the Prosecution case in court.<sup>6467</sup> He testified that he had never met Bockarie at the time Fitti-Fatta is alleged to have been planned.<sup>6468</sup>

2907. The Accused was presented with Perry Kamara's evidence about a "big mission" conceived before Fitti-Fatta to capture Sierra Leone, including Freetown, on a number of occasions. The Accused denied that he had ever created a plan to take over Sierra Leone, that Bockarie was ever ordered to go to Liberia to get a plan from him, or that he told Bockarie how to implement it. It is not true that, following such a meeting, Bockarie returned to Buedu and called a meeting to discuss and organise the Fitti-Fatta mission as well as a long term plan to capture Freetown.<sup>6469</sup> He testified that he did not know Sierra Leone or the importance of the towns cited by Kamara,<sup>6470</sup> nor did he tell Bockarie that as long as they had Kono, they would take over the rest of Sierra Leone.<sup>6471</sup> The Accused stated that he did not need anything from Sierra Leone as Liberia already had diamonds.<sup>6472</sup>

2908. The Accused drew attention to the divergence between this and accounts of the Freetown attack given by other witnesses which, he averred, showed that SAJ Musa and the

<sup>6466</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8122-8124.

<sup>6467</sup> Charles Ghankay Taylor, Transcript 3 August 2009, pp. 25819-25821; Transcript 14 September 2009, p. 28733.

<sup>6468</sup> Charles Ghankay Taylor, Transcript 6 August 2009, p. 26223.

<sup>6469</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26220, 26222; Transcript 16 September 2009, pp. 29025-29026, 29030-29031; Transcript 18 October 2009, p. 29035.

<sup>6470</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29025-29027, 29030-29031.

<sup>6471</sup> Charles Ghankay Taylor, Transcript 6 August 2009, p. 26221.

<sup>6472</sup> Charles Ghankay Taylor, Transcript 3 August 2009, pp. 25820-25822, Transcript 6 August 2009, p. 26222.

SLAs perpetrated the Freetown attack and that there was no contact between SAJ Musa and the RUF.<sup>6473</sup>

2909. The Accused stated that he would not have undermined the peace process for the sake of dealing with Sam Bockarie<sup>6474</sup> and that he did not meet with Bockarie until September 1998.<sup>6475</sup> He explained that he never had any separate arrangements with Bockarie outside the mandates given by ECOWAS and OAU. Every time the Accused invited Bockarie to Liberia, he did so with the consent of ECOWAS.<sup>6476</sup> The Accused said that if he had had any inclination that Sam Bockarie and “his people” intended to perpetuate the conflict, he would have told his colleagues and they would have tried to deal with it.<sup>6477</sup> The Accused testified that every trip Sam Bockarie made to Liberia, he made with the consent of ECOWAS Committee of Five, which was always informed of the meetings.<sup>6478</sup> The Accused also testified that at this stage, in June 1998, they had already had a “strong warning” from the United Nations about “accusations that are not true”. He explained that the President of the Security-Council invited the Liberian ambassador, “stated what was in fact not the fact” and asked for an official explanation. The Secretary-General came to Nigeria, where there was “nothing else on [the] agenda but Sierra Leone”. They met and talked with “Tejani”. The Accused called “nonsense” any idea that Bockarie came to Liberia while this was happening to discuss Fitti-Fatta.<sup>6479</sup>

2910. In response to Karmoh Kanneh’s testimony, the Accused denied that he had ordered, or had knowledge about, or was involved in the Fitti-Fatta mission to ensure that the RUF continued to purchase ammunition from him in exchange for diamonds, primarily on the basis that he had no materials to give them at this time, March or April 1998. He also said that it would have to be proven that he was receiving diamonds around this time for Karmoh Kanneh’s evidence to make sense.<sup>6480</sup>

#### Defence Witness DCT-068

<sup>6473</sup> Charles Ghankay Taylor, Transcript 16 September 2009, p. 29026.

<sup>6474</sup> Charles Ghankay Taylor, Transcript 16 September 2009, p. 29021.

<sup>6475</sup> Charles Ghankay Taylor, Transcript 6 August 2009, p. 26223.

<sup>6476</sup> Charles Ghankay Taylor, Transcript 6 August 2009, p. 26223.

<sup>6477</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26221-26222.

<sup>6478</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26220-26223.

<sup>6479</sup> Charles Ghankay Taylor, Transcript 3 August 2009, pp. 25819-25820.

2911. Witness DCT-068, a member of the RUF,<sup>6481</sup> testified, with reference to the period after the Lomé Accord, that Kono was not the most strategic area to hold onto: the RUF were also in Makeni, Kailahun and Tonkolili. The witness disagreed that the RUF defended the diamond-mining areas because of their value due to the diamonds. Rather, they would have defended any land that belonged to them. DCT-068 stated that the resources of a country belong to the country and the people. So if someone has power, for example as President or Head of State, they control the resources because they negotiate who should come to work them. Whilst the diamond resources were important, they did not however necessarily equate to control of the country, which only came from controlling the seat of power, Freetown. The witness agreed that the ultimate objective to really control the country was to control Freetown.<sup>6482</sup>

#### Defence Witness Issa Sesay

2912. Witness Issa Sesay, a senior RUF commander,<sup>6483</sup> testified that the Fitti-Fatta mission was an unsuccessful attack led by Superman against ECOMOG in Koidu Town in July 1998.<sup>6484</sup> Sesay explained that Superman experienced heavy casualties because the ammunition was not up to standard and there was not enough of it for such an attack, and because they did not organise themselves properly.<sup>6485</sup>

2913. Sesay testified that Bockarie, Superman and Mike Lamin planned Fitti-Fatta in Buedu after which Superman and Mike Lamin visited Sesay in Pendembu and explained the mission to him.<sup>6486</sup> To his knowledge, the plan only ever related to Koidu Town, irrespective of the success of the mission.<sup>6487</sup> Sesay testified that King Perry accompanied Superman

<sup>6480</sup> Charles Ghankay Taylor, Transcript 28 October 2009, p. 30577.

<sup>6481</sup> DCT-068, Transcript 11 March 2010, p. 37083.

<sup>6482</sup> DCT-068, Transcript 12 March 2010, pp. 37203-37204.

<sup>6483</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>6484</sup> Issa Sesay, Transcript 8 July 2010, p. 44064. Under cross-examination, he recalled that Fitti-Fatta could not have taken place until late July or early August 1998 since Superman did not visit Buedu until July 1998 to receive instructions for the operation to attack Koidu (Issa Sesay, Transcript 18 August 2010, pp. 46623-46624). He then confined his estimate to early August 1998 (Issa Sesay, Transcript 18 August 2010, pp. 46625-46626). He denied that the account of an attack on Koidu on 10 June 1998 cited in Exhibit P-571 is Fitti-Fatta but confirmed that the rainy season in Sierra Leone runs from around May to October (Issa Sesay, Transcript 18 August 2010, pp. 46625-46626).

<sup>6485</sup> Issa Sesay, Transcript 8 July 2010, pp. 44064-44065.

<sup>6486</sup> Issa Sesay, Transcript 8 July 2010, pp. 44070-44071; Transcript 28 July 2010, pp. 44840-44841, 44845-44846; Transcript 18 August 2010, p. 46611.

<sup>6487</sup> Issa Sesay, Transcript 18 August 2010, pp. 46611-46613.

when he came to Buedu to receive instructions from Bockarie for the Fitti-Fatta operation.<sup>6488</sup>

2914. According to Sesay, there was no large meeting of fighters prior to the Fitti-Fatta. Only Bockarie, Mike Lamin, as Bockarie's advisor, and the relevant commander who was going to undertake the operation would have been present at the planning meetings because they kept plans confidential until the day of the attack, or two or three days prior to it.<sup>6489</sup>

2915. Sesay stated that Charles Taylor did not plan the Fitti-Fatta mission because Bockarie was not in communication with him at that time.<sup>6490</sup>

2916. Sesay testified that Kanneh was lying when he said more than 600 people attended a meeting at Waterworks sometime between April and June 1998. No meetings were held at Waterworks between February and December 1998. Nor was there a meeting there where some 600 people were present. Bockarie held all of the meetings about the frontline during this time in Pendembu, where Sesay was stationed.<sup>6491</sup> No meeting of the type described by Kanneh took place between Waterworks and Buedu in 1998.<sup>6492</sup> Further, according to Sesay, Johnny Paul Koroma did not attend any meetings between March and August in Buedu. He did not attend any meetings at which he addressed people, nor did he and Sam Bockarie attend any meetings where they addressed people.<sup>6493</sup>

2917. Sesay testified, in relation to operations at the time of the January 1999 Freetown invasion that the RUF was also fighting to get to Freetown because it was the "seat of power, the seat of government".<sup>6494</sup>

#### Defence Witness Martin George

2918. Witness Martin George, (a.k.a. Mao Mao), an area commander of the RUF,<sup>6495</sup> who was based in Woama, Kono District at the time of Fitti-Fatta and participated in the mission,

<sup>6488</sup> Issa Sesay, Transcript 8 July 2010, pp. 44054, 44069

<sup>6489</sup> Issa Sesay, Transcript 8 July 2010, p. 44070; Transcript 28 July 2010, pp. 44845-44846.

<sup>6490</sup> Issa Sesay, Transcript 8 July 2010, p. 44070.

<sup>6491</sup> Issa Sesay, Transcript 28 July 2010, pp. 44836-44839, 44845.

<sup>6492</sup> Issa Sesay, Transcript 28 July 2010, p. 44845.

<sup>6493</sup> Issa Sesay, Transcript 28 July 2010, p. 44844.

<sup>6494</sup> Issa Sesay, Transcript 4 August 2010, p. 45433.

<sup>6495</sup> Martin George, Transcript 21 April 2010, p. 39592; Transcript 22 April 2010, pp. 39627, 39708, 39710;





testified that Fitti-Fatta was the first attempt to test their strength against ECOMOG, which failed due to heavy shelling causing the rebels to retreat to their assignment areas. They lost a lot of manpower because they had overlooked the strength of the enemy. The ammunition they had at this time was suitable for defensive measures only.<sup>6496</sup>

Prosecution Exhibit P-067

2919. Exhibit P-067, an undated "Situation Report" from the Black Revolutionary Guards to "the Leader", states in relation to the Fitti-Fatta attack on Koidu Town:

Brigadier Issah Sesay left the base and travel along with Col Jungle and some Liberia securities to Monrovia. He did not make his way through as he only stop in Monrovia. Information was later recieved [sic] by the High-Command that the parcel of diamond has dropped [sic] from Brigadier Issah. He therefore return on base and gave the same report to the High-Command.

The joint security therefore investigated the B.G.C. and took statement [sic] from him.

Later a forum was held pertaining this issue, and the senior officers and elders suggested to suspend the issue until the arrival of the Leader.

Moreso, President Taylor continues to give helping hands with logistics which involves foodstuff and materials. The High Command was called in every month to report to Monrovia for briefing.

The High Command later called Brigadier Denis Mingle (Superman) on a forum for a mission to be carry out to capture the whole of Kono. They came up with an agreement to apply some guerrilla tactics to overrun the strategic positions in Kono District. A plan was drawn, but Superman never went with the plan and the mission fail without capturing Kono and over thirty (30) M.I.A. on our side. and also K.I.A.

After this said mission, Superman was abled [sic] to put some men-power together and proceeded to Kabala axis and created a jungle.<sup>6497</sup>

Prosecution Exhibit P-078

2920. Exhibit P-078, a report prepared by Amnesty International about the Sierra Leone civil conflict in 1998, reports:

Foday Sankoh was released by the Nigerian government into the custody of the Sierra Leonean authorities on 25 July 1998. The government subsequently reiterated a deadline of 8 August 1998 for an amnesty for rebel forces but there was no significant response. Members of the RUF were subsequently reported as claiming that Foday Sankoh had made

Transcript 23 April 2010, pp. 39766, 39787-39795.

<sup>6496</sup> Martin George, Transcript 27 April 2010, pp. 40128-40133.

<sup>6497</sup> Exhibit P-067, "RUF People's Army-- Situation Report to Foday Sankoh from the Black Guard Commander", ERN 9676-9677. Witness TF1-371 testified that in this document the "High Command" referred to Bockarie and Sesay and the mission described was Fitti-Fatta (TF1-371, Transcript 29 January 2008, pp. 2478, 2484 (CS).



these statements under duress and continued to demand his release. The RUF threatened to continue their campaign of violence against civilians if he remained in detention. The government announced its intention to prosecute Foday Sankoh for crimes ... committed during Sierra Leone's internal armed conflict. He was brought to trial on 24 September 1998 and convicted and sentenced to death the following month. This prompted further attacks by rebel forces against unarmed civilians in retaliation.<sup>6498</sup>

....

Atrocities declined significantly during July and August 1998 as the rainy season advanced.<sup>6499</sup>

....

On 27 July 1998 rebel forces ... attacked Kabala. ... The town of Kabala itself, earlier attacked and held briefly by rebel forces in late July 1998, was again attacked on 18 September 1998...

### Prosecution Exhibit P-080

2921. Exhibit P-080, a UN Security Council progress report of the Secretary-General on the UN Observer Mission in Sierra Leone reports that on 1 July 1998 a meeting was convened in Abuja between President Kabbah and President Taylor, the Heads of State of Liberia and Sierra Leone, at which they reached an agreement on confidence-building measures between the two countries and condemned the continued rebel atrocities.<sup>6500</sup> Further, it states that on 25 July 1998, the Nigerian Government released RUF leader Corporal Foday Sankoh to Sierra Leonean custody in Freetown.<sup>6501</sup>

2922. With regard to rebel operations in Sierra Leone, P-080 reports that since the end of June [1998], the military and security situation in Sierra Leone improved "somewhat" as reports of atrocities committed by elements of the former junta had markedly declined.<sup>6502</sup> Further, it said that "though incidents of mutilation appear to have greatly declined since the

<sup>6498</sup> Exhibit P-078, "Sierra Leone -1998- A Year of Atrocities against Civilians, Amnesty International Report", p. 2.

<sup>6499</sup> Exhibit P-078, "Sierra Leone -1998- A Year of Atrocities against Civilians, Amnesty International Report", p. 13.

<sup>6500</sup> Exhibit P-080, "UN Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998", ERN 12387, para. 5.

<sup>6501</sup> Exhibit P-080, "UN Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998", ERN 12387, para. 8.

<sup>6502</sup> Exhibit P-080, "UN Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998", ERN 12388, para. 10.

end of June.... in Koidu, a reliable source has stated that 663 bodies were buried following the fighting in the area in mid-June".<sup>6503</sup>

Prosecution Exhibit P-571

2923. Exhibit P-571, an excerpt from the book, *The Reversed Victory (The Story of Nigerian Military Intervention in Sierra Leone)* by Brigadier General Adeshina, describes an assault by "rebels" on Koidu Town at around 1800 hours on 10 June 1998. After an exchange of fire with ECOMOG troops and their progress further into Koidu Town blocked, the rebels partially withdrew but retained control of their captured territories. At around 0430 hours on 11 June 1998, the rebels abandoned their territories and withdrew altogether. The author describes how the Nigerian soldiers later found 27 rebel corpses.<sup>6504</sup>

Defence Exhibit D-008

2924. Exhibit D-008, an undated unofficial translation of a verbatim report on a recorded discussion between Cpl. Foday Sankoh and his cohorts on his return from detention in Nigeria in 1999 explaining their activities during his detention in 1996 to 1999, reports:

Pa Rogers:

But with particular reference to Brigadier Superman ... when he was sent to Kono he was not doing his work as required, Hence the CDS told us to call him and organise a better operation so that the area will not fall to the enemies. Superman refused to come...<sup>6505</sup>

Defence Exhibit D-009

2925. Exhibit D-009, a Salute Report from Sam Bockarie to Foday Sankoh, dated 26 September 1999, states:

Back at headquarters, I renewed my contact with ULIMO and tried to secure materials from them. It was out of these materials that I gave Superman a good quantity to attack and capture Kono. This move I thought would pressure the government into abandoning their

<sup>6503</sup> Exhibit P-080, "UN Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998", ERN 12393, para. 34.

<sup>6504</sup> Exhibit P-571, "The Reversed Victory, (The Story of Nigerian Military Intervention in Sierra Leone), Brigadier Gen. R.A. Adeshina – Cover Page, Publication Page, Author Information & Page 89 (Four pag Exhibit es)", p. 89.

<sup>6505</sup> Exhibit D-008, "Unofficial Translation – Verbatim Report on a Recorded Discussion between Cpl. Foday Sankoh and his Cohorts on his Return from Detention", ERN 12961-12962.

mock trial against you and provide us with the ground necessary to move the war and the movement forward.

Superman used the materials to attack Kono and was able to control parts of Koidu Town. Though they were able to raise the ammo dump, they then concentrated on looting and later withdrew leaving the enemy to re-occupy the town. Even prior to that, all instructions to maintain the ground were not implemented.

With the captured materials from Kono, Superman went to the Kabala axis to join SAJ Musa. I instructed him to send some materials to which he agreed. Later he refused to dispatch the materials and refused to grant permission to the receiving officer to return to me.<sup>6506</sup>

...

Brig. Issa insisted that the materials be handed over as Superman had not only misused large amounts of ammo in his failed attempt to capture Kono but had also refused to give account of materials captured when the Koidu Town ammo dump of ECOMOG was captured. Superman continued to refuse and Brig. Issa accompanied by Brig. Kallon entered his house and arrested all materials found.<sup>6507</sup>

#### Defence Exhibit D-084

2926. Exhibit D-084, a Salute Report from Issa Sesay to Foday Sankoh dated 27 September 1999, states that:

...I was issued with a liberal quantity of ammunition and instructed to cross the Moa River and re-capture Kono from the enemy. Prior to this, the same instructions had been given to Superman who misused the materials given to him and failed to capture the target.<sup>6508</sup>

#### Deliberations

2927. It is uncontested that, after ECOMOG forced the AFRC/RUF to retreat from Koidu Town, Denis Mingo (a.k.a. Superman) led an unsuccessful mission to re-capture Koidu Town in mid-1998.<sup>6509</sup> The Prosecution alleges that ECOMOG retook Koidu Town between April and June 1998<sup>6510</sup> and that the Fitti-Fatta attack took place in June 1998,<sup>6511</sup> while the Defence avers that the retreat occurred in April/May 1998<sup>6512</sup> and that the Fitti-Fatta operation was

<sup>6506</sup> Exhibit D-009, "RUF Defence Headquarters, Salute Report to the Leader of the Revolution from Major Sam Bockarie", ERN 9662.

<sup>6507</sup> Exhibit D-009, "RUF Defence Headquarters, Salute Report to the Leader of the Revolution from Major Sam Bockarie", ERN 9664.

<sup>6508</sup> Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, From Brigadier Issa H Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999", ERN 7762.

<sup>6509</sup> Prosecution Final Trial Brief, paras 157, 254, 306; Defence Final Trial Brief, para. 607.

<sup>6510</sup> Prosecution Final Trial Brief, paras 240, 252, 459, 775, 870.

<sup>6511</sup> Prosecution Final Trial Brief, paras 6, 150, 157.

<sup>6512</sup> Defence Final Trial Brief, para 1106.

launched in either July 1998<sup>6513</sup> or August 1998.<sup>6514</sup> Witnesses' accounts and the documentary evidence vary as to the dates upon which these events took place.<sup>6515</sup> The Trial Chamber has reviewed this evidence and finds that the AFRC/RUF retreated from Koidu Town around April 1998 and, relying in particular on the UN Security Council report admitted as Prosecution Exhibit P-080 and the excerpt from the book *The Reversed Victory* by Brigadier General Adeshina exhibited as Prosecution Exhibit P-571, that the Fitti-Fatta attack took place in mid-June 1998.

2928. The issue for determination by the Trial Chamber is what if any role the Accused played in planning or ordering this attack. The Prosecution adduced evidence of several meetings prior to the attack, in which the involvement of the Accused was cited.

<sup>6513</sup> Defence Final Trial Brief, para. 607.

<sup>6514</sup> Defence Final Trial Brief, para. 1108.

<sup>6515</sup> Perry Kamara testified that the meeting in Buedu took place in April or May 1998 (Perry Kamara, Transcript 5 February 2008, p. 3160) and that Superman left for Koinadugu after the mission around end-May 1998 (Perry Kamara, Transcript 5 February 1998, p. 3172). TF1-371 placed the mission around mid-1998 (TF1-371, Transcript 28 January 2008, p. 2394 (CS)). Albert Saidu testified that the meeting in Buedu at which the Fitti-Fatta mission was announced took place in April 1998 (Albert Saidu, Transcript 9 June 2008, p. 11353). Mohamed Kabbah testified that the meeting at which Operation Fitti-Fatta was announced happened around a month after he arrived in Buedu (Mohamed Kabbah, Transcript 12 September 1998, p. 16146). Karmoh Kanneh testified that the meeting in Buedu where the Fitti-Fatta mission was organised took place between April and June 1998 before the death of Sani Abacha (Karmoh Kanneh, Transcript 8 May 2008, p. 9393). However, the Trial Chamber has already noted that on cross-examination, Kanneh testified twice that the meeting took place after the death of Sani Abacha in June 1998 (Karmoh Kanneh, Transcript 13 May 2008, pp. 9600-9601; Transcript 13 May 2008, p. 9678). On the second of these occasions, he stated that it could have been around August or September. Kanneh also denied that he had told the Prosecution Investigators in a prior statement that the meeting took place before the death of Sani Abacha (Karmoh Kanneh, Transcript 13 May 2008, p. 9689). Alice Pyne testified that the meeting in Buedu took place after Issa Sesay had lost the diamonds in Monrovia and before the death of Sani Abacha (Alice Pyne, Transcript 19 June 2008, pp. 12233-12234, 12246) and that the mission took place less than two weeks before Sani Abacha's death (Alice Pyne, Transcript 19 June 2008, p. 12246). *Prosecutor v Taylor*, SCSL-03-1-T-370, Admitted Facts and Law, 26 April 2007, Agreed Fact 11 states that Sani Abacha, the leader of Nigeria, died in June 1998. TF1-585 testified that the meeting at which Fitti-Fatta was planned took place around September 1999 (TF1-585, Transcript 8 September 2008, p. 15667). By reference to TF1-585's testimony that 3 meetings took place in the June, September and December before "January 6" (TF1-585, Transcript 8 September 2008, p. 15682), and that they took place within the same year that Johnny Paul Koroma was removed from power in Freetown (TF1-585, Transcript 8 September 1998, p. 15672), the Trial Chamber is satisfied that the witness is referring to events in 1998. Isaac Mongor testified that the Fitti-Fatta mission was run in the dry season of 1998, before the inception of the rainy season (Isaac Mongor, Transcript 11 March 2008, p. 5751). During Issa Sesay's examination-in-chief, he testified that the attack took place in July 1998 (Issa Sesay, Transcript 8 July 2010, p. 44064). Under cross-examination, he recalled that Fitti-Fatta could not have taken place until late July or early August 1998 since Superman did not visit Buedu until July 1998 to receive instructions for the operation to attack Koidu (Issa Sesay, Transcript 18 August 2010, pp. 46623-46624). He then confined his estimate to early August 1998 (Issa Sesay, Transcript 18 August 2010, pp. 46625-46626). P-571, the excerpt from the book *The Reversed Victory* (The Story of Nigerian Military Intervention in Sierra Leone) by Brigadier General Adeshina, describes an assault by "rebels" on Koidu Town at around 1800 hours on 10 June 1998 and recorded that the rebels withdrew altogether around 0430 hours on 11 June 1998. P-078 reported that the attack on Kabala took place on 27 July 1998. P-080 reported information received that in Koidu, 663 bodies were buried following the fighting in the area in mid-June.

2929. Perry Kamara testified about a meeting held at Bockarie's compound where the diamonds lost by Issa Sesay were discussed, as well as the mission to retake Kono. Kamara testified that Mingo had been called to Buedu so that Bockarie could brief him on the plan he had brought from the Accused. He said the meeting was attended by Mike Lamin, Isaac Mongor and Pa Rogers, among others, including most of the battalion and brigade commanders. The Trial Chamber notes that Isaac Mongor testified that when Mingo was called to Buedu for this meeting, Mongor was unable to go with him as they could not both be gone at the same time.<sup>6516</sup> Corroboration of Kamara's testimony that Mike Lamin was present at this meeting is also lacking.

2930. TF1-585 also testified about a meeting at Bockarie's compound with Issa Sesay, Junior Rambo, Five-Five and Jungle present. Although the list of named participants present at the meeting differs from Kamara's list, the agenda described by the two witnesses suggests it may have been the same meeting. According to Kamara the first item on the agenda was Issa Sesay's loss of the diamonds he had taken to Monrovia, which is also what TF1-585 described as the purpose of the meeting. Both witnesses also described the forthcoming Fitti-Fatta attack as part of the discussion, Kamara in much greater detail. The Trial Chamber notes that TF1-585 was not present at the meeting, and that she dates the meeting as having happened in September 1998. However, TF1-585 testified that the Fitti-Fatta attack took place two to three weeks after the meeting, which suggests that the meeting took place closer to the timeframe described by Kamara, April or May 1998. Kamara described Bockarie showing the group arms and boxes of ammunition in rooms in his house after the meeting, and TF1-585 testified that after the meeting she saw Bockarie supply arms and ammunition to the fighters from the warehouse in front of his house. In the Trial Chamber's view, the vague nature of TF1-585's evidence, the fact that she was not at this meeting and her mistaken testimony that Sesay, rather than Denis Mingo, had led the Fitti-Fatta attack as punishment for losing the diamonds, renders it of little probative value other than to corroborate Kamara's evidence that a meeting took place at Bockarie's compound.

2931. The Trial Chamber notes that Perry Kamara's description of this meeting suggests that Bockarie and the Accused had come up with a detailed plan, which Kamara called "a very big plan"<sup>6517</sup> to take over Sierra Leone. Kamara recalled Bockarie using a map to

<sup>6516</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5747-5748.

<sup>6517</sup> Perry Kamara, Transcript 5 February 2008, p. 3163.

indicate the towns that Taylor had told them to attack. SAJ Musa and Mingo would be responsible for Kabala and Makeni. The RUF left in Kono after Superman's departure would be responsible for the branch comprising Koidu Town (a.k.a. Kono, a.k.a. Sefadu), Magburaka, Matotoka and Mile 91 while the group joining Gullit in Rosos would be responsible for Port Loko and Kambia. The meeting point for all the troops would then be Masiaka because that was a main junction in Sierra Leone. After all the troops reached Waterloo, they should then make "a fresh plan, a new one".<sup>6518</sup> The ultimate destination was to be Freetown after all these district headquarters had been captured.<sup>6519</sup>

2932. The testimony of Kamara was exceptionally specific and unlike the testimony of other Prosecution witnesses, which was focused much more narrowly on Kono. Albert Saidu,<sup>6520</sup> TF1-585,<sup>6521</sup> and Mohamed Kabbah,<sup>6522</sup> who were all in Buedu at the time Fitti-Fatta was announced, testified that the Fitti-Fatta mission was an operation intended to capture Koidu Town. In addition, TF1-371 described Fitti-Fatta as a "mission to recapture Kono"<sup>6523</sup> while Isaac Mongor testified that he was told by Mingo that the meeting he had attended in Buedu was about a mission to recapture Koidu.<sup>6524</sup> Mingo also told Foday Lansana that he had been instructed to undertake a mission called Fitti-Fatta, the purpose of which was to capture Koidu Town.<sup>6525</sup> In her testimony, Alice Pyne discussed the ammunition and herbalists who had been given to Mingo for the Fitti-Fatta mission to recapture Koidu Town.<sup>6526</sup> Moreover, Exhibit D-009, Sam Bockarie's Salute Report, recorded that Bockarie instructed Mingo (a.k.a. Superman) to capture Kono.<sup>6527</sup>

2933. Kamara in his testimony was somewhat dismissive of the importance recapturing Kono, which he described as a diversionary tactic to create panic among ECOMOG. In contrast, many other witnesses testified to the importance of capturing Koidu Town to

<sup>6518</sup> Perry Kamara, Transcript 5 February 2008, pp. 3163-3164, 3174; Transcript 6 February 2008, p. 3220.

<sup>6519</sup> Perry Kamara, Transcript 5 February 2008, p. 3164.

<sup>6520</sup> Albert Saidu, Transcript 5 June 2008, pp. 11055-11056, 11060.

<sup>6521</sup> TF1-585, Transcript 8 September 2008, pp. 15666-15668; Transcript 11 September 2008, p. 15975.

<sup>6522</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16147-16148.

<sup>6523</sup> TF1-371, Transcript 28 January 2008, p. 2394 (CS).

<sup>6524</sup> Isaac Mongor, Transcript 11 March 2008, p. 5748.

<sup>6525</sup> Foday Lansana, Transcript 21 February 2008, pp. 4515-4516, 4518.

<sup>6526</sup> Alice Pyne, Transcript 19 June 2008, pp. 12233-12244.

<sup>6527</sup> Exhibit D-009, "RUF Defence Headquarters, Salute Report to the Leader of the Revolution from Major Sam Bockarie", ERN 9662.

enable the AFRC/RUF to mine in Kono District.<sup>6528</sup> Moreover, while it is logical that a plan to recapture Freetown would have included at least some of the routes on the map to which Kamara testified, the Trial Chamber recognises that elements of the plan which Kamara described reflect events which had not happened and could not have been planned or predicted by Bockarie and the Accused as early as April or May 1998. For example, the evidence of Alimamy Bobson Sesay indicates that Brima did not move to Rosos until July/August 1998<sup>6529</sup> and that Rosos was chosen as a site to base only after Brima's group arrived at the Rosos region and sent out an SLA fighter to survey the area.<sup>6530</sup> Moreover, the Trial Chamber notes the evidence indicating that Brima left Koinadugu before Mingo joined SAJ Musa's forces there<sup>6531</sup> and SAJ Musa would not therefore have been briefed by Mingo, as Kamara testified, and aware of the plan when he dispatched Brima.

2934. The Trial Chamber recalls its previous finding that Perry Kamara is a generally credible witness.<sup>6532</sup> That Kamara was in Buedu at the time the Fitti-Fatta operation was planned is supported by Foday Lansana, who testified that Kamara and Alice Pyne both accompanied Mingo on his trip to Buedu and communicated with him while they were there,<sup>6533</sup> Mohamed Kabbah who testified to seeing Kamara at the large forum which took place in Buedu<sup>6534</sup> and Defence witness Issa Sesay.<sup>6535</sup> However, having considered his evidence in this context the Trial Chamber is of the view that Kamara's testimony was influenced by his subsequent knowledge of the events that unfolded in the latter half of 1998 and that he has added detail to the events he recalled with the benefit of hindsight. For this reason, the Trial Chamber will not rely on Kamara's testimony to support the Prosecution's allegation that the Accused made specific plans in conjunction with the Fitti-Fatta operation to recapture Freetown.

2935. The Trial Chamber considers the evidence of TF1-371 and Karmoh Kanneh cited by the Prosecution in support of its allegation that the AFRC/RUF planned in a multi-axis

<sup>6528</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9396; Mohamed Kabbah, Transcript 12 September 2008, pp. 16147-16148, 16151; Albert Saidu, Transcript 5 June 2008, pp. 11055-11056.

<sup>6529</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, p. 8111.

<sup>6530</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8122-8124.

<sup>6531</sup> Provision of Military Personnel: Allegations Related to the Red Lion Battalion.

<sup>6532</sup> Credibility Assessment, Perry Kamara, paras 227-236.

<sup>6533</sup> Foday Lansana, Transcript 21 February 2008, p. 4516.

<sup>6534</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16147.

<sup>6535</sup> Issa Sesay, Transcript 8 July 2010, pp. 44054, 44069

offensive starting in Kono to be irrelevant here since it pertains to plans allegedly made during the Waterworks/Buedu meetings in December 1998 and to attacks undertaken against LURD in Liberia, not the plan referred to by Perry Kamara.<sup>6536</sup>

2936. Nevertheless, the Trial Chamber notes that other witnesses testified about a general plan in early- to mid-1998 to retake Freetown. TF1-371, for example, testified that at a point earlier in time, after one of his trips to Monrovia in 1998, Bockarie mentioned that he had received a “specific instruction” from Taylor that the RUF should “ensure that we recapture Freetown”.<sup>6537</sup> This message dated to well before Fitti-Fatta, including the instruction to “maintain Kono” after it had been recaptured by the AFRC/RUF and before it had been lost again. The Trial Chamber also notes Karmoh Kanneh’s testimony that Bockarie had told Taylor about “Operation Free the Leader”, the RUF mission planned to capture Freetown and release Foday Sankoh. In the Trial Chamber’s view, this evidence indicates that the recapture of Freetown was mentioned by and discussed with the Accused at some point, although, as discussed below, the timing of this discussion is unclear. The Trial Chamber finds it likely that the attack on Kono would have been seen as a first step towards the recapture of Freetown and more generally formed part of a long-term plan. On the basis of the evidence, however, the Trial Chamber concludes that the immediate plan was to recapture Kono.

2937. The Prosecution also relies on the evidence of TF1-375 relating to the eight Liberians who visited Mingo in Kono to support its allegation that the Accused ordered the recapture of Kono. However, the Trial Chamber recalls its finding that TF1-375’s testimony must be treated with caution and requires corroboration.<sup>6538</sup> The Trial Chamber notes that on TF1-375’s account, these eight Liberians brought two medicine men (herbalists) and recalls its finding that the herbalists who came to mark the fighters before the Fitti-Fatta mission were sent by the Accused.<sup>6539</sup> However, TF1-375’s account of these Liberians and herbalists arriving while Superman was at Superman Ground does not accord with the testimonies of Prosecution witnesses Alice Pyne<sup>6540</sup> and Perry Kamara<sup>6541</sup> as well as Defence witness Issa

<sup>6536</sup> Prosecution Final Trial Brief, para. 156, citing Karmoh Kanneh, Transcript 9 May 2008, pp. 9423-9425, 9460 and TF1-371, Transcript 28 January 2008, pp. 2411, 2417-2418 (CS). The reference to TF1-371, Transcript 28 January 2008, pp. 2384-2385 (CS) has already been dealt with above.

<sup>6537</sup> TF1-371, Transcript 28 January 2008, pp. 2384-2385 (CS).

<sup>6538</sup> Credibility Assessment, TF1-375, paras 308-312.

<sup>6539</sup> Operational Support: Support and Training, Alleged Provision of Herbalists.

<sup>6540</sup> Alice Pyne, Transcript 19 June 2008, pp. 12239-12241; Operational Support: Support and Training, Alleged



Sesay<sup>6542</sup> that Superman brought the herbalists back from Buedu with him after the meeting there at which the Fitti-Fatta mission was planned. In light of the discrepancy between TF1-375's account and the testimony of Pyne, Kamara and Issa Sesay, the Trial Chamber considers that these were not the same herbalists as those sent by the Accused and that TF1-375's evidence is therefore uncorroborated.

2938. The Trial Chamber notes that three other witnesses, Karmoh Kanneh, Albert Saidu and Mohamed Kabbah, testified in support of the Prosecution's allegation that the Accused issued directives and encouragement to Bockarie concerning the urgency of recapturing Kono District. The witnesses testified that they attended a forum convened by Bockarie somewhere in a secret location between Buedu and Dawa, according to Saidu,<sup>6543</sup> on the Foya Road between Waterworks and Buedu, according to Kanneh,<sup>6544</sup> or on the Dawa Road leading towards Foya, at Waterworks, according to Kabbah.<sup>6545</sup> Several other aspects of these three witnesses' testimonies converge. For example, all three witnesses testified that the issue of Sesay losing the diamonds was discussed at the meeting.<sup>6546</sup> Kabbah and Saidu both gave evidence that Bockarie spoke about the building of an airstrip in Buedu<sup>6547</sup>.

2939. According to Kanneh, Bockarie had said that he had met the Accused in Monrovia, who had told him to clear Kono and that "nothing goes for nothing and that he had no machine to make arms".<sup>6548</sup> Likewise, Kabbah reported Bockarie as having said at the meeting that he had discussed with the Accused in Monrovia that they should try to get Kono and when they took Kono they would get ammunition for the diamonds they would mine.<sup>6549</sup> Kabbah explained clearly in his testimony that they were getting too few boxes of ammunition and that if they had the diamonds they could get the ammunition they needed.

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Provision of Herbalists.

<sup>6541</sup> Perry Kamara, Transcript 5 February 2008, pp. 3165-3166; Operational Support: Support and Training, Alleged Provision of Herbalists.

<sup>6542</sup> Issa Sesay, Transcript 8 July 2010, pp. 44065-44066; Operational Support: Support and Training, Alleged Provision of Herbalists.

<sup>6543</sup> Albert Saidu, Transcript 5 June 2008, p. 11054.

<sup>6544</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9392.

<sup>6545</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16145.

<sup>6546</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9392-9394, 9399; Transcript 13 May 2008, p. 9683-9684, 9689; Albert Saidu, Transcript 5 June 2008, pp. 11054-11056; Mohamed Kabbah, Transcript 12 September 2008, pp. 16147-16148, 16151.

<sup>6547</sup> Albert Saidu, Transcript 5 June 2008, pp. 11054-11056.

<sup>6548</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9396.

<sup>6549</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16149.





Without specific reference to Bockarie having met the Accused, Saidu recalled that Bockarie had said that it was only through the diamonds they passed over to the Accused that they could get arms and ammunition.<sup>6550</sup> That Bockarie had visited Monrovia before this meeting is corroborated by Exhibit P-067's reference to Bockarie's monthly briefings in Monrovia.<sup>6551</sup>

2940. According to Kanneh and Saidu, Daniel Tamba (a.k.a Jungle) addressed the meeting after Bockarie had spoken, on behalf of the Accused according to Saidu. Saidu testified that Tamba conveyed to the meeting that the Accused recognised the relationship between the RUF and AFRC and that he advised them to try and get hold of Kono, which was where they would get their resources. Saidu further testified that Ibrahim Bah, whom he referred to as General Ibrahim, spoke after Tamba and reinforced what he said, also reporting that the Accused advised them to recapture Kono. Kanneh testified that Tamba supported what Bockarie had already said. That Jungle was in Buedu at this time, is also corroborated by Alice Pyne.<sup>6552</sup>

2941. The Trial Chamber finds Karmoh Kanneh to be a generally credible witness.<sup>6553</sup> The Trial Chamber notes, however, that there are several elements of Kanneh's evidence which suggest that his recollection of the meeting may have become confused with other events occurring in 1998. For example, Kanneh's testimony was that he had informed the Accused of Operation Free the Leader, his plan to capture Freetown and liberate Sankoh. Kanneh appears to have been confused about dates as there is a significant body of reliable evidence which shows that Foday Sankoh was not transferred from Nigeria to Sierra Leone until late July 1998.<sup>6554</sup> He also made reference in his testimony to the Burkina Faso trip that Bockarie made the month of or the month after the meeting held to plan the Fitti-Fatta mission,<sup>6555</sup> yet it is well established that the Burkina Faso shipment arrived much later in the year.<sup>6556</sup> The

<sup>6550</sup> Albert Saidu, Transcript 5 June 2008, p. 11056.

<sup>6551</sup> Exhibit P-067, "RUF People's Army— Situation Report to Foday Sankoh from the Black Guard Commander", ERN 9676.

<sup>6552</sup> Alice Pyne, Transcript 19 June 2008, p. 12236.

<sup>6553</sup> Credibility Assessment, Karmoh Kanneh, The Role of Intermediaries, para. 2704.

<sup>6554</sup> Exhibit P-080, "United Nations Security Council, First Progress Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, 12 August 1998", ERN 12387, para. 8; Exhibit P-078, "Sierra Leone 1998, A Year of Atrocities Against Civilians, Amnesty International Report", p. 2; *Prosecutor v Taylor*, SCSL-03-1-T, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, Annex A, Fact U.

<sup>6555</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9397.

<sup>6556</sup> Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Burkina Faso Shipment.

Trial Chamber notes that Albert Saidu dated the meeting to around April 1998<sup>6557</sup> and accepts his testimony that the meeting happened around this time, particularly in view of the support received by the albeit less specific testimony of Kabbah that it occurred around a month after he arrived in Buedu.<sup>6558</sup> The Trial Chamber is of the view that, although Kanneh's evidence includes some aspects which appear displaced in time, this does not detract from the evidence provided regarding the planning of Fitti-Fatta which is largely corroborated by Saidu and Kabbah.

2942. The Trial Chamber finds Mohamed Kabbah to be a generally credible witness.<sup>6559</sup> The Trial Chamber notes that he conceded limitations on his knowledge pertaining to sensitive military matters, on account of his position as a radio operator.<sup>6560</sup> For example, when explaining that he did not know that Bockarie travelled to Burkina Faso in November 1998 to secure ammunition, he testified that arms deals may have been made without his knowledge, as Bockarie and the others who assisted him in such matters were "big people".<sup>6561</sup> In this respect, the Trial Chamber also observes that Kabbah did not refer to the operation by its well-known name, "Fitti-Fatta".

2943. The Trial Chamber considers Albert Saidu to be a generally credible witness.<sup>6562</sup> It notes that his evidence of having attended the meeting contrasts with prior statements to the Sesay Defence team when he met with them in 2005 and 2007, in which he indicated that he was in Koindu at the time of the meeting and heard about it over the radio.<sup>6563</sup> The witness explained that the meeting he attended with Jungle and Bah was a separate meeting from the one which he had heard about over the radio, which related instead to Sesay's punishment for losing diamonds.<sup>6564</sup> He ascribed as an error of the Prosecution the prior statement in which he described the meeting he attended with Jungle and Bah as the same one at which

<sup>6557</sup> Albert Saidu, Transcript 9 June 2008, p. 11353.

<sup>6558</sup> Mohamed Kabbah, Transcript 12 September 1998, p. 16146. Kabbah testified that he arrived in Buedu around three weeks after the Kailahun Town massacre (Mohamed Kabbah, 12 September 2008, p. 16126) which the Trial Chamber has already found to have occurred in February 1998 (See Factual and Legal Findings on Alleged Crimes, Counts 2 and 3 (Unlawful Killings)).

<sup>6559</sup> Credibility Assessment, Mohamed Kabbah, paras 334-338.

<sup>6560</sup> In respect of Kabbah's evidence on his knowledge of Bockarie's communications (See Operational Support: Communications).

<sup>6561</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16444.

<sup>6562</sup> Credibility Assessment, Albert Saidu, Pre-Indictment Period (1988-1996), para. 2384.

<sup>6563</sup> Albert Saidu, Transcript 6 June 2008, pp. 11167-11174; Transcript 5 June 2008, pp. 11129-11130, 11136-11137.

<sup>6564</sup> Albert Saidu, Transcript 6 June 2008, pp. 11170-11171, 11174-11175.

Sesay's punishment was decided.<sup>6565</sup> The Trial Chamber accepts Saidu's testimony that he was at the meeting, noting that he described it with detail and that the detail he described was substantially consistent with the evidence of the other witnesses who attended the meeting.

2944. The Trial Chamber notes that the evidence adduced from Samuel Kargbo,<sup>6566</sup> Bobson Sesay,<sup>6567</sup> and TF1-371,<sup>6568</sup> cited by the Prosecution in support of its allegation that the Accused issued directives and encouragement to Bockarie concerning the re-capture of Kono, refers to an earlier time period than that alleged. Kargbo's evidence refers to the period shortly after the Intervention before the first attack on Koidu Town in late February/early March 1998. TF1-371 and Alimamy Bobson Sesay's evidence relates to the period thereafter while the AFRC/RUF alliance was still in control of Kono. The Trial Chamber recalls that it has reviewed TF1-371 and Samuel Kargbo's testimony previously when considering the allegations that the Accused issued orders to capture and maintain Kono after the Intervention<sup>6569</sup> and will consider Alimamy Bobson Sesay's evidence in the context of the materiel allegedly supplied by the Accused to hold Kono.<sup>6570</sup>

2945. The Trial Chamber has also considered the evidence of Issa Sesay concerning the attack on Fitti-Fatta. Sesay's testimony that there was no large meeting of fighters prior to the attack<sup>6571</sup> is belied by the evidence of several credible witnesses who attended such a meeting. Issa Sesay's own testimony, corroborated by Kamara,<sup>6572</sup> that he was not present in Buedu because he was sent to Pendembu as punishment for losing the diamonds suggests that he was not, in any event, in the best position to know. Sesay's testimony that Bockarie, Lamin and Superman planned Fitti-Fatta in Buedu and would have kept it completely secret is also inconsistent with the evidence adduced that the attack was discussed in advance. The

<sup>6565</sup> Albert Saidu, Transcript 6 June 2008, pp. 11175-11178.

<sup>6566</sup> Prosecution Final Trial Brief, para. 155, referring to Samuel Kargbo, Transcript 21 May 2008, p. 10494.

<sup>6567</sup> Prosecution Final Trial Brief, para. 155, referring to Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8709-8710.

<sup>6568</sup> Prosecution Final Trial Brief, para 155, referring to TF1-371, Transcript 28 January 2008, pp. 2382-2385 (CS).

<sup>6569</sup> Military Operations: Operations in Kono (Early 1998).

<sup>6570</sup> Arms and Ammunition: Use of Materiel Supplied or Facilitated by the Accused.

<sup>6571</sup> Issa Sesay, Transcript 8 July 2010, p. 44070; Transcript 28 July 2010, pp. 44845-44846.

<sup>6572</sup> Perry Kamara, Transcript 5 February 2008, p. 3161.





Trial Chamber recalls its finding that Issa Sesay's testimony must be treated with caution<sup>6573</sup> and does not accept his account of events leading up to the Fitti-Fatta attack.

2946. The Trial Chamber also finds the Accused's denial that he knew about Fitti-Fatta untenable in light of the evidence. In this regard, the Trial Chamber recalls its previous findings that the Accused sent both ammunition and herbalists for the Fitti-Fatta attack.<sup>6574</sup> His testimony, supported by Issa Sesay, that he did not meet Bockarie until September of that year is also untenable in light of reliable evidence of trips by Bockarie to meet the Accused after the Intervention<sup>6575</sup> and the record in Exhibit P-067 that Bockarie was called every month to report to Monrovia for a briefing with the Accused before the Fitti-Fatta mission.<sup>6576</sup> Similarly, the Trial Chamber does not find credible the Accused's assertion that his only contact with Sam Bockarie was for the purpose of peace. With regard to his evidence that he met with the Secretary-General in Liberia, which is supported by Exhibit P-080, the Trial Chamber notes that this does not preclude his involvement in Fitti-Fatta.

2947. The Trial Chamber cannot therefore accept Perry Kamara's account of the very detailed plan made by the Accused together with Bockarie, as it is not consistent with the evidence of other witnesses. However, based on the evidence, the Trial Chamber finds that the Accused discussed the Fitti-Fatta attack with Bockarie, and the references made to this discussion thereafter have been reported by the relevant witnesses in various ways. However, the Trial Chamber notes that the testimony of these other witnesses indicates advice from the Accused for the Fitti-Fatta attack rather than planning.

2948. At the forum to which Kanneh, Saidu and Kabbah testified, the evidence indicates that Tamba, Bah and/or Bockarie conveyed advice from the Accused, that he advised them to try to get hold of Kono so as to get resources to fund the purchase of materiel. The message as reported by both Kabbah and Kanneh was that the Accused was not going to give them the weapons they needed "for nothing" and that if they wanted more ammunition they needed more diamonds to get it.

<sup>6573</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>6574</sup> Operational Support: Support and Training, Alleged Provision of Herbalists; Arms and Ammunition: Use of Materiel Supplied or Facilitated by the Accused.

<sup>6575</sup> Arms and Ammunition: Allegations of Direct Supplu by the Accused, During Sam Bockarie's Leadership (February 1998-December 1999).

<sup>6576</sup> Exhibit P-067, "RUF People's Army- Situation Report to Foday Sankoh from the Black Guard Commander", ERN 9676.



2949. In light of the above considerations, the Trial Chamber does not find that the Prosecution has established that the Accused instructed the RUF, via Liberian emissaries and/or Sam Bockarie, to recapture Kono, or that he participated in the formulation of a multi-axis operational attack plan leading to Freetown, prior to the Fitti-Fatta attack. However, in light of the evidence, the Trial Chamber finds that the Accused was engaged in discussion with Bockarie regarding plans for the Fitti-Fatta attack, and that his message of advice to recapture Kono, so that the diamonds there could be used to purchase arms and ammunition, was transmitted to RUF commanders through Bockarie himself and Liberian emissaries, Daniel Tamba (a.k.a. Jungle) and/or Ibrahim Bah.

#### Findings

2950. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the Accused participated in the planning of or instructed the AFRC/RUF to recapture Kono in mid-June 1998, as the first step in a detailed plan with an overarching mission to recapture Freetown or otherwise.

2951. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused advised Bockarie to recapture Kono so that the diamonds there would be used to purchase arms and ammunition. Such advice was transmitted to RUF commanders both through Bockarie and Liberian emissaries, Daniel Tamba (a.k.a. Jungle) and/or Ibrahim Bah, and resulted in the Fitti-Fatta attack in mid-June 1998.

#### 4. The Freetown Invasion

##### (a) The Plan

#### Submissions of the Parties

2952. The Prosecution submits that after the failed Fitti-Fatta mission, the death of the Nigerian President Abacha in June 1998 which resulted in weakening of ECOMOG forces, the transfer of Foday Sankoh from Nigerian custody to Sierra Leone, and the announcement of Sankoh's death sentence in October 1998, led to the planning of a major offensive by Bockarie and the Accused. According to the Prosecution, the plan was to retake Kono District, Tongo Field and the territory all the way to Freetown, thereby ensuring control over the richest diamond areas and over Freetown; the city where Sankoh was believed to be



held, and the city necessary for control of the territory and the population of Sierra Leone.<sup>6577</sup>

2953. According to the Prosecution, during the second half of 1998 and up to the trip to Monrovia and Burkina Faso in November, Bockarie visited Monrovia frequently to meet with the Accused, and these meetings gave the Accused and Bockarie ample time to discuss refining and implementing the plan, after the failed Fitti-Fatta mission. In its submissions, the Prosecution relies, inter alia, on the Accused's testimony that he met Bockarie during his visits to Monrovia in September, October, and November/December 1998.<sup>6578</sup>

2954. The Prosecution further alleges that upon Bockarie's return from his trip to Burkina Faso via Monrovia in late November/early December 1998, Bockarie held meetings with AFRC/RUF personnel in Buedu, including smaller meetings with senior commanders, and that at these meetings with his subordinates, Bockarie reiterated the Accused's plan for an operation to capture Kono, Makeni "and by all means", Freetown. According to the Prosecution, Jungles was present at these meetings and "buttressed" what had been conveyed by Bockarie, that they had discussed how the mission should be run with the Accused in Monrovia, that they should not fear this time around and that no force could withstand them.<sup>6579</sup>

2955. The Prosecution also submits that the plan included a ruthless terror campaign so that in case of it being unsuccessful it would ensure their continued existence and a place of power in the country; a tactic the Accused had used to his advantage in Liberia and had in mind for Sierra Leone.<sup>6580</sup> According to the Prosecution, Bockarie briefed the Accused via satellite phone on the outcome of the meetings and assured him that the plan would be followed. The Accused and Bockarie determined how the plan was to be carried out, deciding to save ammunition by making the operation even more fearsome than all other operations before. After this contact with the Accused, Bockarie announced Operation No Living Thing, which meant that anything that stood in their way should be eliminated; the tactics of Operation No Living Thing typified the AFRC/RUF's treatment of civilians, and

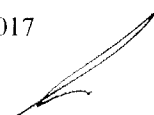
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<sup>6577</sup> Prosecution Final Trial Brief, para. 161.

<sup>6578</sup> Prosecution Final Trial Brief, paras 162-163.

<sup>6579</sup> Prosecution Final Trial Brief, paras 164-165.

<sup>6580</sup> Prosecution Final Trial Brief, para. 161.



fighters were to raise concern of the international community by killing civilians and burning.<sup>6581</sup>

2956. The Defence submits that the evidence fails to show that the Accused participated in any way in the Freetown invasion,<sup>6582</sup> contending instead that the invasion of Freetown in January 1999 was purely an AFRC affair in which the Accused took no part. The Defence relies on the testimony of Alimamy Bobson Sesay that the plan was conceived in Koinadudgu, not in Liberia or Buedu,<sup>6583</sup> so that by the time of the meeting in Buedu in which Bockarie allegedly planned the invasion, in December 1998, the AFRC plan was already underway.<sup>6584</sup> The Defence further submits that the AFRC and the RUF had different motivations for attacking Freetown: the RUF for the freeing of Foday Sankoh from prison, while SAJ Musa's motivation was to reinstate the army, which was accelerated by the execution of AFRC members by the Government. According to the Defence, the different motivations, coupled with the race between the two factions to capture Freetown, the RUF and SAJ Musa could not have been acting in the furtherance of any common purpose.<sup>6585</sup>

2957. The Defence also disputes the proposition that the Accused ordered the commission of atrocities in Freetown, and accepts Bobson Sesay's testimony that SAJ Musa ordered his forces to proceed to Freetown without killing, looting or burning. It claims that Operation No living Thing was declared around May or June 1998 during an attack on Kenema District, not as part of the operation to invade Freetown.<sup>6586</sup> The Defence further submits that the allegation that the Accused said that the advance to Freetown should be more brutal than any other and that nothing should stand in their way is not borne by any facts on the ground of the RUF's conduct during their advance towards Freetown, as there is no overwhelming evidence of wide scale atrocities in the places the RUF attacked on its way to Freetown, such as Kono, Makeni, Lunsar, Port Loko "etc".<sup>6587</sup> The Defence also challenges the credibility of the accounts of Prosecution witnesses.

<sup>6581</sup> Prosecution Final Trial Brief, para. 168.

<sup>6582</sup> Defence Final Trial Brief, para. 877.

<sup>6583</sup> Defence Final Trial Brief, para. 911.

<sup>6584</sup> Defence Final Trial Brief, para. 912.

<sup>6585</sup> Defence Final Trial Brief, paras 914-915; Defence Response to Prosecution Final Trial Brief, para. 32.

<sup>6586</sup> Defence Final Trial Brief, para. 919.

<sup>6587</sup> Defence Final Trial Brief, para. 923.



EvidenceProsecution Witness TF1-371

2958. Witness TF1-371, an RUF commander, testified that after Foday Sankoh was transferred from the custody of the Nigerian Government to the custody of the Sierra Leonean Government, in July 1998, and sentenced to death in October 1998, the RUF commanders were angry, Sam Bockarie was especially furious with regard to Sankoh's death sentence and the execution of 24 military officers. Bockarie had a series of interviews over the BBC and VOA radio via satellite phone, in which at one point he threatened to attack Freetown and release Sankoh. Bockarie also talked about Operation Spare No Soul, which was the code name of the operation of freeing Sankoh.<sup>6588</sup>

2959. Prior to Sam Bockarie's trip to Monrovia in November or December 1998, Bockarie met the witness, Issa Sesay and Kallon, expressing his concern with expanding the fighting to Kono, in particular after the casualties they suffered from the failed Fitti-Fatta operation. Bockarie told the witness that he was leaving for a trip to meet with Charles Taylor and Musa Cissé in Monrovia and to then get a shipment of ammunition from Burkina Faso for a "major attack, major offensive".<sup>6589</sup>

2960. Bockarie went to Monrovia,<sup>6590</sup> before flying with Ibrahim Bah and Musa Cissé to Ouagadougou.<sup>6591</sup> He returned to Sierra Leone two weeks later via Monrovia, along with Zigzag Marzah, Sampson and Christopher Varmoh (a.k.a. Liberian Mosquito).<sup>6592</sup>

2961. When Bockarie returned to Buedu he off-loaded the materials into his warehouse and gathered the witness and the other RUF members he left behind for a forum at Waterworks to brief them about the trip.<sup>6593</sup> The meeting was attended by RUF members including the witness, Bockarie, Sesay, Morris Kallon, Peter Vandi and Isaac Mongor from the RUF, as well as AFRC members including Alex Tamba Brima (a.k.a. Gullit), Akim Turay, Leather

<sup>6588</sup> TF1-371, Transcript 28 January 2008, pp. 2400-2401 (CS).

<sup>6589</sup> TF1-371, Transcript 28 January 2008, pp. 2402-2403 (CS).

<sup>6590</sup> TF1-371, Transcript 28-January 2008, p. 2403 (CS); Transcript 31 January 2008, p. 2750 (CS).

<sup>6591</sup> TF1-371, Transcript 28 January 2008, p. 2403 (CS); Transcript 30 January 2008, p. 2643 (CS); Transcript 31 January 2008, pp. 2702, 2750, 2762 (CS).

<sup>6592</sup> TF1-371, Transcript 28 January 2008, pp. 2403-2405 (CS); Transcript 31 January 2008, p. 2750 (CS).

<sup>6593</sup> TF1-371, Transcript 28 January 2008, p. 2405 (CS).

Boot, Adams and others.<sup>6594</sup> At this meeting in Waterworks, Bockarie explained that he had sufficient ammunition for an attack on Kenema Town as well as Koidu and Freetown. Bockarie opened a map of Sierra Leone and discussed with the commanders the plan to launch a two-pronged attack to enter Freetown. Sesay and Morris Kallon were given the mission to attack Koidu and then move to Makeni, then to “Lunsar, Masiaka”. In Masiaka they were to be met by the second flank of troops, led by Akim Turay and Momoh Rogers, which was to attack Kenema and Bo. From Masiaka the troops were to attack Waterloo and then Freetown.<sup>6595</sup>

2962. TF1-371 said that this plan was not decided at the meeting in Buedu. Rather, Bockarie came with that plan and was discussing it with the commanders,<sup>6596</sup> as he made the general plan after his “major trip” to Ouagadougou through Monrovia. The witness added that the discussion among the commanders and Bockarie to go to Freetown, which was prompted by the announcement of Sankoh’s death sentence and the execution of 24 officers, coincided with, and was parallel to, Bockarie’s trips to Monrovia.<sup>6597</sup>

2963. Halfway through the briefing, Bockarie and a smaller group including the witness, Eddie Kanneh, Sesay, Kallon, Jungle and one or two others went to eat lunch in Bockarie’s bedroom.<sup>6598</sup> While they were eating, Bockarie left the room and spoke on his satellite phone outside for 10 to 15 minutes. When Bockarie returned he was excited and said that he had just spoken with “the Pa”, Taylor, and that Taylor “gave the instruction directly to his commander this is Operation No Living Thing. We should by all means capture Freetown. That is [sic] instruction he had received to capture Freetown so as to force the government to negotiation”. Bockarie went on to say that he had been instructed by Taylor that no commander should contest his authority in this particular operation, otherwise they would be executed, conveying again that Taylor had given him authority. Bockarie also said that he

<sup>6594</sup> TF1-371, Transcript 28 January 2008, pp. 2410-2411 (CS).

<sup>6595</sup> TF1-371, Transcript 28 January 2008, pp. 2411-2412 (CS); Transcript 30 January 2008, p. 2640 (CS) (At this point in time the RUF was in control of Segbwema and Momoh Rogers was based there).

<sup>6596</sup> TF1-371, Transcript 28 January 2008, p. 2411 (CS).

<sup>6597</sup> TF1-371, Transcript 30 January 2008, p. 2640 (CS) (Bockarie “actually planned it after he came back from Monrovia with the consignment of arms that he came with and that was sometime in December. He started the operation where he called the commanders for a forum, for a meeting”).

<sup>6598</sup> TF1-371, Transcript 28 January 2008, pp. 2412, 2415 (CS). Liberian Mosquito remained outside the compound.

did not want them to misuse the materiel that he brought because it was extremely difficult for him to get and he “had to give account”.<sup>6599</sup>

2964. On cross-examination the witness agreed that it was Bockarie who coined the phrase for the operation to invade Freetown, Operation No Living Thing.<sup>6600</sup> The witness explained that the name, Operation No Living Thing, meant that enemies should not be captured or brought to the headquarters, that anything standing in their way should be eliminated, including civilians, fighters, enemy forces “whatever”, and that the target was to capture Freetown to force the government into negotiation.<sup>6601</sup>

2965. During the meeting, they received a visit from a Ghanaian friend of Taylor and Sankoh called Dr Sebo, and another journalist who said they were from Belgium. They took the visitors to see about 22 Nigerian ECOMOG detainees who were captured in Kono and held by the RUF.<sup>6602</sup>

2966. Following this meeting, Bockarie went outside and “spread the same message” about Operation No Living Thing to the other junior commanders. Bockarie gave instructions for the distribution of materials and assigned the Scorpion Unit to link with the group in Segbwema and assist in capturing Kenema. Bockarie gave “the bulk” of the materials that he brought from Monrovia to Sesay and Kallon for the attack on Kono but also gave Akim Turay his own materiel to link up with Momoh Rogers to attack Kenema. Denis Mingo left to a nearby village “to see somebody” and Sesay and Kallon left the next day.<sup>6603</sup>

2967. On cross-examination, the witness agreed with his testimony in the RUF trial in relation to Operation No Living Thing that the RUF ideology was not to harm civilians, and that no RUF high commander was specifically ordered to rape and kill, but said that it was implied from the order of Operation No Living Thing that “they don’t bring nobody”. The witness also agreed that when terrible incidents occurred they were usually due to the indiscipline of the combatants and certain rogue commanders, that the leadership of the revolutionary organization recognized that such behaviour would antagonise and alienate the

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<sup>6599</sup> TF1-371, Transcript 28 January 2008, pp. 2412-2413 (CS).

<sup>6600</sup> TF1-371, Transcript 30 January 2008, pp. 2644-2645, 2650 (CS).

<sup>6601</sup> TF1-371, Transcript 28 January 2008, pp. 2413-2414 (CS); Transcript 30 January 2008, p. 2650 (the purpose was that no one should hamper the operation as they were going to Freetown to force the government into negotiation).

<sup>6602</sup> TF1-371, Transcript 28 January 2008, p. 2415 (CS).

very people they wished to convert to their cause, and that given their political ambitions they would not have ordered people to commit atrocities.<sup>6604</sup>

2968. When asked on cross-examination whether Taylor specifically ordered the RUF or Junta to carry out atrocities, the witness replied, “I can't recall when he talked to any AFRC to go burn and kill civilians or what, no”.<sup>6605</sup>

2969. Also on cross-examination, the witness agreed that the first move to invade Freetown was not taken by the RUF and that at the time the RUF was “Johnny-come-latelies” because the invasion had already been initiated by others and the RUF effectively “tagged on the tail end”.<sup>6606</sup> He agreed that the AFRC “boys”, including SAJ Musa and Gullit, commenced the assault on Freetown.<sup>6607</sup>

2970. However, the witness did not agree that the RUF did not plan the invasion, explaining that while the AFRC group might have had its own agenda and went to Freetown on its own, the RUF, already had its own “prior” “in-house” plan. to go to Freetown because of Sankoh’s death sentence and the execution of the 24 soldiers but did not have sufficient ammunition at that time. That was why Bockarie endeavoured to go on his trip to Burkina Faso. Once Bockarie returned from his trip to Buedu with the materiel, he had instructions that he passed on to the commanders to first and foremost capture Kono, Koidu and then proceed to Freetown. Therefore, while the AFRC had their separate operation, Sam Bockarie had his own plan for an operation to go to Freetown after he came back from his trip to Burkina Faso.<sup>6608</sup>

#### Prosecution Witness Karmoh Kanneh

2971. Witness Karmoh Kanneh (a.k.a. Eagle), an RUF commander, testified that at a meeting in Waterworks around April/May/June, before the death of Abacha<sup>6609</sup> in which Bockarie told them that the next operation would be Fitti-Fatta, Bockarie said that Taylor

<sup>6603</sup> TF1-371, Transcript 28 January 2008, pp. 2414, 2416 (CS).

<sup>6604</sup> TF1-371, Transcript 30 January 2008, pp. 2650-2655 (CS).

<sup>6605</sup> TF1-371, Transcript 30 January 2008, pp. 2654-2655 (CS).

<sup>6606</sup> TF1-371, Transcript 30 January 2008, pp. 2643-2644 (CS).

<sup>6607</sup> TF1-371, Transcript 30 January 2008, pp. 2645, 2647 (CS).

<sup>6608</sup> TF1-371, Transcript 30 January 2008, pp. 2648-2649 (CS).

<sup>6609</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9393, 9398. On cross-examination the witness said that the

told him that he would link Bockarie to Blaise Compoaré, the President of Burkina Faso, in order to obtain materiel, and that Ibrahim Bah would travel with him. The reason Taylor was going to link Bockarie to Burkina Faso was because Bockarie had told Taylor about their mission to free their leader which would require heavy “materials” in order to clear ECOMOG forces before getting into Freetown. Bockarie went to Burkina Faso not long after this meeting, within the same month.<sup>6610</sup>

2972. Kanneh also testified that in December 1998, just as Bockarie returned from his trip to Burkina Faso, Bockarie convened a meeting for officers at his house in Buedu.<sup>6611</sup> The meeting commenced late at night, at around 11.00pm until approximately 2.00am, since they did not want Johnny Paul to know.<sup>6612</sup> There were about 12 men at the meeting including the witness, Bockarie, Issa Sesay, Kallon, Jungle, Eddie Kanneh, Major Francis (a Gambian who was part of the Special Forces who were the “senior men who started the revolution” and who was trained with Sankoh in Libya), Matthew Barbor (a Liberian RUF fighter), Junior Vandi (a.k.a. JR), Mike Lamin, SYB Rogers, and Gbessay Gbobah (a.k.a Chucky) from the RUF.<sup>6613</sup> Isaac Mongor did not attend the meeting.<sup>6614</sup>

2973. During the meeting, Bockarie explained that he had brought enough ammunition and “logistics” to conduct any kind of operation and said that they should now plan how to move. The commanders then discussed a plan to retake Kono and then go to Freetown to secure the release of the leader, Foday Sankoh, and take over power. Bockarie said that the first target should be Kono, which would be followed by Makeni and then Freetown, while the next target was Segbwema and Daru, towards Kenema, from where they should proceed

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meeting was in June, after Abacha’s death (Karmoh Kanneh, Transcript 13 May 2008, pp. 9688-9689).

<sup>6610</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9396-9398.

<sup>6611</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9416-9419, 9423-9424, 9429-9430. Bockarie told the commanders that he had travelled with General Ibrahim to Burkina Faso and that he had met with the President of Burkina Faso.

<sup>6612</sup> See Karmoh Kanneh, Transcript 13 May 2008, pp. 9693-9695. Kanneh corrected his testimony in examination in chief that the meeting commenced at 9.00pm and lasted until midnight (Karmoh Kanneh, Transcript 9 May 2008, pp. 9429, 9433).

<sup>6613</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9419-9423, 9431; Transcript 13 May 2008, p. 9703. The witness confirmed his prior statement in which he mentioned that Mike Lamin and SYB Rogers also attended the meeting.

<sup>6614</sup> Karmoh Kanneh, Transcript 13 May 2008, pp. 9707-9708.





to the southern province. The witness said that Kono was the first target on account of its diamond wealth.<sup>6615</sup>

2974. The attack on Kono was to be led by Sesay as the overall commander for the operation, Kallon as Sesay's deputy and Superman as the third in command.<sup>6616</sup> From Kono they were to go to Makeni before going to Freetown. Kono and Makeni were to be captured first since they were "provincial headquarters" that they had to pass and make sure that they were under control before proceeding to Freetown.<sup>6617</sup> The witness was tasked with taking Segbwema and Daru.<sup>6618</sup>

2975. It was agreed at the meeting that the first target for the men on arrival in Freetown was to release Sankoh from Pademba Road Prison, and the second objective was to go to the State House to overthrow President Kabbah and, if possible, to kill him.<sup>6619</sup>

2976. Bockarie told the attendees that this plan had been "designed" in Monrovia with Charles Taylor and that he only brought it to brief them on the strategy which would bring to their success in the war.<sup>6620</sup>

2977. Jungle also spoke at the meeting and spoke about the materiel that Bockarie had brought back, saying that they should not fear this time around and that there was no force that could withstand them. Jungle said that in Monrovia he and Bockarie had discussed with Taylor "how the mission should go on", and that Taylor told him that their first target should be Kono before they proceed.<sup>6621</sup>

2978. At the end of the meeting, before they were scattered, Bockarie and Jungle contacted Taylor and briefed him "about how the plan was set". Bockarie spoke first and briefed Taylor about the arrangements they had made for the mission, telling him that he had convened the senior officers and that he had explained to them the same plan that Taylor "had given" to him, Bockarie, in Monrovia. Because Jungle was Taylor's representative in the RUF he then spoke with President Taylor and "buttressed the same topic", Jungle told

<sup>6615</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9423-9424.

<sup>6616</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9424-9425.

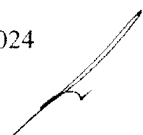
<sup>6617</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9425.

<sup>6618</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9426-9427.

<sup>6619</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9430-9431.

<sup>6620</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9424.

<sup>6621</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9431-9433.





Taylor that the plan discussed in Monrovia had been put to the senior officers who had assured him that they would go ahead with the plan. Taylor in turn thanked them and told them to carry on. Bockarie and Jungle used a satellite phone, and had a short conversation with Taylor on the veranda at the back of Bockarie's house, where the 12 attendees of the meeting, including the witness, were present. The witness did not hear Taylor's side of the conversation but Jungle and Bockarie said before they called that they were calling Taylor in order to brief him about the meeting, and the witness heard Taylor's name being mentioned during the conversation.<sup>6622</sup>

2979. During the meeting, they also discussed SAJ Musa's disloyalty. Bockarie told the attendees that he had complained to Taylor about SAJ Musa's disloyalty "towards the mission", towards Bockarie's command, which meant to the RUF's command, and would not take orders. Taylor in turn provided advice.<sup>6623</sup> Bockarie told the attendees that SAJ Musa "should not live to tell the story", should die because he was a traitor, and that Musa should only be shot and killed during a military operation. Bockarie made the attendees understand that he had been discussing with Gullit killing SAJ Musa during a military operation, even prior to Gullit joining SAJ Musa's forces.<sup>6624</sup>

2980. After the meeting, and before the attack on Kono, Bockarie sent a message to SAJ Musa to attack Freetown but Musa refused and rejected the orders, saying that he could not take orders from Bockarie. This resulted in a heated argument. The witness stated that SAJ Musa was already disgruntled when Bockarie sent the message to all stations, and that arguments had been going on also prior to the meeting.<sup>6625</sup>

2981. The day after the meeting, upon Bockarie's invitation, the witness went to Bockarie's "ammo dump" to see the materiel and logistics that he had brought from Burkina Faso.<sup>6626</sup> After the witness saw the materiel, he was asked to meet the brigade commanders and begin

<sup>6622</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9431, 9434-9437; Transcript 13 May 2008, pp. 9695-9697, 9728-9730 (Before they called Bockarie said they were calling Mr Taylor or Ghankay Taylor).

<sup>6623</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9423-9424, 9427, 9430.

<sup>6624</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9427-9429; Transcript 13 May 2008, pp. 9720-9721.

<sup>6625</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9425-9426.

<sup>6626</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9437-9438.





gathering men in order to carry out the mission he was given – to capture Segbwema and Daru and, if possible, beyond.<sup>6627</sup>

2982. On cross-examination, the witness confirmed that during the meeting there was no discussion about civilians.<sup>6628</sup>

Prosecution Witness Isaac Mongor

2983. Witness Isaac Mongor, an RUF commander, testified that he came to Buedu from Kono in early November 1998, during the dry season,<sup>6629</sup> after he was summoned by Sam Bockarie, his commander.<sup>6630</sup> Upon his arrival, Bockarie welcomed the witness and told him that he had been waiting for him to discuss how to proceed since their ammunition was running out, and that they should have a commanders' meeting in order to discuss what to do next.<sup>6631</sup>

2984. The following morning, all the commanders in Buedu convened at Waterworks including the witness, Bockarie, Jungle, SYB Rogers who was the RUF Secretary General and Chairman of the War Council, and an SLA named Sambebe. They decided to send Jungle with a letter to Charles Taylor and request ammunition because they “did not have enough ammunition to continue their “offensive, or to fight, or to even defend our areas”. Rashid Sandy, the adjutant, then wrote the letter and read it out to the attendees.<sup>6632</sup> Three days after Jungle took the letter, Bockarie told the witness and others that he had received a call from Taylor that he should go to Monrovia himself. Bockarie went with Rashid Sandy, SYB Rogers, Lawrence Wohmandia and Eddie Kanneh, leaving Issa Sesay in charge in Buedu. The witness was told to go to Pendembu, since that was where Sesay was stationed.<sup>6633</sup> All in all, the witness stayed in Buedu for three days.<sup>6634</sup>

<sup>6627</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9438-9440.

<sup>6628</sup> Karmoh Kanneh, Transcript 13 May 2008, pp. 9727-9728.

<sup>6629</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5782-5783.

<sup>6630</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5775-5778. (Bockarie invited him to discuss a disagreement between Bockarie and Superman, and before Mongor left for Buedu he was told that Bockarie was planning to kill him but he still decided to go and took his bodyguards with him).

<sup>6631</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5778-5779.

<sup>6632</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5779-5783.

<sup>6633</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5781-5783.

<sup>6634</sup> Isaac Mongor, Transcript 11 March 2008, p. 5786.



2985. The witness was in Pendembu for three weeks when he received a message that Bockarie had returned from his trip and was summoning commanders from other areas to report to Buedu.<sup>6635</sup> The next morning, in November 1998, the witness left for Buedu, arriving in Buedu in the evening. Upon his arrival, the witness went to Bockarie's house.<sup>6636</sup> At Bockarie's house, the witness and Bockarie went into Bockarie's room where Bockarie briefed Mongor about the ammunition, food and medicines that he had brought, telling the witness that the ammunition was provided by Taylor and was brought from Liberia. Bockarie was happy that they now had ammunition which would enable them to carry out "some missions". Bockarie also told Mongor that the delegation went to Burkina Faso, that he met with the President of Burkina Faso and that they agreed to have an arrangement for ammunition purchases. Bockarie showed the witness pictures of the hotel they were lodged in, which depicted Bockarie and SYB Rogers.<sup>6637</sup>

2986. From Bockarie's room, Mongor and Bockarie went through a door in Bockarie's room which led to the place a shop where Bockarie stored the ammunition and food he had brought. Mongor was pleased to see plenty of ammunition which was packed "up to the ceiling", approximately three meters high from the floor.<sup>6638</sup>

2987. After Bockarie showed the ammunition to Mongor, he told Mongor that he and Taylor made a plan for an operation in which the ammunition would be used. Bockarie said that Taylor took out a map and showed the locations that the RUF and the SLAs occupied. Taylor came up with a plan for them to launch an operation to capture Kono, Makeni and then advance towards Freetown. They were also to attack Joru and Kenema.<sup>6639</sup>

2988. Bockarie said that he had discussed with Taylor that either the witness or Superman should attack Joru, followed by an advance towards Zimmi. Bockarie told Taylor that, as Superman was in Koinadugu far away from the Buedu area the witness closer to "the place". Therefore he said that the witness should attack Joru and that after he captures Joru he should advance to Zimmi where he would receive NPFL members who were coming from Liberia as reinforcements. Superman and the witness were considered for this mission

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<sup>6635</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5788-5789.

<sup>6636</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5789-5790 (Mongor arrived in Buedu in the evening because he did not want to travel during the day due to Alpha Jet attacks, especially since they were using vehicles).

<sup>6637</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5790, 5794-5795.

<sup>6638</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5790-5792.

<sup>6639</sup> Isaac Mongor, Transcript 11 March 2008, p. 5795.

because both of them were former NPFL fighters and were familiar with the “NPFL brothers”.<sup>6640</sup> In 1998, NPFL fighters were Charles Taylor’s men in Liberia. They were the ones who were to join them “to run the operation”.<sup>6641</sup>

2989. Bockarie told Mongor that the reason for this attack on Kono and Freetown was to free Foday Sankoh and others who were jailed in Freetown. They were also to ensure that they seized power.<sup>6642</sup> Bockarie said that he and Taylor discussed how the attack to free Sankoh was to be carried out. Bockarie said that

After he had shown those places to him they discussed that we should run that mission to ensure that we free Foday Sankoh and others and on the operation we should ensure that the ammunition is not wasted. We should make the operation fearful than all the other operations that we had undertaken because we want to make sure that we take Freetown and hold on to power.<sup>6643</sup>

2990. At the time, Koidu Town in Kono was occupied by ECOMOG, Kamajors and SLAs who were loyal to former President Tajan Kabbah. These forces were also in other areas of Kono but the AFRC/RUF forces also had men “around them”.<sup>6644</sup>

2991. The next morning, Bockarie held a meeting in Buedu with the commanders he had summoned. Bockarie showed the attendees the ammunition that he brought and told them everything that he had already explained to the witness about the mission the ammunition was to be used for.<sup>6645</sup> Present at this meeting were RUF commanders which included the witness, Mike Lamin, Morris Kallon, Issa Sesay, Augustine Gbao and Monkey Brown, as well as SLA commanders including Leather Boot, Akim Turay and Eddie Kanneh.<sup>6646</sup> Superman and SAJ Musa did not attend the meeting as they were in Koinadugu District at the time and could not have left it to come to Buedu because ECOMOG was in Koidu Town.<sup>6647</sup> Rambo from the RUF, who eventually attacked Makeni together with Superman, did not attend the meeting as he was stationed around the Koidu area where they had their “defences”.<sup>6648</sup>

<sup>6640</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5795-5796.

<sup>6641</sup> Isaac Mongor, Transcript 11 March 2008, p. 5798.

<sup>6642</sup> Isaac Mongor, Transcript 11 March 2008, p. 5796.

<sup>6643</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5796-5797.

<sup>6644</sup> Isaac Mongor, Transcript 11 March 2008, p. 5799.

<sup>6645</sup> Isaac Mongor, Transcript 11 March 2008, p. 5797.

<sup>6646</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5797-5798.

<sup>6647</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5798-5799.

<sup>6648</sup> Isaac Mongor, Transcript 11 March 2008, p. 5805.

2992. During the meeting, SYB Rogers thanked Bockarie and said that the war would have ended quickly had Bockarie been the rebel leader when the war started because Foday Sankoh had never brought that quantity of ammunition which they had brought now.<sup>6649</sup>

2993. During the meeting, it was agreed that Bockarie should send a radio message to SAJ Musa and Superman's forces for them all to join hands in order to carry out the operation. They all decided Johnny Paul should be the one to talk with SAJ Musa, not Bockarie, for them to forget about the past, put the infighting behind and carry out the operation. Johnny Paul was then able to speak with SAJ Musa and others and ask them to join hands together. SAJ Musa agreed and accepted to carry out the operation. The witness knew about the conversation between Johnny Paul and SAJ Musa and others since that was what had been agreed about in the meeting, and his radio operator, who monitored the conversation, told him about it.<sup>6650</sup> At that time, there were RUF members who retreated from Makeni with SAJ Musa, including Alfred Brown who was a senior radio operator, King Perry and "other fighters".<sup>6651</sup>

2994. After the meeting, at which each person was assigned to various targets, they were supplied with ammunition. The only people who were not able to receive the supplies at that moment were those who were in the northern jungle in Koinadugu District since there was no way to transport the ammunition to them as their enemies, ECOMOG, Kamajors and President Kabbah's loyalists, were based in Koidu Town. The witness received ammunition to go to the "target" he was assigned to. Ammunition was given to commanders who had "targets", such as Issa Sesay and Morris Kallon and AFRC members attending the meeting, including Akim Turay.<sup>6652</sup>

2995. On cross-examination, Mongor agreed that AFRC members were the ones who entered Freetown, but stated that the plan that Bockarie brought from Taylor, to attack several places and advance towards Freetown, did not encompass selecting a specific group that would be the one that enters Freetown.<sup>6653</sup> The witness said that the invasion of

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<sup>6649</sup> Isaac Mongor, Transcript 11 March 2008, p. 5797.

<sup>6650</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5799-5800.

<sup>6651</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5800-5801 (the witness did not communicate directly with Alfred Brown while Brown was in Koinadugu and did have direct contact with Brown when the offensive started).

<sup>6652</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5801-5804.

<sup>6653</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6720-6721.

Freetown by Gullit and SAJ Musa was in accordance with the plan Taylor made with Bockarie, in which they planned to send the RUF to carry out the advancement.<sup>6654</sup> The witness confirmed his prior statement that the Freetown invasion was largely an AFRC project. He explained that the AFRC, Gullit and SAJ Musa, “had the movement” but could not have invaded Freetown without the attacks carried out by the RUF on the “other places”. They would not have been able to reinstate the army if they only depended on their small group, they needed the RUF participation to reduce the burden, The witness’s view was based on his war experience.<sup>6655</sup> Later in cross-examination, Mongor said that the reason he told his investigators that the invasion of Freetown was mainly an AFRC project was because many in the group that entered Freetown were AFRC members, and that they refused to wait for the RUF group to join them. “They were doing it by themselves”.<sup>6656</sup>

Prosecution Witness Dauda Aruna Fornie

2996. Witness Dauda Aruna Fornie, an RUF radio operator, testified that in early December 1998 he accompanied Bockarie, Rashid, SYB Rogers, Eddie Kanneh, Shabado and others who he was unable to recall on a trip to Monrovia.<sup>6657</sup>

2997. While in Monrovia, Fornie stayed at Benjamin Yeaten’s house. Bockarie remained in Monrovia for up to 72 hours before departing for Burkina Faso. During this time, Bockarie and Yeaten would go out for long periods of time, including overnight. Sometimes when they would return to Yeaten’s house, Bockarie would tell the witness that they had briefly met with the “Papay”.<sup>6658</sup>

2998. Fornie was taken on this trip to act as a radio operator for Bockarie in Monrovia while Bockarie was abroad. When Bockarie, Kanneh and SYB Rogers travelled to Burkina Faso, Fornie remained at Base 1, the radio station at Yeaten’s residence in Monrovia. While

<sup>6654</sup> Isaac Mongor, Transcript 7 April 2008, p. 6754.

<sup>6655</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6758-6760.

<sup>6656</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6763-6766.

<sup>6657</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21530; Transcript 3 December 2008, pp. 21541-21542, 21545.

<sup>6658</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21545.

there, he collected information from the various RUF front lines and passed this information to Bockarie who was in Burkina Faso via telephone.<sup>6659</sup>

2999. Bockarie and his group returned to Monrovia from Ouagadougou at night about one week later.<sup>6660</sup> The witness did not see Bockarie on the night that he returned, but rather on the next night when Bockarie came to Base 1 at Yeaten's residence, with Yeaten, Kanneh and Bah.<sup>6661</sup> From Base 1, Bockarie called Issa Sesay and instructed the witness to send a message to some of the commanders to meet Bockarie in Buedu.<sup>6662</sup> While in the radio room, before leaving for Buedu, the witness was present when Bockarie, Kanneh and Yeaten discussed that Kono and Tongo were the first targets to be hit with the ammunition they had brought back with them.<sup>6663</sup> The delegation then left Monrovia from Yeaten's house in the evening.<sup>6664</sup>

3000. After arriving in Buedu, Bockarie met with the various commanders he had sent for, including CO Isaac, Saddam, Eagle, Akim Turay and Issa Sesay, in order to discuss the strategy for the attack on Kono and Tongo. During their meeting, they discussed how to successfully attack Kono and Tongo. Fornie was not present during these discussions and said that his knowledge of them was based on a message sent from Bockarie's radio station stating that "the other people should hasten up to come for the meeting".<sup>6665</sup>

3001. Bockarie then distributed the ammunition among the attendees. Some of the ammunition he sent toward a target in Njama which is on the road leading to Joru in Kenema, some of it went "to Eagle and others in their defensive area", but most of it was sent with Issa Sesay towards Kono and Tongo.<sup>6666</sup> Bockarie also distributed other supplies to the commanders including "morale boosters" such as alcohol, rice, fuel and condiments, which they had also brought with them to Sierra Leone.<sup>6667</sup>

<sup>6659</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21544-21547.

<sup>6660</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21546-21547.

<sup>6661</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21547.

<sup>6662</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21547.

<sup>6663</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21548-21549 (Pa Rogers did not attend this conversation).

<sup>6664</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21549-21550.

<sup>6665</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21552-21554.

<sup>6666</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21552-21553.

<sup>6667</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21554.

Prosecution Witness Augustine Mallah

3002. Witness Augustine Mallah testified that at the end of 1998/early 1999 he was present at a meeting convened by Bockarie in Buedu for “senior men, officers” in which Bockarie said that he was “tired of staying like that in Buedu” and was “fed up with all of us staying in Kailahun District”. Bockarie said that he had something at hand and that he was trying to go to Liberia to seek advice from Charles Taylor, explaining that in Liberia he, Bockarie, will “get our needs”. Bockarie also said that after he will return from his trip they will “try to do what really he wanted to do, he Mosquito”. They then heard that Bockarie went to Liberia.<sup>6668</sup>

3003. Upon Bockarie’s return from Liberia, at around November 1998,<sup>6669</sup> Bockarie convened a meeting for 60 to 80 persons who included civilians, representatives from RUF deployment areas as well as AFRC, RUF and Liberian fighters under the command of Abu Keita, who, according to Bockarie, had come as reinforcements “for a particular mission that he wanted to undertake”.<sup>6670</sup>

3004. At the meeting, Bockarie told those gathered that, as he told them before he left, he had brought arms and ammunition from Charles Taylor in Liberia, and that they would “not only sit by and just control Kailahun and still call ourselves RUF”. Bockarie said that he now had enough arms, ammunition and medicines in order for them to go and fight against ECOMOG, saying that this operation would be called “Operation Free Sankoh”.<sup>6671</sup>

3005. Following this meeting, Bockarie convened a meeting for around 35 to 40 senior officers for a second meeting, at a location known as Waterworks, located outside of Buedu in the direction of Dawa by the Liberian border.<sup>6672</sup> Bockarie told the attendees that everything was now available for RUF commanders to fight, and explained that the

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<sup>6668</sup> Augustine Mallah, Transcript 13 November 2008, p. 20217.

<sup>6669</sup> Mallah initially testified that Bockarie returned in 1999, but subsequently clarified that the meeting took place in November 1998, before the attack on Freetown (Augustine Mallah, Transcript 13 November 2008, pp. 20217-20218, 20227).

<sup>6670</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20219-20220.

<sup>6671</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20219-20220.

<sup>6672</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20219-20220, 20222.

operation he was now announcing was to be taken seriously and that every commander should do exactly as he said, otherwise they would be facing “a big problem” with him.<sup>6673</sup>

3006. Bockarie then said that “he himself” had planned Operation Spare No Soul, and that what he meant by that was that this was not the type of mission where commanders “would be womanising”, capturing civilians and keeping those civilians when attacking a town. Bockarie stated that he wanted “the land” and therefore when they encounter a civilian running away they should let them run away and not capture them. He said, “Kill anybody who comes your way. If that person doesn’t want to run away, don’t stay with that person at all”. Bockarie also said that they should destroy any town they “feel” is occupied by ECOMOG and destroy the towns they capture – “let that be an open terrain”, “we want the ground”.<sup>6674</sup> Bockarie explained that fighting against ECOMOG would not raise the concern of the “international committee” as would be the case if civilians are killed and towns are burnt. According to Bockarie, that would permit the RUF to negotiate the release of Foday Sankoh before they agree to peace, since “without Foday Sankoh there will be no peace” and he would not be afraid to say that this was Operation Spare No Soul.<sup>6675</sup> Bockarie told Issa Sesay that those were the “guidelines” for the operation. Sesay in turn accepted and supported Bockarie, saying that he would follow what Bockarie, “Master”, had said.<sup>6676</sup> Mallah confirmed that “Operation Spare No Soul”, “Operation Free Foday Sankoh” and “Operation No Living Thing” were the same operation. He was physically present in Buedu when Bockarie passed the order for Operation Free Sankoh, and confirmed that “the fighters” decided to call the operation “Operation No Living Thing”.<sup>6677</sup>

3007. According to the plan, the witness was to go to Baiima with Eagle, Manawai and the 1<sup>st</sup> brigade commander from the RUF, CO Denis, a.k.a. Monkey Brown. The command was to attack Bunumbu, Segbwema, Daru, Tondola, Bendu Junction, Jomukafebu, Kumbema and all the way to Kenema.<sup>6678</sup> Following this second meeting, Bockarie returned to Buedu and provided the commanders who were to go on this mission – the witness, Manawai, Eagle and CO Denis – with Abu Keita “and his reinforcement”, as well as arms, ammunition

<sup>6673</sup> Augustine Mallah, Transcript 13 November 2008, p. 20220.


<sup>6674</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20220-20221.

<sup>6675</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20221-20222.

<sup>6676</sup> Augustine Mallah, Transcript 13 November 2008, p. 20221.

<sup>6677</sup> Augustine Mallah, Transcript 18 November 2008, pp. 20513-20514.

<sup>6678</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20222-20224.





and medicines, for them to attack the various areas. Bockarie then told CO Denis, the brigade commander, to move ahead and pursue the mission.<sup>6679</sup>

3008. The witness also saw Bockarie providing arms, ammunition and medicines to Issa Sesay, telling Sesay to go together with Akim, Soriba and other AFRC soldiers to Kono, to join Superman and CO Rambo and attack Kono. Bockarie said that from there Akim should attack Tongo while Sesay and Morris Kallon should advance to Makeni.<sup>6680</sup>

#### Prosecution Witness Albert Saidu

3009. Witness Albert Saidu testified that in October/early November 1998, he attended a meeting in Buedu in which Bockarie said that he would go and meet Charles Taylor in order to explain the situation- how they have tried to capture Kono but did not succeed since they ran out of ammunition and that they “still needed Kono”. This meeting was attended by CO Eagle, the 2<sup>nd</sup> Brigade commanders such as Superman, Hi-Rash, Augustine Gbao and front line commanders. Sam Bockarie then went to meet Charles Taylor in Liberia and left Issa Sesay in charge of Buedu. In Bockarie’s absence the witness’s promotion was approved by CO Issa.<sup>6681</sup>

3010. The witness also testified about a meeting he had with Bockarie in 1998, “before that big offensive that was to take place in Kono on the Bunumbu-Segbwema axis”, in which Bockarie showed him a “white paper” which contained diamonds. Bockarie called the diamonds “stones” and said that he was taking the “stones” to the “Father”, Charles Taylor, to secure materiel quickly in order for them to launch “a big offensive” to recapture Kono. This meeting was attended by senior RUF Vanguarders, including Edwin Collins, and some civilians.<sup>6682</sup>

3011. Bockarie left Sierra Leone for Liberia to bring “materials” and put Issa Sesay in charge. Subsequently, the witness was promoted by Sesay in Bockarie’s absence on 19 November 1998. When Bockarie returned, he returned with “a lot of materials”.<sup>6683</sup> Upon his return, Bockarie convened a general meeting at Waterworks, in early 1999, at around the

<sup>6679</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20222-20223.

<sup>6680</sup> Augustine Mallah, Transcript 13 November 2008, p. 20223.

<sup>6681</sup> Albert Saidu, Transcript 5 June 2008, pp. 11066-11068.

<sup>6682</sup> Albert Saidu, Transcript 5 June 2008, pp. 11070-11072, 11075-11076, 11081.



time Sesay made the promotion. Saidu did not attend the meeting as he was in Koidu and “under pressure” from their enemies, keeping up the defensive.<sup>6684</sup>

3012. The day after the meeting, the witness went to Buedu and was told about the meeting by two of Bockarie’s bodyguards, Shabado and Ray. They told the witness that Bockarie held a meeting at Waterworks for all of the front line commanders and senior Vanguarders including Bockarie, Eddie Kanneh from the AFRC, Abu Keita and “some other Liberians”, Morris Kallon, Issa Sesay and SYB Rogers, as well as “the Liberian Government representative”, Colonel Jungle and Ibrahim Bah.<sup>6685</sup>

3013. According to Shabado, Ray and others, Bockarie and Eddie Kanneh returned from Liberia to Sierra Leone and briefed the attendees on their travels and about the materiel they had brought. They said that they went to Charles Taylor in Liberia and proceeded to Burkina Faso, returning to Sierra Leone with “a lot of ammunition and arms”.<sup>6686</sup> The witness was told that SYB Rogers, the War Council Chairman, thanked the delegation and addressed the meeting. Other officers such as Morris Kallon and Issa Sesay also spoke at the meeting.<sup>6687</sup>

3014. According to Shabado and others, a war plan was drawn at the meeting for a major offensive which will include the 1<sup>st</sup> and 2<sup>nd</sup> brigades to go and attack Kono and the Bunumbu-Segbwema axis simultaneously.<sup>6688</sup> Bockarie, together with other senior officers such as Issa Sesay, Morris Kallon and others, drew the war plan of how the operation was to be executed: Abu Keita and Tamba were assigned to go with the 1<sup>st</sup> brigade to the Bunumbu-Segbwema axis, while Issa Sesay, Superman and the 2<sup>nd</sup> brigade were assigned to go to Kono. They divided officers at the meeting and from the meeting each person was to go straight to the location they were assigned to with the materiel and commence an

<sup>6683</sup> Albert Saidu, Transcript 6 June 2008, pp. 11205-11207.

<sup>6684</sup> Albert Saidu, Transcript 5 June 2008, pp. 11081-11082.

<sup>6685</sup> Albert Saidu, Transcript 5 June 2008, pp. 11081-11085.

<sup>6686</sup> Albert Saidu, Transcript 5 June 2008, pp. 11082-11085. The witness referred to Bockarie as “the Master” and to Taylor as “Father”.

<sup>6687</sup> Albert Saidu, Transcript 5 June 2008, p. 11085.

<sup>6688</sup> Albert Saidu, Transcript 5 June 2008, pp. 11082-11083, 11085 (they also told the witness that he might be called to reinforce the troops).

attack.<sup>6689</sup> The arms and ammunition that the delegation had brought was “consistent” with the war plans that had been drawn for Kono and Kenema.<sup>6690</sup>

Prosecution Witness TF1-567

3015. Witness TF1-567 testified that while he was in Superman Ground, in October 1998 Bockarie summoned Issa Sesay to Buedu and the witness joined Sesay. In Buedu, Bockarie said that they should attempt to recapture Koidu Town and that he was going to see Charles Taylor in Monrovia, assigning Sesay to stay in charge of Buedu in his absence.<sup>6691</sup>

3016. The witness was in Buedu for two months when Bockarie returned in December 1998 with a large consignment of ammunition. Bockarie said that Taylor had told him that the RUF should attempt to recapture Kono and other mining areas, in order to secure diamonds to obtain more arms and ammunition. Bockarie gave the materials to Sesay, as Sesay was in charge of organizing commanders.<sup>6692</sup>

3017. From Buedu, they returned to Superman Ground with the ammunition which was transferred by captured civilians from Buedu and its surroundings before they departed from Buedu. When they returned to Superman Ground Sesay convened a meeting which was attended by Morris Kallon, Akim Turay, Banya, Gassama Mansaray, Rambo (a.k.a. Boston Flomo) and others whom the witness could not recall. At the meeting, Sesay said that Master, Bockarie, met with Taylor who provided Bockarie with “a lot” of arms and ammunition for them to capture Koindu Town and other mining areas. Sesay further testified that Bockarie reported that Taylor said that if they did not capture the mining areas he would stop supplying them with arms and ammunition.<sup>6693</sup>

3018. Sesay organized the commanders at this meeting and directed how the mission was to be carried out: Morris Kallon was to go and mount an ambush in the Goltown area, behind Sewafe bridge, and Akim Turay was to go to the “other” area while Rambo, in whose group the witness was, should proceed to “Five-Five spot” in Koidu Town. All the groups were to come together and attack Koidu Town. Sesay said that after they captured Koidu

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<sup>6689</sup> Albert Saidu, Transcript 5 June 2008, pp. 11085-11087.

<sup>6690</sup> Albert Saidu, Transcript 5 June 2008, pp. 11085-11086.

<sup>6691</sup> TF1-567, Transcript 2 July 2008, p. 12912.

<sup>6692</sup> TF1-567, Transcript 2 July 2008, pp. 12912-12913, 12915.



Town Akim was to take troops towards Tongo Field, while Rambo was to go towards Makeni.<sup>6694</sup>

3019. At that time, Superman was still in the Koinadugu area. Bockarie instructed Superman that after they captured Koidu and advanced to Makeni, Superman should come from Koinadugu and join them in Makeni.<sup>6695</sup>

#### Prosecution Witness Abu Keita

3020. Witness Abu Keita testified that upon Bockarie's return to Buedu with 300 boxes of ammunition, Bockarie called a meeting at his residence in Buedu. The meeting was attended by Keita, Issa Sesay, Lawrence Wohmandia, SB Rogers, Akim and Leatherboot from the AFRC, and other fighters ("the whole RUF"). Bockarie told those present that with the ammunition he had secured, the fighters would attack Kono and Makeni and "terrorise the highway", because Kono was a strategic area and its diamond mines would fund arms purchases for the RUF.<sup>6696</sup> Bockarie then convened a smaller meeting in his bedroom which only the most senior commanders (the Vanguard), attended. Keita did not attend.<sup>6697</sup>

3021. After the closed meeting in Bockarie's bedroom, Bockarie called a muster parade of the soldiers during which he ordered Sesay to undertake the attack on Kono and Makeni.<sup>6698</sup> Bockarie told those assembled that Taylor had said that "they should be very vigilant and maintain the ground of the RUF".<sup>6699</sup> They then dispersed to carry out the operation in Kono, Makeni, Masingbi, and Magburaka and the operation from Bunumbu to Segbwema to Jumo Kafebu, Gbava, and Bendu Junction. Keita was part of the Bunumbu operation. Koindu [sic] Town was taken over on Christmas Day 1998.<sup>6700</sup>

#### Prosecution Witness Mohamed Kabbah

<sup>6693</sup> TF1-567, Transcript 2 July 2008, pp. 12913-12914.

<sup>6694</sup> TF1-567, Transcript 2 July 2008, pp. 12914-12916.

<sup>6695</sup> TF1-567, Transcript 2 July 2008, p. 12916.

<sup>6696</sup> Abu Keita, Transcript 23 January 2008, pp. 2005-2007.

<sup>6697</sup> Abu Keita, Transcript 23 January 2008, pp. 2006-2007.

<sup>6698</sup> Abu Keita, Transcript 23 January 2008, pp. 2007-2008.

<sup>6699</sup> Abu Keita, Transcript 23 January 2008, p. 2008.

<sup>6700</sup> Abu Keita, Transcript 23 January 2008, p. 2008.

3022. Witness Mohamed Kabbah, a radio commander in Buedu, testified that in 1999, after Sam Bockarie returned from Monrovia with the large shipment, of “heaviest ammunition” Bockarie had ever brought from his travels to Liberia, Bockarie convened a meeting behind Issa Sesay’s house for front line commanders in order to plan how to launch an attack.<sup>6701</sup>

3023. The witness did not attend the meeting as he was on duty at the radio station when this meeting took place, and was therefore briefed about the meeting by Zedman when Zedman returned from the meeting. Zedman told the witness that at the meeting there was a plan to attack Kono: Morris Kallon was to be used to cut off the supply line between Kono and Makeni so that Issa Sesay, Rambo, Banya and other commanders would attack Kono.<sup>6702</sup> The witness knew that the “planning meeting” was attended by Issa Sesay, Morris Kallon and Amara Peleto, as messages had been sent to these front line commanders to come.<sup>6703</sup>

3024. On cross-examination Kabbah said that he had never received a message from Charles Taylor ordering the RUF to hold Kono, and confirmed that he could not recall hearing or seeing any messages from Taylor ordering the RUF to hold Kono after the AFRC/RUF retreated from Freetown in early 1998.<sup>6704</sup> Kabbah confirmed his prior statements that he did not recall hearing Bockarie or anyone else referring to instructions or orders from Liberia regarding the planned attack on Kono in late 1998 when Bockarie brought ammunition from Monrovia. However because Bockarie went to Monrovia and talked about Kono when he returned “we believed” that he got the plan in Monrovia “or from any other area” shortly before the meeting.<sup>6705</sup>

3025. The witness also confirmed his prior statement that he did not recall hearing or seeing messages containing orders or instructions from Charles Taylor or one of his people concerning the Freetown invasion, or from Taylor ordering Bockarie to attack Freetown, or that Taylor discussing military strategy with Bockarie.<sup>6706</sup>

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<sup>6701</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16151-16154 (Kabbah stated that this shipment of weapons arrived in Sierra Leone before 6 January and was used to attack Kono, Makeni and Lunsar, “even before we thought about January 6”).

<sup>6702</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16153-16154.

<sup>6703</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16154, 16159.

<sup>6704</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16338-16339.

<sup>6705</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16340-16341.

<sup>6706</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16352-16353.



Prosecution Witness Alimamy Bobson Sesay

3026. Witness Alimamy Bobson Sesay testified that at around the end of June/beginning of July 1998<sup>6707</sup> he was in a group with commander Hassan Papa Bangura (a.k.a. Bomb Blast) who withdrew from Kono to Tombodu where they met “military supervisors” Gullit, Bazy, Woyoh, Abdul Sesay, as well as Ibrahim Bioh Sesay and other commanders, and about 200 civilians who were captured by both the RUF and SLAs from Makeni and Kono.<sup>6708</sup> The group waited for Savage to join them the same day but Savage did not arrive. Gullit, Bangura, the witness and others then left Tombodu the same day in two vehicles and arrived in Mansofinia in Koinadugu District, about 50 miles from Tombodu, while Tito and other commanders who did not have vehicles went with the civilians through the “footpath” to Mansofinia.<sup>6709</sup>

3027. From Mansofinia the witness moved onto Mongo Bendugu in Koinadugu District, along with Hassan Papa Bangura, Gullit, Junior Johnson, Junior Lion, Bazy, Abdul Sesay, Bioh and others. In Mongo Bendugu they met SAJ Musa who was there with “a mixed force” including Five-Five, Musa’s security called Alie Turay, and Alabama.<sup>6710</sup>

3028. After they arrived in Mongo Bendugu, a closed door meeting was convened. The meeting was attended by SAJ Musa, Five-Five, Bazy, Gullit, Hassan Papa Bangura, Abdul Sesay, Bioh, SAJ Musa’s Chief Security Officer and “some other securities”.<sup>6711</sup> At the meeting, Gullit told SAJ Musa that Bockarie took his diamonds from him while in Kailahun, that he was not happy with this treatment, and sought advice from Musa about what should be the next plan.<sup>6712</sup>

3029. SAJ Musa then replied and said that Brigadier Mani had proceeded to the north in search of a base to prepare for an advancement to Freetown, and that Gullit should proceed and search for Brigadier Mani in order to set up an “advance base”, while Musa would ensure that Five-Five joins him. Musa said that this would enable them to have a strong front line troop in the north to prepare for an attack on Freetown and “prepare the way”, since at

<sup>6707</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8042.

<sup>6708</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8038-8039.

<sup>6709</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8039-8040.

<sup>6710</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8040-8043.

<sup>6711</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8044.

<sup>6712</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8044 (at this meeting, Bazy briefed the attendees on

that time they did not have troops in the north. In the base they would establish they would later get reinforcements to advance towards Freetown.<sup>6713</sup>

3030. Following this meeting, the witness, Gullit, Hassan Papa Bangura and others commanded by Gullit left for Mansofinia where they stayed for three days. Five-Five then arrived in Mansofinia with about 100 people including a mixed force of RUF and SLA members, and SBUs. The witness did not know how many RUF members were in that group, but Five-Five told Gullit that there were RUF members among his group, and the witness “also got that from other RUF men that were there”.<sup>6714</sup>

3031. Bobson Sesay also testified that around 23 December 1998, SAJ Musa instructed Foday Bah Marrah to lead the troops in an attack on Benguema. The troops, including Bobson Sesay, encountered ECOMOG forces and captured Benguema.<sup>6715</sup> The witness was attempting to fix a mounted 120 millimetre mortar near the ammunition dump in Benguema military training centre with Bazzy, O-Five, and Colonel Eddie, when he heard a heavy explosion. SAJ Musa’s body was placed on a broken door and carried to where the witness was. When O-Five was trying to give milk to Musa, people started saying that he had died. Gullit said that it was an exploding bomb that had killed Musa.<sup>6716</sup> The witness saw that the helmet that Musa was wearing was pierced by a bullet hole, and believed that Musa had been shot. He said, “what I saw was a bullet hole that went through that hit SAJ, because you can see where the bullet went through, where it was pierced, and so I believed that SAJ was shot”. Bobson Sesay testified that he heard a rumour around the brigade that Gullit had killed SAJ Musa.<sup>6717</sup> SAJ Musa died in the “morning hours” of 24 December 1998.<sup>6718</sup> After SAJ Musa’s death, the witness left the scene.<sup>6719</sup> About a day after SAJ Musa’s death, the witness was brought by a patrol team to Gullit’s location where he was surprised to see Gullit fully dressed in Musa’s helmet and uniform. Alabama, who had been SAJ Musa’s

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what has happened in Kono, about the withdrawal and the events leading up to their arrival in Mongo Bendugu).

<sup>6713</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8044-8046 (Bobson Sesay explained that the “north” is a large area and that they did not have a strategic area, but they went to the north since Makeni and “all those areas” were in the north).

<sup>6714</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8046-8047.

<sup>6715</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8243-8244.

<sup>6716</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8244-8246.

<sup>6717</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8245-8246.

<sup>6718</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8247.

<sup>6719</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8245.

CSO was also very close to Gullit. Gullit told the witness that they had buried SAJ Musa in the Koba Water area.<sup>6720</sup>

3032. On cross-examination the witness agreed that the 24 persons executed on 19 October were all SLA members and none of them were from the RUF. The witness confirmed his prior statement in which he said that when SAJ Musa arrived [in Colonel Eddie Town] he summoned a meeting and said that they should head straight to Freetown, and that two days later they heard that the 24 soldiers were executed. This caused Musa to convene another meeting in which he said that since “we” are SLA members and they have started executing soldiers in Freetown, “we should not just sit and see this happening”. Musa said that they were now going to Freetown to reinstate the army. The witness also confirmed his prior statement that he did not know what Musa had in mind, but that is what Musa had said and the attendees were happy about it.<sup>6721</sup>

3033. The witness agreed that in addition to the execution of the 24 soldiers Musa’s intent to reinstate the army was another factor that contributed to the invasion of Freetown . They also heard that more executions would occur, including of members of the AFRC and the RUF, and of other political prisoners at Pademba Road, including Foday Sankoh. On the day the government announced the executions, Bockarie also “went on the air” i.e. broadcast saying that he did not accept the execution of the 24 soldiers, and that the troops would move as far as Freetown. “So it was through that that all of us said when SAJ Musa made a statement that we’re not going to waste any time”.<sup>6722</sup> The witness was then challenged that the releasing of Foday Sankoh as a factor that led to the invasion of Freetown was not mentioned in prior statements. The witness replied that when Bockarie “went over the air” he said that “our men” will march onto Freetown as long as “our members” are being executed, “and it happened at the time that we were fighting. We were together with them”. He confirmed that SAJ Musa stated that as long as those officers “have been executed we should move at once and reinstate the army”.<sup>6723</sup>

3034. The witness disagreed with the proposition that SAJ Musa’s reasons for invading Freetown had nothing to do with the RUF stating “we were together. We were all operating

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<sup>6720</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8246-8247.

<sup>6721</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8831-8832, 8834.

<sup>6722</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8833-8837.

<sup>6723</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8837-8838.

by the same aims and objectives and we wouldn't have just moved without their support". He stated that it had something with the RUF if they had left Colonel Eddie Town with the intention to go to Freetown without weakening the other areas such as Kono, ECOMOG would have "finished" them in Freetown. . He testified that it was an organized advance, but those executions accelerated their advance towards Freetown.<sup>6724</sup>

Prosecution Witness TF1-367

3035. Witness TF1-367, who was stationed in Kono, testified that he heard from Rambo that Bockarie went to see Charles Taylor, "Father", in Monrovia for arms and ammunition, and that when Bockarie returned Sesay would come to Kono and they will attack Koidu Town. When Bockarie went to Liberia Sesay was left in charge of Buedu. Two to three days after a radio message announced Bockarie's return, Sesay returned to Kono with ammunition and a strong manpower which included his bodyguards and some officers. This was new ammunition that they used in order to capture Koidu Town.<sup>6725</sup>

3036. After he arrived, Sesay sent a message to the senior officers to report for a meeting at the headquarters. At the meeting they discussed and planned attacks on Koidu Town, and commanders were given areas to attack on the road leading to Koidu Town. Akim and Kailandu were given "a place to attack" while Rambo was assigned to attack with Five-Five. Peleto, Sesay, the witness and others were assigned to the Guinea Highway, and Banya was sent to Tankoro.<sup>6726</sup> At the meeting, they also discussed the objective of the attack on Kono, which was to suppress the government and force the release of Foday Sankoh by starting with Koidu Town and then go straight to Freetown and release Sankoh. That was why the operation was named "Operation Free Foday Sankoh". The only piece of advice that was given to every soldier was that this operation was "do or die", that they should do everything possible to free Sankoh and that nobody should sabotage the mission; "the operation should be made fearful so we should conquer the enemy. We should make the operation fearful".<sup>6727</sup>

Prosecution Witness TF1-585

<sup>6724</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, p. 8838.

<sup>6725</sup> TF1-367, Transcript 20 August 2008, pp. 14161-14162, 14181-14183.

<sup>6726</sup> TF1-367, Transcript 20 August 2008, pp. 14162-14164.



3037. Witness TF1-585, an RUF radio operator, testified that the soldiers and commander were happy at the time Sani Abacha died. His death brought to Bockarie to announce Operation Spare No Soul, as he said that ECOMOG soldiers would now be discouraged which will enable the RUF/AFRC forces to prevail. Operation Spare No Soul meant that they were not to capture ECOMOG soldiers and bring them to Buedu, but rather kill any ECOMOG soldier. Operation Spare No Soul took place around the “Kono axis” and was commanded by Komba Gbundema. The witness learned from Alice Pyne and another radio operator named Ebony that Gbundema reported to Superman and Bockarie that they had killed many civilians and ECOMOG soldiers during this operation.<sup>6728</sup>

3038. The witness also testified that Bockarie convened a meeting for all Vanguardians in Buedu, in order to establish unity. This was since there was “no understanding” within the command structure: soldiers were disgruntled after Issa Sesay had lost diamonds and was not punished, and also did not succeed in capturing Kono; there was misunderstanding between Superman and Issa Sesay and between Superman and Bockarie, and; after the “raiding” of Johnny Paul Koroma and SAJ Musa’s refusal to cooperate. Prior to this meeting, Bockarie discussed with Eddie Kanneh on Bockarie’s veranda a plan to conduct a military operation starting with Kono and from Kono they were to advance towards Freetown.<sup>6729</sup> During the meeting with Eddie Kanneh at Bockarie’s house, they discussed how to attack Freetown by first capturing Kono. They said that it should be a uniformed mission, that Superman and Komba Gbundema should act together with SAJ Musa and others. After SAJ Musa would clear Kono they should go to Kabala and proceed to Freetown. By then, there was no communication between Bockarie and SAJ Musa. Also present at this meeting were CO Isaac, Morris Kallon, Issa Sesay, Abu Keita and “some other people”.<sup>6730</sup>

#### Prosecution Witness Perry Kamara

3039. Witness Perry Kamara testified that around 25 December, SAJ Musa’s forces that he was with attacked and captured Benguema where ECOMOG had established their headquarters in the province. There, they captured a lot of ammunition but it was too much

<sup>6727</sup> TF1-367, Transcript 20 August 2008, pp. 14164-14165.

<sup>6728</sup> TF1-585, Transcript 8 September 2008, pp. 15688-15680.

<sup>6729</sup> TF1-585, Transcript 8 September 2008, pp. 15691-15693.



for them to carry into Freetown. SAJ Musa said that if they left the ammunition there then their enemies would use it against them so the best thing would be to set fire to the ammo dump. After Musa and the officers had eaten and drunk in the officers' mess, they came and stood by the road and SAJ Musa passed an order to set fire to the ammo dump so that neither ECOMOG nor the government troops could use it.<sup>6731</sup> He explained:

The whole place was set on fire, but in the ammo dump bombs were there, 180 millimetre bombs<sup>6732</sup> were there and some other bombs and their tubes, so the fire exploded the roof and the bomb blasted. We just heard that this bomb that had blasted, SAJ Musa had dropped. When we went there he had fallen down, but it was not far away from the house where this fire was. There were so many other soldiers there, so they took SAJ Musa. Everybody was coming to see. But before that other groups had moved. They had moved towards the Peninsula Road. When you reach Waterloo you enter Benguema, you avoid the Freetown highway to go Freetown directly. You use another route to come to Freetown that is called peninsula road. It is the bypass through to Freetown. The other groups went there and stayed there. They had not known that SAJ Musa had died, or so and so thing had happened to SAJ Musa, and we were not expecting that SAJ Musa would die at that time. They took SAJ Musa and they placed him on a plank. They called the medical personnel who were among us, they touched him and he was not moving and they said to leave him for a while. They took him to some place. They thought he had just fainted away. They did that, but SAJ Musa died. Some people said we should carry SAJ Musa along as we went along fighting until we finally bury him. Some people said no. Gullit and others came together and said he was a dead man and so many people had died among these troops, we did not carry them, so let us bury SAJ Musa as a guerrilla, so they took some leaves and put them over SAJ Musa. Everybody was doing that until we finally left. We left that location and went in the middle of the forest.<sup>6733</sup>

3040. Kamara clarified that he did not see anyone else either injured or killed by the explosion.<sup>6734</sup>

#### Prosecution Witness TF1-143

3041. Witness TF1-143, a child soldier, testified that he moved with SAJ Musa's group from Colonel Eddie Town towards Freetown.<sup>6735</sup> When he arrived at Benguema barracks it was night. He testified that the advance team, SAJ Musa's group, comprising O-Five, Five-Five, Komba, Med and some other fighters, had gone ahead,<sup>6736</sup> entered Benguema barracks and was looting ammunition from the barracks. When it was time for the witness's group to enter the barracks they were stopped at the gate and told not to enter because it would be

<sup>6730</sup> TF1-585, Transcript 8 September 2008, pp. 15700-15701.

<sup>6731</sup> Perry Kamara, Transcript 6 February 2008, pp. 3214-3215.

<sup>6732</sup> The witness clarified that these were mortar bombs, see Perry Kamara, Transcript 6 February 2008, p. 3216.

<sup>6733</sup> Perry Kamara, Transcript 6 February 2008, pp. 3215-3216.

<sup>6734</sup> Perry Kamara, Transcript 6 February 2008, p. 3217.

<sup>6735</sup> TF1-143, Transcript 5 May 2008, p. 9020.

<sup>6736</sup> The Trial Chamber notes that the witness had previously testified that Gullit was in the group that went ahead with SAJ Musa when they left Colonel Eddie Town (TF1-143, Transcript 5 May 2008, p. 9019).



risky due to explosion of bombs, as those in the barracks were looting the ammunition they needed and were setting fire to the rest.<sup>6737</sup>

3042. The witness was told that SAJ Musa had gone to look at who had set the store on fire and a bomb had exploded. The witness then saw SAJ Musa being carried past him in a hammock at the gate to Benguema barracks. TF1-143 said that he then followed ten boys carrying the hammock into the forest. They attempted to treat Musa but he died. The witness testified that he stayed there for the whole day as they would move when it was dark. A priest who they had captured was asked to pray over the corpse and Musa was buried in a grave they had dug.<sup>6738</sup> The witness said that he was told by his boss, Kabila, that Gullit and O-Five gave an order for a “fair in complexion lady” to be buried alive with SAJ Musa as a sacrifice to ensure success in the mission to Freetown.<sup>6739</sup>

#### The Accused

3043. The Accused testified that the tension between him and Sani Abacha ended when the two met in Abuja,<sup>6740</sup> but stated that “towards the end of the Abacha years” with his passing in June 1998, their relationship deteriorated, for example when Nigeria accused him of being involved in the conflict in Sierra Leone.<sup>6741</sup> The Accused recalled Nigeria’s statements after the death of Abacha that it could no longer afford its commitment to ECOMOG and Sierra Leone, but said that the ECOWAS leaders would have permitted Nigeria to withdraw from Sierra Leone.<sup>6742</sup>

3044. The Accused also testified that he was upset by the execution of the 24 soldiers as he felt that Kabbah had lied to him, since Kabbah promised Taylor that Victor King, who was extradited from Liberia to Sierra Leone would not be executed but King was.<sup>6743</sup> The Accused said that he met Bockarie in September 1998 for a short “preliminary meeting”, in which they discussed a cessation of hostilities. The two met again in mid-October 1998 which was a follow up to their first meeting in September to discuss how to bring to the

<sup>6737</sup> TF1-143, Transcript 5 May 2008, pp. 9022-9023.

<sup>6738</sup> TF1-143, Transcript 5 May 2008, pp. 9023-9024.

<sup>6739</sup> TF1-143, Transcript 5 May 2008, p. 9025.

<sup>6740</sup> Charles Ghankay Taylor, Transcript 10 August 2009, pp. 26343-26345.

<sup>6741</sup> Charles Ghankay Taylor, Transcript 11 August 2009, pp. 26521-26422.

<sup>6742</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32461-32462.

<sup>6743</sup> Charles Ghankay Taylor, Transcript 29 September 2009, pp. 29754-29755.

implementation of the 1996 agreement. During the meeting in October, the Accused provided the RUF with a guesthouse in Monrovia.<sup>6744</sup>

3045. The Accused said that he also met with Sam Bockarie briefly at around November 1998, when Bockarie passed on his way to Burkina Faso. Bockarie asked to pass through Liberia with a delegation, which included Eddie Kanneh, en route to Burkina Faso where he was to discuss peace with another member of ECOWAS. Bockarie also returned to Sierra Leone through Liberia at around November 1998. Bockarie sought the Accused's help in releasing Foday Sankoh.<sup>6745</sup> The Accused denied that he planned the invasion of Freetown with Bockarie during these meetings, or that he ordered or planned with Bockarie the capturing of Kono, Makeni, Joru and Freetown. He denied providing Bockarie with advice or that he was the mastermind behind the Freetown Invasion. He also said that he did not know that Kono was a strategic mining area.<sup>6746</sup> He said that he would have had to be Superman to both manage rebuilding Liberia and being part of the invasion of Freetown. In fact, he was outraged when he heard of the invasion because of his efforts and those of his colleagues in ECOWAS since August 1998 to bring the RUF to the peace table. He had tried to pressure the RUF by closing the border between Liberia and Sierra Leone in August 1998. He had no knowledge that the invasion was arranged, and it is impossible that he ordered, planned or executed the invasion on 6 January.<sup>6747</sup> The Accused denied that he ordered the invasion of Freetown in order to force Kabbah into peace negotiations, saying that Kabbah had given "a clear signal" to the international community, including ECOWAS, that Sankoh would not be executed.<sup>6748</sup>

<sup>6744</sup> Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26004-26006; Transcript 22 September 2009, pp. 29337-29338, 293434 (the meeting with Bockarie in September 1998 was his first meeting with Bockarie, which was conducted with the acquiescence of ECOWAS and was "very secret"); Transcript 29 September 2009, p. 29755; Transcript 16 November 2009, pp. 31737-31738.

<sup>6745</sup> Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26015-26016, 26037-26038, 26046-26047; Transcript 17 September 2009, pp. 29247-29249 (Sam Bockarie was going to Burkina Faso on a "peace mission". He was travelling with Eddie Kanneh and Musa Cissé, the Accused protocol officer, who accompanied them in order to act as a translator since he spoke French and English while Bockarie did not know French); Transcript 23 September 2009, pp. 29578-29579 (PS); Transcript 11 November 2009, pp. 31608-31609; Transcript 16 November 2009, pp. 31748-31750; Transcript 7 December 2009, p. 33074.

<sup>6746</sup> Charles Ghankay Taylor, Transcript 3 August 2009, pp. 25822-25823; Transcript 5 August 2009, pp. 26049-26051; Transcript 6 August 2009, pp. 26219, 26225; Transcript 1 October 2009, pp. 30105-30106; Transcript 27 October 2009, pp. 30415-30417.

<sup>6747</sup> Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24332-24333.

<sup>6748</sup> Charles Ghankay Taylor, Transcript 29 September 2009, pp. 29755-29757.

3046. The Accused also denied that he gave instructions to Sam Bockarie to launch Operation No Living Thing.<sup>6749</sup> The Accused said that he had never denied that an orgy of atrocities were committed in Freetown from 6 January 1999, but denied that he ordered, incited, assisted or in any way encouraged the commission of atrocities, nor did he unleash the violence in Freetown in order to terrorise the Sierra Leonean population, he stated that he had no control over and contact with those who committed these atrocities. He questioned what would he have to gain from it, and stated that as a result of the Freetown Invasion, hundred of thousands of refugees came to Liberia.<sup>6750</sup>

3047. The Accused said that he first heard of the invasion on the morning of 6 January from his national security advisor, John T Richardson, who told him about the Freetown invasion by the rebels.<sup>6751</sup> The initial report that the Accused received about the invasion stated that Sam Bockarie said that he did not know anything about the invasion. The Accused received this information from his minister of national security whom Taylor told to contact Bockarie immediately to find out what was “going on”.<sup>6752</sup>

3048. The Accused later said that as of the end of December 1998 he knew that there was heavy fighting in different parts of Sierra Leone, and that he received the news about the invasion on 6 January 1999 at about 10am from the national security adviser Lewis Brown, and that upon Taylor’s instructions, Brown called Sam Bockarie by phone. According to the report given to Taylor, Bockarie stated that he did not know what was going on in Freetown. After Taylor was told by “one security personnel” that Bockarie had said on the radio that his men were in Freetown, Taylor told the security man to contact Bockarie again during that evening. In this later call Bockarie said “oh, that’s morale. The boys enter and it looks like they are doing well and so, you know, I’m a big man too so I’m taking some claim for it”. Taylor’s analysis of what happened was that Bockarie did not sound as if he had control over the situation.<sup>6753</sup>

3049. On cross-examination the Accused said that he did not hear Bockarie on Christmas Day 1998 threatening to launch an attack on Freetown by New Year’s, unless the

<sup>6749</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26224-26225; Transcript 23 September 2009, pp. 29585-29586; Transcript 27 October 2009, pp. 30420-30421; Transcript 28 October 2009, pp. 30582, 30587.

<sup>6750</sup> Charles Ghankay Taylor, Transcript 11 August 2009, pp. 26470-26471.

<sup>6751</sup> Charles Ghankay Taylor, Transcript 14 July 2009, p. 24333.

<sup>6752</sup> Charles Ghankay Taylor, Transcript 5 August 2009, p. 26050.

<sup>6753</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26225-26228.

government agreed to negotiate with the rebels, as he was not really following the news in Sierra Leone in December 1998.<sup>6754</sup> The Accused also did not hear Bockarie saying on 29 December 1998 that the shelling of Freetown would not stop until the Government of Tejan Kabbah was ousted. When asked how he could be so ill-informed as a President of a neighbouring country, the Accused answered that he was not seised of the Sierra Leonean conflict to the point of knowing every little detail as he had his own issues to deal with.<sup>6755</sup>

#### Defence Witness Issa Sesay

3050. Witness Issa Sesay testified that Bockarie made trips to Monrovia in September, October and November 1998, which, as Bockarie told him, were meant to discuss the Abidjan Accord.<sup>6756</sup> Bockarie attempted to contact Taylor in May or June 1998 so that Taylor would contact his fellow ECOWAS leaders about revisiting the Abidjan peace Accord, and when this attempt fell through, Bockarie sent Eddie Kanneh to Conakry in August 1998 to meet the Liberian Ambassador in Guinea, Wantee. After Eddie Kanneh's visit with the Liberian Ambassador, Bockarie came again to Pendembu and told the witness that he had received a message that Bockarie should meet General Dopoe Menkarzon at Foya Tinkia on the border and Menkarzon would take him to see Charles Taylor, on Taylor's invitation. Bockarie went with Menkarzon to Monrovia spending three or four days in Liberia before sending a message that he had returned to Buedu.<sup>6757</sup>

3051. Bockarie went back to Monrovia in October 1998 for around a week by invitation.<sup>6758</sup> Taylor told Bockarie in October 1998 that he (Taylor) would contact President Blaise and the ECOWAS leaders about revisiting the Abidjan Accord.<sup>6759</sup>

3052. Bockarie made a third trip to Monrovia, then Burkina Faso and Libya in late November/early December 1998 and was gone from Sierra Leone for two weeks. SYB Rogers, Eddie Kanneh, Lawrence Womandia, Rashid Sandy, Junior Vandi and the late

<sup>6754</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32574-32575.

<sup>6755</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32576-32577.

<sup>6756</sup> Issa Sesay, Transcript 9 July 2010, pp. 44122-44125; Transcript 26 July 2010, p. 44665; Transcript 28 July 2010, pp. 44847-44848; Transcript 18 August 2010, pp. 46641-46645 (Bockarie told Sesay about the meetings and, for the third trip, Bockarie asked Mike Lamin and Sesay to come to Buedu to be in charge until his return).

<sup>6757</sup> Issa Sesay, Transcript 9 July 2010, pp. 44120-44124; Transcript 12 July 2010, p. 44302; Transcript 11 August 2010, pp. 45965-45966; Transcript 27 August 2010, p. 47345.

<sup>6758</sup> Issa Sesay, Transcript 9 July 2010, p. 44124.

<sup>6759</sup> Issa Sesay, Transcript 28 July 2010, p. 44847; Transcript 10 August 2010, p. 45899.

Shabado went with him to Monrovia and Burkina Faso. During this time, he called the witness from Pendembu to be in Buedu together with Mike Lamin. From Burkina Faso Bockarie went with one of a smaller group to Libya, where Gaddafi gave Bockarie USD \$50,000.<sup>6760</sup> Jungle was not part of the group went with Bockarie to Monrovia and then on to Burkina Faso in November 1998. Jungle did not come with Bockarie when he returned from this trip.<sup>6761</sup>

3053. Sesay knew that the purpose of the visit to Burkina Faso was to discuss the revisiting of the Abidjan Accord because when Bockarie returned from his meeting with Taylor in October 1998 he told Sesay that Taylor had organised a trip to Burkina Faso for Bockarie to discuss with Blaise Compaoré, the O.A.U Chairman, revisiting the Accord so that the RUF and SLPP government would discuss the peace process again. Taylor had told Bockarie that he would speak to the other ECOWAS leaders as they were guarantors of the Accord.<sup>6762</sup> Bockarie did not tell anyone throughout 1998, or before he went to Burkina Faso, that Taylor was linking him with Burkina Faso to get materials for a mission to free Sankoh nor did Bockarie have plans to attack Freetown upon his return.<sup>6763</sup>

3054. The day after Bockarie and the delegation arrived back in Buedu, around 11<sup>th</sup> or 12<sup>th</sup> December, a meeting was held at Waterworks, which was attended by the witness, SYB Rogers, Mike Lamin, Eddie Kanneh, Rashid Sandy, and Lawrence Womandia. Bockarie briefed them on his trip and ordered Sesay to attack ECOMOG positions in Koidu Town in Kono.<sup>6764</sup> The only AFRC member at Waterworks was Eddie Kanneh, who was simply there as Bockarie's friend.<sup>6765</sup> Isaac Mongor did not attend the meeting.<sup>6766</sup> The meeting took place in the afternoon.<sup>6767</sup>

3055. Bockarie said he wanted to attack Kono because Omrie Golley, who was in England, had informed him that many ECOMOG and the Kamajors were there and that Sandline was

<sup>6760</sup> Issa Sesay, Transcript 9 July 2010, pp. 44125-44128 (at the Waterworks meeting Bockarie told the attendees that he had spent some of the money from Libya on the return trip, buying medicines in Monrovia and ammunition from the AFL battalion commander in Voinjama and Benjamin Yeaten in Kolahun).

<sup>6761</sup> Issa Sesay, Transcript 28 July 2010, pp. 44868-44869.

<sup>6762</sup> Issa Sesay, Transcript 9 July 2010, pp. 44125, 44174; Transcript 28 July 2010, pp. 44846-44848; Transcript 10 August 2010, pp. 45899-45900; Transcript 11 August 2010, p. 46013.

<sup>6763</sup> Issa Sesay, Transcript 28 July 2010, p. 44849.

<sup>6764</sup> Issa Sesay, Transcript 9 July 2010, pp. 44129, 44136, 44138.

<sup>6765</sup> Issa Sesay, Transcript 29 July 2010, pp. 45046-45049.

<sup>6766</sup> Issa Sesay, Transcript 4 August 2010, pp. 45421-45422.





mining the area. The aim was not to acquire the mining fields but rather to prevent Sandline mining because they were mercenaries providing arms and ammunition to the Sierra Leonean government and Kamajors.<sup>6768</sup> After the meeting, Sesay went with Bockarie and Mike Lamin to explain the plan to Johnny Paul Koroma in Kangama, and he, in return, provided them with advice. Koroma had no control or influence over SAJ Musa's forces from February 1998 when SAJ Musa and his group left Makeni for Kabala, until Musa's death in December 1998.<sup>6769</sup>

3056. Sesay's instruction when he left Buedu was to attack Kono. The plan only mutated as the RUF moved across Sierra Leone because the tables turned and ECOMOG fled to Nimikoro and later to Tongo, Sewafe and Baama Konta. The RUF then moved from Kono to Makeni because ECOMOG was on the run and because they wanted to control more space.<sup>6770</sup>

3057. Sesay explained that the attacks on Freetown and Kono were two separate, dissimilar operations; a few members of the AFRC were involved in the attack on Kono, but the attack was dominated by the RUF, while the Freetown attack was planned independently by the AFRC and had nothing to do with the RUF because the RUF was not part of the army. The RUF did not have control over the AFRC at the time of the attack nor did it plan or form part of a common operation with the AFRC forces in the attack, while the AFRC and SAJ Musa, did not make their plans known to the RUF. Bockarie did not order SAJ Musa to attack Freetown (they were not in contact from February until the death of Musa in December 1998), nor did he complain about Musa's refusal to accept such a plan to Charles Taylor.<sup>6771</sup> Sesay disagreed with the proposition that from the time he captured Kono, it was all part of a single chain of events which led to Gullit attacking Freetown, or if Sesay had not attacked Kono Gullit would not have succeeded in Freetown. He testified that the AFRC

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<sup>6767</sup> Issa Sesay, Transcript 28 July 2010, pp. 44861-44866.

<sup>6768</sup> Issa Sesay, Transcript 9 July 2010, pp. 44160-44161; Transcript 19 August 2010, pp. 46702-46703.

<sup>6769</sup> Issa Sesay, Transcript 9 July 2010, p. 44161; Transcript 4 August 2010, pp. 45426-45427.

<sup>6770</sup> Issa Sesay, Transcript 26 August 2010, pp. 47297-47298.

<sup>6771</sup> Issa Sesay, Transcript 9 July 2010, pp. 44160, 44168-44169; Transcript 12 July 2010, pp. 44187-44188; Transcript 28 July 2010, pp. 44854-44856; Transcript 4 August 2010, pp. 45424-45425; Transcript 19 August 2010, p. 46698.



had their own plans to attack Freetown and used the arms and ammunition they captured from ECOMOG along the way, such as in Masiaka and Benguema.<sup>6772</sup>

3058. Sesay was not aware of any mission named “Operation Free the Leader” by Bockarie aimed at capturing Freetown and freeing Sankoh,<sup>6773</sup> but confirmed that Freetown, as the seat of power, was the objective of the RUF throughout the war.<sup>6774</sup> Sesay also said that Bockarie would contact people and ambassadors to make threats on behalf of the RUF that he would fight until his leader, Sankoh, was released.<sup>6775</sup> However what happened on the ground was different; Bockarie just said these things to “make himself fearful or wicked to the world”. As an example, Sesay said that he, himself, did not commit atrocities in Makeni where hundreds of Kamajors were captured and civilians killed.<sup>6776</sup>

3059. Sesay denied that there was any discussion at the Waterworks meeting prior to the Kono attack about its strategic importance as a diamond-producing area,<sup>6777</sup> stating that the reason the RUF attacked Kono was in order to sabotage President Kabbah’s plans by removing the Sandline miners and ECOMOG from the district. The intention was not to access the diamonds as such.<sup>6778</sup>

3060. Sesay testified that Bockarie did not mention Charles Taylor’s name during the meeting at Waterworks, and that Bockarie did not speak on the satellite phone to Charles Taylor before, during or after the Waterworks meeting. Sesay denied that Taylor gave Bockarie the order to attack and capture Kono,<sup>6779</sup> saying that Bockarie did not tell him that he had discussed with Taylor the recapture of Koidu or the capture of Kono or other mining areas.<sup>6780</sup> There was no meeting in December 1998 at which Taylor gave the order for Operation No Living Thing.<sup>6781</sup>

<sup>6772</sup> Issa Sesay, Transcript 27 August 2010, pp. 47337-47338; Transcript 12 August 2010, pp. 46169-46170.

<sup>6773</sup> Issa Sesay, Transcript 28 July 2010, pp. 44849-44850; Transcript 19 August 2010, p. 46707.

<sup>6774</sup> Issa Sesay, Transcript 12 August 2010, p. 46177; Transcript 19 August 2010, p. 46698.

<sup>6775</sup> Issa Sesay, Transcript 12 August 2010, pp. 46175-46177. Sesay explained that it was SAJ Musa who attacked Freetown and Bockarie was not speaking on his behalf, nor did Bockarie send SAJ Musa to Freetown.

<sup>6776</sup> Issa Sesay, Transcript 12 August 2010, p. 46178

<sup>6777</sup> Issa Sesay, Transcript 5 August 2010, p. 45554.

<sup>6778</sup> Issa Sesay, Transcript 5 August 2010, p. 45556.

<sup>6779</sup> Issa Sesay, Transcript 9 July 2010, pp. 44160-44161; Transcript 28 July 2010, pp. 44852-44853, 44867-44868; Transcript 29 July 2010, pp. 45052, 45055.

<sup>6780</sup> Issa Sesay, Transcript 11 August 2010, p. 46013.

<sup>6781</sup> Issa Sesay, Transcript 29 July 2010, p. 45056.

3061. Sesay denied that there was a meeting at Bockarie's house before the December 1998 attack on Kono, stating that there was only the Waterworks meeting at which the instruction was given to Sesay to attack Kono.<sup>6782</sup> He also denied that there was a meeting at which Bockarie explained a complete strategy of attack through to Freetown.<sup>6783</sup> He stated that there was no two-pronged plan showed on a map or created at the Waterworks meeting for the RUF to attack Freetown together with the AFRC or alone, as no other place other than Kono was mentioned as a target to be captured.<sup>6784</sup> The primary target was Koidu Town, the Headquarters of Kono District,<sup>6785</sup> and there was no simultaneous plan for Mongor to attack Joru and then advance to Zimmi. Mogor received the order to attack Joru only after Sesay had captured Kono and was moving towards Makeni.<sup>6786</sup>

3062. Sesay said that at the meeting in Kono before the attack on Koidu Town, he gave standing orders for the attack, appointed commanders who were to take over various targets. He forbade looting and the killing and amputation of civilians or captured soldiers in any circumstances. Sesay had heard on the BBC in 1998 (especially April to May) while he was in Pendembu about the previous amputation of civilians in Kono, for example those in the Tombodu axis carried out by Savage and Staff Alhaji. There were no amputations during the RUF advance from Kono to Makeni.<sup>6787</sup> Sesay admitted that looting took place after the attack but reiterated that he did not give any such orders.<sup>6788</sup>

3063. Making an operation "fearful" means destruction, committing crimes against civilians and the opposing troops.<sup>6789</sup> Whilst "fearful" things happened in Freetown in 1999, the RUF was not involved in them. The fighting that the RUF carried out in Makeni, Makali, Magburaka and Masingbi did not involve the same kind of atrocities.<sup>6790</sup>

#### Defence Witness Martin George

<sup>6782</sup> Issa Sesay, Transcript 29 July 2010, pp. 45041, 45046.

<sup>6783</sup> Issa Sesay, Transcript 29 July 2010, p. 45050.

<sup>6784</sup> Issa Sesay, Transcript 29 July 2010, pp. 45050, 45052, 45057.

<sup>6785</sup> Issa Sesay, Transcript 28 July 2010, pp. 44861-44866; Transcript 29 July 2010, pp. 45053, 45055 (it was not contemplated at the Waterworks meeting that ECOMOG would escape; it was only when they did that Bockarie gave the order to chase them to Masingbi and ultimately Makeni).

<sup>6786</sup> Issa Sesay, Transcript 4 August 2010, p. 45411.

<sup>6787</sup> Issa Sesay, Transcript 19 August 2010, pp. 46708-46710.

<sup>6788</sup> Issa Sesay, Transcript 19 August 2010, p. 46711.

<sup>6789</sup> Issa Sesay, Transcript 4 August 2010, p. 45419.

<sup>6790</sup> Issa Sesay, Transcript 4 August 2010, pp. 45419-45420.

3064. Witness Martin George, an RUF officer, testified that Sam Bockarie convened a meeting at Waterworks, near Buedu in Kailahun. This was a general meeting which followed two other meetings in Superman Ground, “Kono Jungle”, in which commanders discussed how to “maintain the ground”. There was then another meeting in Kono to discuss the recapture of Kono.<sup>6791</sup>

3065. The meeting in December in Buedu was chaired by Bockarie, and included SYB Rogers, Lawrence Womandia, Eddie Kanneh. Morris Kallon attended the meeting and represented Issa Sesay who was in Kono at the time, and did not attend the meeting.<sup>6792</sup>

3066. There were many people who went to the Waterworks meeting including the witness, John Vincent, some AFRC leaders such as Leather Boot and Akim, and Issa Sesay, Superman,<sup>6793</sup> and many commanders. Other commanders did not come as they needed to stay in the front lines and “maintain the situation”. Also at the meeting were fighters and bodyguards who were based in Buedu, as well as women. They spent the night and then in the morning went to Waterworks, on the road leading to Dawa crossing point. The purpose of the meeting was to discuss how to re-take Kono, and from there advance towards Makeni and Lunsar. The reason they wanted to be based in Kono was because it was a diamond mining area. Kono was also “a target ahead of us” and they needed to go through Kono in order to reach Makeni. The reason they wanted to reach Makeni was to regain the ground from the enemy.<sup>6794</sup> There was no discussion about attacking Freetown.<sup>6795</sup>

3067. One of the most important issues discussed at the meeting was where the ammunition to capture Kono would come from, as they had enough arms that they had captured from their enemies but needed ammunition.<sup>6796</sup> When asked what was said in relation to ammunition at the meeting, the witness replied that during this meeting Bockarie introduced Abu Keita, a Mandingo Liberian and former ULIMO-K general. Bockarie said

<sup>6791</sup> Martin George, Transcript 23 April 2010, pp. 39773-39774.

<sup>6792</sup> Martin George, Transcript 28 April 2010, pp. 40174-40175 (the witness recalled that the meeting took place in December but could not remember the date. The attack on Kono occurred in December, as the witness remembers spending Christmas in Kono).

<sup>6793</sup> On cross-examination the witness insisted that he did not say that Superman attended the meeting in Buedu, stating that Superman was fully involved in the Kono attack (Martin George, Transcript 28 April 2010, pp. 40172-40174).

<sup>6794</sup> Martin George, Transcript 23 April 2010, pp. 39774-39775.

<sup>6795</sup> Martin George, Transcript 23 April 2010 p. 39775; Transcript 28 April 2010, pp. 40175-40177.

<sup>6796</sup> Martin George, Transcript 23 April 2010, pp. 39775-39776.





that Keita had brought the ammunition to recapture Kono and briefed the attendees on the ammunition brought by Keita: 20 boxes of AK bullets and 5 boxes of RPG rockets. In the situation they were in, 20 boxes of ammunition was plenty. The ammunition Keita brought was from ULIMO who had kept their ammunition after they lost the elections in 1997, as he was the commander at Lofa Bridge. Since ECOMOG were searching for arms and ammunition at various points, Keita was afraid, took the ammunition and “brought it for sale”.<sup>6797</sup> The witness himself saw the ammunition Keita had brought at Bockarie’s house in Buedu, Dawa Road, and when it was brought to them in the “Kono Jungle” as they used it to capture Kono.<sup>6798</sup> The witness recalled two senior officers who came with Keita attending the meeting, Colonel Jungle and Colonel Leo, both Mandingos. That was the first time the witness saw these two in RUF territory.<sup>6799</sup>

3068. Bockarie did not say anything in relation to Charles Taylor at the meeting, or that Taylor gave or send them ammunition to recapture Kono. Taylor had his own problems to solve. He was elected in Liberia in 1997, while there was no fighting in 1997 and he was not fighting. “How could he have given us instruction? How could he have given us ammunition?”<sup>6800</sup>

3069. On cross-examination the witness said that he was never told by Bockarie about a shipment from Burkina Faso, and the witness did not hear Bockarie giving a report at the meeting about his trip.<sup>6801</sup>

#### Defence Witness John Vincent

3070. Witness John Vincent testified that at some point in 1998, Sam Bockarie called all the senior vanguards and some junior officers who were made senior officers to Buedu in order to meet at Waterworks and plan a new operation. The operation was meant to gain territory and to bring “someone” to ask them to observe peace. The meeting was attended by over 200 persons, including the witness and Issa Sesay.<sup>6802</sup>

<sup>6797</sup> Martin George, Transcript 23 April 2010, pp. 39776-39778.

<sup>6798</sup> Martin George, Transcript 23 April 2010, pp. 39778-39779.

<sup>6799</sup> Martin George, Transcript 23 April 2010, p. 39779.

<sup>6800</sup> Martin George, Transcript 23 April 2010, pp. 39779-39780.

<sup>6801</sup> Martin George, Transcript 28 April 2010, pp. 40175-40176.

<sup>6802</sup> John Vincent, Transcript 26 March 2010, pp. 38097-38099.

3071. At the meeting, they discussed launching a “serious offensive” to free their leader, Mr Sankoh. They discussed a “two days’ offensive” and capturing “major areas” will cause concern for the international community who would intervene, bring peace and Sankoh would be released. That is why they decided to attack Kono and “as far as Makeni”. The plan did not include attacking Freetown. “As far as Makeni” was the initial stage while the next target would have been to go close to Freetown or to Freetown itself, but at the meeting Freetown was not discussed.<sup>6803</sup>

3072. The witness stated that the attacks on Kono and Makeni occurred in December, while the Waterworks meeting occurred in around July/August/September/October.<sup>6804</sup>

Prosecution Exhibit P-063

3073. Exhibit P-063 is the minutes of a forum held on 2 December 1998 at the RUF headquarters. The document lists the attendees of the meeting: Sam Bockarie, SYB Rogers, Edward Kanneh, Lawrence Womandia, Junior Vandi, Mohamed S. Banya, Rashid Sandi – External delegates, I.H. Sesay and “members of various units”.<sup>6805</sup>

3074. According to this document, SYB Rogers gave a salute report of a mission which he described as “very big success” in terms of what they were able to receive, and thanked the CDS for his outstanding effort.<sup>6806</sup> Rogers noted with profound gratitude the effort of their host government “on the other side” for granting them with “in-let and exit facilities even with escort”. According to Pa Rogers, he and the CDS paid a courtesy call on his Excellency C.G.T.<sup>6807</sup>

3075. Colonel Eddie Kanneh (SLA Rep) addressed the meeting and stated that the trip was successful. He stated that his impression of the CDS was that he was a person who can

<sup>6803</sup> John Vincent, Transcript 26 March 2010, pp. 38099-38100.

<sup>6804</sup> John Vincent, Transcript 30 March 2010, pp. 38231-38232; Transcript 31 March 2010, pp. 38384-38285.

<sup>6805</sup> Exhibit P-063, “RUF Defence Headquarters, Forum with the External Delegates led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, ERN 15487.

<sup>6806</sup> Exhibit P-063, “RUF Defence Headquarters, Forum with the External Delegates led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, ERN 15487.

<sup>6807</sup> Exhibit P-063, “RUF Defence Headquarters, Forum with the External Delegates led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, ERN 15488.

predict results and asked not to view the CDS as power hungry saying that there must be solidarity among them all.<sup>6808</sup>

3076. The Chief of Defence Staff, CDS, Brigadier Sam Bockarie, “buttressed” the speeches of Rogers and Kanneh and said that they were not financially strong to make the trip as successful as it turned out to be. Bockarie stated that in the first attempt, they stopped half way and heard about the shocking news on Focus about the trial and death sentence passed on their “Father and Leader” Cpl. Foday S. Sankoh and that they should now launch an offensive against the Government of Tejan Kabba for the release of their Leader. The Brigadier told the forum that he was able to formally hand over their struggle and petitioned the matter of their Leader to the President of Burkina Faso, who was the current Chairman of O.A.U., so that, as O.A.U. Chairman, he will step in and mediate peace between them and the SLPP Government. Bockarie warned that now is the time to work together to secure the release of their Leader and to avoid gossip which will lead to disunity among them.<sup>6809</sup>

3077. According to the document the Battle Field Commander, Issa Sesay, thanked the delegates and promised that they will put their efforts into consolidating their strength for victory. He said that they will “strike for the release of our Leader and the victory of our movement”. He further stated that “[a] commando will feel good when he attacks and captures rather than been [sic] called to join with others – it will make no prospect”.<sup>6810</sup>

3078. Col. Isaac Morego thanked the CDS and delegates for their grand effort and advised everybody to work hand in hand for the victory of RUFSL. He said that they were not fighting for Sankoh or the Brigadier but rather for themselves and their country, Sierra Leone, for victory and peace.<sup>6811</sup>

<sup>6808</sup> Exhibit P-063, “RUF Defence Headquarters, Forum with the External Delegates led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, ERN 15488.

<sup>6809</sup> Exhibit P-063, “RUF Defence Headquarters, Forum with the External Delegates led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, ERN 15489-15490.

<sup>6810</sup> Exhibit P-063, “RUF Defence Headquarters, Forum with the External Delegates led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, ERN 15490.

<sup>6811</sup> Exhibit P-063, “RUF Defence Headquarters, Forum with the External Delegates led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, ERN 15490.

3079. Col. Mike Lamin thanked the CDS and the delegates who went with him on the mission and warned that they must not talk on how the material was channelled to their base for security reasons.<sup>6812</sup>

3080. Before ending the meeting “in harmony”, the CDS announced a senior officers meeting from where arrangements were to be done for full scale operations.<sup>6813</sup>

Prosecution Exhibit P-067

3081. Prosecution Exhibit P-067, an undated “Situation Report” from the Black Revolutionary Guards to “the Leader”, states in relation to the December 1998 operation that after the “High Command” and Eddie Kanneh returned from Burkina Faso, they were given “huge quantity of materials for serious offensive to start a campaign for the release of our leader”. The delegation returned to Monrovia in November and then back to the base where a forum was immediately held “for a serious offensive to commense [sic]”. It reports that the combatants were happy and agreed to start the operation to capture Kono.<sup>6814</sup>

Prosecution Exhibit P-078

3082. Exhibit P-078 is a report prepared by Amnesty International about the Sierra Leone civil conflict. According to this report, Foday Sankoh was transferred from Nigeria to the custody of the Sierra Leone government. Subsequently, the RUF threatened to continue their campaign of violence against civilians if Sankoh remained in detention. On 4 September 1998, Sankoh was charged for crimes committed during Sierra Leone’s internal armed conflict. His trial commenced on 24 September 1998 and he was convicted and sentenced to death the following month. This prompted further attacks by rebel forces against unarmed civilians in retaliation.<sup>6815</sup>

<sup>6812</sup> Exhibit P-063, “RUF Defence Headquarters, Forum with the External Delegates led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, ERN 15490.

<sup>6813</sup> Exhibit P-063, “RUF Defence Headquarters, Forum with the External Delegates led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, ERN 15491.

<sup>6814</sup> Exhibit P-067, “RUF People’s Army– Situation Report to Foday Sankoh from the Black Guard Commander”, ERN 9678.

<sup>6815</sup> Exhibit P-078, “Sierra Leone -1998- A Year of Atrocities against Civilians, Amnesty International Report”, pp. 2, 23.

3083. The Report further states that on 12 October 1998, 34 of the 37 defendants before the court martial were convicted of treason, murder and collaborating with the enemy and sentenced to death. On 19 October 1998, 24 of those sentenced to death were executed, while the other 10 had their sentences commuted to life imprisonment.<sup>6816</sup>

#### Prosecution Exhibit P-093

3084. Prosecution Exhibit P-093 is a comprehensive report from Brigadier Issa H. Sesay, Battle Field Commander, to Major General Sam Bockarie, Chief of Defence Staff, dated 26 January 1999. According to this report on 6<sup>th</sup> December 1998, Sesay left the Defence Headquarters upon Bockarie's instruction for assignment and mission to attack Koidu, the second (2<sup>nd</sup>) Brigade, RUF/SL axis. The report includes a list of ammunition provided to Sesay in order to carry out the mission to attack Koidu and the "Sengema target".<sup>6817</sup> On December 9<sup>th</sup> 1998, they arrived safely to Guinea Highway, second (2<sup>nd</sup>) Brigade Headquarters, and were welcomed by the Commander, Colonel Boston Flomo (a.k.a. Rambo). A forum was convened which centred on the mission given to Sesay by Bockarie to attack and capture Koidu Town, including Yengema and its airfield for quick transportation of their "materials" by air.<sup>6818</sup>

#### Defence Exhibit D-019

3085. Exhibit D-019 is a news article dated 18 April 1999, which reports that:

Nigeria, the most powerful state in West Africa, leads the intervention army fighting on the side of the Sierra Leone government side, [sic] but wants to pull its troops out.<sup>6819</sup>

#### Defence Exhibit D-084

3086. Defence Exhibit D-084 is a Salute Report from Issa Sesay to Foday Sankoh dated 27 September 1999. According to this report, "General Mosquito" went on a trip to secure

<sup>6816</sup> Exhibit P-078, "Sierra Leone -1998- A Year of Atrocities against Civilians, Amnesty International Report", p. 26.

<sup>6817</sup> Exhibit P-093, "Restricted RUF/SL Comprehensive Report to Major Sam Bockarie from Brigadier Issa Sesay on the Take Over Koindu, 26 January 1999", ERN 25503-25504.

<sup>6818</sup> Exhibit P-093, "Restricted RUF/SL Comprehensive Report to Major Sam Bockarie from Brigadier Issa Sesay on the Take Over Koindu, 26 January 1999", ERN 25504-25505.

<sup>6819</sup> Exhibit D-019, "BBC News Article. 18 April 1999, World: Africa Rebel Leader Freed for Talks, 18 April 1999", p. 2.



“materials” and upon his return he provided Sesay with “a liberal quantity of ammunition”. Mosquito then instructed Sesay to cross the Moa River and re-capture Kono from the enemy.<sup>6820</sup>

3087. The report further states that upon Sesay’s arrival in Kono, he called the Brigade Commander, Rambo, and other senior officers to a forum in which “general security issues” were discussed and a war-plan was made for the attack of Koindu [sic] Town.<sup>6821</sup>

#### Defence Exhibit D-169

3088. Exhibit D-169 is the second report of the Secretary-General to United Nations Security Council on the United Nations Observer Mission in Sierra Leone. According to this report, on 17 August 1998 the RUF announced a terror campaign against civilians, CDF and ECOMOG if the Government failed to release Corporal Sankoh within seven days, suggesting that peace negotiations could resume only thereafter.<sup>6822</sup>

#### Deliberations

3089. It is undisputed that in around November 1998, Sam Bockarie left Sierra Leone for Burkina Faso with a delegation that included Eddie Kanneh, SYB Rogers and Lawrence Womandia. On their way to Burkina Faso and on their way back to Sierra Leone, the RUF delegation stopped in Monrovia.<sup>6823</sup> Bockarie and his delegation returned to Buedu in around late November/early December 1998<sup>6824</sup> with a large quantity of arms and ammunition.<sup>6825</sup> The Accused acknowledged that he briefly met Bockarie in Monrovia

<sup>6820</sup> Exhibit D-084, “RUF, Sierra Leone, Defence Headquarters, Salute Report from Brigadier Issa H Sesay, Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999”, p. 7, ERN 7762.

<sup>6821</sup> Exhibit D-084, “RUF, Sierra Leone, Defence Headquarters, Salute Report from Brigadier Issa H Sesay, Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999”, p. 8, ERN 7763.

<sup>6822</sup> Exhibit D-169, “Second Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 16 October 1998”, p. 1, para. 4, ERN 12371.

<sup>6823</sup> Prosecution Final Trial Brief, para. 258 (“Around October/November 1998... Bockarie travelled with a delegation to Monrovia and then onward to Burkina Faso. Bockarie’s delegation to Monrovia included his security personnel, Rashid, SYB Rogers, Eddie Kanneh, radio operator Dauda Aruna Fornie aka DAF and others”); Defence Final Trial Brief, paras 619 (“In late November 1998, Bockarie left Buedu and passed through Monrovia on his way to Burkina Faso. Bockarie travelled with Eddie Kanneh, Lawrence Womandia and SYB Rogers, among others”), 1073.

<sup>6824</sup> Prosecution Final Trial Brief, para. 9; Defence Final Trial Brief, para. 620.

<sup>6825</sup> Exhibit P-067, “RUF People’s Army– Situation Report to Foday Sankoh from the Black Guard Commander”, ERN 9678.

before Bockarie proceeded to Burkina Faso and that he met him again on his way back to Sierra Leone.<sup>6826</sup>

3090. Prior to Bockarie's trip to Monrovia, Bockarie told TF1-371 that the purpose of the trip was to meet the Accused in Monrovia and to get a shipment of ammunition from Burkina Faso for a "major offensive".<sup>6827</sup> Isaac Mongor testified that in early November 1998, the commanders in Buedu met in Waterworks with Bockarie, Jungle, SYB Rogers and others, and decided to send a letter to Taylor requesting ammunition.<sup>6828</sup> Augustine Mallah also testified to a meeting in which Bockarie said that he was "fed up" with staying in Kailahun District and that he was trying to go to Liberia to seek advice from Charles Taylor, and to "get our needs".<sup>6829</sup> The Trial Chamber has considered this aspect of the evidence, relating to the request to the Accused for arms and ammunition, in the context of the Burkina Faso shipment.<sup>6830</sup>

3091. Following Bockarie's return from Monrovia in late November/early December 1998 Bockarie convened a meeting of commanders at Waterworks to brief them about his trip. The Trial Chamber notes that while Defence witness Issa Sesay denied that other than Eddie Kanneh there were no AFRC members represented at the meeting,<sup>6831</sup> both Prosecution and Defence witnesses stated that the AFRC as well as the RUF were represented at this meeting, specifically Akim Turay and Leather Boot.<sup>6832</sup> TF1-371 named Gullit as having been at the meeting, but the Trial Chamber notes that he is the only witness to place Gullit at this meeting and considers that Gullit could not have been at the meeting as he was already in Rosos by July/August 1998.<sup>6833</sup>

<sup>6826</sup> Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26037-26038; Transcript 17 September 2009 pp. 29250, 29261; Transcript 23 September 2009, pp. 29578-29579 (PS). See also Exhibit P-063, "RUF Defence Headquarters, Forum with the External Delegates led by the RUF Defence Staff, 2<sup>nd</sup> December 1998", ERN 15488 (stating that the convoy gave "a courtesy" visit to C.G.T.), and TF1-371, Transcript 28 January 2008, pp. 2405-2409 (CS) (identifying C.G.T. as Charles Ghankay Taylor).

<sup>6827</sup> TF1-371, Transcript 28 January 2008, pp. 2402-2403 (CS).

<sup>6828</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5779-5783.

<sup>6829</sup> Augustine Mallah, Transcript 13 November 2008, p. 20217.

<sup>6830</sup> Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Burkina Faso Shipment.

<sup>6831</sup> Issa Sesay, Transcript 29 July 2010, pp. 45046-45049.

<sup>6832</sup> TF1-371, Transcript 28 January 2008, pp. 2410-2411 (CS); Isaac Mongor, Transcript 11 March 2008, pp. 5797-5798; Martin George, Transcript 23 April 2010, pp. 39774-39775; Augustine Mallah, Transcript 13 November 2008, pp. 20219-20220 (Mallah affirmed that AFRC and RUF fighters were at the meeting).

<sup>6833</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, p. 8111.

3092. The evidence suggests that at Waterworks a plan to attack Freetown via Kono and Kenema was discussed. TF1-371 testified that at the Waterworks meeting Bockarie said he had sufficient ammunition for an attack on Kenema and Koidu, as well as Freetown. He brought a map of Sierra Leone and discussed with the commanders a plan for a two-pronged attack to get to Freetown, one prong via Kono then proceeding to Makeni, and another prong via Kenema.<sup>6834</sup> Augustine Mallah described a plan in which the 1<sup>st</sup> brigade was to attack Bunumbu, Segbwema and all the way to Kenema,<sup>6835</sup> while Bockarie told Sesay and Akim to join Superman and Rambo and attack Kono, and from Kono Akim should proceed to Tongo and Sesay and Morris Kallon were to advance towards Makeni.<sup>6836</sup> Abu Keita testified that Bockarie told the attendees that the ammunition he had brought would be used to attack Kono and proceed to Makeni, while Keita, as part of that operation, was assigned to fight in the Bunumbu-Segbwema axis, leading to Kenema.<sup>6837</sup> Albert Saidu, though not at the Waterworks meeting himself, testified on the basis of what he was told of the meeting that the plan was for the 1<sup>st</sup> and 2<sup>nd</sup> brigades to attack Kenema and Kono, respectively. He said a war plan was made at the meeting and described the division of officers at the meeting and their assignment to materiel for the attack.<sup>6838</sup> The Trial Chamber recalls its findings that TF1-371, Augustine Mallah, Abu Keita and Albert Saidu are all generally credible witnesses.<sup>6839</sup>

3093. Isaac Mongor, whom the Trial Chamber has previously found to be generally credible,<sup>6840</sup> testified that a day prior to the Waterworks meeting, he met Bockarie at Bockarie's house, where Bockarie told Mongor that the ammunition he had brought would be used in an operation he had discussed with the Accused, in accordance with which they would capture Kono, then Makeni in an advance towards Freetown, while they would also attack Kenema and Joru.<sup>6841</sup> Karmoh Kanneh, who attended a smaller meeting at Bockarie's house, which he described as a briefing on the military strategy, stated that Bockarie said the

<sup>6834</sup> TF1-371, Transcript 28 January 2008, pp. 2411-2412 (CS); Transcript 30 January 2008, p. 2640.

<sup>6835</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20222-20224.

<sup>6836</sup> Augustine Mallah, Transcript 13 November 2008, p. 20223.

<sup>6837</sup> Abu Keita, Transcript 23 January 2008, pp. 2005-2008.

<sup>6838</sup> Albert Saidu, Transcript 5 June 2008, pp. 11082-11086.

<sup>6839</sup> Credibility Assessment, TF1-371, paras 220-226; Credibility Assessment, Abu Keita, paras 213-219; Credibility Assessment, Albert Saidu, Pre-Indictment period (1988-1996), para. 2384; Credibility Assessment, Augustine Mallah, Pre-Indictment period (1988-1996), para. 2522.

<sup>6840</sup> Credibility Assessment, Isaac Mongor, paras 269-274.

<sup>6841</sup> Isaac Mongor, Transcript 11 March 2008, p. 5795.

first target should be Kono to Makeni up to Freetown, and the next target should be Segbwema and Daru, towards Kenema.<sup>6842</sup> The Trial Chamber recalls its finding that Kanneh is also a generally credible witness.<sup>6843</sup> TF1-585, whom the Trial Chamber has found to be generally credible,<sup>6844</sup> testified that at a meeting at Bockarie's house a plan to attack Kono and from there advance towards Freetown was discussed.<sup>6845</sup>

3094. The Trial Chamber notes that other witnesses testified that the plan concerned only the capture of Kono, without planning to advance on to Freetown. Defence witness Issa Sesay testified that he attended a small commanders' meeting at Waterworks<sup>6846</sup> and was assigned to attack Kono. He testified that the only plan mentioned at the meeting was to attack Kono, and that there was no discussion on continuing to Makeni and then proceeding to Freetown.<sup>6847</sup> The Trial Chamber recalls its finding that Issa Sesay's testimony should be treated with caution and requires corroboration.<sup>6848</sup> While Defence witness Martin George also testified that Freetown was not mentioned at the Waterworks meeting, he said that the plan was to go from Kono to Makeni and then Lunsar.<sup>6849</sup> The Trial Chamber is of the view that if Lunsar was mentioned as a potential target, due to its proximity to Freetown, it is implausible that Freetown would not have been discussed at the meeting. Moreover, the Trial Chamber notes that on cross-examination George claimed that Issa Sesay did not attend a meeting at Waterworks, which is not only contradicted by his own examination in chief when he stated that Sesay attended the meeting,<sup>6850</sup> but also by both Prosecution and Defence witnesses,<sup>6851</sup> and by the minutes of the Waterworks meeting, recording that not only did Sesay attend the meeting, but that he also addressed it.<sup>6852</sup> The Trial Chamber therefore does not find Martin George's evidence to be credible and notes that it is also

<sup>6842</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9423-9424.

<sup>6843</sup> Credibility Assessment, Karmoh Kanneh, The Role of Intermediaries, para. 2704.

<sup>6844</sup> Credibility Assessment, TF1-585, paras 330-333.

<sup>6845</sup> TF1-585, Transcript 8 September 2008, pp. 15691-15693, 15700-15701.

<sup>6846</sup> Issa Sesay, Transcript 28 July 2010, pp. 44861-44866.

<sup>6847</sup> Issa Sesay, Transcript 29 July 2010, pp. 45050, 45057.

<sup>6848</sup> Credibility Assessment, Issa Sesay, paras 259-372.

<sup>6849</sup> Martin George, Transcript 23 April 2010, pp. 39744-39775.

<sup>6850</sup> Martin George, Transcript 23 April 2010 p. 39775; Transcript 28 April 2010, pp. 40174-40177.

<sup>6851</sup> TF1-371, Transcript 28 January 2008, pp. 2410-2411 (CS); Isaac Mongor, Transcript 11 March 2008, pp. 5797-5798; Augustine Mallah, Transcript 13 November 2008, p. 20221 (Mallah mentioned that at the Waterworks meeting Bockarie told Sesay the guidelines of the operation and Sesay accepted); John Vincent, Transcript 26 March 2010, pp. 38097-38099.

<sup>6852</sup> Exhibit P-063, "RUF Defence Headquarters, Forum with the External Delegates led by the RUF Defence Staff, 2<sup>nd</sup> December 1998", ERN 15487, 15490 ; Martin George, Transcript 28 April 2010, pp. 40178-40181.

inconsistent with Issa Sesay's evidence that the plan was only to capture Kono. As opposed to Sesay, George did mention that the plan included proceeding from Kono towards Makeni and Lunsar.

3095. Defence witness John Vincent testified that he attended a meeting in 1998 at Waterworks in which an attack on Kono and "as far as Makeni" was planned, and that while the next target would have been a place close to Freetown or Freetown itself, Freetown was not discussed at the meeting.<sup>6853</sup> However, the witness explained that the reason for the operation was to free Foday Sankoh, saying that they wanted to capture major areas thereby causing concern in the international community. This would lead to intervention, bring peace and Sankoh's release. Given this reason for the operation, the Trial Chamber finds it implausible that Freetown would not have been mentioned as a target, as Sankoh was being held in prison in Freetown. The Trial Chamber also recalls its finding that John Vincent's evidence must be treated with caution and requires corroboration.<sup>6854</sup>

3096. Dauda Aruna Fornie testified that after Bockarie arrived in Buedu from his trip to Monrovia and Burkina Faso, he convened a meeting in which a strategy of how to attack Kono and Tongo was discussed. The Trial Chamber recalls its finding that Fornie is generally credible.<sup>6855</sup> However, Fornie's knowledge of the meeting is based on a radio message that Bockarie sent to commanders to come and attend the meeting,<sup>6856</sup> which does not explain how the witness knew the content of the meeting. The Trial Chamber will therefore not rely on his evidence.

3097. TF1-567 testified that he was present in Buedu when Bockarie returned from Monrovia in December 1998 and that Bockarie said Taylor told him that they should attack Kono and other mining areas in order to secure diamonds to obtain more arms and ammunition.<sup>6857</sup> The Trial Chamber recalls its finding that TF1-567 is generally credible.<sup>6858</sup> The witness did not say that he attended the Waterworks meeting, nor did he say that there was no plan to advance towards Freetown. The Trial Chamber notes that Kono was one of

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<sup>6853</sup> John Vincent, Transcript 26 March 2010, pp. 38099-38100.

<sup>6854</sup> Credibility Assessment, John Vincent, Provision of Military Personnel, paras 4463-4464.

<sup>6855</sup> Credibility Assessment, Dauda Aruna Fornie, paras 346-358.

<sup>6856</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21552-21554.

<sup>6857</sup> TF1-567, Transcript 2 July 2008, pp. 12912-12913.

<sup>6858</sup> Credibility Assessment, TF1-567, paras 313-317.

the first targets of the operation and finds that his evidence does not negate the possibility that in Waterworks a plan to advance towards Freetown, beginning with Kono, was laid out.

3098. Mohamed Kabbah was told by a person named Zedman that at the Waterworks meeting an attack on Kono and Makeni was discussed.<sup>6859</sup> The Trial Chamber recalls its finding that Kabbah is generally credible.<sup>6860</sup> Given that Mohamed Kabbah was stationed in Kono at the time, and was told about the plan to attack Kono by a person also stationed in Kono, the Trial Chamber is of the opinion that Kabbah was told about a plan with regard to his duties, which does not negate the possibility of a larger plan.

3099. On the basis of the aforementioned evidence, the Trial Chamber finds that the plan presented at the Waterworks meeting was for a two pronged attack on Kono and Kenema, with Freetown as the ultimate destination.

3100. TF1-371, Isaac Mongor, and Karmoh Kanneh testified that in smaller meetings at Bockarie's house, Bockarie told them that the plan was a plan that Bockarie had discussed with the Accused and brought back with him from Monrovia.<sup>6861</sup> Dauda Aruna Fornie testified that while in Monrovia with Bockarie, he heard Bockarie, Kanneh and Yeaten, Director of the Accused's Special Security Service (SSS),<sup>6862</sup> discussing Kono and Tongo as the first targets to be hit with the ammunition that they had brought back with them.<sup>6863</sup> The Trial Chamber notes that none of the witnesses testified that Bockarie announced at the larger meeting, in Waterworks, that the plan came from Monrovia or that he had discussed it with the Accused.

3101. Isaac Mongor's testimony is based on Bockarie's description of a conversation Bockarie had with the Accused, during a meeting of Bockarie and Mongor at Bockarie's house. The Trial Chamber notes that Mongor was cross-examined on his prior statements, in which initially he did not mention the role of the Accused in the Freetown invasion. Mongor acknowledged not having told the truth, but maintained that he knew all along that the plan to attack Freetown was discussed by Bockarie with the Accused. He explained that

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<sup>6859</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16153-16154.

<sup>6860</sup> Credibility Assessment, Mohamed Kabbah, paras 334-338.

<sup>6861</sup> TF1-371, Transcript 28 January 2008, p. 2411 (CS); Transcript 30 January 2008, pp. 2640-2642 (CS); Isaac Mongor, Transcript 11 March 2008, pp. 5795-5796; Karmoh Kanneh, Transcript 9 May 2008, p. 9424.

<sup>6862</sup> The Role of Intermediaries: Benjamin Yeaten.

<sup>6863</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21548-21549.

he was worried that he was himself at risk of prosecution, and that later when he was reassured, he told the truth.<sup>6864</sup> While noting the evasiveness of Mongor's testimony on cross-examination regarding his prior statements,<sup>6865</sup> the Trial Chamber accepts his explanation, noting that his testimony on the role of the Accused is corroborated by the testimony of TF1-371 and Karmoh Kanneh.

3102. Both TF1-371 and Karmoh Kanneh testified about a smaller meeting at Bockarie's house of the "inner core", as described by TF1-371, which included Eddie Kanneh, Issa Sesay, Morris Kallon, Jungle and a few others. Karmoh Kanneh also testified that the meeting at Bockarie's house was attended by Issa Sesay, Morris Kallon, Jungle, Eddie Kanneh, and SYB Rogers, among others.<sup>6866</sup> According to both witnesses, during this meeting Bockarie left the room and spoke on his satellite phone to the Accused on the veranda. TF1-371 said Bockarie told him afterwards that the Accused had instructed him to capture Freetown, to force the government to negotiate.<sup>6867</sup> Kanneh testified that he was present when Bockarie and Jungle both spoke with the Accused to brief him on the meeting.<sup>6868</sup>

3103. The Trial Chamber disagrees with the contention of the Defence that Karmoh Kanneh's testimony that Bockarie called the Accused at 2.00am is incredulous.<sup>6869</sup> In his examination in chief, Kanneh stated that the call took place at around midnight,<sup>6870</sup> but he corrected the time to 2.00a.m., when presented with his prior statement on cross-examination.<sup>6871</sup> Whether the call was at midnight or 2.00a.m., the Trial Chamber is of the view, particularly in light of his official duties during the daytime and the clandestine nature of this type of conversation, that a telephone conversation as described took place late at night is not only plausible but in fact likely.

<sup>6864</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6735-6745.

<sup>6865</sup> Later in his cross-examination Mongor agreed that the reason he did not tell his investigators in the beginning that Bockarie told him that the attack on Freetown was Taylor's idea was because he had forgotten, explaining that he is "a human being" (Isaac Mongor, Transcript 7 April 2008, pp. 6766-6768).

<sup>6866</sup> TF1-371, Transcript 28 January 2008, pp. 2413-2414 (CS); Karmoh Kanneh, Transcript 9 May 2008, pp. 9416-9423, 9431.

<sup>6867</sup> TF1-371, Transcript 28 January 2008, pp. 2412-2413 (CS).

<sup>6868</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9431, 9434-9436; Transcript 13 May 2008, pp. 9695-9697, 9728-9730.

<sup>6869</sup> Defence Final Trial Brief, para. 906.

<sup>6870</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9429, 9433.

<sup>6871</sup> Karmoh Kanneh, 13 May 2008, pp. 9693-9695.

3104. The Trial Chamber notes some inconsistencies in the testimony of TF1-371 and Karmoh Kanneh with regard to this meeting, including whether it took place during the day or in the evening. Both witnesses said Jungle was at the meeting, but only Kanneh testified that he spoke with the Accused as well as Bockarie. However, Kanneh testified that he was present for the call, while TF1-371 only heard about it from Bockarie after he returned from the veranda. The Trial Chamber does not consider these inconsistencies to be significant. The accounts of the witnesses as to who attended the meeting, where it was, and the satellite phone call between Bockarie and the Accused are consistent and further corroborate the role of the Accused in planning the military operation.

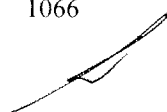
3105. Defence witness Issa Sesay, who attended the “inner core” meeting, testified that Bockarie did not mention Taylor’s name during the meeting, and that Bockarie did not speak on the phone with Taylor before, during or after the meeting.<sup>6872</sup> The Trial Chamber recalls its finding that Sesay’s evidence must be treated with caution. Several witnesses did not mention that Bockarie said that he had discussed the plan with the Accused, and both a Prosecution and a Defence witness, Mohamed Kabbah and Martin George, respectively, testified that Bockarie did not mention Taylor’s name with regard to the instructions on how to execute the operation.<sup>6873</sup> However, these witnesses did not attend one of the smaller meetings Bockarie held outside the larger Waterworks meeting. It was only in smaller meetings that Bockarie mentioned the role of the Accused in planning the operation. The Trial Chamber therefore does not find these accounts of the Waterworks meeting to contradict the testimonies of witnesses who did attend the smaller meetings at Bockarie’s house. In the absence of corroboration and in light of the evidence of several Prosecution witnesses, whom the Trial Chamber has found to be credible, the Trial Chamber does not find Sesay’s testimony to be truthful

3106. The Trial Chamber notes the evidence that Bockarie was already considering an initiative to advance towards Freetown before he went to Burkina Faso. TF1-371 testified that the announcement in October 1998 that Sankoh had been sentenced to death, and the execution of 24 soldiers, provoked a rallying cry from the commanders, who wanted to go to Freetown to free Sankoh. Bockarie was furious and started talking about going to free

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<sup>6872</sup> Issa Sesay, Transcript 9 July 2010, pp. 44160-44161.

<sup>6873</sup> Mohamed Kabbah, Transcript 16 September 2008, pp.16338-16341, 16352-16353; Martin George, Transcript 23 April 2010, pp. 39779-39780.





Sankoh,<sup>6874</sup> and TF1-371 said that prior to Bockarie's departure to Monrovia in November/December 1998, he convened a meeting with the witness, Issa Sesay and Kallon, in which he said that the purpose of his trip was to meet with the Accused in Monrovia and obtain ammunition for a "major attack, major offensive".<sup>6875</sup> On cross-examination TF1-371 explained, "the idea of going to Freetown was discussed by Sam Bockarie among the senior commanders, to free Mr Sankoh, but the instruction to go to Freetown originated from Mr Taylor, as expressed by Sam Bockarie to the senior commanders". TF1-371 said that the instruction to go to Freetown came when Bockarie returned from his trip, the discussion among the commanders of going to Freetown had already started in October.<sup>6876</sup> The Trial Chamber notes that there is further evidence that in reaction to the news of the execution of the 24 soldiers over the radio, Bockarie said that he would march to Freetown as long as "our men" are being executed.<sup>6877</sup>

3107. In this regard, the Trial Chamber recalls that Foday Sankoh was transferred from the custody of the Nigerian Government to the custody of the Sierra Leonean Government in July 1998,<sup>6878</sup> and was sentenced to death in October 1998 by the High Court of Sierra Leone.<sup>6879</sup> Indication of Bockarie's outrage can be seen in the RUF announcement of a terror campaign against civilians, CDF and ECOMOG on 17 August 1998 if the Government failed to release Corporal Sankoh within seven days, suggesting that peace negotiations could resume only thereafter.<sup>6880</sup> Several witnesses who attended the Waterworks meeting testified that the operation announced at the meeting was meant to release Foday Sankoh,<sup>6881</sup> and that the operation was called "Operation Free the Leader" or "Operation Free Sankoh",<sup>6882</sup> indicating that the aim of the operation was to bring about the release of Foday

<sup>6874</sup> TF1-371, Transcript 28 January 2008, pp. 2400-2401 (CS).

<sup>6875</sup> TF1-371, Transcript 28 January 2008, pp. 2402-2403 (CS).

<sup>6876</sup> TF1-371, Transcript 30 January 2008, pp. 2640-2642 (CS).

<sup>6877</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8837-8838.

<sup>6878</sup> *Prosecutor v Taylor*, SCSL-03-1-T-370, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, Annex A, Fact U.

<sup>6879</sup> Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, Annex A, Fact V.

<sup>6880</sup> Exhibit D-169, "Second Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 16 October 1998", p. 1, para. 4, ERN 12371.

<sup>6881</sup> TF1-371, Transcript 30 January 2008, pp. 2648-2649 (CS); Karmoh Kanneh, Transcript 9 May 2008, pp. 9423-9424; Isaac Mongor, Transcript 11 March 2008, p. 5796; Augustine Mallah, Transcript 13 November 2008, pp. 20221-20222; TF1-367, Transcript 20 August 2008, pp. 14164-14165; John Vincent, Transcript 26 March 2010, pp. 38099-38100.

<sup>6882</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9423-9424; Isaac Mongor, Transcript 11 March 2008, p. 5796; Augustine Mallah, Transcript 18 November 2008, pp. 20513-20514; TF1-367, Transcript 20 August 2008, pp. 14164-14165; John Vincent, Transcript 26 March 2010, pp. 38099-38100.

Sankoh from prison. Karmoh Kanneh and Isaac Mongor said that the purpose of the mission was also to seize power.<sup>6883</sup>

3108. The Trial Chamber recalls its finding that TF1-371 is generally credible, and that other Prosecution witnesses support TF1-371's evidence that Bockarie had already envisioned a major attack prior to his trip to Monrovia. Augustine Mallah testified that before going to Liberia, Bockarie expressed his frustration with staying in Kailahun District, stating that he "had something at hand" and that he was trying to go to Liberia to seek advice from Charles Taylor and to "get our needs".<sup>6884</sup> Albert Saidu testified that before Bockarie left to Liberia, he showed the witness diamonds and said that he was taking the diamonds to Charles Taylor in order to secure materiel for "a big offensive" to recapture Kono.<sup>6885</sup> TF1-567 testified that Bockarie told him in October 1998 that they should attempt to recapture Koidu Town and that he was going to see Charles Taylor in Monrovia.<sup>6886</sup> TF1-367 testified that he was told by Boston Flomo (a.k.a. RUF Rambo) that Bockarie had gone to see Charles Taylor in Monrovia to secure arms and ammunition and that when Bockarie would return they would attack Koidu Town.<sup>6887</sup> The Trial Chamber considers that this clearly indicates that Flomo knew that a plan to attack Koidu Town was considered before Bockarie returned from his trip.

3109. The Trial Chamber finds from the evidence that the idea to advance towards Freetown was already in discussion when Bockarie went to Monrovia, which is consistent with the request sent to the Accused for ammunition. Bockarie went to Monrovia to secure the arms and ammunition, as well as advice, needed for a military operation. He returned to Buedu with arms and ammunition, and a plan he had drawn up with the Accused.

3110. The Trial Chamber further notes that TF1-567 testified that after returning from Buedu to Kono District, Issa Sesay convened a meeting for the commanders in the Kono area, in which Sesay said that Bockarie had been told by Taylor that if they did not capture Koidu Town and other mining areas, Taylor would stop supplying them with arms and

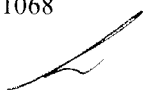
<sup>6883</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9423-9424, 9430-9431; Isaac Mongor, Transcript 11 March 2008, pp. 5796-5797.

<sup>6884</sup> Augustine Mallah, Transcript 13 November 2008, p. 20217.

<sup>6885</sup> Albert Saidu, Transcript 5 June 2008, 11071-11072, 11075, 11081; Transcript 6 June 2008, pp. 11205-11207.

<sup>6886</sup> TF1-567, Transcript 2 July 2008, p. 12912.

<sup>6887</sup> TF1-367, Transcript 20 August 2008, pp. 14161-14162, 14181-14183.





ammunition.<sup>6888</sup> Abu Keita, who attended the larger Waterworks meeting, testified that at that meeting Bockarie said that they would attack Kono because Kono was a strategic area as its diamond mines would fund arms purchases for the RUF.<sup>6889</sup> The Trial Chamber recalls Fornie's testimony that Yeaten told Bockarie that the first targets of the operation should be Kono and Tongo,<sup>6890</sup> which are diamond areas. Karmoh Kanneh testified that at the meeting he attended in Buedu, Jungle said that he and Bockarie had discussed with the Accused "how the mission should go on", and that Taylor told him, Jungle, that their first target should be Kono before they proceed.<sup>6891</sup> The Defence claims that in his prior statement Kanneh did not mention that Taylor planned the takeover of Freetown, since his statement that Jungle said Taylor had advised them to target mineral areas first, as there would be no success without money, does not show that Taylor planned the intricate details of the operation.<sup>6892</sup> The Trial Chamber notes that when confronted with this prior statement on cross-examination, Kanneh maintained that his prior statement showed that the Accused was "involved" in the planning of the operation, as he did not consider someone providing advice on what should be a first target in a mission to be different from planning.<sup>6893</sup> TF1-371 also pointed out that Bockarie endeavoured to take his trip to Burkina Faso in order get sufficient ammunition to go to Freetown, and that after Bockarie returned from his trip he had instructions that he passed on to the commanders to first and foremost capture Kono, Koidu and to then go to Freetown.<sup>6894</sup>

3111. The Accused denied that he played any part in the planning or gave Bockarie advice on the operation to attack Kono, Makeni, Joru and Freetown.<sup>6895</sup> However, the Trial Chamber finds the Accused's testimony that he was not aware of the strategic importance of Kono on account of its diamond wealth not credible, in particular in light of the Trial

<sup>6888</sup> TF1-567, Transcript 2 July 2008, pp. 12913-12914. On a meeting convened by Sesay in Kono following the Waterworks meeting, in which he briefed commanders on the Waterworks meeting see Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report from Brigadier Issa H Sesay, Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999", p. 8, ERN 7763, and Exhibit P-093, "Restricted RUF/SL Comprehensive Report to Major Sam Bockarie from Brigadier Issa Sesay on the Take Over Koindu, 26 January 1999", ERN 25504-25505.

<sup>6889</sup> Abu Keita, Transcript 23 January 2008, pp. 2005-2007.

<sup>6890</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21548-21549.

<sup>6891</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9431-9433.

<sup>6892</sup> Defence Final Trial Brief, para. 908.

<sup>6893</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9423-9424; Transcript 14 May 2008, pp. 9754-9756.

<sup>6894</sup> TF1-371, Transcript 30 January 2008, pp. 2648-2649 (CS).

<sup>6895</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26224-26225; Transcript 23 September 2009, pp. 29585-29586 (PS); Transcript 27 October 2009, pp. 30420-30421; Transcript 28 October 2009, pp. 30582,





Chamber's finding that the Accused previously told Bockarie to attack Kono due to its diamondiferous nature.<sup>6896</sup> Moreover, the Trial Chamber has found that the Accused was involved in Bockarie's purchase of a large consignment of arms and ammunition prior to the operation,<sup>6897</sup> and sent former SLA fighters who fled to Liberia after the Intervention back to Sierra Leone in order for them to participate in the operation.<sup>6898</sup> Given the testimonies of several credible witnesses on the involvement of the Accused in planning an operation to advance towards Freetown by first attacking Kono, and given the other ways the Accused assisted Bockarie to support the upcoming operation the Trial Chamber finds the Accused's denial to be incredible.

3112. Based on the evidence the Trial Chamber finds that Bockarie came to the Accused in Monrovia with an idea to advance towards Freetown and that the Accused participated in planning the military strategy, emphasising the need to first capture Kono due to its diamond wealth, and that Bockarie then brought the plan to Buedu where he briefed his commanders on it, armed them with ammunition and assigned them to two brigades for a two pronged attack on Kono and Kenema, to be followed by an advance on to Freetown. The Trial Chamber notes that the Accused was briefed on the meeting from Buedu by satellite phone.

3113. The Prosecution submits that the Accused and Bockarie determined how the plan was to be carried out, deciding to save ammunition by making the operation even more fearful than all other operations before, and that after Bockarie spoke with the Accused via satellite phone Bockarie announced "Operation No Living Thing", which meant that anything that stood in their way should be eliminated.<sup>6899</sup> The Accused denied that he gave instructions to Sam Bockarie to launch Operation No Living Thing,<sup>6900</sup> or that he ordered, incited, assisted or in any way encouraged the commission of atrocities in Freetown, stating that had no control over or contact with those who committed these atrocities. He questioned

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30587.

<sup>6896</sup> Military Operations: Operation Fitti-Fatta.

<sup>6897</sup> Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Burkina Faso Shipment.

<sup>6898</sup> Provision of Military Personnel: Repatriation of Sierra Leoneans.

<sup>6899</sup> Prosecution Final Trial Brief, para. 168.

<sup>6900</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26224-26225; Transcript 23 September 2009, pp. 29585-29586 (PS); Transcript 27 October 2009, pp. 30420-30421; Transcript 28 October 2009, pp. 30582, 30587.

what he would have had to gain and noted that as a result of the Freetown Invasion, hundreds of thousands of refugees came to Liberia.<sup>6901</sup>

3114. TF1-371 testified that when Bockarie returned from his conversation with the Accused over the satellite phone, Bockarie said that Taylor gave him an instruction for Operation No Living Thing, and that they should capture Freetown “by all means” in order to push the government into negotiations.<sup>6902</sup> On cross-examination, TF1-371 agreed that it was Bockarie who coined the name “Operation No Living Thing”.<sup>6903</sup> He said “I can’t recall when he [Taylor] talked to any AFRC to go burn and kill civilians or what, no”.<sup>6904</sup> However, he did not agree, as the Defence contends, that the Accused never gave such advice or instruction to the RUF.

3115. In this regard, the Trial Chamber notes Augustine Mallah’s testimony that Bockarie said that he himself planned Operation Spare No Soul, in order to permit the RUF to negotiate the release of Foday Sankoh.<sup>6905</sup> Mallah also said that “Operation Spare No Soul”, “Operation Free Foday Sankoh” and “Operation No Living Thing” were the same operation, but that it was “the fighters” who decided to call the operation “Operation No Living Thing”.<sup>6906</sup> This is in contrast to the testimony of TF1-371 that the name Operation No Living Thing was coined by Bockarie following his conversation with the Accused who told him to capture Freetown by “all means”. However, given that Mallah did not attend the smaller meeting in which TF1-371 was told by Bockarie that he had spoken with the Accused and then announced Operation No Living Thing, the Trial Chamber does not find Mallah’s evidence to undermine the testimony of TF1-371.

3116. Karmoh Kanneh testified that at the meeting he attended, Jungle said that they should not fear this time around and that there was no force that could withstand them.<sup>6907</sup> Abu Keita testified that Bockarie said that Taylor had said that “they should be very vigilant and maintain the ground of the RUF”.<sup>6908</sup> Isaac Mongor testified that Bockarie told him that

<sup>6901</sup> Charles Ghankay Taylor, Transcript 11 August 2009, pp. 26470-26471.

<sup>6902</sup> TF1-371, Transcript 28 January 2008, pp. 2412-2413 (CS).

<sup>6903</sup> TF1-371, Transcript 30 January 2008, pp. 2644-2645, 2650 (CS).

<sup>6904</sup> TF1-371, Transcript 30 January 2008, pp. 2654-2655 (CS).

<sup>6905</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20220-20222.

<sup>6906</sup> Augustine Mallah, Transcript 18 November 2008, pp. 20513-20514.

<sup>6907</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9431-9433.

<sup>6908</sup> Abu Keita, Transcript 23 January 2008, p. 2008.

Taylor said that in order to ensure the freeing of Foday Sankoh and others they should ensure that the ammunition would not be wasted and that the operation should be “fearful” in order to capture Freetown and hold on to power.<sup>6909</sup> TF1-367 testified that at a briefing with commanders in Kono, Issa Sesay said that this operation was “do or die”, that they should do everything they could to free Sankoh, and that “the operation should be made fearful so we should conquer the enemy. We should make the operation fearful”.<sup>6910</sup>

3117. Based on this evidence, the Trial Chamber finds that the Accused told Bockarie that the operation should be “fearful” and that the RUF should use “all means” in order to pressure the Government into negotiations for the release of Foday Sankoh.

3118. The Trial Chamber notes that Kanneh testified that SAJ Musa’s disloyalty and his refusal to take orders from Bockarie was discussed in the small meeting at Bockarie’s house and that Bockarie had said that he had spoken with Gullit about the idea that SAJ Musa should be shot and killed during a military operation.<sup>6911</sup> Kanneh stated that Bockarie said that he had complained to the Accused about SAJ Musa’s disloyalty “towards the mission” and towards Bockarie’s command and the RUF.<sup>6912</sup> Kanneh also testified that after the meeting, Bockarie sent a message to SAJ Musa before the attack on Kono, asking him to attack Freetown, but Musa refused and said he would not take orders from Bockarie which resulted in a heated argument. The Trial Chamber notes that Kanneh’s testimony on Bockarie asking SAJ Musa to attack Freetown and SAJ Musa refused, and that while trying to coordinate planning with him, the RUF in Buedu was also quietly talking about having Musa killed, is direct, detailed and consistent. The Trial Chamber therefore finds Kanneh’s testimony to be both credible and reliable.

3119. In contrast, Isaac Mongor testified that Bockarie told him that in Monrovia the Accused showed Bockarie on a map the locations that the RUF and the SLAs occupied at the time, and the two discussed a plan to launch an operation in which they would capture Kono, Kenema and Joru.<sup>6913</sup> Mongor also said that during the Waterworks meeting it was agreed that Johnny Paul Koroma should speak with SAJ Musa and tell him to forget the past

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<sup>6909</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5796-5797.

<sup>6910</sup> TF1-367, Transcript 20 August 2008, pp. 14164-14165.

<sup>6911</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9427-9429; Transcript 13 May 2008, pp. 9720-9721.

<sup>6912</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9423-9424, 9427, 9430.

<sup>6913</sup> Isaac Mongor, Transcript 11 March 2008, p. 5795.

infighting and join hands in the military operation. Mongor testified that Koroma spoke with SAJ Musa and that SAJ Musa agreed to run the operation.<sup>6914</sup> The Trial Chamber notes that no other witnesses testified to this agreement, which is also inconsistent with Kanneh's evidence and with the Prosecution's own submissions that "it is indisputable that by October 1998 SAJ Musa was not going to cooperate with Bockarie and the RUF".<sup>6915</sup> Mongor's source of information for this communication is second-hand from an unnamed radio operator, and in light of the evidence concerning related events, the Trial Chamber considers that Mongor's testimony is inaccurate and accepts Kanneh's evidence that it was Bockarie who called SAJ Musa and that SAJ Musa refused Bockarie's request to coordinate an attack on Freetown.

3120. Based on the evidence of Karmoh Kanneh that Bockarie said that he had complained to the Accused about SAJ Musa's disloyalty and refusal to take orders from him, and on the evidence of Isaac Mongor that Bockarie and the Accused took into consideration the locations in which both the RUF and the SLAs were stationed at the time of their discussion of the plan, and that following the Waterworks meeting Bockarie contacted SAJ Musa and requested or ordered him to cooperate, the Trial Chamber finds that the possibility that SAJ Musa would participate in the execution of the plan was contemplated by Bockarie and the Accused at the time they designed the plan.

3121. Coupled with Musa's refusal to cooperate with the Waterworks plan, TF1-371's testimony that the AFRC had their own plan to invade Freetown, while the RUF had its own "in house" planning, indicates that there were two plans to attack Freetown, one made by the RUF and one made by the AFRC group led by SAJ Musa. This is consistent with Alimamy Bobson Sesay's testimony that SAJ Musa and Gullit, among others, had planned an advance towards Freetown, and started their advance already at the end of June/beginning of July 1998,<sup>6916</sup> long before the Waterworks meeting in December 1998.

3122. The Trial Chamber also recalls that it is an Adjudicated Fact that at a meeting in Koinadugu District, various AFRC commanders met with SAJ Musa to discuss the future and develop a new military strategy. The commanders agreed that the troops who had arrived from Kono District should act as an advance troop, which would establish a base in

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<sup>6914</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5799-5800.

<sup>6915</sup> Prosecution Final Trial Brief, para. 476.

the north-western area of Sierra Leone in preparation for an attack on Freetown. Their purpose was to “restore the Sierra Leone Army”.<sup>6917</sup> It is also an Adjudicated Fact that SAJ Musa left Koinadugu District to join the advance team and prepare for an attack on Freetown in October 1998,<sup>6918</sup> meaning Musa started advancing towards Freetown before the Waterworks meeting in December 1998. Also an Adjudicated Fact is that upon Musa’s arrival in ‘Colonel Eddie Town’ in November 1998, he emphasised his disenchantment with the RUF and stressed that it was vital that his troops arrive in Freetown before the RUF.<sup>6919</sup>

3123. Alimamy Bobson Sesay testified that a meeting was convened by Musa two days after the news about the execution of the 24 soldiers in Freetown, on 19 October, and that this execution was one of the reasons SAJ Musa decided to head straight to Freetown and “reinstate the army”.<sup>6920</sup> Bobson Sesay did not agree with the proposition that SAJ Musa’s goals were different from the goals of Bockarie and the RUF, which were to release Foday Sankoh, explaining that on the day of the execution of the 24 soldiers, Bockarie went on the air and said that he did not accept the executions and that “our men” will march onto Freetown, which is what SAJ Musa had also told them.<sup>6921</sup> The Trial Chamber recalls its finding that Bobson Sesay is generally credible.<sup>6922</sup> However, the Trial Chamber notes that, Bobson Sesay himself stated several times that he did not know what SAJ Musa had in mind.<sup>6923</sup> In the Trial Chamber’s view, the evidence indicates that Musa’s goal in attacking Freetown was to reinstate the army while Bockarie’s goal in attacking Freetown was to release Foday Sankoh from prison.

3124. In this context, the Trial Chamber notes the Defence’s acceptance of Bobson Sesay’s testimony that SAJ Musa ordered his forces to proceed to Freetown without killing, looting or burning,<sup>6924</sup> indicating that he did not have a campaign of terror in mind, as Bockarie did. According to Kanneh, Bockarie reported to those at the small meeting held in his house that he had spoken to Gullit about the possibility of Gullit killing SAJ Musa during a military

<sup>6916</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8044-8046.

<sup>6917</sup> *Prosecutor v Taylor*, SCSL-03-1-T-370, Decision on Judicial Notice, 23 March 2009, Annex A, Fact 8.

<sup>6918</sup> Decision on Judicial Notice, 23 March 2009, Annex A, Fact 10.

<sup>6919</sup> Decision on Judicial Notice, 23 March 2009, Annex A, Fact 11.

<sup>6920</sup> Alimamy Bobson Sesay, Transcript 29 May 2008, pp. 8832, 8834-8837.

<sup>6921</sup> Alimamy Bobson Sesay, Transcript 29 May 2008, pp. 8833-8838.

<sup>6922</sup> Credibility Assessment, Alimamy Bobson Sesay, paras 285-289.

<sup>6923</sup> Alimamy Bobson Sesay, Transcript 29 May 2008, pp. 8832, 8834-8837.

<sup>6924</sup> Defence Final Trial Brief, para. 919.



operation. This, in the Trial Chamber's view, indicates Bockarie's desire to bring the separate plan of SAJ Musa together with the plan discussed at Waterworks that SAJ Musa had rejected. Evidence was adduced suggesting that SAJ Musa was killed by Gullit during a military operation as envisioned by Bockarie's conversation.<sup>6925</sup> The Trial Chamber need not make a finding as to how SAJ Musa was killed. What is relevant to the evolution of the plan is the death of SAJ Musa on or around 23 December 1998.<sup>6926</sup>

3125. The Trial Chamber notes that both Bobson Sesay and Isaac Mongor explained the invasion of Freetown on 6 January 1999 as a plan of both the RUF and AFRC, as the forces who eventually invaded Freetown, led by AFRC's Gullit, could not have done so without the attacks on Kono and Makeni, which reduced the burden and weakened ECOMOG, which was stationed in those other areas.<sup>6927</sup> The Trial Chamber observes that both witnesses testified to this from their own experience of war strategy. While in retrospect these witnesses might be right with regard to the helpful impact of the RUF attacks on the AFRC advance to Freetown led by Gullit, the evidence does not establish that there was a coordinated plan in which the attacks on Kono, Makeni and the other areas were meant to weaken ECOMOG forces in Freetown and thereby aid the AFRC advance. The evidence rather shows that there were two separate plans to reach Freetown, and that while Bockarie tried to consolidate the plan with SAJ Musa, Musa refused to cooperate with Bockarie. Mongor himself agreed that in the end, the invasion of Freetown on 6 January was largely an AFRC project, and that the AFRC group who entered Freetown refused to wait for the RUF group to join them.<sup>6928</sup> Mongor's concession that there were two separate plans is consistent with the Trial Chamber's understanding that the AFRC invasion of Freetown started independently of the RUF plan detailed at the Waterworks meeting. SAJ Musa had already started his advance to Freetown by the time of the meeting, and he rejected the offer made by the AFRC/RUF group at Waterworks to coordinate operations.

3126. Based on the evidence the Trial Chamber finds that the RUF plan made by Bockarie and the Accused and launched at Waterworks, and implemented in the subsequent attacks on

<sup>6925</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8244-8247; Perry Kamara, Transcript 6 February 2008, pp. 3215-3216; TF1-143, Transcript 5 May 2008, pp. 9023-9024; Decision on Judicial Notice, 23 March 2009, Annex A, Fact 13.

<sup>6926</sup> Decision on Judicial Notice, 23 March 2009, Annex A, Fact 13.

<sup>6927</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6758-6760; Alimamy Bobson Sesay, Transcript 29 May 2008, p. 8838.

<sup>6928</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6763-6766.

Kono and Makeni, was separate from the plan of SAJ Musa, despite the presence and participation of AFRC commanders at the Waterworks meeting and in the attacks that commenced thereafter.

3127. On the basis of the foregoing, the Trial Chamber finds that the Accused and Bockarie made a plan in Monrovia, which Bockarie brought back to Buedu and shared with RUF and AFRC commanders who were to implement it. The plan brought by Bockarie after discussion with the Accused involved a two pronged attack where one flank would attack Kono and proceed to Makeni while the other flank attacked Kenema. Both flanks would then advance and capture Freetown, fulfilling their final objective of releasing their leader, Foday Sankoh. The Accused advised Bockarie to make the operation “fearful” in order to bring the Government of Sierra Leone to the negotiating table for the release of Sankoh. The commanders who attended the Waterworks meeting undertook to implement the plan, using the ammunition that Bockarie brought back with him from Monrovia.

3128. SAJ Musa, who was already operating on the basis of an independent plan to reach Freetown, refused a request from Bockarie to coordinate the operations, and SAJ Musa continued independently. Following the meeting in Monrovia, the Accused was updated by Bockarie after the Waterworks meeting in Buedu and after the recapture of Kono.

### Findings

3129. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in November/December 1998 the Accused and Sam Bockarie jointly designed a two-pronged attack on Kono, Kenema and Freetown as the ultimate destination, the Accused emphasising the need to first attack Kono District.

3130. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused told Bockarie to make the operation “fearful” in order to force the Government into negotiation and free Foday Sankoh from prison and that after the Waterworks meeting, the Accused told Bockarie to use “all means” to get to Freetown in a satellite phone conversation. Subsequently, Bockarie named the operation “Operation No Living Thing”, implying that anything that stood in their way should be eliminated.



(b) The Implementation of the PlanSubmissions of the Parties

3131. The Prosecution submits that SAJ Musa's death led to a resumption of full coordination between Bockarie and his personnel and the forces led by Alex Tamba Brima (a.k.a. Gullit).<sup>6929</sup> According to the Prosecution, Gullit was a friend of Bockarie's and willing to submit to his authority.<sup>6930</sup> Moreover, the Prosecution argues, it was clear to Gullit and his comrades that their ability to take over the country to negotiate a favourable cessation of hostilities depended on allying themselves with the RUF.<sup>6931</sup> The Prosecution submits that when SAJ Musa died, Gullit established regular communication with Bockarie, and kept him informed of all developments in Freetown, as well as communicating with RUF Rambo, Superman and Issa Sesay.<sup>6932</sup>

3132. The Prosecution submits that as a result, although Gullit commanded the troops within the city of Freetown itself and the majority of commanders in Freetown were AFRC commanders, the attack on Freetown was a joint operation undertaken by AFRC and RUF forces.<sup>6933</sup> The Prosecution submits that "[a]fter establishing communication with Gullit, before the troops entered the city, Sam Bockarie went on international radio and promised that his men would enter Freetown within 72 hours".<sup>6934</sup>

3133. The Prosecution submits that the RUF provided four critical areas of support to the invasion.<sup>6935</sup> First, the Prosecution contends that Gullit and other commanders were in regular communication with Bockarie and implemented his orders during the attack, including orders that led directly to the commission of many of the atrocities.<sup>6936</sup> Second, the Prosecution contends that the RUF contributed military and operational support in the form of communications support, manpower, including the Red Lion battalion, which came with Gullit's forces from the North, RUF fighters freed from Pademba Road Prison, bodyguards of the RUF radio operators, and a force commanded by Idrissa Kamara (a.k.a. Rambo Red

<sup>6929</sup> Prosecution Final Trial Brief, paras 10, 500.

<sup>6930</sup> Prosecution Final Trial Brief, paras 501-502, 553.

<sup>6931</sup> Prosecution Final Trial Brief, para. 553.

<sup>6932</sup> Prosecution Final Trial Brief, para. 505.

<sup>6933</sup> Prosecution Final Trial Brief, paras 513, 518.

<sup>6934</sup> Prosecution Final Trial Brief, para. 507.

<sup>6935</sup> Prosecution Final Trial Brief, para. 513.

<sup>6936</sup> Prosecution Final Trial Brief, para. 517. See also paras 553-564.





Goat); and 448 warnings of ECOMOG Alpha Jet attacks.<sup>6937</sup> The Prosecution submits that the force attacking Freetown was composed of “important RUF elements, including radio operators King Perry and Alfred Brown, who had their own RUF bodyguards, and RUF and Liberian fighters in the Red Lion battalion”.<sup>6938</sup> Third, it alleges that the RUF capture of major ECOMOG bases and weaponry at Koidu and Makeni meant that Gullit’s troops could enter Freetown knowing that they would not be trapped by larger ECOMOG forces coming from Makeni or other areas brought under AFRC/RUF control. Further, the joint force was now in a position to move to block ECOMOG reinforcements likely to be sent from Guinea, Lungi and Port Loko in response to an attack on Freetown”.<sup>6939</sup> Fourth, the Prosecution submits that even though the majority of RUF forces never successfully entered Freetown, that the “RUF attacks on ECOMOG forces at strategic locations outside the city affected the battle inside”.<sup>6940</sup>

3134. The Prosecution then submits that when attempts to join Gullit’s forces in Freetown failed and increasing pressure was placed on the troops in Freetown by ECOMOG, Bockarie ordered Gullit to withdraw from Freetown and re-organise for a new attack. Bockarie then instructed his forces on the outskirts of the city to ensure a secure line of retreat for the withdrawing troops.<sup>6941</sup> Finally, the Prosecution alleges that after Gullit’s forces withdrew from Freetown, his troops and those outside Freetown made joint attempts to launch an attack to recapture Freetown.<sup>6942</sup>

3135. The Defence concedes that communication between Gullit and Bockarie resumed after Musa’s death at Benguema when Gullit took over leadership of the AFRC group that was advancing on Freetown.<sup>6943</sup> However, the Defence denies that the Freetown invasion was a joint RUF and AFRC operation.<sup>6944</sup> It contends that the RUF was not involved in the Freetown attack and that “it was renegade elements of the Sierra Leone Army who, in their

<sup>6937</sup> Prosecution Final Trial Brief, para. 515. See also paras 528-546.

<sup>6938</sup> Prosecution Final Trial Brief, para. 496.

<sup>6939</sup> Prosecution Final Trial Brief, para. 514. See also paras 519-527.

<sup>6940</sup> Prosecution Final Trial Brief, para. 516. See also paras 547-552.

<sup>6941</sup> Prosecution Final Trial Brief, para. 565.

<sup>6942</sup> Prosecution Final Trial Brief, paras 565-568.

<sup>6943</sup> Defence Final Trial Brief, para. 613.

<sup>6944</sup> Defence Final Trial Brief, para. 920.

anger and frenzy after their expulsion from Freetown by Nigerian-led interventionist forces, turned their bitterness on the civilian population”.<sup>6945</sup>

3136. The Defence submits that Bockarie’s radio operators did not know Gullit’s group entered Freetown until they heard it from the BBC and Gullit only contacted Bockarie because the AFRC troops ran into “trouble and required assistance” and requested reinforcements. The Defence submits that the request from Gullit was unexpected and that Gullit and Bockarie argued.<sup>6946</sup> The Defence contends that their lack of coordination is illustrated by the fact that Bockarie sent Gullit a message while Gullit was in Waterloo telling him to wait for reinforcements, Gullit did not agree and rather than waiting, he went ahead and entered Freetown.<sup>6947</sup> The Defence denies that the RUF had control over the AFRC forces who attacked Freetown<sup>6948</sup> and that Gullit was following orders from Bockarie during the Freetown invasion.<sup>6949</sup>

3137. In relation to the alleged support provided by Bockarie, while the Defence acknowledges that Bockarie told Gullit that the RUF was sending reinforcements and that he had instructed Rambo, who was already in Waterloo, to link up with them,<sup>6950</sup> RUF fighters did not get any closer to Freetown than Waterloo.<sup>6951</sup> The Defence points to the evidence of TF1-516 to submit that the RUF gave only advice in support of the fighters in Freetown,<sup>6952</sup> and points to evidence that one of the reasons that the AFRC and the RUF fell out at Waterloo after the invasion was because the AFRC was bitter that the RUF had not provided assistance while it was under siege in Freetown.<sup>6953</sup> The Defence contends that Prosecution evidence that the military successes of the AFRC resulting in its takeover of Freetown were due to the RUF’s attacks outside the city is opinion evidence, contradicted by that of Issa

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<sup>6945</sup> Defence Final Trial Brief, para. 617.

<sup>6946</sup> Defence Final Trial Brief, paras 616-617.

<sup>6947</sup> Defence Final Trial Brief, para. 630.

<sup>6948</sup> Defence Final Trial Brief, para. 615.

<sup>6949</sup> Defence Final Trial Brief, para. 880.

<sup>6950</sup> Defence Final Trial Brief, para. 633.

<sup>6951</sup> Defence Final Trial Brief, para. 636.

<sup>6952</sup> Defence Final Trial Brief, para. 901.

<sup>6953</sup> Defence Final Trial Brief, para. 889.

Sesay.<sup>6954</sup> The Defence contends that it was clear that the two factions were “no more than fighting a common enemy”.<sup>6955</sup>

3138. Finally, the Defence submits that while there is some evidence of some atrocities in Njaima Nimikoro in addition to some incidents of looting, that there is “no overwhelming evidence of wide scale atrocities in the places the RUF attacked on the way towards Freetown, such as Kono, Makeni, Lunsar, Port Loko etc”.<sup>6956</sup>

### Evidence

#### Prosecution Witness Alimamy Bobson Sesay

3139. Witness Alimamy Bobson Sesay, an AFRC member and officer,<sup>6957</sup> testified that when they arrived back from the operation in Koidu Geiya, Gullit had arrived. Gullit told them that Sam Bockarie had released him from Kailahun because he had told Bockarie that he could settle the disputes that had arisen in Kono when Morris Kallon shot two SLAs in around June 1998.<sup>6958</sup> From Masingbi Road, the troops moved to Five-Five Spot where Gullit held a meeting in which he briefed the troops about the diamonds that were taken from him by Bockarie and that Bockarie had released him with some logistics to come and advise the two sides. Gullit advised that because ECOMOG were piling pressure on the Kono troops, they should withdraw to Tombodu and from there withdraw immediately to Koinadugu District where SAJ Musa was based in Mongo Bendugu. The meeting was attended by Ibrahim Bazy, Hassan Papa Bangura and other commanders, who briefed the troops on what had occurred.<sup>6959</sup> The witness travelled to Tombodu<sup>6960</sup> and then with Gullit to Mansofinia in Koinadugu District,<sup>6961</sup> from where they travelled to SAJ Musa’s position in Mongo Bendugu.<sup>6962</sup>

<sup>6954</sup> Defence Final Trial Brief, para. 881.

<sup>6955</sup> Defence Final Trial Brief, para. 915.

<sup>6956</sup> Defence Final Trial Brief, para. 923.

<sup>6957</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7859-7867, 7869; Transcript 28 April 2008, pp. 8684, 8689.

<sup>6958</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8023-8025, 8028.

<sup>6959</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8028.

<sup>6960</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8038-8039.

<sup>6961</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8040.

<sup>6962</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8043.

3140. When they arrived in Mongo Bendugu, the witness attended a closed-door meeting with *inter alia* Gullit and SAJ Musa at which Gullit explained to SAJ Musa about the treatment he had received in Kailahun, and how Bockarie had taken his diamonds. Gullit said that he was not very happy with that so now he wanted SAJ Musa to advise him on the next plan. SAJ Musa responded that Brigadier Mani had gone ahead to the north to look for a base to prepare for the advancement to Freetown and that he wanted Gullit to move with the troop that would be joined by Five-Five to find Brigadier Mani, establish an advance base and prepare for the attack on Freetown. Bobson Sesay explained that there was no “front line troop” in the North at that time and SAJ Musa wanted a strong troop there in preparation for an attack on Freetown. SAJ Musa said that once the base was established, it would later receive reinforcement to move to Freetown.<sup>6963</sup>

3141. Bobson Sesay testified that while they were based in Rosos, the troops undertook operations in, *inter alia*, Gbomsamba in September/October 1998. Gullit called the operation commanders, military supervisors and company commanders, saying that they had been too quiet recently and therefore needed to “hit a town” to show that they were not idling and that he had information that ECOMOG forces were based in Gbomsamba. Because they had been out of communication, Gullit said he wanted the brothers, the RUF and SLA, in Koindugu, Kailahun and all the bases around Kono to know that they were still attacking. The witness explained that they had been out of communication for some time because their communications man had run away so Gullit wanted the other groups to hear about them through the international media.<sup>6964</sup>

3142. Around July-August 1998, after the operation in Gbomsamba, the radio man fixed up the radio with a new mic, which a fighter called Captain Arthur had discovered during patrol in Batkanu. Until then, they had only been able to monitor communications. Gullit resumed communications with SAJ Musa, Issa Sesay, Bockarie and Brigadier Mani on the same day. Bobson Sesay said that Gullit spoke to Bockarie first to inform him on operations in the North and in Gbomsamba and told him “the extent to which he was leading the operation now that he had based in Rosos”. Bockarie responded that he had thought that Gullit had surrendered but was happy that they had started communication and that Gullit was doing

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<sup>6963</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8044-8046.

<sup>6964</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8132, 8133-8134, 8138-8142.

well. Bockarie said that Gullit would “get the full support at whatever time he needed”. Whatever assistance Gullit needed, he should contact Bockarie and he would follow up.<sup>6965</sup>

3143. Around the time that SAJ Musa called Gullit to say that he was leaving Koinadugu and heading towards Colonel Eddie Town because he had clashed with Superman, Gullit also communicated with Bockarie in Kailahun to brief him about his military operations in Kukuna and Mange Bureh. The witness knew this because, for instance, after the Kukuna operation, he saw Gullit mount the radio set and call Bockarie. The witness stated that this was the only radio communication between Gullit and Bockarie during which he was present. According to Bobson Sesay, Gullit also called SAJ Musa to tell him about the latest developments, being the attack on Kukuna. The witness explained that whenever they had an operation, Bockarie was the first person Gullit called before informing SAJ Musa. After the Kukuna attack, Gullit also contacted Issa Sesay who, based on their monitoring appeared to be in the Kailahun axis to explain to him about the “activities” they had undertaken.<sup>6966</sup>

3144. The witness explained that from the monitoring they were doing then, they knew that RUF Rambo, Isaac Mongor, Peter Vandi and others were in and around the Kono axis. Bobson Sesay said that the radio men always monitored the various communications that went on and “presented this monitoring” to him, he presented the information to the commander, who would pass it on to the operation commander. Hence they knew exactly what was going on in all the areas occupied by the “junta troops”, by which he meant the RUF and SLA. The information would also be entered in a logbook.<sup>6967</sup> The witness said he knew this because he was with the operation commander and whenever communications came, either through monitoring or when the radio man would send a runner, it was shared with the commander who would then pass it on to the operation commander.<sup>6968</sup>

3145. Around “20-something” December 1998, SAJ Musa ordered attacks on Magbuntoso (Mile 38) followed by successful operations on RDF (Rapid Deployment Force, a base settled by the NRPC) and Mamamah in Koya Rural District.<sup>6969</sup> Just after the troops had based at Mamamah, they heard on the international media radio Bockarie announcing that

<sup>6965</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8132, 8133-8134, 8138-8142.

<sup>6966</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8216-8218, 8219-8220; Transcript 23 April 2008, p. 8304.

<sup>6967</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8217-8220.

<sup>6968</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8217-8220.

<sup>6969</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8237-8238.



AFRC and RUF joint force had captured the strategic military base of RDF and were heading to Freetown, while other AFRC/RUF troops were advancing from the rear towards Kono and Daru. Bockarie said the AFRC/RUF forces were “moving from all angles”.<sup>6970</sup> The witness recalled that following that announcement, SAJ Musa was angry with Alfred Brown, one of the RUF radio operators, for giving information to Bockarie. Musa said that he would not subject himself to the control of Bockarie, who was an SBU. Musa said that he was a trained military man whereas Bockarie was not. Now that Musa was advancing towards Freetown, he said he did not want Bockarie controlling him. The main aim was to advance and capture Freetown and there was no need to take command from Bockarie until he had done that.<sup>6971</sup>

3146. Bobson Sesay testified that, after SAJ Musa’s death, he and others left for Macdonald Hill where they met Basky, Foday Bah Marah and Junior Lion, leaving behind Gullit, Bazzy, Bomb Blast and others. Later, they met Gullit dressed in SAJ Musa’s helmet and uniform, who informed them that SAJ Musa was buried at Koba Water. Bobson Sesay stated that “[a]utomatically we all recognised him as the commander, so he was in full control of the troops now”.<sup>6972</sup> Gullit ordered the troops to attack York at the peninsular but were unsuccessful and they retreated to their base at in Benguema.<sup>6973</sup>

3147. Bobson Sesay testified that when the troops returned from York, Gullit mounted a radio set and communicated to Bockarie that the troops were prepared to advance to Freetown but needed more reinforcement to capture Freetown.<sup>6974</sup> Bobson Sesay, as well as most of the senior commanders, were present when Gullit made the communication.<sup>6975</sup> Bockarie assured him that Issa Sesay and Denis Mingo from Kono and Makeni would join them in the advance on Freetown.<sup>6976</sup> Bobson Sesay recalled that while Bockarie said the reinforcements were on their way, Bockarie also said that there were “targeted areas that

<sup>6970</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8239-8240.

<sup>6971</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8240-8241.

<sup>6972</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8246-8247.

<sup>6973</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8253.

<sup>6974</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8253-8254.

<sup>6975</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8253.

<sup>6976</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8254, 8303-8306.

they needed to clear up” first in the sense of weakening ECOMOG.<sup>6977</sup> Bobson Sesay explained:

Well, as I earlier said, it was an operation that was planned. The RUF, SLAs who were in the eastern part around that Kono area moved, those of us who were in the north moved and those of us in that Kailahun-Daru axis also moved. So whilst we were attacking they were simultaneously attacking. So it was a strategy that we used so that the ECOMOG would not reinforce each other in any other position. So those who were in Kono would not reinforce those in Makeni. Those who were in Daru would not reinforce those who were in Kenema. Those who were within Benguema would not be able to reinforce because we had destabilised them in Freetown. So this was the strategy that we used and this was what Bockarie was telling Gullit. He said now that the men were pushing to ensure that they weakened ECOMOG they would come and reinforce us later and we will all bulldoze our way to Freetown.<sup>6978</sup>

3148. Bockarie explained that RUF commanders Issa Sesay, Morris Kallon, Isaac Mongor, Akim Turray and RUF Rambo had already moved from Gandorhun to capture Kono.<sup>6979</sup> He also said other troops had left from Kailahun to move to the Daru axis and Segbwema to weaken the ECOMOG strategic bases so that ECOMOG troops based there would be unable to send reinforcements to Freetown. The plan was that the troops led by Gullit, along with the reinforcements sent by Bockarie, would push ahead and enter Freetown.<sup>6980</sup>

3149. Bobson Sesay testified that after this communication, the troops led by Gullit moved to Hastings Hill around Freetown Highway as they waited for reinforcement. Gullit communicated with Issa Sesay. The witness was present during this communication. Sesay briefed Gullit that his troops had captured Kono and were heading towards Makeni and were on course “to weaken the ECOMOG forces so that they can reinforce [...] Gullit so that all of us can enter Freetown”. Gullit responded that he would still wait for the reinforcement.<sup>6981</sup> The witness heard over international media that day that the AFRC/RUF had captured Kono and were moving towards Makeni. Gullit also contacted Superman, who affirmed that they were in Bumbuna with Brigadier Mani and were advancing in a two-pronged attack towards Binkolo to capture Makeni<sup>6982</sup> while Morris Kallon was going

<sup>6977</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8254.

<sup>6978</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8254-8255.

<sup>6979</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8254, 8303-8306.

<sup>6980</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8254-8256; Transcript 23 April 2008, p. 8307.

<sup>6981</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8257-8258.

<sup>6982</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8258-8259.

through Mototoka to Makeni.<sup>6983</sup> Gullit's brigade had a radio monitoring set that was monitoring all areas of the AFRC/RUF advance.<sup>6984</sup>

3150. Subsequently, Bobson Sesay testified that Gullit's fighters moved to unsuccessfully attack Hastings, having seen ECOMOG helicopters bringing reinforcements there.<sup>6985</sup> After that Gullit said the troops should prepare to advance towards Jui and Allen Town. On 3 January 1999, the troops captured Hastings, and on 4 January 1999 the troops captured Jui and Allen Town, establishing a temporary base at the latter.<sup>6986</sup> They were in Allen Town until 5 January 1999.<sup>6987</sup> Around 1.00am on 6 January 1999, Gullit called all the battalion commanders at Allen Town and addressed the troops, stating that they were about to enter Freetown and ordering the troops to open the central prisons, ensuring that Foday Sankoh and other political detainees were released and that persons opposing the RUF and SLA forces should be killed.<sup>6988</sup> At this stage, Gullit's troops numbered 1,000 and were well-armed.<sup>6989</sup> From Allen Town, the troops moved to Calaba Town, Brewery, and then went through Wellington Old Road and New Freetown-Waterloo road into Freetown.<sup>6990</sup>

3151. Bobson Sesay stated that two groups of fighters moved to various locations within Freetown as they advanced towards the State House, burning 50 vehicles at Old Road, the Eastern Police and two police officers.<sup>6991</sup> One group advanced from Goderich street to the Library around the State House towards Tower Hill while another advanced from Cotton Tree and captured the State House. This occurred around 6.00am on 6 January 1999.<sup>6992</sup>

3152. Bobson Sesay stated that the first thing Gullit did when they entered the State House was to set up the radio set and, in the witness's presence, call Bockarie and other commanders to inform them that he had entered Freetown and "was still waiting for them to reinforce him so that he would be able to capture the military barracks". Bockarie responded that "there was now preparation under way and that as [...] Issa and Superman have

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<sup>6983</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8256-8258.

<sup>6984</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8259.

<sup>6985</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8261-8262.

<sup>6986</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8264-8267.

<sup>6987</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8269.

<sup>6988</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8270-8271.

<sup>6989</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8272.

<sup>6990</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8272-8274.

<sup>6991</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8275-8279.

<sup>6992</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8279-8280.

captured Makeni and that they were now pressing towards where we were, that is Freetown, to reinforce us".<sup>6993</sup> Gullit also called Issa Sesay and Superman when he captured the State House. These calls also took place in Bobson Sesay's presence.<sup>6994</sup>

3153. After the capture of the State House, the forces broke into Pademba Road Prison, where they released around 3,500 SLA and RUF members and their supporters, including Steve Bio and Gibril Massaquoi and lawyers and politicians including the former President Joseph Saidu Momoh.<sup>6995</sup> The witness later heard from Gullit that the lawyers and politicians among the released prisoners were taken by RUF Rambo and Issa Sesay to Makeni for security reasons.<sup>6996</sup>

3154. Bobson Sesay stated that when he returned to the State House, he heard on international media Bockarie announcing that his troops led by Gullit had ousted the government of Ahmed Tejah Kabbah, released prisoners from Pademba Road Prison and were based at the State House.<sup>6997</sup> The same day Five-Five made a similar announcement on the national radio and said the troop led by Gullit had overthrown the SLPP government and in full control of the city, urging civilians to comply with their rules. The brigade administrator<sup>6998</sup> FAT Sesay also made an announcement that day over international media confirming that he was based at State House, "that the commander that led the troop to Freetown was Tamba Alex Brima and that State House was under their full control and that he was asking that all military personnel should surrender".<sup>6999</sup>

3155. Bobson Sesay explained that at the State House, Gullit was the overall commander of the troops, but reported to Bockarie. Bazy was the Deputy Commander, Five-Five, Woyoh and Bomblast were all based at the State House.<sup>7000</sup> The troops had captured some Nigerian ECOMOG, who were executed on Gullit's orders at the back of the State House.<sup>7001</sup> The troops remained in Freetown for around three and a half weeks.<sup>7002</sup> In the

<sup>6993</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8286-8287.

<sup>6994</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8288.

<sup>6995</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8287-8288.

<sup>6996</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8318.

<sup>6997</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8286.

<sup>6998</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8289.

<sup>6999</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8288.

<sup>7000</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8289.

<sup>7001</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8292.

<sup>7002</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8294.

second week of January, the troops in Freetown received news that the ECOMOG forces were advancing towards the State House.<sup>7003</sup>

3156. During the second week, while the troops were at the State House, RUF Rambo also communicated to Gullit that he was preparing reinforcements to join Gullit because of the threat Gullit was facing from ECOMOG. RUF Rambo stated that the SLA Rambo, also known as Rambo Red Goat, was advancing together with Superman and others towards Freetown.<sup>7004</sup> RUF Rambo explained that he had received the order to send these reinforcements from Bockarie.<sup>7005</sup> The witness was present at this conversation.<sup>7006</sup> The witness explained that in the conversation RUF Rambo stated that he had moved with Issa Sesay and SLA Rambo as far as Hastings, but added that the reinforcements had some fear as they did not believe that SAJ Musa was dead.<sup>7007</sup> However, Bobson Sesay noted that despite this fear, some men, led by Rambo Red Goat, were sent to join Gullit's troops in Freetown.<sup>7008</sup>

3157. Bobson Sesay testified that Rambo Red Goat was with Superman's group in Koinadugu. Although he had sided with SAJ Musa during his dispute with Superman, Red Goat later decided to stay with Superman and went with Superman to capture Makeni. SAJ Musa made the fact of Red Goat staying behind known to the forces at Colonel Eddie Town.<sup>7009</sup>

3158. While waiting for these reinforcements, due to ECOMOG attacks at the State House, the troops retreated to the Eastern Police where they heard that the government had announced a ceasefire.<sup>7010</sup>

3159. Some time before the third week of January, Gullit appointed the witness and Colonel Eddie to receive Idrissa Kamara (a.k.a. Rambo Red Goat), who came with 30 RUF fighters and 20 SLA as reinforcements from Allen town.<sup>7011</sup>

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<sup>7003</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8295.

<sup>7004</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8300-8302; Transcript 23 April 2008, pp. 8321-8323.

<sup>7005</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8327.

<sup>7006</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8302.

<sup>7007</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8300-8302; Transcript 23 April 2008, p. 8323.

<sup>7008</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8323.

<sup>7009</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8321-8322.

<sup>7010</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8323-8324.

3160. The whole troop then moved to Ferry Junction, and later recaptured the State House.<sup>7012</sup> The troops did not hold the State house for a long time. At some point after this, the witness heard Bockarie on the BBC stating that he was not ready for any peace or ceasefire that the government wanted to establish and was giving an order to Gullit to start burning strategic positions in Freetown and to capture civilians.<sup>7013</sup> After that announcement Bockarie called Gullit on the radio to instruct him to burn Freetown and other strategic areas. This communication was made at the State House after its recapture in the presence of the witness. Gullit responded: “Yes, sir, I will do according to your wish. Just as you have given me order, I will also order the men now to start the operation to burn down and capture people in Freetown”.<sup>7014</sup> In the presence of the witness and others, Gullit ordered senior commanders to distribute fuel as they burnt areas in Freetown. Gullit then withdrew to the troop base in PWD, Ferry Junction area.<sup>7015</sup>

3161. At the same time, ECOMOG re-attacked the troops at the State House and the troops, including Rambo Red Goat and the Red Lion battalion, began withdrawing from Freetown.<sup>7016</sup> A group of fighters, including Gullit and Bazzy, went to Fourah Bay, where they burnt property and killed civilians.<sup>7017</sup> These troops then attacked Ugun area where Five-Five ordered amputations.<sup>7018</sup> These troops included Rambo Red Goat and a female fighter known as Adama Cut Hand.<sup>7019</sup>

3162. Of the rebel forces that were in Freetown, Bobson Sesay distinguished between the “brigade”, which comprised civilian members of the rebels, and the “fighting force” the fighters who formed the attacking component of the group.<sup>7020</sup> During the withdrawal, Gullit moved with the brigade towards Shell Old Road while the fighting force remained behind in Freetown. The witness was part of the fighting force left behind, as was Rambo Red Goat

<sup>7011</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8301-8302; Transcript 23 April 2008, pp. 8326-8327. He testified that “this was almost during the third week of 6 January when we entered (Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8328).

<sup>7012</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8327-8328.

<sup>7013</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8328-8329.

<sup>7014</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8329-8330.

<sup>7015</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8331-8332.

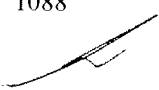
<sup>7016</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8330-8331.

<sup>7017</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8332-8334.

<sup>7018</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8335-8336.

<sup>7019</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8335-8336.

<sup>7020</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8342.





and the former NPFL fighters who came to reinforce Gullit.<sup>7021</sup> Some time after Gullit left with the Brigade, the fighting force also withdrew to Mental Home, Shell Old road area.<sup>7022</sup> Gullit ordered the fighting force to attack ECOMOG forces as it advanced to Allen town. The troops burnt houses, captured civilians while others were killed as they moved from Mental Home to Kissy Mess Mess, Approved School, Brewery and Calaba Town until Allen town where they were based.<sup>7023</sup>

3163. Bobson Sesay explained that when he got to Allen Town, Hassan Papa Bangura stated that the troops should wait for further instruction from Gullit, so they spent about two days around Allen Town. Gullit notified them that he had reached Benguema with the civilian brigade, and that reinforcements were coming to join them at Jui.<sup>7024</sup> No reinforcements arrived, and due to increasing ECOMOG attacks, the forces at Jui decided to take the bypass to the Grafton Hastings jungle towards Benguema. On their way, Gullit called them and warned that the troops at Hastings and Waterloo, commanded by Issa Sesay and Superman, were confiscating valuables from the troops retreating from Freetown because they felt that “at least those of us who were retreating, we should share with them”.<sup>7025</sup> At Benguema, the witness met Five-Five and Gullit. Five Five requested that the retreating troops surrender cash, diamonds and other valuables to Gullit, and the troops did so.<sup>7026</sup>

3164. Issa Sesay, Morris Kallon, RUF Rambo and RUF/SLA fighters then joined them at Benguema and they held a meeting at which Issa Sesay informed them of the instructions from Bockarie to arrest Superman and send him to Kailahun. After this meeting, in the presence of Gullit, Five-Five, Superman, RUF Rambo, Rambo Red Goat, 0-Five, Issa Sesay then planned an operation to recapture Freetown by using Tombo axis instead of the Freetown-Waterloo highway, where ECOMOG forces were concentrated. Sesay told them that he would bring ammunitions from Makeni so they could advance to Freetown.<sup>7027</sup> The commanders said that some men should go ahead as an advance team to settle a base at

<sup>7021</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8340-8341.

<sup>7022</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8340-8346.

<sup>7023</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8368-8372.

<sup>7024</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8373-8375.

<sup>7025</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8375-8377.

<sup>7026</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8377-8378.

<sup>7027</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8378-8380.

Macdonald village, and the witness was chosen to command that mission with “heavy manpower”.<sup>7028</sup>

3165. Bobson Sesay led some troops to Macdonald. The witness testified that later Issa Sesay distributed ammunitions to the fighters who reinforced the troops at Macdonald and they advanced towards Tombo axis.<sup>7029</sup>

3166. Around mid-February 1999, as instructed by Five-Five, Superman, Bomblast, RUF Rambo Five-Five, Morris Kallon, Issa Sesay, Med Bajejeh, Rambo Red Goat bombarded Tombo village with a support propelled grenade (SPG) and were repelled by ECOMOG troops which led to the retreat to Macdonald.<sup>7030</sup> Issa Sesay, Morris Kallon and others moved to Waterloo while Five-Five, the witness, Bomblast and others moved to Benguema barracks where they spent a month.<sup>7031</sup>

3167. On cross-examination, Bobson Sesay was questioned about prior statements in which he stated that SAJ Musa had cited the execution of 24 members of the AFRC on 19 October 1998,<sup>7032</sup> and the need to reinstate the army as reasons to go to Freetown.<sup>7033</sup> Bobson Sesay explained that the execution of 24 SLA soldiers, the desire to reinstate the army, and the desire to release the RUF and AFRC political detainees at Pademba Road Prison were all factors that led to the invasion of Freetown by SAJ Musa’s troops.<sup>7034</sup>

3168. On cooperation between the AFRC and RUF in re-attacking Freetown, Bobson Sesay stated that at Benguema there was cordiality between the RUF and the AFRC because they were able to organise to re-attack. He also noted that Issa Sesay “had command over Gullit” but agreed that these were essentially two groups working together against a common enemy, the Sierra Leonean government.<sup>7035</sup>

<sup>7028</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8380-8381.

<sup>7029</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8381-8385.

<sup>7030</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8385-8389.

<sup>7031</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8389-8391.

<sup>7032</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8829-8830, 8834.

<sup>7033</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8832, 8836.

<sup>7034</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8835, 8837.

<sup>7035</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8860-8861.



3169. On re-examination, Bobson Sesay testified that Issa Sesay, Denis Mingo (a.k.a. Superman) and Morris Kallon were in constant communication with the forces in Freetown.<sup>7036</sup>

Prosecution Witness Perry Kamara

3170. Witness Perry Kamara, an RUF radio operator,<sup>7037</sup> testified that, around a week after Johnny Paul Koroma and Issa Sesay arrived in Buedu, Koroma met with Bockarie and transmitted a radio message for all AFRC, RUF and STF saying that because he did not “understand jungle exercise”, he was asking all the AFRC and RUF to take command from Bockarie and that, from that date, Bockarie should be leader for the movement from then on.<sup>7038</sup> In response to the order, a group, comprising Gullit, Five-Five, Bazzy, Papa and Junior Lion, who were not happy with the order “went and had their own area that was far from Kono”.<sup>7039</sup> Kamara later testified that they moved to Rosos in Bombali District when this incident occurred.<sup>7040</sup> Once they had established themselves at Rosos, Gullit contacted SAJ Musa who informed Bockarie that they were there.<sup>7041</sup>

3171. Kamara also testified that, in accordance with the plan developed in Buedu,<sup>7042</sup> he and radio operator Alfred Brown moved from Superman Ground to Koinadugu District together with others to facilitate effective radio communication in Rosos. Kamara and Brown were first sent to Koinadugu District to join SAJ Musa and Superman so that they could “prepare [Kamara and Brown] with equipment to join Gullit at “Rosos, Colonel Eddie Ground”. Kamara spent about a week in Koinadugu before moving on to Rosos on 1 September 1998.<sup>7043</sup>

3172. Kamara testified that they took two radio sets and three operators from Koinadugu to Rosos. When they arrived, they condemned the radio in Rosos because it was not good, reset

<sup>7036</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8937-8939.

<sup>7037</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>7038</sup> Perry Kamara, Transcript 5 February 2008, pp. 3110-3111.

<sup>7039</sup> Perry Kamara, Transcript 5 February 2008, p. 3111.

<sup>7040</sup> Perry Kamara, Transcript 5 February 2008, pp. 3173-3174.

<sup>7041</sup> Perry Kamara, Transcript 5 February 2008, pp. 3173-3174.

<sup>7042</sup> The witness referred to an alleged plan made prior to the Fitti-Fatta operation (See Military Operations: Operation Fitti-Fatta).

<sup>7043</sup> Perry Kamara, Transcript 5 February 2008, pp. 3175-3176; Transcript 6 February 2008, pp. 3184-3185, 3187-3189. To the question “How long did your journey last to Rosos?” Kamara replied “The patrol lasted for 21 days”. Kamara explained that he remembered the dates so well because he seriously wounded his hand on 28

one they had brought with them and from that point on, this radio was used to communicate from Rosos to all the other RUF stations.<sup>7044</sup> Kamara explained that, up to that point, the ground at Rosos did not possess the RUF radio code. By bringing the code, Brown and Kamara rectified the “major problem” with communications that had existed with Rosos previously.<sup>7045</sup> Kamara testified that at that time, they would monitor and write down any communications that were happening in Buedu but they did not have any other “contact outside” at that time.<sup>7046</sup>

3173. The witness testified that he was aware of what was going on with the RUF operations through listening to the communications. They would be informed of any movements Bockarie made from Buedu to Liberia or anything he brought back.<sup>7047</sup>

3174. Kamara testified that SAJ Musa arrived in Rosos around November 1998 after falling out with Superman. The witness said that although he did not receive this message personally because he was not operating, he would still go in the morning to sit with the other operators who were working. Whenever they received a message, Kamara said he needed to see it before it went to the commander.<sup>7048</sup>

3175. When SAJ Musa arrived, he immediately went to the meeting ground and said that as of that day, he was no longer either an AFRC or an RUF. Musa said that he had come to Gullit for them to form their own movement that would lead to success and that Gullit should no longer communicate with anybody. He said he knew now to whom he would communicate and then ensured that no RUF operator operated the radio. He did this by keeping them far away from the radio and decreed that all radio materials were to be reported to him and that no radio communication should be sent anywhere except from his house. Musa also gave a warning letter to all RUF personnel. Kamara said that he kept his right through the time they were in Freetown.<sup>7049</sup>

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September 1998 and therefore spent time “read[ing] over”.

<sup>7044</sup> Perry Kamara, Transcript 6 February 2008, pp. 3204-3205.

<sup>7045</sup> Perry Kamara, Transcript 6 February 2008, p. 3205.

<sup>7046</sup> Perry Kamara, Transcript 6 February 2008, p. 3205.

<sup>7047</sup> Perry Kamara, Transcript 6 February 2008, p. 3206.

<sup>7048</sup> Perry Kamara, Transcript 6 February 2008, p. 3209.

<sup>7049</sup> Perry Kamara, Transcript 6 February 2008, p. 3211.

3176. Kamara testified that around 25 December 1998, they attacked and captured Benguema where SAJ Musa died.<sup>7050</sup> Kamara testified that they rested in the forest for the day. Without SAJ Musa, Gullit was in charge. He and other men said that when SAJ Musa had arrived, they had been working together and exchanging information with the RUF but Musa had told them to have nothing to do with the RUF. They said that now that Musa had died, they should call Bockarie and tell him that they had moved beyond Benguema to Waterloo and seek his advice. According to Kamara, they decided that “[w]hatever he said we would tell him to accept, so that we would work together again”, although they would not “tell him directly” about the death of SAJ Musa at that time.<sup>7051</sup> Some people were in favour of contacting Bockarie, while others were not.<sup>7052</sup>

3177. Initially Gullit called Bockarie but he did not respond. Then Gullit called Alfred Brown, the supervisor, and all the RUF who had been told not to communicate and Brown ordered the witness to call Bockarie. This time Bockarie came on the radio, saying “Perry, what happened? I have been calling you and I have not been getting any information from you? You were the radio operator who we had sent at that place”. Kamara said that he responded saying that that was an issue to be addressed by Gullit and handed the mic over to him. Gullit then informed Bockarie that he was seeking advice. Bockarie responded, saying “How can I give you advice when, in the first place, when you were getting ready to take off you did not inform me? Even when you were operating you had the radio men, you had radios, but nobody informed me”. Gullit repeated his request for advice.<sup>7053</sup> Bockarie asked Gullit to wait for Morris Kallon, Issa Sesay, Superman and Rambo to join him before entering Freetown. These commanders had at that time passed Lunsar and were moving to Masiaka.<sup>7054</sup> Gullit stated that he had enough ammunition, and did not need to wait for reinforcements to bring ammunition. Bockarie replied “No, that is not the reason. It is for the command structure. It will be strong for you”.<sup>7055</sup>

3178. Initially, when Kamara was ordered by Gullit to contact Bockarie he was reluctant to do so as SAJ Musa had threatened to kill him if any contact with Bockarie was made.

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<sup>7050</sup> Perry Kamara, Transcript 6 February 2008, pp. 3214-3217.

<sup>7051</sup> Perry Kamara, Transcript 6 February 2008, p. 3217.

<sup>7052</sup> Perry Kamara, Transcript 7 February 2008, p. 3382 (PS).

<sup>7053</sup> Perry Kamara, Transcript 6 February 2008, p. 3218.

<sup>7054</sup> Perry Kamara, Transcript 6 February 2008, p. 3220.

<sup>7055</sup> Perry Kamara, Transcript 6 February 2008, pp. 3218-3219.

However, Gullit told Kamara that he was safe as SAJ Musa was dead.<sup>7056</sup> When Kamara contacted Bockarie, Bockarie had no idea what Gullit's troops were doing except from what he heard from commercial radio.<sup>7057</sup>

3179. Gullit then summoned a short meeting to discuss the proposal with other AFRC officers. At the meeting, it was decided by majority that they should not wait for Bockarie's reinforcements, and "whenever the other groups came they would join us".<sup>7058</sup> Subsequently, Gullit's groups attacked Hastings but were not able to capture York. They were able to capture some ammunition and returned.<sup>7059</sup>

3180. Kamara affirmed that on the way from Rosos to Freetown, when SAJ Musa was still alive, he was not aware of any communication between SAJ Musa's group and other forces moving towards Freetown. Communication only began after SAJ Musa's death.<sup>7060</sup>

3181. According to Kamara, on 6 January 1999, the fighters entered Freetown at night and attacked until daybreak. As they entered, there was heaving fighting and the fighters moved from the main highway in Waterloo to Freetown and from Kossoh Town entered the eastern part of Freetown.<sup>7061</sup> Before attacking Freetown, the fighters were divided into groups and instructed to attack Ferry Junction, Upgun, State House, National Stadium and another group was to enter Pademba Road. Kamara was assigned to the group of fighters to go to Pademba Road. This group was to release Foday Sankoh and other political detainees who were supporters of AFRC/RUF, including former president J S Momoh, the former RUF spokesman Gibril Massaquoi, and Steve Bio.<sup>7062</sup> When the fighters who had been imprisoned in Pademba Road were released, they were "even more angry than us" and engaged in more killing, burning, and amputation, because "they had been jailed for life".<sup>7063</sup> Kamara explained that AFRC, RUF and STF troops were present in Freetown.<sup>7064</sup>

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<sup>7056</sup> Perry Kamara, Transcript 7 February 2008, pp. 3382-3383 (PS).

<sup>7057</sup> Perry Kamara, Transcript 7 February 2008, p. 3383 (PS).

<sup>7058</sup> Perry Kamara, Transcript 6 February 2008, pp. 3218-3219.

<sup>7059</sup> Perry Kamara, Transcript 6 February 2008, p. 3219.

<sup>7060</sup> Perry Kamara, Transcript 6 February 2008, p. 3246.

<sup>7061</sup> Perry Kamara, Transcript 6 February 2008, p. 3224.

<sup>7062</sup> Perry Kamara, Transcript 6 February 2008, pp. 3225-3226.

<sup>7063</sup> Perry Kamara, Transcript 6 February 2008, pp. 3227-3228.

<sup>7064</sup> Perry Kamara, Transcript 6 February 2008, p. 3233.

3182. Kamara stated that Massaquoi's role after he was released was to contribute to the organisation of fighters and that he was involved in organisational meetings held by Gullit, Bazzy, Five-Five and others.<sup>7065</sup> Massaquoi reported on the military situation and meetings held in Freetown to Sam Bockarie in Buedu. Kamara did not know whether Sam Bockarie ever gave any orders to Massaquoi.<sup>7066</sup>

3183. Kamara testified that in order to enable communications when the troops first entered Freetown, he entered one of the NGO offices and took one Yeasu radio which he used to update Bockarie concerning all of the events since SAJ Musa moved to Rosos to the time they entered Freetown. He noted that from this radio, Alfred Brown and Gibril Massaquoi used to send information about events in Freetown.<sup>7067</sup>

3184. Kamara explained that as the "authorities" became settled at the State House, they were able to communicate with Sam Bockarie. Kamara testified that when Gullit told Bockarie that they had been able to capture State House, National Stadium and Pademba Road Prison, in response, Bockarie "urged" Gullit to "do as a military man" and provide security for the persons released from Pademba Road. According to Kamara, Gullit used to transmit messages to Bockarie concerning "whatever activities that was going on".<sup>7068</sup> Kamara monitored conversations between Bockarie and Gullit and recorded the relevant information in a logbook. Further, if Gullit omitted any details it was Kamara's job to inform Bockarie.<sup>7069</sup>

3185. Kamara further testified that as Bockarie told Gullit that there was no prison for ECOMOG, any captured ECOMOG soldiers should be killed. Kamara stated that captured fighters were executed under the cotton tree near State House.<sup>7070</sup>

3186. Kamara testified that while they were occupying State House as part of the Freetown attack, ECOMOG was bombarding State House from the air, and they would receive "448" warnings over the radio from Buedu every two hours.<sup>7071</sup>

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<sup>7065</sup> Perry Kamara, Transcript 6 February 2008, p. 3257.

<sup>7066</sup> Perry Kamara, Transcript 6 February 2008, pp. 3257-3258 ("Alfred Brown used to come. Bockarie – sorry, Gibril Massaquoi himself was coming and had to send some more information about what had been happening and the discussion by Gullit, that was going on through my radio communications set").

<sup>7067</sup> Perry Kamara, Transcript 6 February 2008, pp. 3228-3229.

<sup>7068</sup> Perry Kamara, Transcript 6 February 2008, p. 3229.

<sup>7069</sup> Perry Kamara, Transcript 6 February 2008, pp. 3229-3230.

<sup>7070</sup> Perry Kamara, Transcript 6 February 2008, pp. 3230-3231.

3187. Kamara stated that Gullit's troops only occupied State House for about a day or two before they had to retreat. During this period, they would send situation reports to Bockarie daily, "every morning, every afternoon, every evening", concerning the threat posed by ECOMOG. Bockarie would then give the troops in Freetown instructions, such as: "Make that area fearful. Go and destroy Kissy Terminal. [...] Go and set road blocks at this and that place; places that are government owned".<sup>7072</sup> Kamara explained:

Well, what I knew if before we entered Freetown if we had a message that we should make an area fearful it was to destroy, kill, amputate, destroy bridges, set road blocks. That was the meaning of making an area fearful. And in that message he talked about some areas as well and it was not just one message. I spoke about Kissy, Kissy Road, Kissy Terminal and the ferry and some other important areas.<sup>7073</sup>

3188. Kamara also testified that Bockarie gave specific instructions to attack certain areas, such as the Kissy Terminal refinery, which was burnt.<sup>7074</sup> Kamara stated that these atrocities did not stop ECOMOG from attacking. Bockarie told the troops to make the area fearful because "the international body would intervene and maybe [...] start calling for peace talks".<sup>7075</sup>

3189. Kamara stated that, confronted with ECOMOG's greater firepower, Gullit's troops retreated, first to Upgun turntable and then to Shell Road.<sup>7076</sup> Kamara testified that in reaction to this, Bockarie sent a message that the troops should move to Waterloo and join fighters led by Morris Kallon, Issa Sesay, Denis Mingo (a.k.a. Superman) and RUF Rambo in Waterloo.<sup>7077</sup> The group in Waterloo comprised AFRC, RUF and some STF troops.<sup>7078</sup> Bockarie stated that the troops at Waterloo had come as reinforcements for Gullit's troops; their intent was to enter Freetown.<sup>7079</sup> Kamara believed that if these reinforcements had met Gullit outside Freetown before 6 January 1999, they would have entered Freetown together.<sup>7080</sup> According to Kamara, in order to "clear the route" for the troops led by Kallon

<sup>7071</sup> Perry Kamara, Transcript 6 February 2008, pp. 3231, 3236.

<sup>7072</sup> Perry Kamara, Transcript 6 February 2008, pp. 3231-3232.

<sup>7073</sup> Perry Kamara, Transcript 6 February 2008, pp. 3234-3235.

<sup>7074</sup> Perry Kamara, Transcript 6 February 2008, p. 3235.

<sup>7075</sup> Perry Kamara, Transcript 6 February 2008, p. 3236.

<sup>7076</sup> Perry Kamara, Transcript 6 February 2008, p. 3234.

<sup>7077</sup> Perry Kamara, Transcript 6 February 2008, pp. 3234, 3237, 3245.

<sup>7078</sup> Perry Kamara, Transcript 6 February 2008, p. 3245.

<sup>7079</sup> Perry Kamara, Transcript 6 February 2008, p. 3236.

<sup>7080</sup> Perry Kamara, Transcript 6 February 2008, p. 3237.

and Sesay to enter Freetown, Gullit's men had to attack Kossoh Town with Superman's group.<sup>7081</sup> However, Gullit did not send troops to Kossoh Town.<sup>7082</sup>

3190. The troops waiting at Waterloo did attack Kossoh Town, but were unable to capture it. Among that group they had an AFRC "strong fighter" known as Rambo Red Goat. He was able to gather a group of fifteen fighters and bypass ECOMOG to join Kamara's group and the troops in Freetown at Kissy Road. Rambo Red Goat informed the fighters in Freetown that the Waterloo group was unsuccessful in taking Kossoh Town.<sup>7083</sup> The day that this group arrived, Gullit passed an order to burn everything that the troops could not carry in preparation for retreat.<sup>7084</sup> Rambo Red Goat stated that he had not entered Freetown simply to retreat and said he would stay in Freetown. Red Goat, Striker, the Red Lion Battalion Commander along with other troops under Gullit's command stayed in Freetown while others, including the witness, went to Waterloo to reorganise.<sup>7085</sup> There were more than 4,000 rebels in Freetown at that stage, although most of them were unarmed, especially those who had been released from Pademba Road Prison. The witness did not recall how many men stayed in Freetown, although it was a sizeable number.<sup>7086</sup>

3191. The decision to allow Rambo Red Goat, Striker and the "manpower" with them to stay in Freetown was discussed between Bockarie and Gullit.<sup>7087</sup> Bockarie told Gullit that he believed Gullit should leave Freetown but should "make the area fearful" until they came back and reorganised themselves. He also instructed Gullit to bring the prominent prisoners released from Pademba Road Prison to Waterloo and dispatch them to Bockarie. Bockarie stated "and then we will re-organise and regain Freetown".<sup>7088</sup> Gullit ordered Red Goat to make the area fearful after leaving him in charge of Freetown.<sup>7089</sup> The group that had remained in Freetown did not have a radio but the witness heard on commercial radio that

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<sup>7081</sup> Perry Kamara, Transcript 6 February 2008, pp. 3234, 3237.

<sup>7082</sup> Perry Kamara, Transcript 6 February 2008, p. 3237.

<sup>7083</sup> Perry Kamara, Transcript 6 February 2008, pp. 3237-3238.

<sup>7084</sup> Perry Kamara, Transcript 6 February 2008, p. 3238.

<sup>7085</sup> Perry Kamara, Transcript 6 February 2008, p. 3239.

<sup>7086</sup> Perry Kamara, Transcript 6 February 2008, pp. 3238-3239.

<sup>7087</sup> Perry Kamara, Transcript 6 February 2008, pp. 3239, 3241-3242.

<sup>7088</sup> Perry Kamara, Transcript 6 February 2008, pp. 3241-3242.

<sup>7089</sup> Perry Kamara, Transcript 6 February 2008, pp. 3241-3242.

“these rebels” were amputating and killing civilians, raping, and burning houses. They eventually retreated from Freetown and joined other men in Waterloo.<sup>7090</sup>

3192. Kamara believed that he spent almost two weeks in Freetown before leaving for Waterloo.<sup>7091</sup> O-Five was among the group that returned to Waterloo.<sup>7092</sup>

3193. The purpose of returning to Waterloo was to regroup and re-attack Freetown.<sup>7093</sup> After Gullit’s contingent arrived at Waterloo, commanders Issa Sesay, Denis Mingo, Morris Kallon, and RUF Rambo were also there. Kamara stated that at Waterloo “they held a meeting and we were able to reorganise to re-attack Kossoh Town and we attacked twice but we couldn’t make it”.<sup>7094</sup> During their time at Waterloo, Gullit also sent the prisoners released from Pademba Road directly to Makeni.<sup>7095</sup> Sam Bockarie requested that one of the prisoners, Hilton Fyle, a radio broadcaster be taken by Issa Sesay to Buedu. After the prisoners were released they were considered part of the RUF.<sup>7096</sup>

3194. Gullit’s troops were at Waterloo for some time during which ECOMOG intensified their attack on Rambo Red Goat in Freetown, and also commenced attacking the contingents at Waterloo.<sup>7097</sup> Gullit’s contingent left Waterloo and retreated to Four Mile, Six Mile, up to Songo Junction going towards Masiaka. After some days, Rambo Red Goat withdrew all his troops from Freetown.<sup>7098</sup> The witness himself made his way to Masiaka, Makeni and then later Lunsar where he established himself with Superman.<sup>7099</sup> Rambo Red Goat had also retreated to join “the other men” in Waterloo. The troops at Waterloo then went to Four Mile and Six Mile, and later came “and spread out” at Masiaka.<sup>7100</sup> Rather than using the main road when they retreated from Freetown, Rambo Red Goat and his troops travelled through the bush to Waterloo.<sup>7101</sup> On cross-examination, Kamara testified that he did not believe that the decision of the majority of the Gullit troops not to follow Bockarie’s instructions for the

<sup>7090</sup> Perry Kamara, Transcript 6 February 2008, pp. 3250-3252.

<sup>7091</sup> Perry Kamara, Transcript 6 February 2008, p. 3242.

<sup>7092</sup> Perry Kamara, Transcript 6 February 2008, p. 3244.

<sup>7093</sup> Perry Kamara, Transcript 6 February 2008, p. 3245.

<sup>7094</sup> Perry Kamara, Transcript 6 February 2008, p. 3245.

<sup>7095</sup> Perry Kamara, Transcript 6 February 2008, p. 3253.

<sup>7096</sup> Perry Kamara, Transcript 6 February 2008, pp. 3253-3254.

<sup>7097</sup> Perry Kamara, Transcript 6 February 2008, p. 3245.

<sup>7098</sup> Perry Kamara, Transcript 6 February 2008, pp. 3245-3246.

<sup>7099</sup> Perry Kamara, Transcript 6 February 2008, p. 3250.

<sup>7100</sup> Perry Kamara, Transcript 6 February 2008, p. 3250.

<sup>7101</sup> Perry Kamara, Transcript 6 February 2008, pp. 3250-3251.



troops to stay in Waterloo to wait for the reinforcement was disobedience to Bockarie per se. Gullit exercised his discretion and judgement as to whether those reinforcements were necessary. Kamara pointed out that Gullit duly reported to Bockarie on capturing the State House.<sup>7102</sup> Kamara disagreed with the suggestion of Defence counsel that Bockarie was dissatisfied with the troops entering Freetown without waiting.<sup>7103</sup>

3195. The witness confirmed a prior statement in which he had stated that he was monitoring the radio when Superman called Bockarie in Buedu to inform him that he was now in Waterloo and that Bockarie should instruct Gullit to send a team from Freetown to receive his reinforcements. In that prior statement, Kamara stated that this did not occur as Gullit was unable to maintain sufficient command and control. Kamara explained that Gullit was unable to assemble men to receive the reinforcements because his forces was scattered across the city.<sup>7104</sup>

#### Prosecution Witness Isaac Mongor

3196. Witness Isaac Mongor, an RUF commander,<sup>7105</sup> testified that he knew Gullit from the time the RUF joined the AFRC in Freetown.<sup>7106</sup> During the Junta period Gullit was in charge of mining in Kono. When the troops were pulling out from Freetown, Gullit moved from Kono to Buedu.<sup>7107</sup> Although he was not in Buedu<sup>7108</sup> while Gullit and Bockarie were both there, he heard from Gullit that he and Bockarie had a cordial relationship. Mongor stated that Gullit had plans to go to SAJ Musa and convince him to come to Buedu to talk as he told Bockarie that SAJ Musa was his “own SLA brother”. So Gullit came back to Koidu where the witness was, stayed the night and then moved to Koinadugu to join SAJ Musa.<sup>7109</sup>

3197. Mongor also recalled that after Makeni was captured, Superman moved, attacked and succeeded in capturing Lunsar, while SAJ Musa and Alfred Brown moved towards Freetown and arrived in Masiaka. Brown contacted Mongor, telling him that they were in

<sup>7102</sup> Perry Kamara, Transcript 7 February 2008, p. 3384 (PS).

<sup>7103</sup> Perry Kamara, Transcript 7 February 2008, p. 3385 (PS).

<sup>7104</sup> Perry Kamara, Transcript 7 February 2008, p. 3388 (PS).

<sup>7105</sup> See, for example, Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March 2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>7106</sup> Isaac Mongor, Transcript 11 March 2008, p. 5816.

<sup>7107</sup> Isaac Mongor, Transcript 11 March 2008, p. 5817.

<sup>7108</sup> The witness said that he could not give any specific time frame for when Gullit was in Buedu before he returned to Koidu.

Masiaka, that their next target was Waterloo and that he would contact Mongor again when they arrived there. Mongor understood that they had captured Masiaka and were resting before moving to the next target.<sup>7110</sup> SAJ Musa's forces moved towards Waterloo but the witness heard that they did not reach Waterloo and that Musa had died in Benguema. The witness also heard that it was Gullit who took over the command.<sup>7111</sup>

3198. Mongor heard that SAJ Musa died in an attack on the barracks at Benguema. Mongor stated that he "felt relieved" and "happy" when he heard that SAJ Musa had been killed because there was a power struggle between SAJ Musa and Bockarie and Mongor himself did not have a good relationship with SAJ Musa. He was also happy because Gullit did have a very good relationship with Bockarie and "they were doing things together".<sup>7112</sup>

3199. Mongor testified that before Gullit and his men moved to Freetown, Bockarie sent a message to Gullit to wait for reinforcements. Mongor stated that Gullit and his fighters were in Waterloo when this message was received. Mongor stated that after SAJ Musa's death,<sup>7113</sup> he had himself been instructed by Bockarie to move to Kailahun and then to Kono to collect more fighters to reinforce the troops going to Freetown.<sup>7114</sup> Mongor stated that Bockarie wanted Gullit to wait for these reinforcements to arrive so that they could enter Freetown together but, having realised that there would be a delay in these reinforcements arriving, Gullit advanced and entered Freetown without waiting.<sup>7115</sup> Mongor testified that, however, Rambo and other fighters in Makeni advanced with Superman to Waterloo, fighting ECOMOG on the way. They then advanced towards Jui, in the Hastings area.<sup>7116</sup> Gullit's troops used the hillside bypass to enter Freetown.<sup>7117</sup> The witness himself began moving towards Kailahun but stopped at Jojoima because he heard that Gullit's troops had entered

<sup>7109</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5817-5818.

<sup>7110</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5805, 5815-5816.

<sup>7111</sup> Isaac Mongor, Transcript 11 March 2008, p. 5816.

<sup>7112</sup> Isaac Mongor, Transcript 11 March 2008, p. 5818.

<sup>7113</sup> Isaac Mongor, Transcript 7 April 2008, p. 6752.

<sup>7114</sup> Isaac Mongor, Transcript 11 March 2008, p. 5819. Note that although the transcript records Mongor as stating that SAJ Musa gave him this instruction, when asked to confirm that this was so, Mongor states that he never referred to SAJ Musa, and notes that it was Bockarie that gave him this instruction (Transcript 11 March 2008, pp. 5821-5822). He confirmed in cross-examination that SAJ Musa was already dead by this point and that he used the wrong name initially (Transcript 7 April 2008, pp. 6752-6753).

<sup>7115</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5819-5822.

<sup>7116</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5819-5820.

<sup>7117</sup> Isaac Mongor, Transcript 11 March 2008, p. 5820.

Freetown. When Superman and others got to Waterloo, they fought with ECOMOG.<sup>7118</sup> Mongor testified that when he and his troops heard on the BBC on 6 January 1999 that Gullit's troops had entered Freetown, "we were happy and we were jubilating in all the areas".<sup>7119</sup> After this, Mongor did not continue towards Freetown but remained on the defensive.<sup>7120</sup>

3200. When asked whether he was able to accomplish his assignment, to attack Joru and Zimmi, as determined in the meeting in November 1998 in Buedu before the offensive, Mongor stated that he was able to occupy Joru for three days before his group was pushed out. He was not able to advance to the next target, Zimmi.<sup>7121</sup>

3201. Mongor further testified that when he was monitoring the radio while the troops were in Freetown, he heard a number of exchanges between Gullit and Bockarie. He heard Gullit tell Bockarie that his group had released various members of the RUF incarcerated at Pademba Road Prison, including Gibril Massaquoi, and that "they all joined hands together in the fighting".<sup>7122</sup> Mongor testified that he heard Gibril Massaquoi telling Superman and Bockarie over the radio when he was released from prison that he was fighting alongside Gullit's troops in Freetown.<sup>7123</sup>

3202. Mongor also heard over the radio Gullit telling Bockarie that there was much resistance from ECOMOG troops, and asked for reinforcements. However, because Rambo and his group on the Hastings side of Freetown were unable to get into Freetown, Gullit's forces decided to retreat. Bockarie instructed Gullit that if they were unable to hold their ground in Freetown they should start a campaign of destruction.<sup>7124</sup> Specifically, Mongor stated that he heard Bockarie on the radio ordering the Nigerian Embassy to be burnt.<sup>7125</sup> Mongor personally heard these radio conversations, which were not encoded. Gullit called Bockarie "Sir" when they communicated over the radio during the attack because Gullit

<sup>7118</sup> Isaac Mongor, Transcript 11 March 2008, p. 5822.

<sup>7119</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5822-5823.

<sup>7120</sup> Isaac Mongor, Transcript 11 March 2008, p. 5823.

<sup>7121</sup> Isaac Mongor, Transcript 11 March 2008, p. 5824.

<sup>7122</sup> Isaac Mongor, Transcript 11 March 2008, p. 5824.

<sup>7123</sup> Isaac Mongor, Transcript 11 March 2008, p. 5827.

<sup>7124</sup> Isaac Mongor, Transcript 11 March 2008, p. 5825.

<sup>7125</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5825-5826, 6161.





knew Bockarie's position as "Chief of Defence". Gullit communicated with Bockarie frequently, at half-hourly intervals.<sup>7126</sup>

3203. Additionally, when the fighters entered Freetown, Mongor heard the radio base in Buedu as well as the monitoring team in Liberia sent out 448 jet warnings over the radio to alert those in Freetown.<sup>7127</sup>

3204. Once ECOMOG concentrated its forces on defending the city, Gullit's men could not withstand the pressure from ECOMOG and prepared for retreat. They received instruction from Sam Bockarie that they should set buildings on fire, including the Nigerian Embassy.<sup>7128</sup> Gullit's men withdrew from Freetown to the Waterloo area.<sup>7129</sup>

3205. While Gullit's forces were fighting in Freetown, fighting was also taking place in the Hastings area between Rambo's group against ECOMOG and the Kamajors.<sup>7130</sup> Mongor testified that this was of strategic importance to Gullit's forces in Freetown because it was a forested and hilly area. When Rambo engaged the ECOMOG forces in the area, the men who retreated from Freetown were able to use the forest to come towards the Waterloo area.<sup>7131</sup>

3206. Finally, Mongor testified that relations between the AFRC and the RUF were cordial and that they had an understanding at that time that they were together as one.<sup>7132</sup>

3207. On cross-examination, Mongor denied that the invasion of Freetown was exclusively the initiative of the AFRC, affirming his evidence in examination-in-chief that the invasion of Freetown was a plan brought by Bockarie from Charles Taylor and that plan did not envisage a specific group going to Freetown.<sup>7133</sup> Mongor conceded that throughout the relationship between the RUF and AFRC there were problems but he believed that these problems were manageable.<sup>7134</sup>

<sup>7126</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5825-5826.

<sup>7127</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5826-5827.

<sup>7128</sup> Isaac Mongor, Transcript 31 March 2008, p. 6161.

<sup>7129</sup> Isaac Mongor, Transcript 11 March 2008, p. 6162.

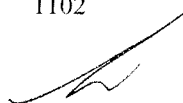
<sup>7130</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5831-5832.

<sup>7131</sup> Isaac Mongor, Transcript 31 March 2008, p. 6162.

<sup>7132</sup> Isaac Mongor, Transcript 11 March 2008, pp. 6162-6163.

<sup>7133</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6720-6721.

<sup>7134</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6721-5722.





Prosecution Witness TF1-371

3208. Witness TF1-371, an RUF member,<sup>7135</sup> testified that when ECOMOG attacked Freetown in mid-February 1998, Gullit was in Kono,<sup>7136</sup> and subsequently travelled from Kono to Kailahun.<sup>7137</sup> According to TF1-371, when Johnny Paul Koroma arrived in Buedu after the Intervention, he advised Bockarie to take the diamonds that were in Gullit's possession to pay for rice for the army and RUF combatants.<sup>7138</sup> Bockarie then mandated Issa Sesay to proceed to Kailahun, meet with Gullit and take diamonds from him.<sup>7139</sup> When Sesay returned to Buedu, he turned over the diamonds to Bockarie. Bockarie tried to interrogate Gullit but they were "very good friends", so Bockarie did not implement the instructions from Johnny Paul Koroma to sanction Gullit and instead told Gullit not to leave Buedu. Gullit stayed at the house of one of the other AFRC Honourables who was in Buedu.<sup>7140</sup> While Johnny Paul Koroma was still staying at Bockarie's house in Buedu, Gullit asked Bockarie for leave to go back to Kailahun Town, which he did.<sup>7141</sup>

3209. TF1-371 testified that AFRC fighters, led by Gullit and Five-Five, attacked the State House in Freetown on 6 January 1999. According to TF1-371, Gullit contacted Bockarie, informing Bockarie that he was already at the State House, and they had a discussion over the VHF radio. After an intense counter-attack, Bockarie told Gullit that he should not be concerned and that "the RUF is already on the way to give them support".<sup>7142</sup>

3210. TF1-371 stated that ECOMOG repelled the AFRC as far as Kissy, and that the AFRC troops were trapped. TF1-371 testified that Bockarie ordered Boston Flomo (a.k.a. Rambo), who was in Waterloo, to link up with the AFRC troops, in the eastern part of Freetown. TF1-371 stated that they were successful in doing so. While the AFRC troops were able to resist ECOMOG for some time, they eventually retreated to Waterloo along with some of the prisoners freed from Pademba Road Prison, including Joseph Momoh.<sup>7143</sup> TF1-371 testified that there was a misunderstanding between the AFRC and the RUF that

<sup>7135</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>7136</sup> TF1-371, Transcript 28 January 2008, pp. 2312, 2335, 2349 (CS).

<sup>7137</sup> TF1-371, Transcript 28 January 2008, p. 2365 (CS).

<sup>7138</sup> TF1-371, Transcript 28 January 2008, p. 2364 (CS).

<sup>7139</sup> TF1-371, Transcript 28 January 2008, pp. 2364-2365 (CS).

<sup>7140</sup> TF1-371, Transcript 28 January 2008, pp. 2365-2366 (CS).

<sup>7141</sup> TF1-371, Transcript 28 January 2008, p. 2366 (CS).

<sup>7142</sup> TF1-371, Transcript 28 January 2008, p. 2426 (CS).

resulted in Gullit, Bazzy Kamara and other AFRC fighters going to Okra Hill instead of joining RUF fighters in Masiaka “so there was a split at that point in time”. Rambo’s troops retreated from Waterloo to Lunsar, where Denis Mingo was stationed.<sup>7144</sup> The part of the AFRC that was led by Gullit and Bazzy fell out with the RUF at Waterloo and their relationship was not mended throughout 1999.<sup>7145</sup>

3211. There were media reports on the BBC and the VOA at this time concerning the situation in Freetown as the RUF and AFRC were retreating. They reported on carnage in the city, the burning of houses and the killing and amputating of civilians. This was consistent with Sam Bockarie’s description of “Operation No Living Thing”. Bockarie was interviewed by the BBC via satellite phone, during which he mentioned operations “No Living Thing”, “Spare No Soul” and “No Bush Shake”. Operation “No Bush Shake” referred to Bockarie’s policy of zero tolerance of resistance.<sup>7146</sup>

3212. On cross-examination, TF1-371 testified that while he considered that the decision of the AFRC to enter Freetown in January 1999 without waiting for the RUF to be hasty, he did not consider the division to be serious.<sup>7147</sup> Generally, TF1-371 testified that it was not difficult for Bockarie to control commanders on the ground, but he did concede that there were isolated instances when Bockarie could not control Superman, Gullit and Bazzy.<sup>7148</sup>

3213. TF1-371 stated on cross-examination that while the attack on Freetown was planned by Sankoh and the RUF, the initiative in carrying out the invasion was taken by the AFRC troops led by, among others, Gullit and SAJ Musa. The witness agreed with Defence counsel’s proposition that the RUF “effectively tagged on on the tail end”.<sup>7149</sup> TF1-371 further confirmed that during the Freetown invasion on 6 January 1999, Bockarie was in Buedu, Issa Sesay was in Makeni and none of the senior leaders of the RUF, including Morris Kallon and Superman, went to Freetown and the 1999 Freetown invasion was an SLA-led initiative.<sup>7150</sup>

<sup>7143</sup> TF1-371, Transcript 28 January 2008, pp. 2426-2427 (CS).

<sup>7144</sup> TF1-371, Transcript 28 January 2008, pp. 2427-2428 (CS).

<sup>7145</sup> TF1-371, Transcript 30 January 2008, pp. 2613-2616 (CS).

<sup>7146</sup> TF1-371, Transcript 28 January 2008, pp. 2428-2429 (CS).

<sup>7147</sup> TF1-371, Transcript 30 January 2008, p. 2613 (CS).

<sup>7148</sup> TF1-371, Transcript 30 January 2008, pp. 2616-2618 (CS).

<sup>7149</sup> TF1-371, Transcript 30 January 2008, pp. 2643-2644 (CS).

<sup>7150</sup> TF1-371, Transcript 1 February 2008, pp. 2812-2813 (CS).

3214. While he recalled hearing a message from a radio operator that SAJ Musa had died on his way to Freetown, TF1-371 stated that he was not with SAJ Musa's group and did not know much about their movements in December 1998 and January 1999 as they made their way to Freetown.<sup>7151</sup> TF1-371 stated that the direct contact between Gullit and Bockarie of which he was aware took place when Gullit was already in the State House.<sup>7152</sup>

3215. However, TF1-371 disagreed with the proposition that the Freetown attack was planned by a renegade group that only contacted the RUF once they ran into problems. TF1-371 conceded that the AFRC "went to Freetown on their own" but stated that the RUF already had "their own in-house planning" from the time they heard about the treason trial, but that they did not have the arms and ammunition necessary to conduct such an operation. The witness explained that:

I mean while those guys were having their separate operation, Sam Bockarie actually had his operation to go to Freetown after he came, I mean, from that trip.

In fact he came out with the two axis, two approach to attack Freetown. [...] Those guys' operations were separate. I mean they may have their own agenda, but the RUF at that particular point in time had this plan and that was why Sam Bockarie went for those materials.<sup>7153</sup>

3216. During cross-examination, TF1-371 also confirmed the statement in Exhibit D-009 which stated that during the Freetown operation, as Gullit's troops were cut off from the rear, Bockarie coordinated the positions of the fighters over the radio. Bockarie ordered them to combine their forces and to join RUF troops at Benguema and Waterloo.<sup>7154</sup> TF1-371 also affirmed, after being shown the statement in Exhibit D-009 concerning Gibril Massaquoi's refusal to comply with Bockarie's instruction to go to Buedu after his release from Pademba Road Prison, that there were tensions between Bockarie and fighters such as Gibril Massaquoi. However, TF1-371 indicated that the description of events in Exhibit D-009 is exaggerated, and that merely because there was a "misunderstanding" between these personalities did not mean that the RUF was not a cohesive group.<sup>7155</sup>

#### Prosecution Witness TF1-375

<sup>7151</sup> TF1-371, Transcript 30 January 2008, p. 2647 (CS).

<sup>7152</sup> TF1-371, Transcript 30 January 2008, p. 2648 (CS).

<sup>7153</sup> TF1-371, Transcript 30 January 2008, pp. 2648-2649 (CS).

<sup>7154</sup> TF1-371, Transcript 1 February 2008, pp. 2866-2877 (CS).

<sup>7155</sup> TF1-371, Transcript 1 February 2008, pp. 2868-2881 (CS).

3217. Witness TF1-375, an RUF fighter,<sup>7156</sup> testified that after the Red Lion Battalion found and joined Gullit, Alfred Brown, Gullit's radio operator called SAJ Musa and Superman in Koinadugu telling them that they had met up successfully. Brown said

“Oh, we have received our brothers here. Our brothers have reached us here and we are happy to receive them”. So they called Superman and Superman also called Bockarie's radio station in Kailahun that, “The men who had been sent to go and look for Gullit have arrived safely and that I have just received communication from CO Alfred”, and CO Alfred was the communications man for the RUF at that time. So, when they got there they called - CO Alfred called. Everybody was happy.<sup>7157</sup>

3218. The witness explained that CO Alfred was a former NPFL fighter who later came to the RUF. He was not an SLA.<sup>7158</sup>

3219. TF1-375 testified that the RUF attacked Makeni in December 1998. He was there but he did not take part in a physical battle. The commanders of the forces attacking Makeni were from the group of Denis Mingo (a.k.a. Superman).<sup>7159</sup> Superman's group and Issa Sesay's group joined forces to attack the Makeni Teko barracks. Makeni was defended by Nigerian ECOMOG. It took three days for the fighting to finish.<sup>7160</sup> The witness was aware of what was occurring in the fighting on the radio, because it was directly reported to Issa Sesay.<sup>7161</sup>

3220. The witness and an advance team led by Komba Gbundema left Superman in Makeni and went to Lunsar.<sup>7162</sup> TF1-375 testified that the group advanced to Lunsar within about five days.<sup>7163</sup> He testified that the day after arriving at Lunsar, Superman joined them and informed the troops that “the people in front of us have encountered problem”. The troops at Lunsar understood that SAJ Musa had been killed at the Benguema barracks and that “we should try and get to them”.<sup>7164</sup> TF1-375 stated that while some of the SLAs were saddened by the news, some of the RUF, including Superman and Komba Gbundema, were happy because they felt SAJ Musa was ambitious for power.<sup>7165</sup> TF1-375 learned that Ibrahim

<sup>7156</sup> TF1-375, Transcript 23 June 2008, p. 12485.

<sup>7157</sup> TF1-375, Transcript 24 June 2008, pp. 12574-12575.

<sup>7158</sup> TF1-375, Transcript 24 June 2008, p. 12575.

<sup>7159</sup> TF1-375, Transcript 24 June 2008, pp. 12594-12595.

<sup>7160</sup> TF1-375, Transcript 24 June 2008, pp. 12597-12599.

<sup>7161</sup> TF1-375, Transcript 24 June 2008, pp. 12595-12597.

<sup>7162</sup> TF1-375, Transcript 24 June 2008, pp. 12593-12595.

<sup>7163</sup> TF1-375, Transcript 24 June 2008, p. 12600.

<sup>7164</sup> TF1-375, Transcript 24 June 2008, pp. 12592-12593.

<sup>7165</sup> TF1-375, Transcript 24 June 2008, p. 12593.



Kamara (a.k.a. Bazzy) took over leadership from SAJ Musa. Gullit was there with them at the time. Gullit had a good relationship with Superman at this time, and began communicating after the death of SAJ Musa. Once Superman joined Gbundema at Lunsar, the troops attacked Gberi Junction.<sup>7166</sup>

3221. When TF1-375 went to Lunsar, the troops previously commanded by SAJ Musa were in Waterloo. TF1-375 heard that these forces attacked Masiaka, and from there Waterloo, and then Benguema Barracks.<sup>7167</sup> When the witness had reached Masiaka, and Superman was at Gberi Junction, Superman informed them that Bazzy's forces had attacked Hastings and were ready to enter Freetown. Superman came to the front line and led the forces to Waterloo. Superman said that they should try to open the road to Freetown, to join their "friends and brothers" in the city.<sup>7168</sup> The witness also heard from one of Issa Sesay's bodyguards, who joined the operation in Waterloo and from Rambo and others that the forces formerly led by SAJ Musa had continued to Kossoh Town, Calaba Town and were headed for the State House.<sup>7169</sup> They invaded 6 January 1999.<sup>7170</sup>

3222. The witness heard from Superman and others that the forces entered Freetown. When they passed Waterloo, the witness stopped in Yams Farm, where he could view the capital city, and saw that there were houses burning and fighting in Freetown.<sup>7171</sup> They also heard over the BBC Bockarie making a threatening remark regarding Freetown. The witness was not always present in the radio room when Superman and Sam Bockarie communicated; however, Superman said that Sam Bockarie will always be on the BBC and that the witness should listen.<sup>7172</sup> The commanders of the forces that entered Freetown were Gullit and Bazzy. TF1-375 testified that Bazzy was senior to Gullit.<sup>7173</sup>

3223. At Waterloo, Superman, Issa Sesay, Komba Gbundema and other senior officers decided that RUF Rambo should take a group to attack Hastings and get across the bridge to

<sup>7166</sup> TF1-375, Transcript 24 June 2008, pp. 12593-12594.

<sup>7167</sup> TF1-375, Transcript 24 June 2008, pp. 12603-12604.

<sup>7168</sup> TF1-375, Transcript 24 June 2008, pp. 12604-12605.

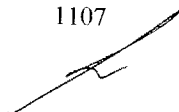
<sup>7169</sup> TF1-375, Transcript 24 June 2008, pp. 12605-12606.

<sup>7170</sup> TF1-375, Transcript 24 June 2008, p. 12617.

<sup>7171</sup> TF1-375, Transcript 24 June 2008, pp. 12606-12607.

<sup>7172</sup> TF1-375, Transcript 24 June 2008, p. 12607.

<sup>7173</sup> TF1-375, Transcript 24 June 2008, p. 12607.





go to Freetown to join their “brothers”.<sup>7174</sup> Issa Sesay appointed an AFRC commander known as Rambo Red Goat to lead the group that went to Freetown because, as Sesay stated, Rambo Red Goat was once an SLA soldier and “knew his brothers in the city well”.<sup>7175</sup> The group led by Rambo Red Goat numbered roughly 60 to 65 and comprised some RUF men, some SLA and some STF. The RUF were armed by Issa Sesay and Superman, the STF were armed by General Bropleh and the SLA were armed by Brigadier Mani and Colonel T.<sup>7176</sup>

3224. TF1-375 also testified that while Rambo Red Goat was initially on SAJ Musa’s side in Musa’s dispute with Superman in late 1998, when SAJ Musa left Koinadugu, Red Goat “surrendered to” Superman, and was received well.<sup>7177</sup>

3225. TF1-375 testified that he was in Jui, a stronghold for ECOMOG, when Red Goat was dispatched to Freetown. The forces could not cross the bridge connecting Jui and Freetown, which was well defended by ECOMOG.<sup>7178</sup> Rambo Red Goat’s group instead entered Freetown by way of an old road at the back of Jui that led to Kossoh Town. After Red Goat’s group set off, the witness’s contingent went back to Yams Farm and stayed there for a week before retreating.<sup>7179</sup> The witness learned later, when Red Goat’s group called, that the troops in Freetown had taken over the State House and Pademba Road Prison and freed the RUF and AFRC members imprisoned there, including Gibril Massaquoi. The witness was monitoring this call directly. Alfred Brown was the radio man in Freetown, although Gullit was always in the radio room calling Superman or Bockarie directly.<sup>7180</sup> At the same time, the witness also heard Bockarie speaking over the BBC that “any contingent that attacked his forces in Freetown he will command his forces to burn all the embassies down”.<sup>7181</sup>

3226. These forces stayed in Freetown for two weeks. When they retreated, they started to burn down houses and abducted a large number of girls. Bockarie called Superman and informed Superman that he had received a call from Gullit who said that his forces were

<sup>7174</sup> TF1-375, Transcript 24 June 2008, p. 12608.

<sup>7175</sup> TF1-375, Transcript 24 June 2008, p. 12609.

<sup>7176</sup> TF1-375, Transcript 24 June 2008, p. 12610.

<sup>7177</sup> TF1-375, Transcript 24 June 2008, p. 12581.

<sup>7178</sup> TF1-375, Transcript 24 June 2008, pp. 12609-12610.

<sup>7179</sup> TF1-375, Transcript 24 June 2008, pp. 12610-12611.

<sup>7180</sup> TF1-375, Transcript 24 June 2008, p. 12612.

<sup>7181</sup> TF1-375, Transcript 24 June 2008, p. 12612

running out of ammunition and that Gullit's forces would need protection while they were retreating from ECOMOG.<sup>7182</sup> Bockarie "instructed Superman and [...] Issa Sesay to defend Gberi Junction, Benguema barracks and Waterloo so as to give free passage to the forces that were in Freetown, that is Gullit and others, whilst they were retreating".<sup>7183</sup>

3227. The forces in Freetown called for the TF1-375's group to join them, but they were unable to find a passage into Freetown and told the troops in Freetown to retreat.<sup>7184</sup> The retreating forces went from Grafton, to the Peninsula, through the mountains and then to Waterloo. Steve Bio died on the Peninsula route. During the retreat, the witness' group defended Waterloo, Klay, Benguema Barracks, and Gberi Junction, preventing the Guinean contingent at Porto Loko from taking Gberi Junction. The Nigerian contingent from Jui was attacking Klay, which was being defended by Superman and Rambo. Komba Gbundema went and repelled the attack on Gberi Junction.<sup>7185</sup>

#### Prosecution Witness Komba Sumana

3228. Komba Sumana testified that in 1998, after a conflict between SAJ Musa and Superman, SAJ Musa left Koinadugu. Superman remained the commander and General Bropleh the deputy. Later, SAJ Musa communicated to them that he was to move with Five-Five to Freetown and requested Superman's group to move to Makeni.<sup>7186</sup> The witness and others successfully attacked and captured Makeni, driving out ECOMOG and capturing "everything" from them.<sup>7187</sup>

3229. Describing any news about SAJ Musa's group he heard while in Makeni, the witness stated:

Well, at the time that we were there we heard communication at the time that we went to Brigadier Mani. I and Wallace went there and we were there when a call was made that they wanted reinforcement. They were there together with Superman. They said they wanted reinforcements and that SAJ Musa had been shot in Freetown.<sup>7188</sup>

<sup>7182</sup> TF1-375, Transcript 24 June 2008, pp. 12613-12614.

<sup>7183</sup> TF1-375, Transcript 24 June 2008, p. 12614.

<sup>7184</sup> TF1-375, Transcript 24 June 2008, p. 12614.

<sup>7185</sup> TF1-375, Transcript 24 June 2008, pp. 12614-12617.

<sup>7186</sup> Komba Sumana, Transcript 6 October 2008, pp. 17966-17969.

<sup>7187</sup> Komba Sumana, Transcript 6 October 2008, pp. 17973-17974.

<sup>7188</sup> Komba Sumana, Transcript 6 October 2008, p. 17976.

3230. Sumana clarified that it was Five-Five who made this call to Superman.<sup>7189</sup> After this call, and the news of Musa's death "spread everywhere", the witness and other fighters assembled at Issa's house. Issa told the fighters that they "should take reinforcements to Freetown".<sup>7190</sup>

3231. The witness travelled on a truck with other fighters, commanded by Superman, to Lunsar, where they remained for a month. From Lunsar, the witness's group attacked Gberi Junction and dislodged ECOMOG. Two other trucks went on towards Freetown.<sup>7191</sup> The witness's friend, "Rubber-Rubber" was on one of those trucks going on to Freetown.<sup>7192</sup> When both had returned to Makeni, Rubber-Rubber told Sumana that:

[T]hey went but they stopped at Waterloo. He said not all of them were able to go to Freetown. He said they took the - they used a bypass and went to Freetown. He said when they went they met Five-Five and others. At the time that they went SAJ Musa had already died.<sup>7193</sup>

3232. During the time Superman's group remained at Lunsar, they moved and attacked Gberi Junction and dislodged ECOMOG from there.<sup>7194</sup>

Prosecution Witness Foday Lansana

3233. Witness Foday Lansana, (a.k.a. Co Nya), an RUF radio operator<sup>7195</sup> who worked for Superman in the North in mid- to late-1998,<sup>7196</sup> testified that between 1996 and 2000, he used to be able to monitor the communications networks although he did not speak on the net, oversee or control any communications.<sup>7197</sup>

3234. Lansana testified that from his position at the signal unit in Koinadugu, he knew of three main sources of communication in Koinadugu: Superman and Bockarie used to communicate with each other; both Bockarie and Superman would also communicate with Gullit at Rosos, and Brigadier Mani, who was one of the expert military officers, the most senior SLA in Kurubonla, and overall planning officer for operations, also used to

<sup>7189</sup> Komba Sumana, Transcript 6 October 2008, pp. 17976-17977.

<sup>7190</sup> Komba Sumana, Transcript 6 October 2008, pp. 17977-17978.

<sup>7191</sup> Komba Sumana, Transcript 6 October 2008, pp. 17977-17978.

<sup>7192</sup> Komba Sumana, Transcript 6 October 2008, pp. 17979-17980.

<sup>7193</sup> Komba Sumana, Transcript 6 October 2008, p. 17979.

<sup>7194</sup> Komba Sumana, Transcript 6 October 2008, pp. 17978-17980.

<sup>7195</sup> Foday Lansana, Transcript 20 February 2008, pp. 4361-4362.

<sup>7196</sup> Foday Lansana, Transcript 22 February 2008, p. 4523.

communicate with Bockarie, Superman and Tamba Brima (a.k.a. Gullit).<sup>7198</sup> Lansana explained that Brigadier Mani was the co-ordinator who used to settle disputes between the senior military officers. He was the one who was able to convince Superman, Tamba Yamba and Bockarie to send reinforcements to Gullit in Rosos when he requested them. Lansana said he knew the reinforcements, manpower and ammunition, had been sent because they were organised in his presence.<sup>7199</sup>

3235. Lansana testified that after the infighting between Superman and SAJ Musa, they retreated to a ground called Pumpkin Ground. While they were there, they received information from the BBC that Foday Sankoh had been condemned in Freetown. Based on that information, Bockarie called Superman over the radio and instructed him to get instructed him not to waste time but to march to Freetown. He told Superman that he was also in communication with Gullit. He instructed the Rosos troops to move on Lunsar and advance on to Freetown, and instructed Superman's troops to attack Makeni and join the troops from Rosos. Issa Sesay and Morris Kallon were instructed to move on Koidu Town and then Makeni. Based on these instructions, Superman organised the troops under his command, then moved from Pumpkin Ground to Alkalia and on to Makeni.<sup>7200</sup> Lansana stated that they successfully captured Makeni before 25 December 1998 and the group from Kono, headed by Boston Flomo (a.k.a. Rambo), Issa Sesay and Morris Kallon joined them in Makeni.<sup>7201</sup> Lansana then testified that on 6 January 1999, he was in Lunsar because their attack had stopped there and they were waiting for the troops coming from Kono in order for them to move as reinforcement for Freetown.<sup>7202</sup>

3236. The witness explained that he knew where the other troops were moving because the groups all informed each other of their positions and progress over the HF radio. At that point, the group that was in Kono was in communication with Superman and, at the same time, the group that was in Rosos was also in communication with Superman. The communication used to flow from one point to the other based on the advancement of that particular group. He described the information delivered by these communications as daily

<sup>7197</sup> Foday Lansana, Transcript 22 February 2008, p. 4523.

<sup>7198</sup> Foday Lansana, Transcript 22 February 2008, pp. 4525-4527.

<sup>7199</sup> Foday Lansana, Transcript 22 February 2008, pp. 4526-4528.

<sup>7200</sup> Foday Lansana, Transcript 22 February 2008, pp. 4549, 4551.

<sup>7201</sup> Foday Lansana, Transcript 22 February 2008, p. 4550.

<sup>7202</sup> Foday Lansana, Transcript 22 February 2008, p. 4553.

“situation reports” made through the operators who were in charge of communications from one commander to another.<sup>7203</sup>

3237. Lansana testified that he was in Lunsar with Superman waiting for reinforcements from Kono when RUF and AFRC forces attacked Freetown on 6 January 1999.<sup>7204</sup> He remained in Lunsar throughout the attack.<sup>7205</sup>

3238. Lansana stated that on 6 January 1999, he recalled hearing Sam Bockarie on BBC radio being interviewed by Robin White. In this interview, Bockarie said that he had received a radio communication from his commander, Brigadier Gullit, in Freetown. Bockarie also said in the interview that he had received information that Tongo had fallen to the RUF and Junta.<sup>7206</sup> Lansana’s recollection was that it was made clear on the news that Brigadier Gullit was the Task Force Commander in Freetown.<sup>7207</sup> After Exhibit P-085A was played to the Trial Chamber, Lansana recognised it as the recording of this interview and the voice of Sam Bockarie in the recording. Lansana testified that Bockarie was his commander and he was familiar with his voice. Lansana then stated that Gullit was a former SLA and the overall commander for the troops at Rosos that entered Freetown.<sup>7208</sup>

3239. Lansana testified that during the 6 January invasion, Sam Bockarie was in contact with Gullit, Superman, Issa Sesay, and Boston Flomo. Lansana monitored the communications from Lunsar.<sup>7209</sup> Gullit would communicate with Sam Bockarie on a daily basis, and these communications were “uncountable”.<sup>7210</sup> On the content of these communications, Lansana recalled that before Gullit entered Freetown, Gullit informed Sam Bockarie of the death of SAJ Musa. When Gullit captured the State House in Freetown and advanced on Pademba Road Prison he also reported this to Sam Bockarie.<sup>7211</sup>

3240. Lansana recalled that he monitored one communication in which Bockarie gave an order concerning the execution of Martin Moinina, who had been a witness against Foday

<sup>7203</sup> Foday Lansana, Transcript 22 February 2008, pp. 4551-4552.

<sup>7204</sup> Foday Lansana, Transcript 22 February 2008, p. 4553.

<sup>7205</sup> Foday Lansana, Transcript 22 February 2008, pp. 4569-4970.

<sup>7206</sup> Foday Lansana, Transcript 22 February 2008, pp. 4554-4555.

<sup>7207</sup> Foday Lansana, Transcript 22 February 2008, pp. 4554-4555.

<sup>7208</sup> Foday Lansana, Transcript 22 February 2008, pp. 4555-4559, 4583.

<sup>7209</sup> Foday Lansana, Transcript 22 February 2008, pp. 4559-4560.

<sup>7210</sup> Foday Lansana, Transcript 22 February 2008, p. 4560.

<sup>7211</sup> Foday Lansana, Transcript 22 February 2008, p. 4560.

Sankoh during his trial in 1989 in Freetown.<sup>7212</sup> Moinina was captured during the invasion by Gullit's troops on 6 January 1999. When Gullit reported his capture to Bockarie, Bockarie ordered that Moinina be executed as a traitor. Gullit "did as he was instructed". Lansana learnt of the execution from Gibril Massaquoi when Massaquoi arrived in Lunsar along with other combatants after the retreat from Freetown.<sup>7213</sup>

3241. Lansana also recalled that when Gullit reported to Bockarie that the troops in Freetown were under serious threat from ECOMOG, Bockarie instructed Gullit and all the other commanders in various positions in Freetown to make sure that they made themselves "fearful" so that ECOMOG would not overrun their positions. Bockarie told Gullit that "if it causes you to kill all the civilians, burn all the houses where you are, just so that you will not leave Freetown you should go ahead and make sure that you maintain where you were".<sup>7214</sup> Gullit's response to this instruction was "yes sir".<sup>7215</sup>

3242. Lansana confirmed that Alfred Brown and Perry Kamara (a.k.a. King Perry) were RUF radio operators present in Freetown during the January 1999 attack.<sup>7216</sup>

3243. Superman also had two bodyguards named CY and Jumbo Blah who left Koinadugu to join the Rosos group under the command of Gullit. Major CY informed Superman that SAJ Musa had banned them from communicating with Superman during the time they were in Rosos and up to Benguema and Waterloo because of the misunderstandings that occurred between Superman and SAJ Musa in Koinadugu. After the death of SAJ Musa, however, Major CY and Jumbo Blah used to communicate on a daily basis with Superman.<sup>7217</sup>

3244. Lansana explained that while O-Five, Jumbo Blah and Major CY were on the operation in Freetown, they would constantly send reports on their defensive positions and the areas captured by the troops. Gullit and other commanders sent reports of the positions occupied by the Junta or the RUF troops. Superman would communicate with Major CY to confirm that the information from Gullit was correct.<sup>7218</sup>

<sup>7212</sup> Foday Lansana, Transcript 22 February 2008, pp. 4562-4563.

<sup>7213</sup> Foday Lansana, Transcript 22 February 2008, pp. 4562-4563.

<sup>7214</sup> Foday Lansana, Transcript 22 February 2008, pp. 4561-4562.

<sup>7215</sup> Foday Lansana, Transcript 22 February 2008, pp. 4563-4564.

<sup>7216</sup> Foday Lansana, Transcript 22 February 2008, p. 4564.

<sup>7217</sup> Foday Lansana, Transcript 22 February 2008, p. 4565.

<sup>7218</sup> Foday Lansana, Transcript 22 February 2008, pp. 4566-4567.

3245. Lansana testified that one of the first communications between Jumbo Blah and Superman occurred after the capture of Benguema, when Major CY informed Superman that they were clearing that area and they were not sparing any civilians from Benguema to Freetown.<sup>7219</sup> Major CY was part of the group that was stationed at the State House in Freetown. Major CY confirmed that the order by Sam Bockarie to make themselves fearful was passed by the top commanders down to the “least person”.<sup>7220</sup>

3246. Lansana knew about the communications between Major CY and Superman because he used to sit by the radio while Superman was communicating with Major CY and Jumbo Blah. At this time, Alice Pyne was also present in Lunsar. She was the operator for Superman.<sup>7221</sup>

Prosecution Witness Dauda Aruna Fornie

3247. Witness Dauda Aruna Fornie (“DAF”), an RUF radio operator,<sup>7222</sup> testified that he travelled to Kailahun after the ECOMOG intervention and believed relations between Gullit and Bockarie were ‘cordial’.<sup>7223</sup> Fornie acknowledged that once Gullit left Kailahun for Kurubonla in 1998, communications between the two men were unpleasant; Gullit “attacked” Bockarie verbally and accused Bockarie of having disgraced Johnny Paul Koroma.<sup>7224</sup>

3248. Fornie testified that on 6 January 1999, he was in Buedu monitoring the radio constantly. Any time that the RUF received a message, he would bring the messages from the monitoring station to Bockarie’s transmitting station to send to the front line commanders.<sup>7225</sup> At the monitoring station, he saw a message in the message logbook from Gullit, who had the radio code name “Black Jar”,<sup>7226</sup> which said that “our men”, the

<sup>7219</sup> Foday Lansana, Transcript 22 February 2008, pp. 4565-4567.

<sup>7220</sup> Foday Lansana, Transcript 22 February 2008, pp. 4567-4568.

<sup>7221</sup> Foday Lansana, Transcript 22 February 2008, pp. 4568-4569.

<sup>7222</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21395; Transcript 2 December 2008, p. 21418.

<sup>7223</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21683.

<sup>7224</sup> Dauda Aruna Fornie, Transcript 4 December 2008, pp. 21684-21685, 21711 (“When he went [to Kurubonla] there was communication flowing and that was not a good one between the two men; that is Gullit and Mosquito. Gullit attacked Mosquito verbally that Mosquito had disgraced Johnny Paul and those were the things that he, Gullit, left the Buedu area, or the Kailahun area”).

<sup>7225</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21562-21563.

<sup>7226</sup> The Trial Chamber notes that the transcript at p.21564 refers to “Black Jar” and that he also spelled “Jar” but is satisfied that these are misspellings as the witness states that Gullit’s call sign was “Black Jah”, Dauda Aruna Fornie, Transcript 3 December 2008, pp.21568; 21619.



“AFRC/RUF combatants who entered Freetown”, had captured the State House in Freetown.<sup>7227</sup> On that day, the transmitting station in Buedu was in contact with the various call signs within the RUF liberated zones, including “Superman, Gullit, Issa, Rambo, Akim and others, Base 1 and so on”.<sup>7228</sup>

3249. One of Fornie’s responsibilities on 6 January 1999 was to monitor ECOMOG communications, decode them, and then take them to Bockarie’s transmitting station.<sup>7229</sup> In particular ECOMOG air mission requests for Alpha Jets to bomb RUF zones. He would report such requests to the transmitting station, where they were sent to the particular target station.<sup>7230</sup> Each target station had a bell, and any time a station heard a “448”, that is, an alert that an enemy aircraft was coming, the operator in that station would ring the bell in order to alert everyone.<sup>7231</sup> One specific example of this occurred when Fornie took an intercepted message to “Bravo Zulu 4”, and the operator on duty transmitted the message to Freetown. Two RUF stations in Freetown to be attacked – in Tower Hill and Ugun – received the message and by the time the jets arrived the fighters had changed their location.<sup>7232</sup>

3250. During the invasion of Freetown, Gullit sent information directly to Bockarie and sought more materiel and reinforcements from Bockarie for further advances while Bockarie requested updates from Gullit about progress in Freetown.<sup>7233</sup> Gullit’s main radio operator was as SLA named Elongima,<sup>7234</sup> but other radio operators with Gullit in Freetown included Alfred Brown and King Perry.<sup>7235</sup> While Bockarie seldom spoke directly with Gullit on the air, the witness did monitor one direct conversation on 6 January 1999 between Gullit and Bockarie in which Bockarie told Gullit to try to coordinate reinforcements with Rambo and General Issa so that Rambo would move faster and meet Gullit in Freetown.<sup>7236</sup>

<sup>7227</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21564.

<sup>7228</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21564-21565.

<sup>7229</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21562-21563.

<sup>7230</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21566-21567.

<sup>7231</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21567-21568.

<sup>7232</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21596-21597.

<sup>7233</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21565-21566.

<sup>7234</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21565, 21568.

<sup>7235</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21565-21566.

<sup>7236</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21569.

3251. The witness recalled that when one of the SLAs entered the State House, one SLA called the BBC and said that “we have entered Freetown”, referring to both RUF and AFRC forces.<sup>7237</sup> When this was broadcast on the BBC, Bockarie was in Buedu and heard the broadcast. The witness did not see him in a bad mood, but heard him “grumbling” that “maybe Gullit and others would want to turn themselves into presidents in Freetown”. Before the BBC broadcast, Gullit had already notified Bockarie that they had captured Freetown. This was the same conversation in which Gullit requested reinforcements. The BBC broadcast occurred two hours after the conversation between Bockarie and Gullit.<sup>7238</sup> There had been some minor problems between Bockarie and Gullit, and Bockarie was concerned that Gullit would take power in Freetown on his own. Bockarie assured Gullit that Rambo was on his way to join him in the city, at which time Rambo and his contingent was around the Masiaka area, on their way to Freetown.<sup>7239</sup>

3252. On the morning of 7 January 1999,<sup>7240</sup> Gullit transmitted a radio message to Bockarie via King Perry that the troops in Freetown had released the political detainees from Pademba Road Prison. Among those who were released included the late ex-President Momoh, Steve Bio, Victor Foh, Osho-Williams, and other prominent Sierra Leoneans.<sup>7241</sup> Bockarie instructed Mohamed Kabbah, a radio operator, to send a radio message to Gullit to send the released prisoners to the rear for their safety.<sup>7242</sup> The witness knew that the message was received by Gullit because Gullit acted on Bockarie’s instructions and sent the prisoners to Makeni. When these freed prisoners were transported to Makeni, Steve Bio was killed by an enemy bomb fragment.<sup>7243</sup>

3253. Fornie described the communication between Bockarie and Gullit during the course of the Freetown operation as “frequent” and “constant”, with communications occurring at least hourly.<sup>7244</sup> The communication concerned requests from Gullit to Bockarie for ammunition. As a result, Bockarie contacted Yeaten in turn to ask for ammunition.<sup>7245</sup>

<sup>7237</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21569-21570.

<sup>7238</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21578-21579.

<sup>7239</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21580-21581.

<sup>7240</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21589.

<sup>7241</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21581, 21588.

<sup>7242</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21586-21588.

<sup>7243</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21589-21590.

<sup>7244</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21589 (“it did not take up to an hour when one of the stations in Freetown did not call to Buedu directly, or Mosquito's station in Buedu did not call one of the stations

3254. Fornie recalled that, after ECOMOG had forced Gullit's troops to commence their retreat from Freetown, and after Fornie had returned from his trip to Monrovia,<sup>7246</sup> he monitored a live conversation in which Bockarie gave Gullit instructions to pass onto the AFRC/RUF troops in Freetown to "cause a lot of mayhem in the city", including destroying government facilities like the oil refinery and amputating civilians, in order to draw attention and force the international community to intervene and the RUF would be able to negotiate the release of Foday Sankoh. The witness was in the radio room when he heard this communication but does not recall the date on which it occurred.<sup>7247</sup> After this communication, Fornie heard on the BBC that on their retreat from Freetown, the RUF left behind amputees, corpses and had burnt many houses. The retreat occurred during January 1999 but Fornie could not recall the specific date.<sup>7248</sup>

3255. Fornie recalled hearing a BBC broadcast, Exhibit P-263, of a journalist reporting on the burning of houses, amputations of civilians, killings by RUF and AFRC forces in the Kissy District of eastern Freetown. Fornie testified that when Bockarie heard this broadcast, he was "well pleased", and that Bockarie then said "well, they have not seen anything yet" and would continue to engage in such atrocities until Sankoh was released.<sup>7249</sup>

3256. During the retreat, Fornie recalled hearing a communication from Bockarie to Gullit in which the former instructed the latter to assemble around the peninsula and wait for Rambo and others to join them in order to re-attack Freetown. The AFRC/RUF were unsuccessful in their attempt to re-attack Freetown. Gullit called Bockarie "sir" or "master" in these communications while Bockarie called Gullit "Black Jar" or "Gullit".<sup>7250</sup> A further communication occurred at the end of February, when Gullit had almost retreated entirely from Freetown. Gullit contacted Bockarie to say that he had established contact with ECOMOG through a handset which he had captured in Freetown and that through this

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in Freetown directly to get an update from there. It was constant communication that existed").

<sup>7245</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21593-21594.

<sup>7246</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21597.

<sup>7247</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21590-21593, 21597-21598

<sup>7248</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21599.

<sup>7249</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21600-21601.

<sup>7250</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21602-21604.

contact Sankoh suggested a temporary ceasefire to Gullit. Bockarie did not believe that Sankoh gave instructions concerning a ceasefire.<sup>7251</sup>

3257. Aside from Gullit, Bockarie was also in communication with other commanders, including Superman, General Bropleh, Boston Flomo (a.k.a. Rambo), Akim, Isaac Mongor and Morris Kallon. Gullit was also in communication with Rambo, Superman, Issa Sesay, and Five-Five.<sup>7252</sup> The witness was aware that Boston Flomo, who had led the attack on Kono and advanced to Masiaka, joined Gullit and others to re-attack Freetown on Bockarie's orders because there was direct communication between Flomo and Gullit in which they coordinated how their forces would meet. The communications between Issa Sesay and Gullit also concerned how to recapture Freetown. The communications between Gullit and these commanders was very frequent, occurring about two or three times an hour.<sup>7253</sup>

3258. When SAJ Musa died, King Perry sent a message to Bockarie to inform him. The witness did not recall if he was present when this message came but read the message.<sup>7254</sup>

3259. On cross-examination, Fornie denied the suggestion of Defence counsel that the invasion of Freetown was an AFRC effort, stating that both the AFRC and the RUF invaded Freetown together.<sup>7255</sup> He testified that those RUF fighters who entered Freetown on 6 January 1999 took "direct directions" from Sam Bockarie.<sup>7256</sup> Fornie named "Gullit, King Perry, Alfred Brown, Five-Five and others" as members of the RUF who invaded Freetown. Fornie affirmed that both Gullit and Five-Five were members of the RUF.<sup>7257</sup> Fornie was unable to provide an estimate of the number of RUF members amongst the troops that entered Freetown.<sup>7258</sup>

3260. Fornie agreed with Defence counsel's suggestion that SAJ Musa wanted his troops to arrive in Freetown before the RUF under Bockarie's command. Fornie agreed that even after Musa's death, the objective of his group remained to get to Freetown ahead of the RUF.<sup>7259</sup>

<sup>7251</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21602-21604, 21611-21613.

<sup>7252</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21604-21605.

<sup>7253</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21605-21607.

<sup>7254</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21609.

<sup>7255</sup> Dauda Aruna Fornie, Transcript 4 December 2008, pp. 21665-21666.

<sup>7256</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21666.

<sup>7257</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21667.

<sup>7258</sup> Dauda Aruna Fornie, Transcript 4 December 2008, pp. 21728.

<sup>7259</sup> Dauda Aruna Fornie, Transcript 4 December 2008, pp. 21723-21724.

Fornie recalled hearing a BBC broadcast in which Bockarie was interviewed by the BBC and claimed that it was RUF troops who were advancing on Freetown, but does not remember a subsequent radio exchange between SAJ Musa and Bockarie in which Musa insulted Bockarie and told him he had no right to claim that troops approaching Freetown were RUF troops.<sup>7260</sup>

3261. Fornie disagreed that that the troops entering Freetown on 6 January 1999 were loyal to SAJ Musa, insisting that they were directly subordinate to Bockarie. To illustrate his point, Fornie noted that Gullit had contacted Bockarie to tell him about SAJ Musa's death and that immediately upon his arrival in Freetown Gullit contacted Bockarie to inform him of his movements. In the conversation after SAJ Musa's death, Bockarie had told Gullit to wait for reinforcements before entering Freetown. Fornie noted that although Gullit did not comply with Bockarie's instructions, Gullit believed his troops were in an advantaged position in relation to ECOMOG and it was strategically necessary to advance forward. Nevertheless, Bockarie ordered Rambo through Issa Sesay to join Gullit and Gullit and Rambo then coordinated their movements.<sup>7261</sup>

3262. While Fornie agreed that the relationship between the AFRC and the RUF during the AFRC regime was "not perfectly cordial" and that it got worse following the ECOMOG intervention,<sup>7262</sup> following the death of SAJ Musa, when Brima contacted Bockarie, "there was a free flow of communication" between AFRC and RUF commanders.<sup>7263</sup>

#### Prosecution Witness TF1-585

3263. Witness TF1-585, an RUF radio operator,<sup>7264</sup> testified that after Gullit and SAJ Musa had pulled out of Freetown, they refused to go to Buedu, despite Bockarie's requests for them to do so.<sup>7265</sup>

3264. The witness testified that Gullit and Bockarie started "some amount of communication" after the death of SAJ Musa. She explained that that occurred "through Brigadier Mani", a boss in the AFRC who, the witness thought, was based around the Kono

<sup>7260</sup> Dauda Aruna Fornie, Transcript 4 December 2008, pp. 21725-21726.

<sup>7261</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21727.

<sup>7262</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21749.

<sup>7263</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21749.

<sup>7264</sup> TF1-585, Transcript 5 September 2008, pp. 15589-15592 (PS).



area during this time. As a result, there were then communications between Bockarie, Gullit and Brigadier Mani and Bockarie spent a lot of time in the radio room monitoring Gullit's movements.<sup>7266</sup>

3265. Before SAJ Musa died, TF1-585 testified that there was no communication between Bockarie and either SAJ Musa or Gullit. TF1-585 explained that there was no contact between Gullit and Bockarie because "there were problems". However, even though there was no understanding between them, Brigadier Mani used to relay information from SAJ and others to Bockarie. "He was the one who mediated, who was in between them. He coordinated. Whatever information there was from Bockarie to SAJ Musa and others, he was the one between them. Bockarie only got information from SAJ Musa and others through Brigadier Mani at that time".<sup>7267</sup>

3266. TF1-585 testified that communication resumed between Gullit and Bockarie after SAJ Musa's death.<sup>7268</sup> The witness said that she learned about SAJ Musa's death when King Perry informed Brigadier Mani, who spoke to Bockarie. Later Gullit came on the radio and told Bockarie about SAJ Musa's death. This was the point when communication started between Bockarie and Gullit. They spoke about "where they had reached, their position and what they were going through".<sup>7269</sup>

3267. TF1-585 testified that after Bockarie had spoken to the BBC, saying that his troops would enter Freetown in a certain period, he came to the veranda and said that he and Gullit had no problem. He said the problem was SAJ Musa and as long as SAJ Musa was dead, he and Gullit had no more problems. He trusted Gullit and knew that Gullit would make it to Freetown.<sup>7270</sup> The witness did not recall the month when Brigadier Mani began to facilitate communications between Bockarie and Gullit after the death of SAJ Musa.<sup>7271</sup>

3268. On re-examination, the witness clarified that the communication between Brigadier Mani and Bockarie commenced before SAJ Musa's death when Mani used to tell them about

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<sup>7265</sup> TF1-585, Transcript 8 September 2008, p. 15709.

<sup>7266</sup> TF1-585, Transcript 8 September 2008, p. 15709.

<sup>7267</sup> TF1-585, Transcript 8 September 2008, pp. 15715-15716.

<sup>7268</sup> TF1-585, Transcript 8 September 2008, pp. 15709, 15715-15716.

<sup>7269</sup> TF1-585, Transcript 8 September 2008, pp. 15716-15717.

<sup>7270</sup> TF1-585, Transcript 8 September 2008, pp. 15717-15718.

<sup>7271</sup> TF1-585, Transcript 11 September 2008, pp. 15992-15993.

SAJ and others movements, but that Bockarie and SAJ did not have any direct communication at the time when SAJ was alive.<sup>7272</sup>

3269. The witness recalled that on 6 January 1999, Bockarie was very frequently in the RUF radio station and used to monitor the movements of Gullit and others towards Freetown.<sup>7273</sup> On around 3 January 1999, Bockarie had used his satellite phone to inform the BBC that his troops would be in Freetown within three days time.<sup>7274</sup> He was able to give this timeframe because he and Gullit had already spoken and Gullit had told Bockarie his position at that time, saying that he was “entering” Freetown. The witness heard this in person, but from a distance.<sup>7275</sup> After speaking to Gullit, Bockarie said that he and Gullit had no problems, and that the problem had been with SAJ Musa. Bockarie then stated that he trusted Gullit and knew that Gullit would make it to Freetown.<sup>7276</sup> Later, the witness heard on FM radio that the rebels had entered Freetown. Bockarie then told the BBC that “he was a man of his word. He had given three days that his men would enter Freetown and indeed they had entered Freetown”. Bockarie was speaking to the BBC on a satellite phone out in the open and those around him were “dancing around”.<sup>7277</sup>

3270. TF1-585 testified that some time after his troops entered Freetown, Gullit informed Bockarie over the radio that they were being pushed out of Freetown by ECOMOG. Bockarie ordered Gullit to withdraw:

Sam Bockarie ordered Gullit that they should not challenge the ECOMOG troops. He said as long as the troop was too heavy for them they should not challenge them, they should pull out of the town, but before they should pull out of the town they should kill many people and burn down many houses before they should leave the town. He said ‘If any bush shake, fire should blaze’, but they should leave the town.<sup>7278</sup>

3271. While Bockarie was speaking to Gullit via a radio communication set, the witness overheard this conversation because the radio station was not enclosed in a room and Bockarie made these statements loudly and in the open.<sup>7279</sup>

<sup>7272</sup> TF1-585, Transcript 11 September 2008, p. 16079.

<sup>7273</sup> TF1-585, Transcript 8 September 2008, p. 15707.

<sup>7274</sup> TF1-585, Transcript 8 September 2008, pp. 15707, 15717-15719.

<sup>7275</sup> TF1-585, Transcript 8 September 2008, pp. 15717-15718.

<sup>7276</sup> TF1-585, Transcript 8 September 2008, pp. 15717-15718.

<sup>7277</sup> TF1-585, Transcript 8 September 2008, pp. 15718-15719.

<sup>7278</sup> TF1-585, Transcript 8 September 2008, p. 15726.

<sup>7279</sup> TF1-585, Transcript 8 September 2008, pp. 15725-15727.

3272. Eventually the ECOMOG forces pushed Gullit and his troops out of Freetown. Brigadier Mani reported to Bockarie that Gullit had left Freetown. The witness knew this because she read it in the logbook. Gullit carried out the instruction that Bockarie gave him concerning the manner in which he should leave Freetown. TF1-585 heard on the public radio that the rebels had killed many people and burnt many houses down before they left Freetown.<sup>7280</sup>

3273. After the troops withdrew from Freetown, persons released from Pademba Road Prison in Freetown, including Victor Foh, came to Buedu. The witness read in the radio logbook that Bockarie had instructed Superman to send them to Buedu. He also invited Gibril Massaquoi, but Massaquoi did not come.<sup>7281</sup>

3274. On cross-examination, TF1-585 testified that prior to the death of SAJ Musa, there was no communication between Bockarie and SAJ Musa or Bockarie and Gullit in the lead up to the 6 January 1999 Freetown attack.<sup>7282</sup> TF1-585 did not recall the month when Brigadier Mani began to facilitate communications between Sam Bockarie and Gullit after the death of SAJ Musa. She testified that radio operators King Perry and Alfred Brown were the most senior RUF members headed to Freetown.<sup>7283</sup>

#### Prosecution Witness Alice Pyne

3275. Witness Alice Pyne testified that on 6 January 1999, she was working as a radio operator for Superman at Lunsar. On that day she was not working as an operator and thus did not hear anything over the RUF radio.<sup>7284</sup> However, at 5.30am on 7 January 1999, Alice Pyne heard on the BBC that rebels had invaded Freetown and captured the State House.<sup>7285</sup> The witness then switched on her radio around 7.00am. The witness heard radio operators who had gone to Freetown as part of the group that left Rosos announce over the radio network that they had entered Freetown.<sup>7286</sup> She heard Gullit himself communicating to Bockarie that they had captured Freetown and released prisoners including Gibril

<sup>7280</sup> TF1-585, Transcript 8 September 2008, pp. 15727-15730.

<sup>7281</sup> TF1-585, Transcript 8 September 2008, pp. 15730-15731.

<sup>7282</sup> TF1-585, Transcript 11 September 2008, pp. 15991-15992.

<sup>7283</sup> TF1-585, Transcript 11 September 2008, p. 15993.

<sup>7284</sup> Alice Pyne, Transcript 19 June 2008, pp. 12272-12273.

<sup>7285</sup> Alice Pyne, Transcript 19 June 2008, p. 12274.

<sup>7286</sup> Alice Pyne, Transcript 19 June 2008, p. 12274.



Massaquoi, JS Momoh, Steve Bio, Martin Moinama and others. O-Five also communicated to Superman and the witness that they had captured Freetown and had released prisoners from Pademba Road.<sup>7287</sup>

3276. Pyne also testified that a written message was sent by O-Five to Superman that SAJ Musa had died as the troops advanced to Freetown. The same day, Bockarie sent a message to Superman at Lunsar instructing him to join RUF Rambo, who was then still at Makeni, and proceed to invade Freetown.<sup>7288</sup>

3277. On 7 January 1999, Pyne and her commanders Superman, Foday Lansana, and Gugumeh, as well as about 200 combatants, left Lunsar. They travelled to Gberi Junction, Port Loko, Masiaka, Waterloo and then on to Hastings where they were forced to stop because they were unable to dislodge the ECOMOG soldiers. The trip took around 13 hours.<sup>7289</sup> After Hastings, the group travelled to Yams Farm where Pyne began operating her radio set. She sent a message to Bockarie at Buedu station informing him that her group had been unable to penetrate through to Hastings and was based at Yams Farm.<sup>7290</sup>

3278. The following day,<sup>7291</sup> while monitoring on her radio at Yams Farm, Pyne heard a message from Gullit sent to Bockarie that ECOMOG had dislodged the AFRC/RUF fighters at the State House.<sup>7292</sup> Bockarie then said that “if the men, that is the ECOMOG, forced Gullit and others out of Freetown, they should burn the fucking place and that they should not spare anything”. Gullit responded “Yes, sir”.<sup>7293</sup> Bockarie was angry when he spoke. The witness understood from Bockarie’s message that he intended the indiscriminate destruction of property and persons.<sup>7294</sup>

<sup>7287</sup> Alice Pyne, Transcript 19 June 2008, pp. 12274-12275 (She heard Gullit himself communicating to Bockarie that they had captured Freetown and released prisoners including Gibril Massaquoi, JS Momoh, Steve Bio, Martin Moinama and others).

<sup>7288</sup> Alice Pyne, Transcript 19 June 2008, pp. 12276-12277.

<sup>7289</sup> Alice Pyne, Transcript 19 June 2008, pp. 12279, 12290 (Pyne states that she arrived at Hastings on 8 January 1999).

<sup>7290</sup> Alice Pyne, Transcript 19 June 2008, pp. 12278-12279.

<sup>7291</sup> Alice Pyne, Transcript 19 June 2008, p. 12282.

<sup>7292</sup> Alice Pyne, Transcript 19 June 2008, pp. 12280-12281.

<sup>7293</sup> Alice Pyne, Transcript 19 June 2008, pp. 12281-12282.

<sup>7294</sup> Alice Pyne, Transcript 19 June 2008, p. 12283.

3279. The witness was in Yams Farm for over two weeks before returning to Lunsar.<sup>7295</sup> After the witness heard that the troops in Freetown had lost control of the State House, Bockarie ordered Superman and his fighters to remain at Yams Farm to ensure there is “a safe corridor for those coming from Freetown”.<sup>7296</sup> Pyne testified that by “safe corridor”, she meant:

if we were not at Yams Farm at that time when the men in Freetown, headed by Gullit and O-Five, were dislodged they could not come to Yams Farm. We made - we created a safe area, that was Yams Farm, for ECOMOG not to be able to base there, so those who would be coming from Freetown would come and join us safely.<sup>7297</sup>

3280. The witness also heard that Superman had asked for Gibril Massaquoi, who was fighting with O-Five in Freetown.<sup>7298</sup>

#### Prosecution Witness TF1-516

3281. Witness TF1-516, an RUF radio operator<sup>7299</sup> testified that he was with Gullit when Gullit ordered the retreat from Kono to Buedu after the 1998 Intervention. The witness was then based in Buedu as a radio operator for Bockarie until June/July 1999,<sup>7300</sup> He testified that on the day following their arrival in Buedu he saw Gullit on board a vehicle with Bockarie and they told the witness that they were moving down to Daru. From that time, the witness “never set eyes on him again”.<sup>7301</sup>

3282. While the witness was in Buedu, Bockarie asked Johnny Paul Koroma to address AFRC/RUF officers such as Gullit, SAJ Musa, Superman and Rambo who were located in other sections of the country over the radio. Koroma placed the call and instructed his officers to work together with the RUF as a team so that they could recapture Freetown. At this time, Gullit was in the Makeni area, while SAJ Musa and Superman were both in Kabala. The witness testified that Gullit and Bockarie maintained a “free flow” of

<sup>7295</sup> Alice Pyne, Transcript 19 June 2008, p. 12283.

<sup>7296</sup> Alice Pyne, Transcript 19 June 2008, p. 12284 (“After Sam Bockarie had given this order to Gullit he gave another to Superman saying that Superman and his men should stay at Yams Farm to ensure that there is a safe corridor for those coming from Freetown, because they were now in disarray in Freetown and so we were to stay at Yams Farm to wait on the group that was coming from Freetown”).

<sup>7297</sup> Alice Pyne, Transcript 19 June 2008, p. 12285.

<sup>7298</sup> Alice Pyne, Transcript 19 June 2008, pp. 12283-12284.

<sup>7299</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>7300</sup> TF1-516, Transcript 8 April 2008, pp. 6846, 6848-6852, 6857; Transcript 14 April 2008, pp. 7512-7513.

<sup>7301</sup> TF1-516, Transcript 8 April 2008, pp. 6853-6854.

communications after this, but that the communication improved considerably after SAJ Musa's death.<sup>7302</sup>

3283. TF1-516 recalled that Gullit's radio operator, Elongima, would send radio messages to "us",<sup>7303</sup> with a report to Bockarie telling him the position of the AFRC and the general situation. While they were entering Freetown, Gullit and Bockarie were still communicating.<sup>7304</sup>

3284. TF1-516 was in Buedu during the Freetown invasion.<sup>7305</sup> He testified that during the attempt to take Freetown there was little communication between SAJ Musa and the RUF.<sup>7306</sup> However, before the entry into Freetown in January 1999 Gullit's radio operator, Elongima, would send radio messages to Bockarie informing him of the position of Gullit's troops. When the troops arrived in Freetown, Gullit also contacted Sam Bockarie by radio and reported that he had captured State House. Two or three days later, Bockarie received another call from Gullit notifying Bockarie that "the pressure on them was serious" but that "they" had released some prisoners from Pademba prison. Bockarie ordered that all the released prisoners be sent to Buedu. There was regular and direct radio communication between Bockarie and Gullit. The witness knew this because he was "on set". Even when he was not "on set" other operators would pass on information to the witness. He also had access to the radio message book and would follow up past messages exchanged when he was not on duty.<sup>7307</sup>

3285. On one occasion during the invasion of Freetown, Bockarie spoke to Gullit over the radio and told him that he had just been interviewed by the BBC's West African correspondent Mark Doyle. Bockarie told Doyle that if the pressure mounted on Gullit, Gullit would burn down government buildings and the oil refinery and retreat to the Freetown peninsula. Bockarie instructed the frontlines to listen to his interview with the

<sup>7302</sup> TF1-516, Transcript 8 April 2008, pp. 6887-6888, 6930-6931.

<sup>7303</sup> The Trial Chamber understands "us" to refer to the radio operators in Buedu, who included the witness.

<sup>7304</sup> TF1-516, Transcript 8 April 2008, pp. 6932-6933. The witness did not specify the date of these communications but from the context the Trial Chamber is satisfied that the witness is referring to the December 1998/January 1999 period.

<sup>7305</sup> TF1-516, Transcript 8 April 2008, pp. 6857 (The witness was assigned to Buedu as a radio operator to Sam Bockarie after the ECOMOG Intervention); Transcript 8 April 2008, pp. 6858-6860 (the witness moved to Liberia in mid-1999).

<sup>7306</sup> TF1-516, Transcript 8 April 2008, p. 6931.

<sup>7307</sup> TF1-516, Transcript 8 April 2008, pp. 6932-6933.

BBC for instructions.<sup>7308</sup> The witness overheard Bockarie speaking to Gullit on the radio specifically instructing Gullit to burn down public structures. Bockarie stated: “If they mount pressure on us, burn down the fucking place”.<sup>7309</sup> Following Bockarie’s order to Gullit to burn down public structures, Elongima sent a message to the operators in Buedu informing them that “the men have gone on a rampage. They are killing people, they are wounding civilians. The area has become fearful”.<sup>7310</sup>

3286. TF1-516 testified that Superman and a number of other commanders were involved in coordinating Gullit’s retreat if he was to pull out of Freetown. Superman and Colonel Rambo were both in the Freetown axis. Bockarie communicated with these commanders openly over the radio.<sup>7311</sup> When the forces in Freetown were on the verge of withdrawing, Gullit sent a message to Bockarie reporting that the situation in Freetown was tense and that his troops had run out of ammunition. Bockarie instructed Gullit to move to a location where Rambo would reinforce him. The witness then heard communications between Rambo, Superman and other commanders about providing Gullit with reinforcement.<sup>7312</sup>

3287. When asked whether Bockarie sent any assistance to the commanders in Freetown during the invasion, TF1-516 responded that all Bockarie discussed with the fighters in Freetown was military strategy,<sup>7313</sup> and he issued instructions with regards to setting ambushes, manoeuvring, on how to capture particular targets and when to withdraw.<sup>7314</sup>

3288. TF1-516 also testified that during the Freetown invasion, to assist the forces in Freetown, the RUF had a team of former SLA radio operators based in Buedu named Gbamayagi, Atati, Ache and Sheku. They were responsible for monitoring and decoding ECOMOG messages. This included transmitting “448 messages” to the front line that an ECOMOG jet was in the air and the fighters should take cover. These operators were familiar with Morse code and could therefore understand ECOMOG communications, most of which were transmitted in Morse code.<sup>7315</sup>

<sup>7308</sup> TF1-516, Transcript 8 April 2008, p. 6934.

<sup>7309</sup> TF1-516, Transcript 8 April 2008, pp. 6934-6935.

<sup>7310</sup> TF1-516, Transcript 8 April 2008, p. 6936.

<sup>7311</sup> TF1-516, Transcript 8 April 2008, pp. 6935-6936.

<sup>7312</sup> TF1-516, Transcript 8 April 2008, p. 6931.

<sup>7313</sup> TF1-516, Transcript 8 April 2008, p. 6943

<sup>7314</sup> TF1-516, Transcript 8 April 2008, pp. 6942-6943.

<sup>7315</sup> TF1-516, Transcript 8 April 2008, pp. 6943-6944.

Prosecution Witness Mohamed Kabbah

3289. Witness Mohamed Kabbah, who was in Buedu on 6 January 1999,<sup>7316</sup> testified that he first heard the news about the rebel invasion of Freetown from the BBC. Later that day, Kabbah was working in the radio room, along with other operators, Tiger, Sheku Sheriff, Mortiga and Zedman, when King Perry communicated with the Buedu radio station directly from Freetown. King Perry informed Kabbah that the troops had entered Freetown but “said he was under suppression”, explaining that SAJ Musa had not allowed his radio operators to use the radio to call Bockarie, but as SAJ Musa had died and Gullit was in command of the Freetown troops, he was permitted to communicate with Buedu.<sup>7317</sup> SAJ Musa’s group was made up primarily of former SLAs.<sup>7318</sup> There were also some members of the STF, who had been ULIMO fighters.<sup>7319</sup>

3290. Regular communication between King Perry and the operators in Buedu continued during the course of the Freetown operation. King Perry would inform Buedu about troop movements and the security situation in Freetown. When troops in Freetown began to face problems from ECOMOG, Gullit spoke directly to Sam Bockarie over the radio.<sup>7320</sup> Gullit told Bockarie that the rebel troops were being attacked in the city of Freetown, and were facing difficulties from enemy troops attacking from the surrounding hills. Gullit’s troops had been pushed out of State House and the areas around it. Bockarie told Gullit to remain on the defensive and that Bockarie would send reinforcements.<sup>7321</sup> Later, in a conversation with Yeaten, Bockarie stated that he had given Rambo instructions to put together reinforcements and move to assist the troops in Freetown.<sup>7322</sup>

3291. At one point, ECOMOG cut off the supply lines of the rebel troops in Waterloo. This meant that Rambo and his reinforcements were not able to get through. When Gullit contacted Bockarie to discuss this situation, Bockarie told Gullit to move with the prisoners Gullit had released from Pademba Road Prison at night in order to evade ECOMOG jets. Bockarie told Gullit specifically not to leave the released prisoners, in particular President

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<sup>7316</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16166.

<sup>7317</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16166-16167.

<sup>7318</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16446.

<sup>7319</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16447.

<sup>7320</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16168.

<sup>7321</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16168-16170.

<sup>7322</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16168-16169.



Momoh, behind in Freetown.<sup>7323</sup> Gullit brought the persons released from Pademba Road Prison into RUF-controlled territory, which then stretched from Lunsar to Kabala, Kailahun and Kono.<sup>7324</sup>

3292. The following day, Gullit called Bockarie again to tell him that his troops could not withstand “the tension” of the ECOMOG assault and had to withdraw from Freetown. Bockarie told Gullit that as the troops retreated they should “make the area fearful”. The retreating troops were to destroy everything so that anyone passing in the area after the rebel troops would know they had been there. Gullit told Bockarie that “he would go according to his instruction”<sup>7325</sup> Kabbah estimated that it was less than a week between 6 January 1999, when Gullit initially entered Freetown, and Bockarie’s instruction to Gullit to “make the area fearful”.<sup>7326</sup>

3293. Communication between the radio room in Buedu and the troops in Freetown continued every day. As with other commanders under Bockarie’s command, Gullit reported on the situation on the frontlines to Bockarie.<sup>7327</sup> While Gullit was in charge of the troops attacking Freetown, Bockarie was in charge of the “entire movement”.<sup>7328</sup>

3294. On cross-examination, Kabbah testified that prior to 6 January 1999, during “the period of SAJ Musa and Gullit”, Bockarie told Gullit not to enter Freetown until RUF could send reinforcements, but SAJ Musa and Gullit refused.<sup>7329</sup> Kabbah stated that it was only after that group had reached State House did they contact Bockarie. In fact, the RUF first heard that Gullit’s troops were in Freetown over the BBC.<sup>7330</sup> The RUF knew that Gullit’s troops “never accepted orders and that they were heading for Freetown, so it wasn’t a surprise to us because that was their own mission”.<sup>7331</sup> Kabbah agreed that the move to Freetown was not planned as far as Bockarie was concerned.<sup>7332</sup>

<sup>7323</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16171.

<sup>7324</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16179.

<sup>7325</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16171.

<sup>7326</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16172-16173.

<sup>7327</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16170-16171.

<sup>7328</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16172.

<sup>7329</sup> Mohamed Kabbah, Transcript 17 September 2008, pp. 16445-16446.

<sup>7330</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16647.

<sup>7331</sup> Mohamed Kabbah, Transcript 17 September 2008, pp. 16647-16448.

<sup>7332</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16448.

3295. Once Bockarie heard over the BBC about the Freetown invasion, the RUF tried contacting RUF radio stations closer to Freetown to get more information, in particular, from Superman's radio station, which was closer to the action in Freetown. Later, King Perry came on the air when Gullit ran into trouble and Gullit asked for reinforcements. King Perry explained that he had not contacted Bockarie earlier because SAJ Musa had prevented him from doing so. When Gullit first spoke to Bockarie, there was an argument between them in which Bockarie made it clear to Gullit that he was not happy that Gullit was only contacting him because he needed Bockarie's help. Despite the argument, Bockarie did send reinforcements but those reinforcements only got as far as Waterloo.<sup>7333</sup> Kabbah agreed with the Defence proposition that Gullit only initiated contact with Bockarie when their mission failed. However the witness insisted that Bockarie and the Accused did discuss the attack on Freetown<sup>7334</sup>

Prosecution Witness TF1-567

3296. Witness TF1-567, who accompanied Issa Sesay's flank in the RUF attack on Kono in December 1998, testified that after the Kono attack, Issa Sesay then went to attack Makeni. Superman arrived from the North, and together with Boston Flomo (a.k.a. Rambo), the RUF was able to capture Makeni. RUF were in Makeni when they overheard on the radio that "the other SLA brothers" had entered Freetown.<sup>7335</sup> TF1-567 testified that the RUF captured Makeni in January 1999.<sup>7336</sup> Once Bockarie heard that the "brothers" had entered Freetown, he instructed Issa Sesay "to try and connect with his brothers in Freetown whereby Gullit was the commander". Sesay in turn instructed Boston Flomo to meet the men in Freetown.<sup>7337</sup> Superman remained in Makeni, but later moved to Lunsar once Flomo had reached Waterloo. Flomo sent a message to Sesay noting that he had reached Waterloo but encountered resistance at Jui Bridge. The witness remained with Issa Sesay in Makeni.<sup>7338</sup>

3297. TF1-567 testified that he spent "some time" in Makeni and then moved back to Kono. Issa Sesay remained in Makeni. The day he returned to Kono, when Gullit's troops

<sup>7333</sup> Mohamed Kabbah, Transcript 17 September 2008, pp. 16448-16449.

<sup>7334</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16450.

<sup>7335</sup> TF1-567, Transcript 2 July 2008, p. 12917.

<sup>7336</sup> TF1-567, Transcript 2 July 2008, p. 12918.

<sup>7337</sup> TF1-567, Transcript 2 July 2008, pp. 12918-12919.

had retreated to Waterloo, the witness overheard on the radio that there was infighting between Superman and Issa Sesay.<sup>7339</sup> When Gullit's troops were in Waterloo, the witness travelled with Issa Sesay to Waterloo. Gullit was angry with Sesay for his failure to send reinforcements, as Gullit had requested, forcing Gullit to retreat. Sesay explained that he had tried to send manpower but that the troops had not managed to get past enemy forces. Sesay then suggested that they forget about the past and instead work together to try to recapture Freetown.<sup>7340</sup>

3298. TF1-567 stated that after this discussion, there was a joint AFRC/RUF attempt to recapture Freetown, but it failed.<sup>7341</sup> Sesay planned an attack on Tombo, in which Gullit's group also took part, but the operation was unsuccessful. Gullit's group took part in this attack.<sup>7342</sup> Issa Sesay returned to Makeni some time in 1999 but the witness did not recall in which month.<sup>7343</sup>

3299. While TF1-567 was in Waterloo with Issa Sesay, Gibril Massaquoi was with Gullit's group. Sesay informed Bockarie of Massaquoi's presence and Bockarie instructed Sesay to arrest Massaquoi and send him to Buedu, explaining that Massaquoi had disobeyed him. However, Superman and other SLAs intervened to prevent the arrest of Massaquoi. This incident took place in 1999, but the witness was not sure which month.<sup>7344</sup>

3300. On cross-examination, TF1-567 testified that while Bockarie was the overall commander when the troops on the outskirts of Freetown attempted to join up with the troops in Freetown, Bockarie did not give the order to invade Freetown.<sup>7345</sup> In response to Defence counsel's proposition that the Freetown attack was not launched by the RUF, TF1-567 responded that the RUF always intended to go to Freetown, and when Gullit went ahead and launched the attack, Bockarie ordered Sesay to reinforce him.<sup>7346</sup> The witness stated that even though Gullit made the initial attack, Gullit was part of the Junta and the AFRC and

<sup>7338</sup> TF1-567, Transcript 2 July 2008, p. 12919.

<sup>7339</sup> TF1-567, Transcript 2 July 2008, p. 12920.

<sup>7340</sup> TF1-567, Transcript 2 July 2008, pp. 12920-12921.

<sup>7341</sup> TF1-567, Transcript 2 July 2008, pp. 12921-12922.

<sup>7342</sup> TF1-567, Transcript 2 July 2008, pp. 12924-12925.

<sup>7343</sup> TF1-567, Transcript 2 July 2008, pp. 12924-12925.

<sup>7344</sup> TF1-567, Transcript 2 July 2008, pp. 12923-12924.

<sup>7345</sup> TF1-567, Transcript 8 July 2008, pp. 13153-13154.

<sup>7346</sup> TF1-567, Transcript 8 July 2008, p. 13154.



RUF were working together. There were members of the RUF among the forces going to Freetown.<sup>7347</sup>

Prosecution Witness Abu Keita

3301. Abu Keita testified that when the attack on Freetown occurred, he and Bockarie were in Buedu.<sup>7348</sup> He and Bockarie were listening to the programme “Focus on Africa” on the BBC on 6 January 1999<sup>7349</sup> and heard a commander calling from Freetown announcing that he was in control of the State House.<sup>7350</sup> Keita testified that Bockarie became angry and called Issa Sesay and Morris Kallon, asking them how they allowed anyone other than himself to speak to the BBC. Bockarie then called the BBC on his satellite phone and shot a weapon, telling the BBC that he was at the State House although he was actually still in Buedu.<sup>7351</sup> Bockarie was speaking to various commanders in and around Freetown, including Issa Sesay and Morris Kallon, over the RUF radio network. Bockarie also communicated with Benjamin Yeaten and Joseph Tuah on a satellite phone at night, and Bockarie told the witness he was reporting to them on the status of the operation. The witness did not hear Yeaten giving any instructions to Bockarie.<sup>7352</sup>

3302. Keita testified that during the operation, radio operators “Zedman”, in Buedu, and “Memunatu” and “Sita”, who were stationed in Liberia, monitored ECOMOG radio stations based in Monrovia. If a jet took off from Roberts International Airport, in Monrovia, these operators would call 448 and “the radio operator would ring a bell and everybody would escape”.<sup>7353</sup>

Prosecution Witness TF1-174

3303. Witness TF1-174, who did relief work during the Sierra Leonean Civil War,<sup>7354</sup> testified that on 28 December 1998<sup>7355</sup> he was introduced to Issa Sesay in Makeni when

<sup>7347</sup> TF1-567, Transcript 8 July 2008, p. 13155.

<sup>7348</sup> Abu Keita, Transcript 23 January 2008, p. 2020.

<sup>7349</sup> Keita did not immediately provide the date on which he heard this broadcast. Later, Keita clarified that “It was on 6 January that they called from the State House saying they were in control of the State House”: Abu Keita, Transcript 23 January 2008, p. 2021.

<sup>7350</sup> Abu Keita, Transcript 23 January 2008, p. 2020.

<sup>7351</sup> Abu Keita, Transcript 23 January 2008, p. 2020.

<sup>7352</sup> Abu Keita, Transcript 23 January 2008, p. 2021.

<sup>7353</sup> Abu Keita, Transcript 23 January 2008, pp. 2024-2025, 2069.

<sup>7354</sup> TF1-174, Transcript 27 January 2009, p. 23664.

Sesay's vehicle pulled up close to where the witness was sitting.<sup>7356</sup> On the same day, he then encountered a black Mercedes Benz with about six persons dressed in black and military attire in the centre of Makeni. They were rebels with guns, in military brown and green shirts. They stopped the witness and one of the men pointed to a vehicle in front of them loaded with young men and women.<sup>7357</sup> According to the witness, the man then stated that "very soon we will hear what will come out of Freetown, even the vehicle ahead was proceeding to Freetown".<sup>7358</sup> Immediately afterwards, two other vehicles arrived from behind. Inside the vehicles were young men and girls who said that they were heading for Freetown. The three vehicles loaded with young men and girls were ECOMOG trucks which had a usual capacity of about 20-30 people but were packed with up to 90 or 100 people.<sup>7359</sup> The witness could see that those sitting at the back door were armed. When they passed, the witness continued on to meet his wife and children.<sup>7360</sup>

3304. For the weeks after 28 December, the witness saw the People's Army continuously moving to Kabala, Port Loko to Lunsar, Bumbuna and Freetown. The witness knew this because he saw the rebels loading their vehicles and they would say where they were going or where they were coming back from.<sup>7361</sup>

3305. In early January, 1999, the witness listened to the transistor radio everyday and heard some announcements concerning Freetown. On 6 January 1999, he heard about an attack at Waterloo and then that the rebels captured Freetown.<sup>7362</sup> The civilian population of Makeni was asked by the RUF to dance and rejoice because Freetown had been captured. The witness danced because there were repercussions if the civilians refused to do so.<sup>7363</sup>

### The Accused

3306. The Accused testified that the first he knew of the Freetown invasion was on 6 January 1999 at 10.00am, when his national security adviser, Lewis Brown, informed him of

<sup>7355</sup> TF1-174, Transcript 27 January 2009, pp. 23690 – 23692.

<sup>7356</sup> TF1-174, Transcript 27 January 2009, pp. 23692 – 23693.

<sup>7357</sup> TF1-174, Transcript 27 January 2009, pp. 23693 – 23696.

<sup>7358</sup> TF1-174, Transcript 27 January 2009, p. 23694.

<sup>7359</sup> TF1-174, Transcript 27 January 2009, pp. 23694-23695.

<sup>7360</sup> TF1-174, Transcript 27 January 2009, pp. 23695-23696.

<sup>7361</sup> TF1-174, Transcript 27 January 2009, pp. 23707-23708.

<sup>7362</sup> TF1-174, Transcript 27 January 2009, pp. 23703 – 23705.

<sup>7363</sup> TF1-174, Transcript 27 January 2009, pp. 23705 – 23707.

the news. The Accused acknowledged that upon his instructions, Brown called Sam Bockarie on the phone. Sam Bockarie stated that he did not know what was going on in Freetown.<sup>7364</sup> One of the Accused's security personnel then told the Accused that he heard Bockarie announcing over BBC radio that his men had attacked Freetown.<sup>7365</sup> In order to verify the situation, the Accused again instructed his security personnel to contact Bockarie. Bockarie explained that he only said that on the radio for "morale" and to take "some claim for it".<sup>7366</sup>

Defence Witness Issa Sesay and Defence Exhibit D-447

3307. Defence witness Issa Sesay, a senior RUF commander,<sup>7367</sup> confirmed that Gullit was a friend of his, though not a close friend, after they came to know each other in "the days of the AFRC".<sup>7368</sup> Gullit also gave Sesay a pick-up truck when he went to Freetown.<sup>7369</sup> Sesay testified that he and Gullit were in detention together and that Gullit had told Sesay what he was going to testify before the Special Court. Sesay told Gullit that he should testify about what happened and "should not link the RUF to what RUF did not do or what RUF was not involved in" and denied having an agreement with Gullit to lie for Gullit in his (Sesay's) RUF trial.<sup>7370</sup>

3308. According to Sesay, Bockarie was willing to work with Gullit who was his friend, unlike SAJ Musa with whom he did not see "eye to eye".<sup>7371</sup> He stated that when he retreated from Kono, Gullit went to stay with Bockarie in Kailahun<sup>7372</sup> and that Bockarie was "friendly" to him.<sup>7373</sup> Sesay recalled that they became friends "from the time they overthrew".<sup>7374</sup> During the Junta period, Gullit and Bockarie travelled to The Gambia and Libya together.<sup>7375</sup>

<sup>7364</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26225-26227.

<sup>7365</sup> Charles Ghankay Taylor, Transcript 6 August 2009, p. 26227.

<sup>7366</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26227-26228.

<sup>7367</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>7368</sup> Issa Sesay, Transcript 19 August 2010, pp. 46737-46738.

<sup>7369</sup> Issa Sesay, Transcript 19 August 2010, p. 46739.

<sup>7370</sup> Issa Sesay, Transcript 19 August 2010, pp. 46739-46740.

<sup>7371</sup> Issa Sesay, Transcript 19 August 2010, pp. 46738, 46750.

<sup>7372</sup> Issa Sesay, Transcript 8 July 2010, p. 44048; Transcript 19 August 2010, p. 46739.

<sup>7373</sup> Issa Sesay, Transcript 19 August 2010, p. 46739.

<sup>7374</sup> Issa Sesay, Transcript 19 August 2010, p. 46739.

<sup>7375</sup> Issa Sesay, Transcript 23 August 2010, p. 46836.





3309. Gullit also became friends with Alfred Brown through a mutual friend, Sullay, before the retreat from Freetown.<sup>7376</sup>

3310. After Gullit arrived in Kailahun, Sesay testified that Bockarie ordered him to take Gullit's diamonds off him, which he did near the Guinean border where Gullit had gone to buy provisions.<sup>7377</sup> When Sesay was confronted on cross-examination with the evidence he had given in his own trial, where he had testified that they had found nothing on Gullit because Gullit had already handed his diamonds over to Bockarie, Sesay re-affirmed his testimony to this Trial Chamber, saying that he did not recall "all the things that I said were events that occurred" or what he had testified previously. He added that the diamonds taken from Gullit were small pieces.<sup>7378</sup>

3311. Sesay testified that Gullit then went from Kailahun to Kono in early May 1998 to collect AFRC members to go join SAJ Musa.<sup>7379</sup> Johnny Paul Koroma appointed Bockarie Chief of Defence Staff, but from May 1998 SAJ Musa, Brigadier Mani, Gullit and others refused to take instructions from Bockarie.<sup>7380</sup>

3312. In July 1998, Bockarie sent three radio operators, Alfred Brown, King Perry and another operator whose name Sesay could not remember, to Koinadugu at a time when SAJ Musa and Gullit were in charge of the area. Bockarie openly said he was sending them to support the operation, but he was actually sending them to spy. The operators remained with SAJ Musa's forces until February 1999.<sup>7381</sup>

3313. The radio operators initially had contact with Bockarie, but that contact ended in September 1998. As a result of infighting between Superman and SAJ Musa, SAJ Musa's group left Superman and joined Gullit in Major Eddie Town in September 1998. When SAJ Musa arrived, he held a planning meeting for the Freetown invasion during which he gave an order banning the radio operators from going anywhere near the radio. If they did, they would be executed. The ban was lifted after SAJ Musa's death in December 1998 so Alfred Brown could contact Bockarie on Gullit's behalf. Gullit and Bockarie then had a

<sup>7376</sup> Issa Sesay, Transcript 19 August 2010, p. 46739.

<sup>7377</sup> Issa Sesay, Transcript 8 July 2010, pp. 44048-44049; Transcript 29 July 2010, p. 45005.

<sup>7378</sup> Issa Sesay, Transcript 19 August 2010, pp. 46740-46742.

<sup>7379</sup> Issa Sesay, Transcript 8 July 2010, p. 44053.

<sup>7380</sup> Issa Sesay, Transcript 8 July 2010, pp. 44074-44076.

<sup>7381</sup> Issa Sesay, Transcript 8 July 2010, pp. 44068-44069, 44086-44087; Transcript 28 July 2010, pp. 44908-

discussion.<sup>7382</sup> Alfred Brown and King Perry told Sesay after they withdrew from Freetown in 1999 about the ban that had been placed upon them.<sup>7383</sup> Alfred Brown did try once to reach Bockarie when SAJ Musa's forces attacked Masiaka. SAJ Musa found out and flogged Brown.<sup>7384</sup> There was therefore no communication between SAJ Musa's group and Bockarie from September-December 1998. SAJ Musa regarded himself as head of his own operational area and he did not see Bockarie as part of his army.<sup>7385</sup>

3314. In December 1998, Superman, General Bropleh and Brigadier Mani left Koinadugu and launched an unsuccessful attack on Makeni. When the attack failed, they went to Binkolo. While there, Bockarie instructed them to join the witness's group in Makeni so they could capture Teko Barracks. This was around 24 December 1998.<sup>7386</sup>

3315. Sesay testified that when he and his group arrived in Makeni, Bockarie instructed Brigadier Mani, an AFRC member,<sup>7387</sup> General Bropleh and Superman to join Sesay's group in Makeni so they could capture Teko Barracks.<sup>7388</sup> Sesay, Brigadier Mani, General Bropleh and Superman then coordinated a joint attack on ECOMOG at Teko Barracks.<sup>7389</sup> After the attack, Brigadier Mani and General Bropleh stayed with Sesay in Makeni until March 1999.<sup>7390</sup> Sesay testified that during the attack on Makeni, the RUF had no contact with SAJ Musa. They were unaware that the attack on Freetown was imminent.<sup>7391</sup>

3316. After the Teko Barracks attack, Superman stayed in Makeni for a week before he moved to Lunsar. He stayed in Lunsar until Bockarie gave orders to Superman and Rambo to attack Port Loko.<sup>7392</sup> The attack on Port Loko took place after Gullit's troops attacked Freetown. This attack failed, and Bockarie ordered Superman and Rambo to advance towards Waterloo, where ECOMOG had redeployed after the attack on Freetown. On the

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44909; 18 August 2010, pp. 46631-46632.

<sup>7382</sup> Issa Sesay, Transcript 8 July 2010, pp. 44087-44090.

<sup>7383</sup> Issa Sesay, Transcript 8 July 2010, p. 44091.

<sup>7384</sup> Issa Sesay, Transcript 8 July 2010, pp. 44090-44091.

<sup>7385</sup> Issa Sesay, Transcript 8 July 2010, p. 44091.

<sup>7386</sup> Issa Sesay, Transcript 8 July 2010, pp. 44082-44083.

<sup>7387</sup> Issa Sesay, Transcript 8 July 2010, pp. 43991-43994.

<sup>7388</sup> Issa Sesay, Transcript 8 July 2010, pp. 44082-44083.

<sup>7389</sup> Issa Sesay, Transcript 9 July 2010, pp. 44159-44160.

<sup>7390</sup> Issa Sesay, Transcript 9 July 2010, pp. 44159-44160; Transcript 12 July 2010, p. 44200 (the witness reaffirms that he stayed in Makeni throughout the invasion of Freetown up until Superman attacked him in March 1999).

<sup>7391</sup> Issa Sesay, Transcript 9 July 2010, p. 44160.

way to Waterloo, they captured Masiaka. The RUF fought at Waterloo for two weeks before ECOMOG withdrew. By this time, the AFRC was already leaving Freetown.<sup>7393</sup> The RUF forces did not get any closer to Freetown than Waterloo.<sup>7394</sup> Rambo's forces attacked Waterloo as part of the RUF's plan to take Freetown, as the path through Waterloo was the only way to get to Freetown,<sup>7395</sup> not with the intent to link up with or open a way for the AFRC.<sup>7396</sup>

3317. According to Issa Sesay, after SAJ Musa died, Gullit called Bockarie via the radio operator Alfred Brown. He told Bockarie about SAJ Musa's death and the plan to attack Freetown. Bockarie told Gullit that they should wait to attack Freetown and that Bockarie would send reinforcements to meet them at Waterloo. Gullit did not wait and attacked Freetown one or two days later.<sup>7397</sup> Gullit also called Bockarie after they had captured the State House and their troops were at the Congo Cross Bridge and asked Bockarie to send reinforcements and ammunition.<sup>7398</sup>

3318. Sesay stated that when Gullit had taken State House, he did not call Sesay's station or radio. He confirmed that when Gullit had taken State House, Perry Kamara (a.k.a. King Perry) was the RUF operator who facilitated the communication between Bockarie and Gullit, pointing out that when Perry Kamara testified before this Trial Chamber, Kamara did not give evidence that Gullit also contacted Sesay.<sup>7399</sup>

3319. Sesay testified that while a few members of the AFRC were involved in the attack on Kono, the attack was dominated by the RUF. The RUF did not have control over the AFRC at the time of the attack on Freetown and the attacks on Freetown and Kono were two separate operations.<sup>7400</sup> The attack on Freetown was an independent plan by the AFRC. It had nothing to do with the RUF because the RUF was not part of the army.<sup>7401</sup>

<sup>7392</sup> Issa Sesay, Transcript 12 July 2010, pp. 44216-44217.

<sup>7393</sup> Issa Sesay, Transcript 9 July 2010, pp. 44168-44169.

<sup>7394</sup> Issa Sesay, Transcript 9 July 2010, p. 44169.

<sup>7395</sup> Issa Sesay, Transcript 4 August 2010, p. 45433.

<sup>7396</sup> Issa Sesay, Transcript 4 August 2010, p. 45432.

<sup>7397</sup> Issa Sesay, Transcript 9 July 2010, pp. 44162-44163.

<sup>7398</sup> Issa Sesay, Transcript 9 July 2010, p. 44162.

<sup>7399</sup> Issa Sesay, Transcript 19 August 2010, pp. 46754-46756.

<sup>7400</sup> Issa Sesay, Transcript 9 July 2010, p. 44168.

<sup>7401</sup> Issa Sesay, Transcript 9 July 2010, p. 44169.

3320. Sesay did not continue to Freetown because the attack on Freetown was not planned by the RUF.<sup>7402</sup> Further, when Gullit contacted Bockarie from the State House to request reinforcements, Bockarie refused because Gullit had ignored Bockarie's instruction to wait and "we" did not send reinforcements.<sup>7403</sup> Sesay also did not send any reinforcements to Lunsar or Waterloo.<sup>7404</sup>

3321. Issa Sesay testified that at the time of the Freetown invasion, Bockarie was in Buedu, Superman was in Lunsar and Sesay was in Makeni. The RUF did not take part in the attack on Freetown, and they did not send reinforcements or ammunition to the attacking forces.<sup>7405</sup> The only RUF who were in Freetown were Alfred Brown and King Perry.<sup>7406</sup> Sesay found out about the attack through the media—the BBC, VOA, RFI and the SLBS radio.<sup>7407</sup> Sesay also testified that Rambo was never given an order to meet with Gullit's troops as they entered Freetown, as stated in Exhibit P-149.<sup>7408</sup>

3322. After the attack, the AFRC troops led by Gullit retreated from Freetown to Benguema. The RUF were in Waterloo at this time. There was no unity between the AFRC and the RUF. The AFRC blamed the RUF for their forced retreat from Freetown because the RUF did not reinforce them.<sup>7409</sup> As a result of the problems between the AFRC and the RUF at Waterloo, Bockarie ordered Sesay to withdraw Rambo. Sesay did so and Rambo came to Makeni. When Rambo withdrew, ECOMOG were attacking the AFRC positions in Hastings and advancing towards Waterloo.<sup>7410</sup>

3323. Sesay testified that he went to Waterloo from Makeni after the withdrawal of the AFRC from Freetown.<sup>7411</sup> Bockarie sent Sesay to Waterloo to instruct Gibril Massaquoi, who had just been freed by the AFRC from Pademba Road Prison and had joined Superman and Rambo in Waterloo,<sup>7412</sup> to take the APC politicians who had also been freed from

<sup>7402</sup> Issa Sesay, Transcript 9 July 2010, p. 44168.

<sup>7403</sup> Issa Sesay, Transcript 9 July 2010, p. 44168; Transcript 12 July 2010, pp. 44187-44188.

<sup>7404</sup> Issa Sesay, Transcript 19 August 2010, p. 46804.

<sup>7405</sup> Issa Sesay, Transcript 9 July 2010, pp. 44161-44162.

<sup>7406</sup> Issa Sesay, Transcript 9 July 2010, p. 44161.

<sup>7407</sup> Issa Sesay, Transcript 9 July 2010, p. 44162.

<sup>7408</sup> Issa Sesay, Transcript 12 July 2010, pp. 44190-44191.

<sup>7409</sup> Issa Sesay, Transcript 12 July 2010, pp. 44201-44203.

<sup>7410</sup> Issa Sesay, Transcript 12 July 2010, p. 44201.

<sup>7411</sup> Issa Sesay, Transcript 11 August 2010, p. 45974.

<sup>7412</sup> Issa Sesay, Transcript 11 August 2010, p. 45976; Transcript 28 July 2010, pp. 44823-44824.

Pademba Road Prison to go to Makeni to talk with Sam Bockarie.<sup>7413</sup> Massaquoi had refused to come when Bockarie called him after his release from Pendemba Road and instead told Bockarie that he was going to operate with Superman.<sup>7414</sup>

3324. Sesay denied going to Waterloo to assist the AFRC in retaking Freetown.<sup>7415</sup> When Sesay arrived at Waterloo, the AFRC were split into two groups. Gullit commanded one group in Benguema and Bazy commanded the other in Hastings.<sup>7416</sup> There was no unity between the AFRC and the RUF. Neither side would subordinate themselves to the other, so misunderstandings arose and they used to shoot at each other. Due to problems between the AFRC and the RUF at Waterloo, Bockarie ordered Sesay to withdraw Rambo. Sesay did so and Rambo came to Makeni. When Rambo withdrew, ECOMOG were attacking the AFRC positions in Hastings and advancing towards Waterloo.<sup>7417</sup>

3325. Sesay believed that it was doubtful that Bockarie gave the order for the destruction of Freetown. He noted that Gullit, having being born, educated and joined the army in Freetown, would not likely have committed these crimes only on the orders of someone in Buedu. He also pointed out that Bockarie gave no equivalent order for destruction in Makeni, which was also captured by the RUF at this time.<sup>7418</sup> He maintained that the men in Freetown were not answerable to Bockarie; they had their own command structure and when they retreated, reports were not sent to Bockarie. Gullit was not taking orders from Bockarie at the time<sup>7419</sup>

3326. On cross-examination, Sesay confirmed that Bockarie made threats via the media to attack Freetown, around December 1998 or early 1999 in order to secure Sankoh's release from Pademba Road Prison.<sup>7420</sup> However, Sesay maintained that although Bockarie made

<sup>7413</sup> Issa Sesay, Transcript 11 August 2010, pp. 45974-45975.

<sup>7414</sup> Issa Sesay, Transcript 12 July 2010, p. 44224.

<sup>7415</sup> Issa Sesay, Transcript 11 August 2010, p. 45978.

<sup>7416</sup> Issa Sesay, Transcript 11 August 2010, p. 45974.

<sup>7417</sup> Issa Sesay, Transcript 12 July 2010, p. 44201.

<sup>7418</sup> Issa Sesay, Transcript 12 August 2010, p. 46109; Transcript 19 August 2010, pp. 46795-46796.

<sup>7419</sup> Issa Sesay, Transcript 12 August 2010, p. 46111.

<sup>7420</sup> Issa Sesay, Transcript 12 August 2010, pp. 46175-46177.



threats, what happened on the ground was different.<sup>7421</sup> Further, Freetown, as the seat of power, was always the objective of the RUF throughout the Civil War.<sup>7422</sup>

3327. Sesay stated that he heard about the death of SAJ Musa in January when he was in Makeni. Bockarie did not tell Sesay because Bockarie did not believe the news when he first heard it,<sup>7423</sup> and also did not immediately send reinforcements to Gullit. Bockarie told Gullit to wait at Benguema before attacking Freetown. Gullit did not wait so Bockarie never instructed Sesay to send reinforcements to Freetown.<sup>7424</sup> However, Sesay noted that Gullit did not ask for reinforcements when he delivered the news to Bockarie about SAJ Musa's death. Bockarie told him that if that was true, Gullit should wait so that Sesay and Superman's troops would be able to move down from Makeni and the two groups could attack Freetown together.<sup>7425</sup> Sesay agreed that Bockarie essentially volunteered reinforcements when Gullit never asked for any. Sesay explained that Bockarie was willing to work with Gullit, who was his friend, but not with SAJ Musa.<sup>7426</sup>

3328. Bockarie did not send instructions to Sesay to send reinforcements to Gullit. While Rambo did eventually go to Waterloo, this was not until late February 1999.<sup>7427</sup> It was after the failed attack on Port Loko that Bockarie gave instructions for Rambo to go to Waterloo. By that time, Gullit's forces were retreating from Freetown. The intention was then to move on to Freetown. When they got there, however, they could not get through as ECOMOG was in Hastings and Jui.<sup>7428</sup>

3329. Sesay also denied that the RUF attacked Port Loko in order to cut off reinforcements to Freetown. He noted that the Freetown attack had already happened at the time of the Port Loko attack.<sup>7429</sup> However, he acknowledged that the road from Conakry to Freetown ran through Port Loko as did the major road from Lungi to Freetown. In response to Prosecution counsel's suggestion that the only fast way for ECOMOG to reinforce its troops would be by air, landing at Lungi, or by road from Guinea, Sesay noted that ECOMOG also had an

<sup>7421</sup> Issa Sesay, Transcript 12 August 2010, p. 46178.

<sup>7422</sup> Issa Sesay, Transcript 12 August 2010, p. 46177.

<sup>7423</sup> Issa Sesay, Transcript 19 August 2010, pp. 46734-46737.

<sup>7424</sup> Issa Sesay, Transcript 19 August 2010, pp. 46744, 46747.

<sup>7425</sup> Issa Sesay, Transcript 19 August 2010, pp. 46748-46749, 46764-46766.

<sup>7426</sup> Issa Sesay, Transcript 19 August 2010, pp. 46749-46750, 46764-46766.

<sup>7427</sup> Issa Sesay, Transcript 19 August 2010, pp. 46767-46768.

<sup>7428</sup> Issa Sesay, Transcript 19 August 2010, pp. 46750-46751

airfield where they landed their planes at Hastings, although this was being attacked by Gullit's forces in January 1999.<sup>7430</sup> Sesay was later told by Gullit's forces that from Hastings, they moved via the ECOMOG base at Jui and crossed over the Orugu Bridge into Freetown.<sup>7431</sup>

3330. Sesay was not aware that any RUF soldiers were jubilant about the AFRC attack on Freetown because it was not their mission,<sup>7432</sup> and to Sesay's knowledge, the RUF did not force civilians to dance to celebrate the Freetown invasion.<sup>7433</sup>

3331. Exhibit D-447 is a map of Sierra Leone on which Issa Sesay indicated the route that the Guinean ECOMOG troops at Port Loko would have taken in providing reinforcements in Freetown in January 1999 and the position that the RUF would have taken to block them.<sup>7434</sup> Issa Sesay testified that if the RUF had intended only to cut off reinforcements to ECOMOG in Freetown then they would have only needed to capture Gberi Bridge, because that would have prevented anyone coming from Port Loko to Freetown; they would not have attacked Port Loko. Sesay explained that Gberi Bridge is located between Masiaka and Gberi Junction over the Rokel River. It is a strategic, long, narrow (single lane/one-way) bridge which, if captured, would cut off the supply line between Port Loko and Freetown.<sup>7435</sup>

#### Defence Witness John Vincent

3332. John Vincent (a.k.a. Stone One), an RUF commander,<sup>7436</sup> testified that SAJ Musa launched an attack on Freetown on 6 January 1999, an attack in which the RUF did not participate. The witness was not aware of SAJ Musa's movements because the witness was in Jojoima at the time and was not with Musa's group.<sup>7437</sup> SAJ Musa's group had broken off from the RUF with Superman and many ex-members of the SLA. Bockarie had declared the

<sup>7429</sup> Issa Sesay, Transcript 19 August 2010, p. 46744.

<sup>7430</sup> Issa Sesay, Transcript 19 August 2010, p. 46745.

<sup>7431</sup> Issa Sesay, Transcript 19 August 2010, p. 46745.

<sup>7432</sup> Issa Sesay, Transcript 19 August 2010, p. 46757.

<sup>7433</sup> Issa Sesay, Transcript 19 August 2010, pp. 46760-46761.

<sup>7434</sup> Exhibit D-447, "Map of Sierra Leone - showing the route that the Guineans at Port Loko would have taken in providing reinforcement in Freetown in January 1999 and the position that the RUF would have taken to block them, as indicated by DCT-172".

<sup>7435</sup> Issa Sesay, Transcript 26 August 2010, pp. 47303-47306.

<sup>7436</sup> John Vincent, Transcript 26 March 2010, pp. 38107, 38114-38116, 38118, 38137, 38145; Transcript 30 March 2010, pp. 38226, 38239; Transcript 31 March 2010, pp. 38390, 38408, 38460-38461.

<sup>7437</sup> John Vincent, Transcript 26 March 2010, p. 38129.

area that SAJ Musa controlled as an enemy zone. If anyone from the RUF was in that particular zone, they were considered an enemy to the RUF.<sup>7438</sup> At the time that SAJ Musa carried out his operation in Freetown in January 1999, the RUF was still occupying Makeni. The RUF made an attempt to also reach Freetown but were unable to get further than Masiaka.<sup>7439</sup> Vincent was not part of the operation at Masiaka and was not aware that the RUF went as far as Hastings.<sup>7440</sup>

3333. Vincent stated that there was no communication between the RUF in Makeni and SAJ Musa during the attack on Freetown but King Perry, an RUF radio man who had joined Superman's group, attempted to pass information onto Bockarie in Buedu. King Perry was flogged by the SLA and escaped.<sup>7441</sup> Vincent noted that some of the RUF authorities, even the witness, believed the Freetown operation to be a joint operation between the RUF and SAJ Musa. He testified:

it was only later that I got to know that RUF did not enter Freetown. So we were all jubilating when that particular invasion took place, but it was only later that we were convinced that they were not part of it.<sup>7442</sup>

#### Defence Witness Sam Kolleh

3334. Witness Sam Kolleh testified that Gullit was a friend to Bockarie but that the incident with the diamonds in Kailahun "caused Gullit to go against Bockarie".<sup>7443</sup>

3335. Witness Sam Kolleh testified that on 6 January 1999 he was in Pendembu, and heard about the Freetown invasion on the radio assigned to him. He heard on the radio that Johnny Paul Koroma and Bockarie with some other loyal AFRC soldiers who were in Buedu, such as Leather Boot and Akim, were in Kailahun planning a general attack. They instructed Issa, RUF Rambo, Morris Kallon and other RUF officers in Makeni to move to Freetown.<sup>7444</sup> Kolleh understood that SAJ Musa, the SLA commander, was also on his way to Freetown. However, Musa and his troops, which Kolleh understood to be more than 1,000, "went on their own", meaning they were no longer part of the junta or RUF forces. His armed men

<sup>7438</sup> John Vincent, Transcript 26 March 2010, pp. 38131-38132.

<sup>7439</sup> John Vincent, Transcript 26 March 2010, p. 38132.

<sup>7440</sup> John Vincent, Transcript 31 March 2010, pp. 38431-38434.

<sup>7441</sup> John Vincent, Transcript 26 March 2010, pp. 38132-38133.

<sup>7442</sup> John Vincent, Transcript 26 March 2010, p. 38134.

<sup>7443</sup> Sam Kolleh, Transcript 4 November 2010, p. 48819.

<sup>7444</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48449-48452.

consisted of mainly SLA but also 20-25 RUF members. They went to Waterloo, around Benguema.<sup>7445</sup>

3336. At this time, RUF Rambo was very close to Waterloo. SAJ Musa gave an order to destroy the armaments captured at Benguema before others were able to use it. Kolleh heard King Perry and Alfred Brown, radio operators who were waiting for Rambo in Benguema, communicating with Issa and Rambo on the radio on an open channel which everybody could listen to.<sup>7446</sup> They reported that SAJ Musa called the RUF “the enemy”. Perry and Brown reported that SAJ Musa had drawn a line on the main road to Freetown in Benguema and told RUF members not to cross it or they would be declared enemies.<sup>7447</sup> King Perry himself was beaten on account of passing information and updates on the movements of SAJ Musa’s group to Issa and Bockarie.<sup>7448</sup>

3337. After Issa reported this to Bockarie, Bockarie told Issa to tell RUF Rambo to stop his advance and return. SAJ Musa sent his men to attack Freetown but stayed behind to get rid of the ammunition in Benguema that “they” captured.<sup>7449</sup>

3338. After SAJ Musa’s death, Kolleh heard on the BBC radio Gullit announcing that they had captured Freetown and taken over the State House. Bockarie also told the BBC that his forces captured Freetown, but that was a lie. Bockarie himself was in Buedu (Kolleh knew this since Bockarie could not have moved from Buedu without passing through Manowa Ferry, where Kolleh was located). He heard Gullit later state to the BBC “No, we are not fighting under the same forces”, and that he was not fighting under Bockarie’s command.<sup>7450</sup> The reason why Bockarie told the BBC that his forces were in control of Freetown was because he was flamboyant, “full of big show”, and a boaster.<sup>7451</sup> Kolleh testified that the closest RUF forces got to Freetown, led by Rambo, was Waterloo and Benguema. Rambo was instructed to stop on the highway near Waterloo to report to Bockarie.<sup>7452</sup>

<sup>7445</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48451, 48453-48454.

<sup>7446</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48454, 48456-48459.

<sup>7447</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48455-48456, 48458.

<sup>7448</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48457-48458.

<sup>7449</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48455-48456.

<sup>7450</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48464-48465, 48468.

<sup>7451</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48468-48471.

<sup>7452</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48465-48467.

3339. On cross-examination, Kolleh maintained that SAJ Musa's troops entered Freetown before Musa died at Benguema. He denied that immediately after SAJ Musa's death Gullit asked Bockarie for reinforcements, stating that they were not "friends" at the time.<sup>7453</sup>

3340. Kolleh did not hear of the Superman-led attack on Port Loko in order to take over Lungi. He disputed that in order to control Freetown it was important to take over Lungi airport, as between the two locations there was "a big water", although he confirmed that ECOMOG's helicopters landed in Lungi. He also acknowledged that there was a ferry from Lungi to Freetown. Kolleh did not know whether ECOMOG could send reinforcements to Freetown by flying troops into Lungi.<sup>7454</sup>

Defence Witness Charles Ngebeh

3341. Witness Charles Ngebeh testified that on 25 December 1998, the RUF drove ECOMOG out of Makeni and Teko Barracks.<sup>7455</sup> From Makeni the fighters advanced to Lunsar, entering that city sometime during the first two weeks of January 1999. From Lunsar the fighters proceeded to Masiaka, from where they advanced to Waterloo. Ngebeh was with the RUF when they attacked Lunsar but remained based in Makeni. The RUF entered Waterloo at the end of January 1999, although the witness himself rejoined the fighters in Waterloo in the first week of February 1999.<sup>7456</sup>

3342. RUF troops also engaged with Guinean troops in Masiaka.<sup>7457</sup> As a result of persistent attacks led by CO Rambo, the Guineans decided to retreat further to Port Loko. They formed a long convoy to effectuate this plan. That convoy fell into an AFRC and RUF ambush in Lumpa, Waterloo.<sup>7458</sup>

3343. When Ngebeh arrived in Waterloo he met up with AFRC fighters that had been dislodged from Freetown by ECOMOG. Bockarie acknowledged that the returning AFRC fighters had blundered and ordered that they be searched for government property. CO Rambo created a gate through which soldiers returning from Freetown had to pass, and

<sup>7453</sup> Sam Kolleh, Transcript 5 November 2010, pp. 48908-48910.

<sup>7454</sup> Sam Kolleh, Transcript 5 November 2010, pp. 48910-48912.

<sup>7455</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37918-37919.

<sup>7456</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37920-37922.

<sup>7457</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37925-27926.

<sup>7458</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37927-37928.

inspected incoming soldiers for dollars taken from ECOMOG forces.<sup>7459</sup> Ngebeh returned to Makeni in March 1999.<sup>7460</sup>

3344. On cross-examination, Ngebeh was questioned concerning the Freetown attack. He testified that on 6 January 1999, the AFRC troops loyal to SAJ Musa led an attack on Freetown. Ngebeh heard that Musa had died in an attack on Benguema before the assault on Freetown took place, but the troops who entered Freetown were under his command 'whether he died or was alive', since it was his instructions that his men enter Freetown. The witness was unaware who took over command over the invading force upon Musa's death since the witness was stationed in Waterloo during this time.<sup>7461</sup> However, "the entire RUF" knew that Musa was responsible for entering Freetown, not the RUF.<sup>7462</sup> No senior commander of the RUF and RUF soldiers were 'involved' in the attack on Freetown.<sup>7463</sup>

3345. Ngebeh stated that the RUF never reached closer to Freetown than Waterloo. The RUF operated out of Waterloo, Benguema and Hastings, but only after the AFRC had already passed through and captured these places.<sup>7464</sup> Ngebeh affirmed that the RUF forces successfully attacked Masiaka on 5 January 1999, after the AFRC had already entered that town.<sup>7465</sup> After entering Masiaka, Rambo commanded the troops in an operation against RDF, a camp between Masiaka and Waterloo. The AFRC had already passed through RDF, and the remaining enemies in that area of the RUF retreated as soon as they heard gunfire, offering no resistance to Rambo's troops.<sup>7466</sup>

3346. In response to Prosecution counsel's suggestion that the capture of Waterloo took place in early January, rather than late January as Ngebeh had stated in his evidence-in-chief, Ngebeh noted that he did not record particular dates and was only certain of the month in which the attacks occurred.<sup>7467</sup> Ngebeh affirmed that after capturing Waterloo, Rambo's forces deployed at Hastings and attacked the ECOMOG base at Jui. While they attempted to

<sup>7459</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37930.

<sup>7460</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37929-37930.

<sup>7461</sup> Charles Ngebeh, Transcript 12 April 2010, pp. 38677-38679.

<sup>7462</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38678.

<sup>7463</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38679.

<sup>7464</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38680.

<sup>7465</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38680.

<sup>7466</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38681.

<sup>7467</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38681.

join “our brothers in Freetown”, they were prevented from getting past Jui.<sup>7468</sup> The witness was unable to recall if the RUF attack on Jui occurred as early as 9 January 1999.<sup>7469</sup> Rambo’s RUF forces twice attempted to push the ECOMOG forces out of Jui but were rebuffed both times. At this time the witness was in Hastings assisting Rambo.<sup>7470</sup> The witness explained that he remained based in Makeni but travelled back and forth from Waterloo and Hastings to assist Rambo’s troops.<sup>7471</sup>

3347. The witness responded to Prosecution counsel’s suggestion that he had no idea of the timing of these troop movements by pointing out that (a) the RUF was not part of the group that entered Freetown, so he could not be expected to know the movements associated with that action, (b) while 6 January 1999 was a date associated worldwide with the invasion of Freetown, he could not be expected to recall accurately the dates of the other attacks as a significant amount of time had elapsed between the events in question.<sup>7472</sup>

3348. Ngebeh regarded the portion of Exhibit P-149 describing the 9 January 1999 RUF attacks on Jui and Kossoh Town as ‘false information’, noting that the RUF were unable to establish a foothold in Jui and pass through to Kossoh Town.<sup>7473</sup> The witness was read the portion of the report concerning a joint RUF and AFRC attack on Jui and Kossoh Town, and the retreat of RUF forces from Kossoh Town. According to the witness this was further ‘false information’. The RUF did not know the radio codes used by the AFRC radio operators in Freetown, and therefore could not have agreed to a joint operation.<sup>7474</sup> The only RUF authority that was in Freetown was Gibril Massaquoi, a prisoner at Pademba prison in Freetown on 6 January 1999.<sup>7475</sup>

#### Defence Witness Martin George

3349. Witness Martin George testified that after the RUF captured Kono around Christmas 1998, he was assigned to capture Tongo with Akim, Base Marine and Vanicious Varney. During this period, he heard about the SLA attacking Freetown and the death of SAJ Musa.

<sup>7468</sup> Charles Ngebeh, Transcript 12 April 2010, pp. 38681-38682.

<sup>7469</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38682.

<sup>7470</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38683.

<sup>7471</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38681-38683.

<sup>7472</sup> Charles Ngebeh, Transcript 12 April 2010, pp. 38684-38685.

<sup>7473</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38688.

<sup>7474</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38690.

<sup>7475</sup> Charles Ngebeh, Transcript 12 April 2010, p. 3868.

Martin George believed that the RUF did not take part in the operation to attack Freetown between December 1998 and January 1999. If the RUF participated, he was not aware of it.<sup>7476</sup>

Defence Witness DCT-068

3350. Witness DCT-068 first heard about the 6 January 1999 invasion of Freetown from BBC's 'Focus' segment while he was in Bomaru. There was jubilation among the RUF at hearing the news of the invasion.<sup>7477</sup> DCT-068 did not remember if Bockarie sounded happy when he was on the radio or if Bockarie identified the men who entered Freetown as his.<sup>7478</sup>

Prosecution Exhibit P-093

3351. Exhibit P-093 is a Report from Brigadier Issa Sesay to Major Sam Bockarie on the take over of Koidu Town. It states that Sesay departed Defence Headquarters on 6 December 1998 for the mission and met Colonel Boston Flomo, commander of the Second Brigade, at Guinea Highway. At a forum held on 11 December 1998 at Guinea Highway, prior to the attack, Colonel Kailondo S. Banya, third Battalion Commander, was appointed the Koidu mission commander. On 16 to 17 December 1998, the mission was carried out and resulted in the successful capture of Koidu Town.<sup>7479</sup> The report states that a further ambush team captured Sewafe and Gold Town on the highway leading to Makeni on 17 December 1998. The report also notes that Masingbe was captured on 22 December 1998 by Colonel Boston Flomo, Magburaka was captured on 23 December 1998, and Makeni was captured on 24 December 1998.<sup>7480</sup>

Prosecution Exhibit P-149

3352. Exhibit P-149 is a memo from the Overall Intelligence Officer Commander and Black Guard Adjutant to Brigadier Issa H. Sesay, the Battle Field Commander, dated 21 January 1999. The memo states:

<sup>7476</sup> DCT-062, Transcript 23 April 2010, pp. 39783-39785

<sup>7477</sup> DCT-068, Transcript 11 March 2010, p. 37145.

<sup>7478</sup> DCT-068, Transcript 11 March 2010, pp. 37146-31747.

<sup>7479</sup> Exhibit P-093, "Restricted RUF/SL Comprehensive Report to Major Sam Bockarie from Brigadier Issa Sesay on the Take Over of Koidu, 26 January 1999", ERN 25503-25505.

<sup>7480</sup> Exhibit P-093, "Restricted RUF/SL Comprehensive Report to Major Sam Bockarie from Brigadier Issa Sesay on the Take Over of Koidu, 26 January 1999", ERN 25506-25507.



Upon hearing the confirm [sic] report that the Strike Force Commander Brigadier Goodisl entered Freetown with his troops, Colonel Boston Flomo (Alias Verndame) was instructed to meet him with his troops<sup>7481</sup>

3353. The memo reports that on 5 January 1999, the RUF launched a successful attack on Masiaka.<sup>7482</sup> On 6 January 1999, the troops were resting at the Waterloo Displaced and Refugees Camp. On 7 January 1999, they attacked the ECOMOG position at a Secondary School in Waterloo. In the afternoon, "the enemies communicated with us through letter that they doesn't want to figth [sic] any longer with us".<sup>7483</sup>

3354. On 8 January 1999, the troops launched a second attack on ECOMOG in Waterloo, causing ECOMOG to evacuate to Port Loko, and that on 9 January 1999, the troops deployed at Hastings. At Hastings, they found ECOMOG in Jui and Kosso town, but despite daily attacks, were unable to repulse enemy attacks as ECOMOG was being continually reinforced with arms and manpower.<sup>7484</sup>

3355. The memo notes further that, on 15 January 1999:

It was agreed that the men in Freetown and the men at our point were to do joint operation on Jui and Kosso town. The Freetown men schedule to attack Jui and we to attack Kosso town, that night we attacked Kosso town clear the enemies but the Freetown men never turn up, therefore the enemies with the support of the Alpha Jet drove us from Kosso town.<sup>7485</sup>

3356. The memo reports that, on 18 January 1999, Guinean troops from Port Loko attacked Waterloo with shelling and firing. They were able to occupy Waterloo from that evening to the morning, around 3.00am.<sup>7486</sup>

<sup>7481</sup> Exhibit P-149, "Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL 2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21/1/1999", ERN 25494.

<sup>7482</sup> Exhibit P-149, "Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL 2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21/1/1999", ERN 25494.

<sup>7483</sup> Exhibit P-149, "Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL 2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21/1/1999", ERN 25494.

<sup>7484</sup> Exhibit P-149, "Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL 2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21/1/1999", ERN 25494.

<sup>7485</sup> Exhibit P-149, "Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL 2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21/1/1999", ERN 25495.

<sup>7486</sup> Exhibit P-149, "Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL 2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21/1/1999", ERN 25495.

3357. The memo notes that the problems at the frontline include:

- (1) We have not yet connected physically with our brothers in Freetown.
- (2) Manpower indeed to be engaged on this Urban Warfare.
- (3) The strategic positions of the enemies mainly Port Loko, Lungi, Jui, Kabala are delaying our progress.<sup>7487</sup>

3358. The memo is signed by both "Lieut Raymond Kartewu, Black Guard Adjutant" and "Major Christ A. Mannah, Overall I.O. commander".<sup>7488</sup>

3359. Exhibit P-149 was part of a series of documents seized from an RUF Office in Kono District in 2001 and admitted through TF1-567. Prosecution witness Tariq Malik, who was the Chief of Evidence Unit for the OTP from April 2003 to the date of his testimony in January 2009.<sup>7489</sup> He testified that, based on supporting affidavits, it was clear that the 22 RUF documents were seized by the Special branch officers and CID officers from an RUF office located in Kono District. Exhibit P-149 is one of those documents.<sup>7490</sup>

#### Prosecution Exhibit P-067

3360. Exhibit P-067 is a 1999 report to Foday Sankoh by the Black Guards, authored by Junior Vandi, a Black Guard commander.<sup>7491</sup> Exhibit P-067 recounts the operation to capture Kono and Makeni led by Colonel Rambo and notes that after the fall of Makeni, Rambo received Superman to join the operation. Rambo and Superman:

extended the operation to Port-Loko as far as Waterloo and Kambia axis.

Furthermore, Col Rambo also tried his level best to link up with the other brothers that entered Freetown, but the Freetown operation was not coordinated as the said Commander Black Jah was nor going by the instruction from the High Command. When they retreated from Freetown, the BFC met them and told them to present a comprehensive report pertaining the whole Freetown operation, but they deliberately fail to do so.<sup>7492</sup>

<sup>7487</sup> Exhibit P-149, "Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL 2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21/1/1999", ERN 25495.

<sup>7488</sup> Exhibit P-149, "Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL 2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21/1/1999", ERN 25495.

<sup>7489</sup> Tariq Malik, Transcript 19 January 2009, p. 22920.

<sup>7490</sup> Tariq Malik, Transcript 19 January 2009, pp. 22968-22970, 22981.

<sup>7491</sup> TF1-371, Transcript 28 January 2008, p. 2406 (CS): Vandi authored it and he was a Black Guard commander; TF1-567, Transcript 2 July 2008, p. 12903.

<sup>7492</sup> Exhibit P-067, "RUF People's Army- Situation Report to Foday Sankoh from the Black Guard

Defence Exhibit D-009

3361. Exhibit D-009 is a salute report to Sankoh from Bockarie, dated 26 September 1999, in which Bockarie recounts events after Sankoh left Sierra Leone in November 1996 to the date of the report. It details after the capture of Makeni in December 1998, and a successful attack on Port Loko led by Boston Flomo (a.k.a. Rambo).<sup>7493</sup> It then states:

Meanwhile, the troops that entered Freetown had been cut off from the rear and were being encircled, leaving them no way out. I was able to coordinate their operations over set and got them to combine their forces and bulldoze from the side accessing them to the mountains through which they took a by-pass to join our troops at Benguema and Waterloo as JOI was occupied by ECOMOG. This is how the troops that entered Freetown were able to retreat. Still they sustained heavy casualties including Steve Bio and SLPP chairman Manakpaka and many others.<sup>7494</sup>

Defence Exhibit D-084

3362. Exhibit D-084 is a Salute Report dated 27 September 1999, from Brigadier Issa H Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, and was tendered into evidence through cross-examination of Prosecution Witness TF1-168. It states that after Issa Sesay, Rambo and Kallon captured Masingbi, Magburaka and Makeni:

Rambo was instructed to advance and attack Port Loko which he did, deploying his forward defensive at the Port Loko turn-table leading to Kambia. Rambo shared the town with the enemy for seven days. Superman pleaded that, even though Rambo had done well, he, as battle group commander, knew the ground well and should take over the ground. He said that he had received intelligence that the leader had been moved to Lungi and wanted to advance as far as Lungi and rescue the leader.

At this time our forces Freetown were under enemy cut off from the rear and were in danger of being boxed-in and either captured alive or killed.

Rambo was withdrawn from his operation in Port Loko and instructed to open a through-way to connect with our men in Freetown. Rambo then attacked and captured Masiaka, advanced and captured RDF, and attacked the Guineans at Waterloo, engaging them in combat for four days and four nights.

The Guineans wrote us a letter asking for their safe passage back to Guinea, saying that they were taking their hands out of the war. I replied, denying their request. [...]

A few days later I monitored the sound of heavy bombardment from the direction of Port Loko. On inquiring, I was informed that our troops had dissolved the ground and that the

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Commander", ERN 9679. Note that the report had previously described the BFC as Brigadier Issa Sesay (ERN 9679).

<sup>7493</sup> Exhibit D-009, "RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie", p. 7, ERN 9664.

<sup>7494</sup> Exhibit D-009, "RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie", pp. 7-8, ERN 9664-9665.

enemy were advancing towards Gberi Junction. I asked for Superman and was informed that he was in Lunsar and not on the ground that he had asked for and been given.

The Guinean convoy bulldozed all the way to Masiaka where my position was also bulldozed. [...]

Superman asked to join Rambo at Waterloo. He sighted the fact that as the SLA Commanders had operated with him before he would be able to consolidate them and exercise command and control over them. Taking into consideration his status as Battle Group and the logic behind his explanations, I gave the OK for Superman to join Rambo in Waterloo.

At Waterloo Superman incited SLA Commanders and soldiers against Rambo and generally did his best to cause a break-down in command on the ground.<sup>7495</sup>

### Prosecution Exhibit P-111

3363. Exhibit P-111 is a BBC News Article, titled "Africa Battle for Sierra Leone", dated January 6, 1999, reporting that rebels in Freetown had captured the State House government building and a number of other installations. It also records that, in an interview with the BBC, rebel leader Sam "Bukari" referred to "his troops" in Freetown. The article states that earlier, "Gibrill Massaquoi, a senior rebel leader", also telephoned the BBC to give the rebels' view of the conflict, stating that "rebel arms forces and the Revolutionary United Front of Sierra Leone were in complete control of the city and taking over the reins of government".<sup>7496</sup>

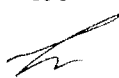
### Prosecution Exhibits P-279A and P-279B

3364. Exhibit P-279A is a clip from the radio broadcast BBC Focus on Africa, dated 6 January 1999, recording a telephone interview by BBC reporter Robin White with "an RUF rebel commander calling himself Colonel Sesay". Exhibit P-279B is a transcript of the clip. The exhibits record Colonel Sesay claiming to be one of the people who entered Freetown in the early hours of 6 January 1999, and stating that "we, the combined forces of the AFRC and the RUF" had "again overthrown the SLPP government".<sup>7497</sup> Colonel Sesay also states that his forces had occupied the State House, from which he was speaking to the BBC, and were controlling the entirety of Freetown. The exhibits record Colonel Sesay stating that

<sup>7495</sup> Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL to the Leader of the Revolution, dated 27 September 1999", pp. 9-10, ERN 7764-7765.

<sup>7496</sup> Exhibit P-111, "BBC News Article, World: Africa Battle for Sierra Leone, January 6, 1999", p. 1.

<sup>7497</sup> Exhibit P-279A, "Track Two, BBC Focus on Africa, 6 January 1999 (Audio File) - D0000517"; Exhibit P-279B, "Transcript - Track Two, BBC Focus on Africa, 6 January 1999 (Audio File) - D0000517", p. 2.





there were 15,000 armed men involved in the Freetown attack and that they had entered Freetown from the “jungle”, the hills overlooking Freetown.<sup>7498</sup> Colonel Sesay notes that the troops met little resistance from ECOMOG on the takeover of the city. When asked about potential ECOMOG troops coming from the airport at Lungi, Colonel Sesay states that the rebels had not yet captured Lungi, but “the motion is on the way to capture Lungi”. On who the new leader of Sierra Leone would be, Colonel Sesay states:

I cannot tell you now. I cannot tell you now, because it is a combined forces, a combined forces. We have the RUF, you have the AFRC, the former Revolutionary council, over<sup>7499</sup>

3365. Colonel Sesay also told White that the most senior brigadier for the operation was Brigadier TAB Yaya, a former PLO2.<sup>7500</sup>

3366. Issa Sesay confirmed in his testimony that the “Colonel Sesay” speaking on this recording is Colonel FAT Sesay, an SLA.<sup>7501</sup>

#### Prosecution Exhibit P-349A

3367. Exhibit P-349A is an audio recording of a BBC radio broadcast during the Freetown attack on 7 January 1999. It indicates that the rebel fighters are a mixture of the RUF and the disbanded Sierra Leonean army but that majority of the fighters at the centre of town are from the former Sierra Leonean army. It also notes that the rebels are in control of the State House, and that some of the prisoners released from Pademba Road are armed.<sup>7502</sup>

#### Deliberations

3368. Before turning to the substance of the parties’ submissions, the Trial Chamber sets out some of the undisputed facts concerning the military movements of the various RUF and AFRC contingents in December 1998 and January 1999.

<sup>7498</sup> Exhibit P-279A, “Track Two, BBC Focus on Africa, 6 January 1999 (Audio File) - D0000517”; Exhibit P-279B, “Transcript - Track Two, BBC Focus on Africa, 6 January 1999 (Audio File) - D0000517”, p. 3.

<sup>7499</sup> Exhibit P-279A, “Track Two, BBC Focus on Africa, 6 January 1999 (Audio File) - D0000517”; Exhibit P-279B, “Transcript - Track Two, BBC Focus on Africa, 6 January 1999 (Audio File) - D0000517”, p. 4.

<sup>7500</sup> Exhibit P-279A, “Track Two, BBC Focus on Africa, 6 January 1999 (Audio File) - D0000517”; Exhibit P-279B, “Transcript - Track Two, BBC Focus on Africa, 6 January 1999 (Audio File) - D0000517”, p. 4.

<sup>7501</sup> Issa Sesay, Transcript 19 August 2010, p. 46753.

<sup>7502</sup> Exhibit P-349A, “BBC Focus on Africa Clip - D0000513, 7 January 1999”; see also Exhibit P-349B, “Transcript, BBC Focus on Africa Clip - D0000513, 7 January 1999”, p. 23608.

3369. After the Waterworks meeting, on or around 17 December 1998, RUF and AFRC forces led by Issa Sesay, Boston Flomo and others commenced an attack on Koidu Town and succeeded in capturing the town.<sup>7503</sup> Forces led by Boston Flomo from the 2<sup>nd</sup> Brigade then moved towards the west, capturing Masingbi on 22 December 1998,<sup>7504</sup> while forces led by Issa Sesay captured Magburaka on 23 December 1998.<sup>7505</sup> Troops led by Sesay, Flomo, and others coordinated to capture Makeni on the following day.<sup>7506</sup> At the same time, in late December 1998, troops under the direction of Bockarie mounted unsuccessful attacks on the Segbwema-Daru axis, towards Kenema.<sup>7507</sup> The attacks were led by the 1st Brigade commander, CO Denis (a.k.a. Monkey Brown), and Karmoh Kanneh (a.k.a. Eagle).<sup>7508</sup>

<sup>7503</sup> Exhibit P-093, "Comprehensive Report from Brigadier Issa H. Sesay, Battle Field Commander, to Major General Sam Bockarie, Chief of Defence Staff, 26 January 1999", p. 3, ERN 25505; Exhibit D-178, "Special report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 7 January 1999", para. 3; Exhibit P-093, "Restricted RUF/SL Comprehensive Report to Major Sam Bockarie from Brigadier Issa Sesay on the Take Over of Koidu, January 26 1999"; Issa Sesay, Transcript 8 July 2010, pp. 44082-44083; Charles Ngebeh, Transcript 23 March 2010, pp. 37918-37919; Alice Pyne, Transcript 19 June 2008, pp. 12269-12272; Defence Final Trial Brief, para. 624.

<sup>7504</sup> Exhibit P-093, "Comprehensive Report from Brigadier Issa H. Sesay, Battle Field Commander, to Major General Sam Bockarie, Chief of Defence Staff, 26 January 1999", p. 4, ERN 25506; Defence Final Trial Brief, para. 625; *compare* Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21555-21557 (the witness monitored a radio message from Issa Sesay stating that RUF fighters were heading towards Masingbi, but he dates these attacks as occurring between 15 and 20 December 1998).

<sup>7505</sup> Exhibit P-093, "Comprehensive Report from Brigadier Issa H. Sesay, Battle Field Commander, to Major General Sam Bockarie, Chief of Defence Staff, 26 January 1999", p. 5, ERN 25507; Issa Sesay, Transcript 29 July 2010, p. 45051; Transcript 19 August 2010, p. 46733; Prosecution Final Trial Brief, para. 10; Defence Final Trial Brief, para. 626.

<sup>7506</sup> Exhibit P-093, "Comprehensive Report from Brigadier Issa H. Sesay, Battle Field Commander, to Major General Sam Bockarie, Chief of Defence Staff, 26 January 1999", p. 5, ERN 25507; Issa Sesay, Transcript 8 July 2010, pp. 44082-44083; Charles Ngebeh, Transcript 23 March 2010, pp. 37918-37919; Alice Pyne, Transcript 19 June 2008, pp. 12269-12272; Defence Final Trial Brief, para. 626; *compare* Exhibit D-178, "Special report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 7 January 1999", para. 7 (placing the capture of Makeni on 27 December 1998).

<sup>7507</sup> Exhibit P-430C, "Excerpts from: News article, Sierra Leone Web -- Sierra Leone News Archive, December 1998 (pages 5 & 6 of 8)" (reporting that Bockarie claimed the AFRC/RUF had already captured Makeni and were battling for Kenema); Exhibit P-344A, "BBC Focus on Africa Clip from track 1 - D0000550 30 December 1998"; Exhibit P-344B, "Transcript - BBC Focus on Africa Clip from track 1 - D0000550 30 December 1998" (reporting on an offensive mounted by "Sierra Leonean rebels" in Kenema and stating that on 29 December 1999, the rebels suffered heavy casualties at Tongolu village as they tried to attack ECOMOG and Kamajor positions at Daru); Exhibit P-346A, "BBC Focus on Africa Clip from track 1 - D0000539, 31 December 1998"; Exhibit P-346B, "Transcript - BBC Focus on Africa Clip from track 1 - D0000539, 31 December 1998 CMS PGS 23602-23603" (On 30 December 1998, the RUF and AFRC attacked Segbwema town, 29 miles to Kenema. ECOMOG and the Kamajors were able to repel the rebels, with 47 killed); Exhibit P-384, "The Inquirer, Vol.7, No.250, Thousands Trapped In Freetown ... Foday Sankoh Flown to Guinea; Rebels Still Burning Buildings, Wednesday, 13 January 1999 (CMS NOS. 22514-22515)" (The exhibit states that rebel attempts to take Kenema suffered a setback on 12 January 1999 when they were beaten back by Kamajor forces); Isaac Mongor, Transcript 11 March 2008, p. 5824 (When asked whether he was able to accomplish his assignment, as determined in the meeting in November 1998 in Buedu before the offensive, to attack Joru and Zimmi, Mongor stated that he was able to occupy Joru for three days before his group was pushed out. He was not able to advance to the next target, Zimmi).

<sup>7508</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20222-20224 (according to the plan, the witness was

3370. Around early or mid-December 1998, the group of predominantly AFRC fighters based in Northern Sierra Leone, led by SAJ Musa, moved towards Freetown.<sup>7509</sup> On 22 December 1998, this group of rebels attacked Waterloo, about 20 miles from Freetown,<sup>7510</sup> and then attacked Benguema.<sup>7511</sup> On 23 December 1998, SAJ Musa died at Benguema.<sup>7512</sup> Following SAJ Musa's death, Gullit took over as commander of the fighters.<sup>7513</sup> On 3 January 1999, the troops captured Hastings.<sup>7514</sup>

3371. In the early hours of 6 January 1999, troops headed by Gullit advanced towards Freetown from Allen Town, passing through Calaba Town, Brewery, and then through Wellington Old Road and New Freetown-Waterloo road into Freetown attacking from the east of the city penetrated the centre of Freetown, where they opened Pademba Road Prison, freeing hundred of prisoners, including the former president J S Momoh, the former RUF spokesman Gibril Massaquoi, and Steve Bio, the elder brother of Maada Bio, former leader of the NPRC, and many members of the RUF and AFRC.<sup>7515</sup> By nightfall, the area around

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to go to Baiima with Eagle, Manawai and the 1st brigade commander from the RUF, CO Denis, a.k.a. Monkey Brown. The command was to attack Bunumbu, Segbwema, Daru, Tondola, Bendu Junction, Jomukafebu, Kumbema and all the way to Kenema); Albert Saidu, Transcript 5 June 2008, pp. 11082-11085 (the witness was told that a war plan was drawn at Waterworks for a major offensive which will include the 1st and 2nd brigades to go and attack Kono and the Bunumbu-Segbwema axis, respectively); Karmoh Kanneh, Transcript 9 May 2008, pp. 9423-9424, 9426-9427 (the witness, a.k.a. Eagle, was assigned during the meeting at Waterworks to attack Segbwema and Daru, towards Kenema, from where they were to proceed towards the southern province).

<sup>7509</sup> Perry Kamara, Transcript 6 February 2008, pp. 3211-3213; Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8224.

<sup>7510</sup> Exhibit D-178, "Special report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 7 January 1999", para. 4; Exhibit P-308, "UNSC, Special Report Of the SG On the UNOMSIL, S/1999/20, 7 January 1999, Paras 3-4, 6 (Part), 7 (Part), 8, 10, 14 (Except the First Sentence and Underlined Portions, 18-20, 25)", para. 4; Exhibit P-340A, "BBC Focus on Africa Clip from track 1 - D0000524, 22 December 1998"; see also Exhibit P-340B, "Transcript - BBC Focus on Africa Clip from track 1 - D0000524, 22 December 1998 CMS PG 23589".

<sup>7511</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8243-8244; Perry Kamara, Transcript 6 February 2008, p. 3214; Exhibit D-177, "Media Communique, A Compilation of News/Press Releases of ECOMOG, Vol. 1, No. 1, Sept-Dec 1998, Freetown, December 1998 - DCT 23", p. 30.

<sup>7512</sup> Military Operations: The Freetown Invasion, The Plan; Decision on Judicial notice, 23 March 2009, Annex A, Fact 13.

<sup>7513</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8247; Perry Kamara, Transcript 6 February 2008, p. 3217; Defence Final Trial Brief, para. 615.

<sup>7514</sup> Exhibit D-178, "UN Security Council, Special Report of the Secretary General on the UN Observer Mission in Sierra Leone, 7 January 1999 - DCT 100", p. 2; Exhibit P-347A, "BBC Focus on Africa Clip from track 1 - D0000528, 4 January 1999"; Exhibit P-347B, "Transcript - BBC Focus on Africa Clip from track 1 - D0000528, 4 January 1999 - CMS PGS 23604-23605" (noting that there is fighting between the RUF and AFRC and ECOMOG around Hastings); Perry Kamara, Transcript 6 February 2008, p. 3219 (After the conversation between Bockarie and Gullit concerning waiting for Bockarie's reinforcements, they attacked Hastings but were not able to capture York); TF1-375, Transcript 24 June 2008, pp. 12604-12605 (Superman informed the witness's group that Bazy's forces had attacked Hastings and were ready to enter Freetown).

<sup>7515</sup> Issa Sesay, Transcript 7 July 2010, p. 43929.

the State House was in control of the rebels.<sup>7516</sup> Meanwhile, after the capture of Makeni, commanders under the direction of Bockarie, including Denis Mingo (a.k.a. Superman), Boston Flomo (a.k.a. RUF Rambo) and Komba Gbundema, left westwards towards Freetown, attacking Lunsar,<sup>7517</sup> Port Loko,<sup>7518</sup> Masiaka,<sup>7519</sup> and Waterloo.<sup>7520</sup>

3372. Gullit's forces held the city centre for four days until they were forced to withdraw to the suburbs of Freetown by counterattacks.<sup>7521</sup> The rebel forces were flushed out from the three densely populated eastern suburbs of Kissy, Wellington and Calaba Town after three weeks.<sup>7522</sup> On 24 February 1999, ECOMOG succeeded in expelling the rebels from Waterloo.<sup>7523</sup>

<sup>7516</sup> Exhibit D-178, "Special report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 7 January 1999", para. 10; Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8270-8280; Perry Kamara, Transcript 6 February 2008, pp. 3224-3226.

<sup>7517</sup> Exhibit P-345A, "BBC Focus on Africa Clip from track 1 - D0000549, 30 December 1998"; see also Exhibit P-345B, "Transcript - BBC Focus on Africa Clip from track 1 - D0000549, 30 December 1998 - CMS PGS 23600-23601"; Exhibit P-348A, "BBC Focus on Africa Clip from track 2 - D0000528, 4 January 1999"; Exhibit P-348B, "Transcript - BBC Focus on Africa Clip from track 2 - D0000528, 4 January 1999 - CMS PGS 23606-23607" (stating that there is an ongoing offensive in areas of Lunsar); TF1-375, Transcript 24 June 2008, pp. 12594-12595; Foday Lansana, Transcript 22 February 2008, p. 4553 (Lansana testified that he was in Lunsar with Superman waiting for reinforcements from Kono when RUF and AFRC forces attacked Freetown on 6 January 1999).

<sup>7518</sup> Exhibit D-009, "RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie", p. 7; Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999 - 00007756 - 00007768", p. 9; Issa Sesay, Transcript 9 July 2010, pp. 44168-44169; see also Defence Final Trial Brief, para. 628; Prosecution Final Trial Brief, para. 11, 13.

<sup>7519</sup> Exhibit P-149, "Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL 2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21/1/1999", ERN 00025494; TF1-375, Transcript 24 June 2008, pp. 12604-12605 (When TF1-375 had reached Masiaka, Superman was at Gberi Junction); see also Defence Final Trial Brief, para. 632.

<sup>7520</sup> Exhibit P-149, "Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL 2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21/1/1999", ERN 25494 (On 6 January 1999, the troops were resting at Waterloo displaced and Refugees Camp. On 7 January 1999, they attacked the ECOMOG position at a Secondary School in Waterloo); Isaac Mongor, Transcript 11 March 2008, pp. 5819-5820 (Rambo and other fighters in advanced with Superman to Waterloo after Makeni; they then advanced towards Jui, in the Hastings area); Issa Sesay, Transcript 9 July 2010, pp. 44168-44169 (RUF Rambo and Superman attacked Port Loko after the AFRC attacked Freetown. After the attack on Port Loko failed, Bockarie ordered them to advance towards Waterloo); see also Defence Final Trial Brief, para. 636; Prosecution Final Trial Brief, para. 13;

<sup>7521</sup> Exhibit D-191, "Fifth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, 4 March 1999", para. 2.

<sup>7522</sup> Exhibit P-328, "Human Rights Watch Report, Sierra Leone: Getting Away with Murder, Mutilation, Rape, July 1999", p. 2, ERN 23000; Exhibit P-356A, "BBC Focus on Africa Clip from track 2 - D0000507, 22 January 1999"; see also Exhibit P-356B, "Transcript - BBC Focus on Africa Clip from track 2 - D0000507, 22 January 1999 - CMS PGS 23627-23628" (stating that ECOMOG had control of the main road at Kissy and some parts of Kissy, and full control of Kissy Town itself and the rebels had retreated up to the hills of the Kissy area of Freetown); Exhibit P-357A, "BBC Focus on Africa Clip from track 1 - D0000508, 23 January 1999"; see also Exhibit P-357B, "Transcript - BBC Focus on Africa Clip from track 1 - D0000508, 23 January 1999 - CMS PGS



(i) Evidentiary issues

3373. As a preliminary issue, the Trial Chamber notes that in support of its argument that Bockarie “coordinated”<sup>7524</sup> the troops in Freetown, and that those troops took orders from Bockarie, the Prosecution places some weight on documentary and testimonial evidence that during and after the Freetown invasion on 6 January 1999, Bockarie spoke to the BBC and other international media outlets and claimed that it was “his troops” who had entered Freetown and that he had authority over these troops.<sup>7525</sup> The Trial Chamber considers that Bockarie’s own statements to the international media is of doubtful value in determining whether Bockarie did, in fact, have command over the troops in Freetown, or whether he was working with Gullit. Both Abu Keita and Sam Kolleh testified that Bockarie made a call to the BBC during the Freetown assault in which he claimed to be in Freetown during the January 1999 attack and have control over the forces in the city, when he was in fact in Buedu.<sup>7526</sup> Nevertheless, the evidence does indicate Bockarie's intention to exercise

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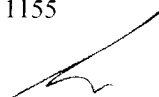
23629-23630” (The exhibits state that ECOMOG has most of Freetown under control, and the AFRC/RUF rebels have been driven back out to the east towards Wellington and Calaba Town, where they are trapped).

<sup>7523</sup> Exhibit D-191, “Fifth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, 4 March 1999”, para. 3.

<sup>7524</sup> Prosecution Final Trial Brief, para. 518.

<sup>7525</sup> See Prosecution Final Trial Brief, paras 507, 510, 554-564; TF1-585, Transcript 8 September 2008, pp. 15707, 15717-15719 (On around 3 January 1999, Bockarie had used his satellite phone to inform the BBC that his troops would be in Freetown within three days time. He was able to give this timeframe because he and Gullit had already spoken and Gullit had told Bockarie his position at that time, saying that he was “entering” Freetown. When the witness heard on FM radio that the rebels had entered Freetown, Bockarie told the BBC that “he was a man of his word. He had given three days that his men would enter Freetown and indeed they had entered Freetown”); Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8286 (Bobson Sesay stated that after taking control of Pademba Road prison and when he returned to the State House, he heard on international media Bockarie announcing that his troops led by Gullit had ousted the government of Ahmed Tejah Kabbah, released prisoners from Pademba prison and were based at the State House); Exhibit P-430C, “Excerpts from: News article, Sierra Leone Web – Sierra Leone News Archive, December 1998 (pages 5 & 6 of 8)” (Bockarie threatened to attack Freetown on New Year’s Day, unless the Kabbah Government agreed to negotiate with the rebels. Bockarie claimed the AFRC/RUF had captured Waterloo and Benguema); Exhibit P-085B, “Audio CD - Radio Broadcast of Sam Bockarie on the BBC World Service's Focus on Africa”; see also Exhibit P-085B, “Unofficial Transcript - Audio CD - Radio Broadcast of Sam Bockarie on the BBC World Service's Focus on Africa” (In an interview by Robin White with Sam Bockarie on the BBC World Service’s Focus on Africa dated 8 January 1999, Bockarie states that the troops in Freetown were obeying his orders); Foday Lansana, Transcript 22 February 2008, pp. 4554-4555 (Lansana testified that on 6 January 1999, he recalled hearing Sam Bockarie on BBC radio being interviewed by Robin White. In this interview, Bockarie said that he had received a radio communication from his commander, Brigadier Gullit, in Freetown. Bockarie also said in the interview that he had received information that Tongo had fallen to the RUF and Junta); Exhibit P-111, “BBC News Article, World: Africa Battle for Sierra Leone, 6 January 1999”, p. 1 (in an interview with the BBC, rebel leader Sam “Bukari” referred to “his troops” in Freetown. The article states that earlier, “Gibril Massaquoi, a senior rebel leader”, also telephoned the BBC to give the rebels’ view of the conflict, stating that “rebel arms forces and the Revolutionary United Front of Sierra Leone were in complete control of the city and taking over the reins of government”).

<sup>7526</sup> Abu Keita, Transcript 23 January 2008, p. 2020 (He and Bockarie were listening to the programme “Focus on Africa” on the BBC on 6 January 1999 and heard a commander calling from Freetown announcing that he





command over the troops in Freetown and his desire to be seen as the leader of the combined forces.

3374. Neither does the Trial Chamber consider, as the Prosecution alleges, that the call made by AFRC member FAT Sesay to the BBC on 6 January that the attackers were a “combined” force of RUF and AFRC indicate the dependence of the Freetown troops on the RUF,<sup>7527</sup> although it does indicate the interest of the fighters in Freetown in being seen as a combined force. It is not disputed that both RUF and AFRC elements were involved in the January 1999 Freetown attack,<sup>7528</sup> and the evidence unequivocally establishes that RUF fighters were amongst the troops that entered Freetown,<sup>7529</sup> just as there were AFRC groups

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was in control of the State House. Keita testified that Bockarie became angry and called Issa Sesay and Morris Kallon, asking them how they allowed anyone other than himself to speak to the BBC. Bockarie then called the BBC on his satellite phone and shot a weapon, telling the BBC that he was at the State House although he was actually still in Buedu); Sam Kolley, Transcript 1 November 2010, pp. 48468-48471 (Bockarie also told the BBC that his forces captured Freetown, but that was a lie. Bockarie himself was in Buedu. The reason why Bockarie told the BBC that his forces were in control of Freetown was because he was flamboyant, “full of big show”, and a boaster); see also Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26227-26228 (One of the Accused’s security personnel told the Accused that he heard on Bockarie announcing over BBC radio that his men had attacked Freetown. The Accused instructed his security personnel to contact Bockarie, who explained that he only said that on the radio for “morale” and to take “some claim for it”).

<sup>7527</sup> Prosecution Final Trial Brief, para. 518; Exhibit P-279A, “Track Two, BBC Focus on Africa, 6 January 1999 (Audio File) - D0000517”; Exhibit P-279B, “Transcript - Track Two, BBC Focus on Africa, 6 January 1999 (Audio File) - D0000517”, p. 4 (The exhibits record Colonel Sesay claiming to be one of the people who entered Freetown in the early hours of 6 January 1999, and stating that “we, the combined forces of the AFRC and the RUF” had “again overthrown the SLPP government” On who the new leader of Sierra Leone would be, Colonel Sesay states “I cannot tell you now. I cannot tell you now, because it is a combined forces, a combined forces. We have the RUF, you have the AFRC, the former Revolutionary council, over”).

<sup>7528</sup> The Prosecution and Defence agreed that “[o]n about 6 January 1999, inter alia, RUF and AFRC forces attacked Freetown” (Admitted Facts and Law, 26 April 2007, Agreed Fact 31). The Defence has indicated that “[t]he admission is simply a factual recognition that there may have been RUF elements that participated in the AFRC attack on Freetown. It says nothing about what the RUF may have done as a cohesive organization, or about whether or not the RUF sent reinforcements to Waterloo or the Freetown environs in the days after the 6 January invasion, etc” (Defence Reply to Prosecution Response to Defence Application for Judicial Notice of Adjudicated Facts from the AFRC Trial Judgement Pursuant to Rule 94(B), 24 February 2009, para. 15).

<sup>7529</sup> Exhibit P-364, “Restricted Revolutionary United Front - Sierra Leone (RUF/SL), Nominal Roll of Trained RUF Personnel”, p. 22057 (indicating that four RUF fighters with the rank of private were captured by ECOMOG in Freetown in January and February 1999); Exhibit P-349A, “BBC Focus on Africa Clip - D0000513, 7 January 1999”; Exhibit P-349B, “Transcript, BBC Focus on Africa Clip - D0000513, 7 January 1999”, p. 23608 (indicating that the rebel fighters were mixed ex-SLA and RUF but that majority of the fighters at the centre of town were from the former Sierra Leonean army); Perry Kamara, Transcript 6 February 2008, p. 3233 (Kamara explained that AFRC, RUF and STF troops were present in Freetown); Sam Kolley, Transcript 1 November 2010, pp. 48451, 48453-48454 (SAJ Musa’s armed men consisted of mainly SLA but also 20-25 RUF members); Allusein Conteh, Transcript 30 January 2009, pp. 23998-23999 (Conteh, a double amputee, testified that on 8 January 1999 combatants started harassing civilians in Kissy. He concluded that they belonged to the RUF because they were not wearing uniforms; they came in plain clothes and had young girls with them. One of the members of the gang was a small boy named Kelle, who told him that he had been captured eight years ago); Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8202 (Gullit established the Red Lion Battalion composed of RUF, SLA, STF and former NPFL fighters which was part of the group which attacked Freetown). See also Provision of Military Personnel: Allegations Related to the Red Lion Battalion.

working with or under the command of Bockarie.<sup>7530</sup> The Trial Chamber notes that the factual matter at issue which is relevant to the responsibility of the Accused is not whether members of the RUF organisation participated in the Freetown assault but the involvement of Bockarie in the Freetown operation after the formulation of the plan designed by Bockarie and the Accused.

3375. For similar reasons, the Trial Chamber does not consider the presence of a group led by O-Five, referred to by the Prosecution as the Red Lion Battalion; two RUF radio operators, Perry Kamara and Alfred Brown; bodyguards of the RUF radio operators; RUF fighters freed from Pademba Road Prison; and other RUF members accompanying Gullit and SAJ Musa's forces to Freetown as conclusive proof of the RUF's contribution to the Freetown.<sup>7531</sup> Various witnesses have testified that some of these persons joined the group led by Gullit and SAJ Musa as part of a group led by O-Five arriving in Colonel Eddie Town around September 1998, including Perry Kamara and Alfred Brown,<sup>7532</sup> while others were RUF members who had gone into hiding after the ECOMOG Intervention but rejoined SAJ Musa's group as they travelled from Koinadugu to Rosos.<sup>7533</sup> These persons joined Gullit and SAJ Musa's group independently of the plan designed by Bockarie and the Accused. Similarly, while it is not contested that prisoners released from Pademba Road

<sup>7530</sup> Perry Kamara, Transcript 6 February 2008, pp. 3245 (The group in Waterloo, led by *inter alia*, Morris Kallon, Issa Sesay and Denis Mingo, comprised AFRC, RUF and some STF troops).

<sup>7531</sup> Prosecution Final Trial Brief, paras 529, 532-546.

<sup>7532</sup> Perry Kamara testified that he was sent by Bockarie in August 1998 to Koinadugu District to join SAJ Musa and Superman, and then subsequently to join Gullit at Colonel Eddie Ground: Perry Kamara, Transcript 5 February 2008, pp. 3175-3176. Note that although Kamara testified that he and Brown were sent in accordance with a plan developed with the Accused in mid-1998 to take Kono and Freetown, the Trial Chamber has rejected his evidence that the Accused was involved: see Military Operations: Operation Fitti-Fatta. According to Kamara, the group left Koinadugu for Rosos in September 1998, and they arrived in Rosos before 28 September 1998: Perry Kamara, Transcript 6 February 2008, pp. 3188-3190. O-Five was the head of the group that left Koinadugu: Perry Kamara, Transcript 6 February 2008, p. 3244. *See also* Issa Sesay, Transcript 8 July 2010, pp. 44068-44069, 44086-44087; Transcript 28 July 2010, pp. 44908-44909; 18 August 2010, pp. 46631-46632 (In July 1998, Bockarie sent three radio operators, Alfred Brown, King Perry and another operator whose name Sesay could not remember, to Koinadugu in July 1998 at a time when SAJ Musa was in charge of the area, together with Gullit. Bockarie openly said he was sending them to support the operation, but he was actually sending them to spy. The operators remained with SAJ Musa's forces until February 1999). See also Provision of Military Personnel: Allegations Related to the Red Lion Battalion.

<sup>7533</sup> Perry Kamara, Transcript 6 February 2008, p. 3200 ("During the period of the intervention from Freetown to Makeni not everybody was able to follow us to go to the jungle. For example, back in Kabala some people left their deployment in other villages and they found it difficult to go to the towns and, therefore, they hid themselves in bushes so they were staying there. Therefore, they divided themselves into groups and then when they heard that we were going along attacking areas from Koinadugu to Rosos a good number of the RUF came back and joined us. In fact, the number that we now reported to Gullit, we were more than 500. The number increased to 500 and most of the men who came, they had guns, and we welcomed them to join us. So that was how the number increased").

became involved in the hostilities in the city,<sup>7534</sup> these individuals included both former SLAs and RUF members.<sup>7535</sup> The evidence indicates that it was the intention of the forces led by Gullit and SAJ Musa to free some prisoners, not a new idea from Bockarie.<sup>7536</sup> While these individuals did contribute to the Freetown attack, the Trial Chamber reiterates that the factual matter at issue is the involvement of Bockarie in the Freetown operation after the formulation of the plan designed by Bockarie and the Accused.

3376. Further, the Trial Chamber notes that in support of its argument concerning a 'reuniting' of the troops under Bockarie's command and the AFRC troops based in the north of Sierra Leone after the death of SAJ Musa, the Prosecution cites evidence from Prosecution and Defence witnesses that the troops under Bockarie's command received the news that Gullit had captured the State with "jubilation".<sup>7537</sup> The Trial Chamber finds that this evidence is not probative of full coordination between Bockarie and Gullit in the initial assault on Freetown, particularly that evidence showing that the positive reaction to the news was induced with threats, or that it stemmed from a belief, which the witness believed to be mistaken, that the Freetown attack was a joint operation between the RUF and SAJ Musa.<sup>7538</sup>

<sup>7534</sup> Isaac Mongor, Transcript 11 March 2008, p. 5824 (Mongor testified that when he was monitoring the radio while the troops were in Freetown, he heard a number of exchanges between Gullit and Bockarie. He heard Gullit tell Bockarie that his group had released various members of the RUF incarcerated at Pademba Road Prison, including Gibril Massaquoi, and that "they all joined hands together in the fighting"); Perry Kamara, Transcript 6 February 2008, pp. 3227-3228 (When the fighters who had been imprisoned in Pademba Road were released, they were "even more angry than us" and engaged in more killing, burning, and amputation, because "they had been jailed for life"); Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8934-8935 (Bobson Sesay testified that Gibril Massaquoi maintained command when he was released from Pademba Road; he resumed his position as a colonel, and he was "one of the senior commanders who had manpower", and having "some boys who had been released from Pademba Road who were with him", "he maintained his command as colonel and he had men under his control in Freetown").

<sup>7535</sup> See Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8280-8284; Perry Kamara, Transcript 6 February 2008, p. 3227.

<sup>7536</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8835, 8837 (explaining that the execution of 24 SLA soldiers, the desire to reinstate the army, and the desire to release the RUF and AFRC political detainees at Pademba Road Prison were all factors that led to the invasion of Freetown by SAJ Musa's troops).

<sup>7537</sup> Prosecution Final Trial Brief, para. 508; Isaac Mongor, Transcript 11 March 2008, pp. 5822-5823 (Mongor testified that when he and his troops heard on the BBC on 6 January 1999 that the Gullit's troops had entered Freetown, "we were happy and we were jubilating in all the areas"); TF1-585, Transcript 8 September 2008, pp. 15718-15719 (when the witness heard on FM radio that the rebels had entered Freetown, Bockarie spoke to the BBC on a satellite phone and those around him were "dancing around"); DCT-068, Transcript 11 March 2010, p. 37145 (DCT-068 first heard about the 6 January 1999 invasion of Freetown from BBC's 'Focus' segment while he was in Bomaru. There was jubilation among the RUF at hearing the news of the invasion); John Vincent, Transcript 26 March 2010, p. 38134; see Defence Response to Prosecution Final Trial Brief, para. 143.

<sup>7538</sup> TF1-174, Transcript 27 January 2009, pp. 23705-23707 (On 6 January 1999, the civilian population of Makeni was asked by the RUF to dance and rejoice because Freetown had been captured and there were

3377. Finally, the Trial Chamber notes that it has taken judicial notice of the following Adjudicated Fact from the AFRC trial:

Following heavy assaults from ECOMOG, the troops were forced to retreat from Freetown. This failure marked the end of the AFRC offensive as the troops were running out of ammunition. While the AFRC managed a controlled retreat, engaging ECOMOG and Kamajor troops who were blocking their way, RUF reinforcements arrived in Waterloo. However, the RUF troops were either unwilling or unable to provide the necessary support to the AFRC troops.<sup>7539</sup>

3378. The Trial Chamber recalls that each of the judicially noticed adjudicated facts from the AFRC Trial<sup>7540</sup> is subject to a rebuttable presumption of truth, and could be challenged by the parties during the course of the trial.<sup>7541</sup> The Trial Chamber considers that by submitting that RUF reinforcements sent by Bockarie arrived in Waterloo before Gullit retreated from Freetown and that they attempted and partially succeeded in connecting with the troops in the city,<sup>7542</sup> the Prosecution has sufficiently challenged the truth of the asserted fact as to require the Trial Chamber's re-consideration of the matters in question.

(ii) Relationship between Bockarie and Gullit prior to the death of SAJ Musa

3379. One of the key arguments raised by the Defence in response to the Prosecution's allegation that Gullit coordinated with and took orders from Bockarie during the Freetown operation is that from around April 1998, when he led a break-away group of AFRC soldiers north to Koinadugu to join SAJ Musa, Gullit did not have a good relationship with and no longer took instructions from Bockarie,<sup>7543</sup> having fallen out over Bockarie's treatment of Johnny Paul Koroma and the AFRC as a whole.<sup>7544</sup> It submits that Gullit left Kailahun under

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repercussions if the civilians refused to do so); John Vincent, Transcript 26 March 2010, p. 38134 (Vincent noted that some of the RUF authorities, even the witness, believed the Freetown operation to be a joint operation between the RUF and SAJ Musa. He stated "it was only later that I got to know that RUF did not enter Freetown. So we were all jubilating when that particular invasion took place, but it was only later that we were convinced that they were not part of it").

<sup>7539</sup> Decision on Judicial Notice, 23 March 2009, Annex A, Fact, Fact 15.

<sup>7540</sup> Decision on Judicial Notice, 23 March 2009. However, the Trial Chamber dismissed Motions from both the Prosecution and Defence for judicial notice of adjudicated facts from the RUF Trial. See *Prosecutor v Taylor*, SCSL-04-01-T-987, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the RUF Trial Judgement Pursuant to Rule 94(B) and Prosecution Motion for Judicial Notice of Adjudicated Facts from the RUF Judgement, 17 June 2010 [*Taylor* Decision on Judicial Notice of RUF Adjudicated Facts].

<sup>7541</sup> *Taylor* Decision on Judicial Notice of AFRC Adjudicated Facts, para. 27; *Prosecutor v. Popović et. al.*, IT-05-88-T, Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts with Annex, 26 September 2006 [*Popović* Decision on Adjudicated Facts], para. 21.

<sup>7542</sup> Prosecution Final Trial Brief, paras 540.

<sup>7543</sup> Defence Response to Prosecution Final Trial Brief, para. 152.

<sup>7544</sup> Defence Final Trial Brief, para. 605; Defence Response to Prosecution Final Trial Brief, para. 118.

acrimonious circumstances after the RUF took diamonds from him, and describes a “rift” between the men from this point on.<sup>7545</sup>

3380. The Prosecution accepts that from October 1998, when SAJ Musa fell out with Superman and moved to Rosos until SAJ Musa’s death at Benguema, SAJ Musa and his group remained outside of Bockarie’s control.<sup>7546</sup> However, although the Prosecution concedes that while SAJ Musa did not recognise Bockarie’s leadership,<sup>7547</sup> it contends that Gullit himself maintained a cooperative relationship with Bockarie,<sup>7548</sup> having been friends with both Bockarie and Issa Sesay.<sup>7549</sup> The Prosecution maintains that when Gullit was in the Northern Jungle, he continued to communicate with RUF commanders through radio operators,<sup>7550</sup> and through Brigadier Mani, a senior officer of the SLA who had also joined the command of SAJ Musa and Gullit in Kurubonla.<sup>7551</sup> The Prosecution alleges that Gullit briefed Bockarie and Issa Sesay about SAJ Musa’s military operations at the time of SAJ Musa’s move to Colonel Eddie Town.<sup>7552</sup>

3381. Both Prosecution and Defence witnesses agreed that during the Junta period, Bockarie and Gullit had an amicable relationship. TF1-371 stated that, at least while Gullit was still in Kailahun after the Intervention, Gullit and Bockarie were “very good friends”.<sup>7553</sup> Even Issa Sesay confirmed that Bockarie saw Gullit as his friend “from the time they overthrew”<sup>7554</sup> and was willing to work with Gullit, unlike SAJ Musa with whom he did not see “eye to eye”.<sup>7555</sup>

3382. The Trial Chamber heard consistent evidence of an incident shortly after the Intervention when Bockarie confiscated diamonds in the possession of Gullit, and on some

<sup>7545</sup> Defence Response to Prosecution Final Trial Brief, para. 117.

<sup>7546</sup> Prosecution Final Trial Brief, paras 470, 476.

<sup>7547</sup> Prosecution Final Trial Brief, paras 497-499.

<sup>7548</sup> Prosecution Final Trial Brief, para. 501.

<sup>7549</sup> Prosecution Final Trial Brief, para. 502.

<sup>7550</sup> Prosecution Final Trial Brief, paras 472, 501.

<sup>7551</sup> Prosecution Final Trial Brief, para. 473; see also TF1-371, Transcript 28 January 2008, pp. 2385-2386 (CS) (In early 1998, when Bockarie was appointed Chief of Defence Staff, several SLAs, including Brigadier Mani, decided not to work with Bockarie).

<sup>7552</sup> Prosecution Final Trial Brief, paras 473, 501.

<sup>7553</sup> TF1-371, Transcript 28 January 2008, pp. 2365-2366 (CS).

<sup>7554</sup> Issa Sesay, Transcript 19 August 2010, p. 46739.

<sup>7555</sup> Issa Sesay, Transcript 19 August 2010, pp. 46738, 46750.

accounts, sent Issa Sesay to Kailahun to forcibly effect this confiscation.<sup>7556</sup> However, witnesses differed as to the effect of this incident on the relationship between Bockarie and Gullit. Several witnesses testified that it led to Gullit's rejection of Bockarie's command. Alimamy Bobson Sesay testified that while Gullit initially told SAJ Musa that Bockarie had released him from Kailahun because he had told Bockarie that he could settle some disputes that had arisen in Kono between the RUF and AFRC,<sup>7557</sup> later, in a closed-door meeting with Gullit and SAJ Musa, Gullit complained to SAJ Musa about the treatment he had received in Kailahun, and wanted SAJ Musa to "advise him on the next plan".<sup>7558</sup> Kamara testified that Gullit, along with other AFRC commanders, moved north because they were not happy with the order from Johnny Paul Koroma that they take orders from Bockarie.<sup>7559</sup> Defence witnesses Sam Kolleh and Issa Sesay both confirmed that although Gullit was initially Bockarie's friend, the incident with the diamonds caused Gullit "to go against" Bockarie.<sup>7560</sup> On the other hand, according to TF1-371, relations generally remained cordial and Bockarie only disciplined Gullit by ordering that he remain in Buedu.<sup>7561</sup>

3383. Isaac Mongor testified as to an entirely different reason for Gullit leaving Kailahun, unsupported by that of the other witnesses. Mongor testified that although he was not in Buedu<sup>7562</sup> while Gullit and Bockarie were both there, he heard from Gullit that he and

<sup>7556</sup> TF1-371, Transcript 28 January 2008, pp. 2364-2366 (CS) (According to TF1-371, on Johnny Paul Koroma's advice, Bockarie did mandate Issa Sesay to proceed to Kailahun, meet with Gullit and take diamonds from him after the Intervention and Sesay did so); Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8044-8046 (When Gullit and others arrived in Mongo Bendugu, the witness attended a closed-door meeting with *inter alia* Gullit and SAJ Musa at which Gullit explained to SAJ Musa about the treatment he had received in Kailahun, and how Mosquito had taken his diamonds); Issa Sesay, Transcript 8 July 2010, pp. 44048-44049; Transcript 29 July 2010, p. 45005 (After Gullit arrived in Kailahun, Sesay testified that Bockarie ordered him to take Gullit's diamonds from him, which he did near the Guinean border where Gullit had gone to buy provisions. Note that Sesay testified in his own trial that they had found nothing on Gullit because he had already handed his diamonds over to Bockarie, although on his evidence on cross-examination before this Trial Chamber Sesay affirmed the later testimony, saying that he did not recall what he had testified previously: Issa Sesay, Transcript 19 August 2010, pp. 46740-46742); Sam Kolleh, Transcript 4 November 2010, p. 48819 (Kolleh testified that Gullit was a friend to Mosquito but that the incident with the diamonds in Kailahun "caused Gullit to go against Mosquito").

<sup>7557</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8023-8025, 8028.

<sup>7558</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8044-8046.

<sup>7559</sup> Perry Kamara, Transcript 5 February 2008, p. 3111.

<sup>7560</sup> Sam Kolleh, Transcript 4 November 2010, p. 48819; Issa Sesay, Transcript 8 July 2010, pp. 44074-44076 (Sesay testified that from the time that Gullit left Kailahun to join SAJ Musa, he refused to take instructions from Bockarie).

<sup>7561</sup> TF1-371, Transcript 28 January 2008, pp. 2365-2366 (CS).

<sup>7562</sup> The witness said that he could not give any specific time frame for when Gullit was in Buedu before he returned to Koidu.





Bockarie had a cordial relationship, and that the reason why Gullit went to join SAJ Musa was to convince Musa to come to Buedu to talk.<sup>7563</sup>

3384. The weight of the evidence suggests that Gullit did leave Kailahun at least partly because he was unhappy with certain aspects of Bockarie's command. Dauda Aruna Fornie testified that although relations between Gullit and Bockarie at Kailahun were 'cordial',<sup>7564</sup> once Gullit left Kailahun for Kurubonla in 1998, communications between the two men were unpleasant; Gullit "attacked" Bockarie verbally and accused Bockarie of having disgraced Johnny Paul Koroma.<sup>7565</sup>

3385. However, regardless of whether Gullit's departure was acrimonious, the Trial Chamber heard consistent evidence that he maintained contact with Bockarie, at least until the arrival of SAJ Musa in Colonel Eddie Town, and that in these communications Gullit updated Bockarie and Bockarie's commanders on operational matters. Alimamy Bobson Sesay testified that Gullit spoke to Bockarie and Issa Sesay from around July-August 1998,<sup>7566</sup> informing him on operations in the North and in Gbomsamba. Bockarie promised Gullit his "full support".<sup>7567</sup> Bobson Sesay noted that Gullit communicated with Bockarie before the arrival of SAJ Musa to brief him about his military operations, and he himself was present when Gullit contacted Bockarie via radio after the Kukuna operation. According to Bobson Sesay, whenever they had an operation, Gullit called Bockarie before even informing SAJ Musa.<sup>7568</sup> Bobson Sesay testified that after the Kukuna attack, Gullit also contacted Issa Sesay who from their monitoring appeared to be in the Kailahun axis to explain to him about the "activities" they had undertaken.<sup>7569</sup> Similarly, Perry Kamara, who testified that he was sent by Bockarie to Colonel Eddie Town in August/September 1998 to facilitate communications between Bockarie and Gullit, stated that while he was at Colonel Eddie Town Bockarie would inform them of his movements.<sup>7570</sup> Both Bobson Sesay and

<sup>7563</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5817-5818.

<sup>7564</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21683.

<sup>7565</sup> Dauda Aruna Fornie, Transcript 4 December 2008, pp. 21684-21685, 21711 ("When he went [to Kurubonla] there was communication flowing and that was not a good one between the two men; that is Gullit and Mosquito. Gullit attacked Mosquito verbally that Mosquito had disgraced Johnny Paul and those were the things that he, Gullit, left the Buedu area, or the Kailahun area").

<sup>7566</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8132, 8133-8134 (Gullit was previously prevented from doing so due to difficulties with the communications equipment).

<sup>7567</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8132, 8133-8134, 8138-8142.

<sup>7568</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8217-8218.

<sup>7569</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8218-8220; Transcript 23 April 2008, p. 8304.



Kamara suggested that communications were not possible for some time after Gullit moved north from Kailahun because Gullit's group lacked the communications capability.<sup>7571</sup>

3386. Foday Lansana also testified that from his position at the signal unit in Koinadugu, he was aware that both Bockarie and Superman would also communicate with Gullit at Rosos.<sup>7572</sup> TF1-516 stated that when Gullit was in the Makeni area, and SAJ Musa and Superman were both in Kabala, Johnny Paul Koroma instructed Gullit and SAJ Musa over the radio to work together with the RUF as a team so that they could recapture Freetown, and that Gullit and Bockarie maintained a "free flow" of communications after this.<sup>7573</sup>

3387. However, the Defence alleges that any allegations of collaboration between the AFRC and the RUF in their attempts to capture Freetown are quashed by the uncontested evidence of the radio communication gag SAJ Musa imposed between his group and the RUF.<sup>7574</sup> Perry Kamara testified that this gag was imposed as soon as Musa arrived at Colonel Eddie Town, and that Musa made clear to Gullit as well as all RUF personnel that they should not communicate to any outsiders. Musa also ensured that no RUF operator operated the radio.<sup>7575</sup>

3388. It is clear that the communications embargo was defied by the RUF radio operators. Issa Sesay testified that Alfred Brown, another RUF radio operator with SAJ Musa's group, did try once to reach Bockarie when SAJ Musa's forces attacked Masiaka. SAJ Musa found out and flogged Brown.<sup>7576</sup> Mongor confirmed that when Superman had captured Lunsar, Alfred Brown contacted Mongor, telling him that they were in Masiaka, that their next target

<sup>7570</sup> Perry Kamara, Transcript 6 February 2008, p. 3206.

<sup>7571</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, p. 8138 (Gullit's group had been out of communication for some time because their communications man had run away); Perry Kamara, Transcript 6 February 2008, p. 3205 (Kamara explained that, up to that point, the ground at Rosos did not possess the RUF radio code. By bringing the code, Brown and Kamara rectified the "major problem" with communications that had existed with Rosos previously).

<sup>7572</sup> Foday Lansana, Transcript 22 February 2008, pp. 4525-4527.

<sup>7573</sup> TF1-516, Transcript 8 April 2008, pp. 6887-6888, 6930-6931.

<sup>7574</sup> Defence Final Trial Brief, para. 913, Defence Response to Prosecution Final Trial Brief, para. 135.

<sup>7575</sup> Perry Kamara, Transcript 6 February 2008, p. 3211 ("when SAJ Musa arrived he said - immediately he arrived he went to the meeting ground and said as of today he is no longer an AFRC, neither an RUF. He had come to Gullit for them to form their own movement, therefore Gullit should not send a message anymore to anybody. Gullit should not communicate to anybody. He said he knew now to whom he would communicate. Then he ensured that no RUF operator operated the radio"); Issa Sesay, Transcript 8 July 2010, pp. 44087-44090 (Sesay confirmed that contact between RUF radio operators with Gullit's forces ended in September 1998, when SAJ Musa forbade, by threat of execution, the RUF radio operators from going anywhere near the radio).

<sup>7576</sup> Issa Sesay, Transcript 8 July 2010, pp. 44090-44091.

was Waterloo and that he would contact Mongor again when they arrived there.<sup>7577</sup> Bobson Sesay recalled that following an announcement by Bockarie on international radio concerning specific attacks led by SAJ Musa's group, SAJ Musa was angry with Alfred Brown, one of the RUF radio operators, for giving information to Bockarie.<sup>7578</sup> Defence witnesses Sam Kolleh and John Vincent also testified that Perry Kamara himself was beaten on account of passing information and updates on the movements of SAJ Musa's group to Bockarie.<sup>7579</sup>

3389. However, it is not clear that communications from RUF radio operators to Bockarie after the imposition of the communications ban were conducted with any involvement by Gullit. According to Issa Sesay, Bockarie had sent RUF radio operators Alfred Brown and Perry Kamara to Koinadugu to spy on the forces led by SAJ Musa and Gullit,<sup>7580</sup> which would indicate that Gullit may not have known of or sanctioned their communications with Bockarie, although Sesay testified that Gullit was friends with Alfred Brown from before the retreat from Freetown.<sup>7581</sup>

3390. According to TF1-585, Brigadier Mani used to "mediate" between SAJ Musa's group and Bockarie.<sup>7582</sup> Foday Lansana also referred to Brigadier Mani as "the co-ordinator

<sup>7577</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5805, 5815-5816. The Trial Chamber notes that evidence suggests that by the time Superman had captured Lunsar, SAJ Musa's forces were already past Masiaka and were at Waterloo: Exhibit P-341A, "BBC Focus on Africa Clip from track 1 - D0000523, 22 December 1998"; Exhibit P-341B, "Transcript - BBC Focus on Africa Clip from track 1 - D0000523, 22 December 1998 CMS PGS 23590-23591" (the commander of Nigerian-led ECOMOG forces in Sierra Leone confirmed that there have been rebel attacks on Kono, Masiaka and Waterloo); TF1-375, Transcript 24 June 2008, pp. 12594-12595 (TF1-375 testified that five days after taking Makeni, an advanced team led by Komba Gbundema left Superman in Makeni and went to Lunsar); Transcript 24 June 2008, pp. 12603-12604 (When TF1-375 went to Lunsar, the troops previously commanded by SAJ Musa were in Waterloo. TF1-375 heard that these forces attacked Masiaka, and from there Waterloo, and then Benguema Barracks); Exhibit P-345A, "BBC Focus on Africa Clip from track 1 - D0000549, 30 December 1998"; Exhibit P-345B, "Transcript - BBC Focus on Africa Clip from track 1 - D0000549, 30 December 1998 - CMS PGS 23600-23601" (reporting on an RUF/AFRC attack on Lunsar).

<sup>7578</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8240-8241; *Taylor Decision on Judicial Notice of AFRC Adjudicated Facts, Annex A, Fact 12* (it is an adjudicated fact that "On one occasion during the advance, SAJ Musa and the AFRC troops heard the British Broadcasting Corporation (BBC) interview Sam Bockarie over the radio. Bockarie revealed the position of the AFRC fighting forces and explained that it was RUF troops who were approaching Freetown. Soon after, ECOMOG bombarded the area. Musa immediately contacted Sam Bockarie, insulted him and told him that he had no right to claim that the troops approaching Freetown were RUF troops").

<sup>7579</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48457-48458; John Vincent, Transcript 26 March 2010, pp. 38132-38133.

<sup>7580</sup> Issa Sesay, Transcript 8 July 2010, pp. 44068-44069, 44086-44087; Transcript 28 July 2010, pp. 44908-44909; Transcript 18 August 2010, pp. 46631-46632.

<sup>7581</sup> Issa Sesay, Transcript 19 August 2010, p. 46739.

<sup>7582</sup> TF1-585, Transcript 8 September 2008, pp. 15715-15716.

who used to settle disputes between the senior military officers”.<sup>7583</sup> However, neither witness suggested that Gullit was actually communicating with Bockarie through Brigadier Mani after the arrival of SAJ Musa. TF1-585 specifically stated that before SAJ Musa died there was no communication between Bockarie and either SAJ Musa or Gullit; she noted that while SAJ Musa headed the group at Rosos, Bockarie only got information about that group through Brigadier Mani, although direct communication resumed after the death of SAJ Musa.<sup>7584</sup>

3391. Notably, Perry Kamara, who was one of the RUF radio operators with SAJ Musa’s group, testified that when he contacted Bockarie on behalf of Gullit after Musa’s death, Bockarie admonished Kamara for not updating him with information. Bockarie then spoke directly to Gullit and reproached him for not informing him when “you were getting ready to take off” even though he had radio operators.<sup>7585</sup> Kamara’s evidence suggests that, whatever the activities of the RUF radio operators, Gullit himself never informed Bockarie of his group’s advance towards Freetown.<sup>7586</sup> As a radio operator who participated in the move from Colonel Eddie Town to Freetown, the Trial Chamber considers Kamara’s evidence to be highly probative of what occurred during that advance.

3392. The Trial Chamber notes that in contrast to Perry Kamara, Foday Lansana suggested that Bockarie was giving instructions to the troops “from Rosos” concerning their advance to Freetown from the point when Sankoh was sentenced in late October 1998. Lansana testified that when Bockarie heard about Sankoh being condemned in Freetown, he instructed the Rosos troops to move on Lunsar and advance on to Freetown, and instructed Superman’s troops to attack Makeni and join the troops from Rosos. Issa Sesay and Morris Kallon were instructed to move on Koidu Town and then Makeni.<sup>7587</sup> Lansana testified that he knew where other troops were moving because the groups gave each other “situation reports” on their positions and progress by radio.<sup>7588</sup> However, the Trial Chamber notes that

<sup>7583</sup> Foday Lansana, Transcript 22 February 2008, pp. 4526-4528.

<sup>7584</sup> TF1-585, Transcript 8 September 2008, pp. 15715-15716; Foday Lansana, Transcript 22 February 2008, pp. 4525-4527 (Lansana also noted that when Gullit was in the north of Sierra Leone Mani would communicate with Bockarie, Superman and Gullit but did not indicate whether this occurred after the communications ban imposed by SAJ Musa).

<sup>7585</sup> Perry Kamara, Transcript 6 February 2008, p. 3218.

<sup>7586</sup> Perry Kamara, Transcript 7 February 2008, p. 3383 (PS) (When Kamara contacted Bockarie, Bockarie had no idea what Gullit’s troops were doing except from what he heard from commercial radio).

<sup>7587</sup> Foday Lansana, Transcript 22 February 2008, p. 4550.

<sup>7588</sup> Foday Lansana, Transcript 22 February 2008, pp. 4551-4552; Transcript 26 February 2008, pp. 4745-4746

in asserting such coordination before the RUF move to Koidu Town, that is, before the death of SAJ Musa, Lansana's account is inconsistent with that of all other witnesses. The Trial Chamber notes that Lansana did not refer at all to SAJ Musa's role in the move to Freetown, and testified on cross-examination that the troops moving from Rosos were led by Gullit, not SAJ Musa.<sup>7589</sup> Further, Lansana was also inconsistent on some aspects of his testimony.<sup>7590</sup> In light of the evidence of other witnesses, the Trial Chamber considers that Lansana was likely conflating events prior to and after SAJ Musa's death and does not accept that Gullit was taking instruction from Bockarie concerning the advance to Freetown before SAJ Musa's death.

3393. Despite the indications that Gullit was disgruntled about his treatment by Bockarie and that Gullit did not maintain communications with Bockarie after SAJ Musa's arrival at Rosos, oral accounts suggested that at the time of SAJ Musa's death the generally cordial relationship between the two men and their willingness to work together remained largely unaffected. TF1-585 testified that after SAJ Musa's death, Bockarie stated in her presence and in front of other RUF members that the problem was SAJ Musa and as long as SAJ Musa was dead, he and Gullit had no more problems, and also that he trusted Gullit and knew that Gullit would make it to Freetown.<sup>7591</sup> Similarly other witnesses attested to a positive reaction by other RUF commanders on the news of Gullit taking over the leadership of SAJ Musa's group. For example, Isaac Mongor testified that he "felt relieved" and "happy" when he heard that SAJ Musa had been killed because while there was a power struggle between SAJ Musa and Bockarie, Gullit did have a very good relationship with Bockarie and "they were doing things together".<sup>7592</sup> The Defence submits that this evidence is insufficient to suggest that Gullit was amenable to subordinating himself under Bockarie's

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(In a prior statement to the Prosecution, when asked whether he monitored some of the communications between the AFRC and RUF at this time, he said "No, but I used to get information from Super because in the evening he can brief some of his close bodyguards when they are nearby", that there was an error in the transcription of the taped recording of the interview. According to Lansana, the Prosecutor had in fact asked him whether he had monitored all the communications to which Lansana had responded that that was impossible and that he had monitored some, but not all, of the communications).

<sup>7589</sup> Foday Lansana, Transcript 26 February 2008, pp. 4738-4739.

<sup>7590</sup> Foday Lansana, Transcript 26 February 2008, pp. 4738-4739 (Lansana first testified that Issa Sesay and Morris Kallon arrived while they were still in Lunsar. Later he stated that they met in Waterloo); pp. 4746-4747 (Lansana also denied that he had made a prior statement that he got to know that Gullit's group from Rosos had entered Freetown on 6<sup>th</sup> January 1999 "when we entered Pademba, and even now there are people who discuss it on a daily basis in Pademba". Lansana said that it was false that he had heard everything he knew about the January 1999 Freetown invasion from fellow prisoners at Pademba Road).

<sup>7591</sup> TF1-585, Transcript 8 September 2008, pp. 15717-15718.

<sup>7592</sup> Isaac Mongor, Transcript 11 March 2008, p. 5818.

command, but the Trial Chamber considers nevertheless that the evidence establishes that the relationship between Bockarie and Gullit had not deteriorated to the extent that the Defence suggests. The Trial Chamber is satisfied that nothing suggests that the relationship between Bockarie and Gullit had broken down so irretrievably that it prevented Bockarie and Gullit from working together after the death of SAJ Musa.

(iii) Resumption of communications after the death of SAJ Musa

3394. The evidence unequivocally shows, and the Defence concedes, that with SAJ Musa's death in or around 23 December 1998, Alex Tamba Brima (a.k.a. Gullit) resumed contact with Bockarie.<sup>7593</sup> It is not disputed that Gullit contacted Bockarie when he was at the State House to inform him of the capture of the city and to ask for reinforcements<sup>7594</sup> or that Bockarie told Gullit that he had instructed Rambo, who was already in Waterloo, to link up with them and provide reinforcements.<sup>7595</sup> However, the Defence denies that this indicates that Gullit's troops were coordinating with Bockarie, noting that Gullit had initially defied Bockarie's instructions to wait for reinforcements, and only called Bockarie from Freetown

<sup>7593</sup> Defence Final Trial Brief, paras 615, 913; Dauda Aruna Fornie, Transcript 4 December 2008, p. 21749 (following the death of SAJ Musa, when Gullit contacted Bockarie, "there was a free flow of communication" between AFRC and RUF commanders); Perry Kamara, Transcript 6 February 2008, p. 3246 (Kamara affirmed that on the way from Rosos to Freetown, when SAJ Musa was still alive, he was not aware of any communication between SAJ Musa's group and other forces moving towards Freetown. Communication only began after SAJ Musa's death); TF1-375, Transcript 24 June 2008, pp. 12593-12594 (Gullit had a good relationship with Superman at this time, and began communicating after the death of SAJ Musa); Foday Lansana, Transcript 22 February 2008, p. 4565 (Superman's bodyguard, CY, who joined the Rosos group under the command of Gullit, informed Superman that SAJ Musa had banned them from communicating with Superman during the time they were in Rosos to Benguema and Waterloo because of the misunderstandings that occurred between them in Koinadugu. After the death of SAJ Musa, however, Major CY and Jumbo Blah used to communicate on a daily basis with Superman); Mohamed Kabbah, Transcript 15 September 2008, pp. 16166-16167 (When King Perry contacted Buedu from the State House, he informed Kabbah that the troops had entered Freetown but "said he was under suppression", explaining that SAJ Musa had not allowed his radio operators to use the radio to call Bockarie, but as SAJ Musa had died and Gullit was in command of the Freetown troops, he was permitted to communicate with Buedu); TF1-585, Transcript 8 September 2008, pp. 15709, 15715-15716 (TF1-585 testified that before SAJ Musa died, there was no direct communication between SAJ Musa and Gullit's group and Sam Bockarie, although Brigadier Mani mediated between SAJ Musa and Bockarie and often relayed information concerning SAJ Musa's group to Bockarie. However, communication resumed between Gullit and Bockarie after SAJ Musa's death).

<sup>7594</sup> Defence Final Trial Brief, paras 617, 633; Foday Lansana, Transcript 22 February 2008, p. 4560 (When Gullit captured the Statehouse in Freetown and advanced on Pademba Road Prison he reported this to Sam Bockarie); Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8288 (Gullit also called Issa Sesay and Superman when he captured the State House); Alice Pyne, Transcript 19 June 2008, pp. 12274-12275 (On 6 January 1999, the witness heard radio operators who had gone to Freetown as part of the group that left Rosos announce over the radio network that they had entered Freetown. She also heard Gullit himself communicating to Bockarie that they had captured Freetown)

<sup>7595</sup> Defence Final Trial Brief, para. 633.

because his troops were in trouble. The Defence contends that Bockarie argued with Gullit and was angry about the lack of obedience to his instructions.<sup>7596</sup>

3395. Many Prosecution witnesses indicated that, contrary to the Defence's assertion that Gullit contacted Bockarie only once he ran into difficulties, Gullit maintained regular communication with Bockarie and his commanders throughout the assault on Freetown. Perry Kamara, a radio operator who travelled with SAJ Musa and Alex Tamba Brima (a.k.a. Gullit) to Freetown and participated in the attack on 6 January 1999,<sup>7597</sup> testified that after SAJ Musa's death, and when Gullit's troops were in Waterloo, he facilitated radio contact between Gullit and Bockarie in which Gullit updated Bockarie on the progress of his troops.<sup>7598</sup> He explained that as soon as the AFRC "authorities" became settled at the State House, they contacted Bockarie to notify him of the capture of State House.<sup>7599</sup> Kamara testified that throughout his time in Freetown, he had a Yeasu radio taken from an NGO office in Freetown which he and other RUF leaders, including Alfred Brown and Gibril Massaquoi, would use to update Bockarie on the military situation and meetings held in Freetown.<sup>7600</sup> Alimamy Bobson Sesay, a fighter accompanying the group led by SAJ Musa and Gullit from Koinadugu into Freetown, also confirmed that after the death of SAJ Musa, Gullit contacted Bockarie via radio.<sup>7601</sup> Bobson Sesay similarly noted that the first thing Gullit did when they entered the State House was to set up the radio set and call Bockarie to inform him that he had entered Freetown.<sup>7602</sup> As the only two witnesses to have participated in the Freetown attack,<sup>7603</sup> the Trial Chamber considers their evidence to be of particular value as to what occurred during the operation. The Trial Chamber recalls that both Kamara and Bobson Sesay are generally credible witnesses.<sup>7604</sup>

<sup>7596</sup> Defence Final Trial Brief, para. 617.

<sup>7597</sup> Perry Kamara, Transcript 6 February 2008, p. 3221; Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21565-21566 (affirming that other radio operators with Gullit in Freetown included Alfred Brown and Perry Kamara (a.k.a. King Perry)).

<sup>7598</sup> Perry Kamara, Transcript 6 February 2008, pp. 3217-3218.

<sup>7599</sup> Perry Kamara, Transcript 6 February 2008, p. 3229.

<sup>7600</sup> Perry Kamara, Transcript 6 February 2008, pp. 3228-3229, 3257-3258.

<sup>7601</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8253-8254.

<sup>7602</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8286-8287.

<sup>7603</sup> Issa Sesay, Transcript 23 August 2010, p. 46845 (affirming that Perry Kamara was in Freetown); Foday Lansana, Transcript 22 February 2008, p. 4564 (affirming that Perry Kamara was in Freetown); Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8275-8279 (testifying as to his own participation in the attack on 6 January 1999).

<sup>7604</sup> Credibility Assessment, Perry Kamara, paras 227-236; Credibility Assessment, Alimamy Bobson Sesay, paras 285-289.





3396. The testimony of Kamara and Bobson Sesay is corroborated by witnesses stationed with Bockarie and commanders in other areas of Sierra Leone. Dauda Aruna Fornie, a radio operator stationed with Bockarie in Buedu in January 1999, confirmed that when SAJ Musa died, Perry Kamara sent a message to Bockarie to inform Bockarie.<sup>7605</sup> Fornie also testified that he saw a message in the message logbook from Gullit telling Bockarie that the AFRC/RUF combatants had captured the State House in Freetown.<sup>7606</sup> That Gullit reported to Bockarie on the capture of the State House and Pademba Road Prison is confirmed by TF1-516.<sup>7607</sup> Mohamed Kabbah, another radio operator stationed in Buedu in January 1999,<sup>7608</sup> testified that on 6 January 1999, he was working in the radio room when Kamara communicated with the Buedu radio station directly from Freetown to inform Buedu that the troops had entered Freetown.<sup>7609</sup> Alice Pyne, who was a radio operator for Superman at Lunsar, testified that on 7 January 1999, she heard radio operators who had gone to Freetown as part of the group that left Rosos, including Perry Kamara,<sup>7610</sup> announce over the radio network that they had entered Freetown,<sup>7611</sup> and after that, Gullit speaking to Bockarie about the capture of the State House.<sup>7612</sup> TF1-585 testified that Gullit informed Bockarie prior to the 3 January 1999 that he was “entering Freetown”,<sup>7613</sup> and also contacted Bockarie when they were being pushed out of Freetown by ECOMOG.<sup>7614</sup>

3397. The witnesses agreed that this communication continued regularly throughout the Freetown assault and concerned the progress of the operation. Fornie described the communication between Bockarie and Gullit during the course of the Freetown operation as “frequent” and “constant”, with communications occurring at least hourly.<sup>7615</sup> The communication generally concerned requests from Gullit for more materiel and reinforcements for further advances while Bockarie sought updates from Gullit about

<sup>7605</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21609.

<sup>7606</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21564.

<sup>7607</sup> TF1-516, Transcript 8 April 2008, pp. 6932-6933.

<sup>7608</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16166.

<sup>7609</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16166-16167.

<sup>7610</sup> Alice Pyne, Transcript 19 June 2008, pp. 12257, 12261 (earlier, Pyne had named “King Perry” as one of the radio operators who had joined SAJ Musa at Rosos).

<sup>7611</sup> Alice Pyne, Transcript 19 June 2008, p. 12274.

<sup>7612</sup> Alice Pyne, Transcript 19 June 2008, p. 12275.

<sup>7613</sup> TF1-585, Transcript 8 September 2008, pp. 15717-15718.

<sup>7614</sup> TF1-585, Transcript 8 September 2008, p. 15726.

<sup>7615</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21589 (“it did not take up to an hour when one of the stations in Freetown did not call to Buedu directly, or Mosquito's station in Buedu did not call one of the stations in Freetown directly to get an update from there. It was constant communication that existed”).





progress in Freetown.<sup>7616</sup> Kabbah noted that communication between the radio room in Buedu and the troops in Freetown occurred daily,<sup>7617</sup> and that Perry Kamara would inform Buedu about troop movements and the security situation in Freetown.<sup>7618</sup> Similarly, Foday Lansana, a radio operator stationed in Lunsar with Superman throughout the Freetown attack,<sup>7619</sup> testified that Gullit would communicate with Bockarie on a daily basis, and that these communications were “uncountable”.<sup>7620</sup> Isaac Mongor, a commander at the Kailahun flank,<sup>7621</sup> testified that he was monitoring the radio while the troops were in Freetown and that during the attack Gullit communicated with Bockarie frequently, at half-hourly intervals.<sup>7622</sup> According to Perry Kamara, Gullit used to transmit messages to Bockarie concerning “whatever activities that was going on”.<sup>7623</sup>

3398. Evidence also indicates that aside from Bockarie, Gullit was in communication with Bockarie’s commanders, including Boston Flomo (a.k.a. Rambo), Superman, and Issa Sesay.<sup>7624</sup> Fornie testified that the communications between Gullit and these commanders was very frequent, occurring about two or three times an hour.<sup>7625</sup> Bobson Sesay noted that Issa Sesay, Boston Flomo (a.k.a. RUF Rambo), Denis Mingo (a.k.a. Superman) and Morris Kallon were all in “constant” communication with the forces in Freetown.<sup>7626</sup> Lansana testified that he monitored communications between Bockarie, Gullit, Superman, Issa Sesay, and Boston Flomo during the invasion.<sup>7627</sup> Lansana explained that during the Freetown invasion, Gullit and other commanders would send a report regarding which positions were occupied by the Junta or the RUF troops. Superman would then communicate with his own bodyguards who were with the troops in Freetown to confirm the information from Gullit was correct.<sup>7628</sup> Komba Sumana also testified that during his time in Makeni in December

<sup>7616</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21565-21566.

<sup>7617</sup> Mohamed Kabbah, Transcript 15 September, pp. 16170-16171.

<sup>7618</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16168.

<sup>7619</sup> Foday Lansana, Transcript 22 February 2008, pp. 4569-4970.

<sup>7620</sup> Foday Lansana, Transcript 22 February 2008, p. 4560.

<sup>7621</sup> Isaac Mongor, Transcript 11 March 2008, p. 5822.

<sup>7622</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5825-5826.

<sup>7623</sup> Perry Kamara, Transcript 6 February 2008, p. 3229.

<sup>7624</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21604-21605.

<sup>7625</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21605-21607.

<sup>7626</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8937-8939; Transcript 22 April 2008, p. 8288 (Bobson Sesay noted that Gullit informed not only Bockarie, but also Issa Sesay and Superman when he captured the State House).

<sup>7627</sup> Foday Lansana, Transcript 22 February 2008, pp. 4559-4560.

<sup>7628</sup> Foday Lansana, Transcript 22 February 2008, pp. 4566-4567.



1998, Five-Five made a call to Superman stating that SAJ Musa had died and they wanted reinforcements.<sup>7629</sup>

3399. The Trial Chamber also heard a significant amount of evidence from Dauda Aruna Fornie,<sup>7630</sup> Perry Kamara,<sup>7631</sup> Isaac Mongor,<sup>7632</sup> TF1-516,<sup>7633</sup> and Abu Keita,<sup>7634</sup> that radio operators in Buedu assisted the forces in Freetown by providing warnings of attacks from ECOMOG's Alpha Jets, the so-called "448 warnings".<sup>7635</sup> The Trial Chamber has elsewhere in the judgement addressed the role of the 448 warnings sent during the Freetown invasion with regard to whether subordinates of the Accused in Liberia were involved in the sending of those messages.<sup>7636</sup> In that context, the Trial Chamber notes that the Defence relies on the evidence that the RUF had radio operators stationed in Buedu to monitor ECOMOG communications to rebut the Prosecution allegation that the Accused's subordinates were alerting RUF and AFRC fighters in Freetown to the movement of ECOMOG jets.<sup>7637</sup> In light of the largely uncontested evidence that such warnings were sent from Buedu, the Trial Chamber accepts that during the Freetown invasion, Bockarie assisted the commanders in Freetown by transmitting "448 messages" to the fighters in the capital.

3400. In assessing the reliability of the evidence concerning these communications, the Trial Chamber notes that the bulk of the supporting evidence was adduced from radio operators and fighters stationed with Gullit, Bockarie and commanders under Bockarie's authority whose role it was to monitor the relevant communications. The Trial Chamber places particular value on the evidence of Perry Kamara, who personally monitored and facilitated conversations between Bockarie and Gullit and recorded relevant information in a logbook.<sup>7638</sup> Similarly, Dauda Aruna Fornie was monitoring the radio during the day of the

<sup>7629</sup> Komba Sumana, Transcript 6 October 2008, pp. 17976-17977.

<sup>7630</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21566-21567, 21596-21597.

<sup>7631</sup> Perry Kamara, Transcript 6 February 2008, pp. 3231, 3236.

<sup>7632</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5826-5827.

<sup>7633</sup> TF1-516, Transcript 8 April 2008, pp. 6943-6944.

<sup>7634</sup> Abu Keita, Transcript 23 January 2008, pp. 2024-2025, 2069.

<sup>7635</sup> Prosecution Final Trial Brief, para. 530.

<sup>7636</sup> Operational Support: Communications, "448" Warnings.

<sup>7637</sup> Defence Final Trial Brief, para. 1528.

<sup>7638</sup> Perry Kamara, Transcript 6 February 2008, pp. 3229-3230. Other witnesses confirm that Perry Kamara (a.k.a. King Perry) participated in the entry into Freetown with Gullit's group and facilitated contact between Gullit and Bockarie. See Issa Sesay, Transcript 19 August 2010, pp. 46754-46756 (King Perry was the RUF operator who facilitated the communication between Bockarie and Gullit); Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21589-21590 (Gullit transmitted a radio message to Bockarie via King Perry that the troops in Freetown had released the political detainees from Pademba Road prison); Mohamed Kabbah, Transcript 15

initial entry into Freetown and throughout the operation, transmitting received messages to front line commanders.<sup>7639</sup> A number of witnesses testified that they were present in the room when communications with Gullit occurred. For example, Alimamy Bobson Sesay testified that he was present on several occasions when Gullit contacted Bockarie via radio.<sup>7640</sup> The Trial Chamber notes the testimony of some radio operators that where they were not present during the relevant communications, they read those messages in radio log books in which messages were recorded.<sup>7641</sup>

3401. The Trial Chamber notes that not all witnesses testified that communication between Bockarie and Gullit commenced as early as SAJ Musa's death. While he recalled hearing the news of SAJ Musa's death over the radio, TF1-371 stated that the direct contact between Gullit and Bockarie of which he was aware took place when Gullit was already in the State House.<sup>7642</sup> The Trial Chamber also notes that the evidence that Gullit spoke directly with Issa Sesay is contested by Sesay himself, who asserted that when Gullit had taken State House, he did not call Sesay's station or radio and noted that even Perry Kamara (a.k.a. King Perry) did not give evidence that Gullit contacted both Sesay and Bockarie.<sup>7643</sup> The Trial Chamber also recalls its finding that the evidence of Issa Sesay must be approached with caution,<sup>7644</sup> and notes that he had an interest in minimising his own role in the events in Freetown of January 1999. The omission of any such communications in Kamara's evidence is not indicative that they did not occur. In light of the evidence from Fornie, Lansana and Bobson Sesay, who also participated in the January 1999 operation, the Trial Chamber does

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September 2008, pp. 16166-16167 (King Perry communicated with the Buedu radio station directly from Freetown); Foday Lansana, Transcript 22 February 2008, p. 4564 (Lansana confirmed that Alfred Brown and Perry Kamara (a.k.a. King Perry) were RUF radio operators present in Freetown during the January 1999 attack).

<sup>7639</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21562-21563; Alice Pyne, Transcript 19 June 2008, pp. 12274-12275 (She heard Gullit himself communicating to Bockarie that they had captured Freetown and released prisoners including Gibril Massaquoi, JS Momoh, Steve Bio, Martin Moinama and others); Foday Lansana, Transcript 22 February 2008, pp. 4562-4563 (Lansana recalled that he monitored one communication in which Bockarie gave an order concerning the execution of Martin Moinina, who had been a witness against Foday Sankoh during his trial in 1989 in Freetown).

<sup>7640</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8253-8254; Foday Lansana, Transcript 22 February 2008, pp. 4568-4569 (Lansana knew about the communications between Major CY and Superman because he used to sit by the radio while Superman was communicating with Major CY and Jumbo Blah); TF1-585, Transcript 8 September 2008, pp. 15717-15718 (Gullit had told Bockarie his position at that time, saying that he was "entering" Freetown. The witness heard this in person, but from a distance).

<sup>7641</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21609 (When SAJ Musa died, King Perry sent a message to Bockarie to inform him. The witness did not recall if he was present when this message came but read the message afterwards).

<sup>7642</sup> TF1-371, Transcript 30 January 2008, p. 2648 (CS).

<sup>7643</sup> Issa Sesay, Transcript 19 August 2010, pp. 46754-46756.

<sup>7644</sup> Credibility Assessment, Issa Sesay, paras 359-372.



not consider Issa Sesay's denial credible. The Trial Chamber is satisfied that Gullit maintained frequent and daily contact with Bockarie throughout the Freetown operation to discuss the ongoing military situation in the capital.

(iv) Gullit's failure to heed Bockarie's instruction to wait for reinforcements

3402. Concerning Gullit's initial failure to heed Bockarie's instruction to wait for reinforcements, the Trial Chamber notes that five witnesses provided an account of the conversation between Gullit and Bockarie after SAJ Musa's death and subsequent events.

3403. Bobson Sesay testified that it was Gullit who initiated the contact with Bockarie after SAJ Musa's death to request more reinforcements.<sup>7645</sup> Bockarie assured him that Issa Sesay and Denis Mingo from Kono and Makeni would join them in the advance on Freetown,<sup>7646</sup> but that they were at the same time making targeted attacks to weaken ECOMOG and prevent the deployment of enemy reinforcements to Freetown.<sup>7647</sup> According to Bobson Sesay, Gullit moved to Hastings Hill around Freetown Highway to wait for reinforcement.<sup>7648</sup> He contacted Issa Sesay who briefed Gullit about the movement of RUF and the intention to enter Freetown together, at which point Gullit confirmed that he would still wait for the reinforcement.<sup>7649</sup> Gullit also contacted Superman for a similar update concerning the movements of the troops led by Superman, Brigadier Mani, and Morris Kallon.<sup>7650</sup> Bobson Sesay testified that he was present during Gullit's conversations with Bockarie and Sesay.<sup>7651</sup> While Bobson Sesay did not explicitly address why Gullit ultimately entered Freetown without those reinforcements, his evidence suggests that Gullit believed it was militarily necessary. He testified that it was only after waiting for some time, and having contacted Issa Sesay and Superman, that Gullit instructed his troops to advance towards Hastings, having seen ECOMOG helicopters bringing reinforcements to that area.<sup>7652</sup>

<sup>7645</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8253-8254.

<sup>7646</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8254.

<sup>7647</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8254.

<sup>7648</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8261-8262.

<sup>7649</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8257-8258.

<sup>7650</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8256-8258.

<sup>7651</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8253, 8257-8258.

<sup>7652</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8261-8262 ("After that we were at the Hastings hills. After we had had some food we saw helicopters - combat helicopters - bringing manpower to Hastings, so Gullit

3404. Perry Kamara corroborated Bobson Sesay's evidence that it was Gullit who initiated the contact with Bockarie after the death of SAJ Musa. Kamara testified that after Musa's death, Gullit and other persons said that they should seek his advice and "[w]hatever he said we would tell him to accept, so that we would work together again". When Gullit contacted Bockarie, after reproaching Gullit for failing to inform him of the move towards Freetown,<sup>7653</sup> Bockarie asked Gullit to wait for Morris Kallon, Issa Sesay, Superman and Rambo to join him before entering Freetown. These commanders at that time had passed Lunsar and were moving to Masiaka.<sup>7654</sup> Kamara noted that Gullit summoned a short meeting to discuss the proposal with other AFRC officers, and at the meeting, it was decided by a majority that they should not wait for Bockarie's reinforcements, and "whenever the other groups came they would join us".<sup>7655</sup>

3405. Dauda Aruna Fornie, stationed in Buedu, also testified in cross-examination that, in the conversation after SAJ Musa's death, which Gullit initiated, Bockarie had told Gullit to wait for reinforcements before entering Freetown. Fornie noted that although Gullit did not comply with Bockarie's instructions, Gullit told Bockarie that he believed his troops were in an advantaged position in relation to ECOMOG and it was strategically necessary to advance forward.<sup>7656</sup> On cross-examination, Fornie affirmed that coordination between Bockarie and Gullit began before the Freetown invasion, that Gullit asked Bockarie for reinforcements before the Freetown attack, and that the only reason that the RUF troops had not arrived on time was because of the poor conditions of the roads.<sup>7657</sup> The Trial Chamber recalls that Fornie is also a credible witness.<sup>7658</sup>

3406. Two other Prosecution witnesses also testified that Gullit did not wait for reinforcements. According to Mohamed Kabbah, prior to 6 January 1999, during "the period

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said we were to organise another advance so we should go and disorganise the evacuation that was going on in Hastings").

<sup>7653</sup> Perry Kamara, Transcript 6 February 2008, p. 3218.

<sup>7654</sup> Perry Kamara, Transcript 6 February 2008, p. 3220.

<sup>7655</sup> Perry Kamara, Transcript 6 February 2008, p. 3218-3219.

<sup>7656</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21727 ("I am telling you that immediately after SAJ Musa died Gullit contacted Mosquito and informed Mosquito that [...] SAJ Musa was dead and that was through King Perry that Gullit did that. From that point Mosquito told Gullit to wait for reinforcement at Benguema before Gullit and others would enter Freetown. But Gullit sent back a message to Mosquito responding that at that time they were in an advantaged position because ECOMOG was on the run and they should not be there idling, so they should pursue them").

<sup>7657</sup> Dauda Aruna Fornie, Transcript 5 December 2008, pp. 21851-21853.

<sup>7658</sup> Credibility Assessment, Dauda Aruna Fornie, paras 346-358.

of SAJ Musa and Gullit”, Bockarie told Gullit not to enter Freetown until RUF could send reinforcements, but SAJ Musa and Gullit refused,<sup>7659</sup> and only after their group had reached State House did they contact Bockarie.<sup>7660</sup> Kabbah stated that the RUF knew that those troops “never accepted orders and that they were heading for Freetown”,<sup>7661</sup> and agreed that the move to Freetown was not planned as far as Bockarie was concerned.<sup>7662</sup> Isaac Mongor stated in examination-in-chief that Gullit did not wait for reinforcements because he realised that there would be a delay in their arrival.<sup>7663</sup> However, on cross-examination, when Mongor was questioned on a prior statement made to the Prosecution that he understood that the Freetown invasion was largely an AFRC project.<sup>7664</sup> In response to Defence counsel’s suggestion that it was SAJ Musa and Gullit’s idea to attack Freetown in January 1999, Mongor explained that “if the RUF had not been attacking all the other places those men wouldn’t have been able to get inside”; “it was not just the AFRC” and “the group that moved for the Freetown invasion many of them were AFRC men who were soldiers. They refused to wait for the RUF to join them. They were just doing it by themselves”.<sup>7665</sup>

3407. Finally, and contrary to the evidence of Bobson Sesay, Issa Sesay testified that Gullit did not ask for reinforcements when he delivered the news to Bockarie about SAJ Musa’s death. Rather, Bockarie did not believe the news, but told Gullit that if it was true, Gullit should wait so that Sesay and Superman’s troops would be able to move down from Makeni and the two groups could attack Freetown together.<sup>7666</sup> Sesay agreed that Bockarie essentially volunteered reinforcements when Gullit never asked for any.<sup>7667</sup> Sesay stated that Gullit did not wait and attacked Freetown one or two days later.<sup>7668</sup> Sam Kolley also denied that after SAJ Musa’s death Gullit asked Bockarie for reinforcements, stating that they were not “friends” at the time.<sup>7669</sup>

<sup>7659</sup> Mohamed Kabbah, Transcript 17 September 2008, pp. 16445-16446.

<sup>7660</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16647.

<sup>7661</sup> Mohamed Kabbah, Transcript 17 September 2008, pp. 16447-16448.

<sup>7662</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16448.

<sup>7663</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5819-5822 (“So Sam Bockarie had wanted them to wait, but later he realised that that was going to be a delay. So they moved, they advanced and entered Freetown”).

<sup>7664</sup> Isaac Mongor, Transcript 7 April 2008, p. 6759.

<sup>7665</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6760, 6763-6766.

<sup>7666</sup> Issa Sesay, Transcript 19 August 2010, pp. 46748-46749, 46764-46766.

<sup>7667</sup> Issa Sesay, Transcript 19 August 2010, pp. 46749-46750, 46764-46766.

<sup>7668</sup> Issa Sesay, Transcript 9 July 2010, pp. 44162-44163.

<sup>7669</sup> Sam Kolley, Transcript 5 November 2010, pp. 48908-48910.

3408. Recalling its finding that it had no general reservations concerning the credibility of Alimamy Bobson Sesay and Perry Kamara,<sup>7670</sup> the Trial Chamber considers the evidence of Alimamy Bobson Sesay and Perry Kamara, who both accompanied the group led by SAJ Musa and Gullit from Koinadugu into Freetown and provided direct and detailed evidence of what occurred from SAJ Musa's death to the group's entry into Freetown,<sup>7671</sup> to be of significant weight. The Trial Chamber notes that there are some divergences between the two accounts. First, Bobson Sesay did not refer to the meeting that Kamara described at which Gullit's troops decided that they should not wait for Bockarie's reinforcements. Further, Bobson Sesay testified that Gullit contacted Bockarie to discuss the need for reinforcements,<sup>7672</sup> while Kamara gave evidence that Gullit responded to Bockarie's advice to wait for reinforcements and ammunition by saying that he did not need ammunition, and that the AFRC officers who voted to advance forward ultimately did not consider that they required reinforcements.<sup>7673</sup> The Trial Chamber considers the discrepancy concerning the meeting minor, given that Bobson Sesay was neither asked about any such meeting nor to explain the impetus for the decision to move onto Freetown.

3409. In relation to whether Gullit asked Bockarie for reinforcements, the Trial Chamber notes that Kamara did not say that Gullit rejected the need for reinforcements, he rejected the need for ammunition.<sup>7674</sup> Further, when the meeting was held to discuss Bockarie's proposal, Gullit's forces did not reject the idea of reinforcements; rather, it was decided that "whenever the other groups came they would join us".<sup>7675</sup> The evidence of Bobson Sesay and Kamara converge on the two most important aspects: first, both witnesses stated that it was Gullit who initiated the contact with Bockarie—Bobson Sesay testified that this was to seek reinforcements, while Kamara testified that it was to seek advice; second, neither

<sup>7670</sup> Credibility Assessment, Perry Kamara, paras 227-236; Credibility Assessment, Alimamy Bobson Sesay, paras 285-289.

<sup>7671</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8243-8244; Defence Final Trial Brief, para. 915 (accepting that Bobson Sesay was with the AFRC group that invaded Freetown and that he rendered a firsthand account).

<sup>7672</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8253-8254.

<sup>7673</sup> Perry Kamara, Transcript 6 February 2008, pp. 3218-3219.

<sup>7674</sup> Perry Kamara, Transcript 6 February 2008, pp. 3218-3219 ("Mosquito said Gullit should wait for Superman and Issa Sesay and others to join him so that the manpower and the command structure would be strong before Gullit could enter. He said if that were the case it would be all right. Then Gullit said if it were for the ammunition we have ammunition to enter. He said, 'No, that is not the reason. It is for the command structure. It will be strong for you.' Then Gullit said, 'The best thing was that I would tell my men and whatever they agreed on I will come back and tell you.' Then we closed the radio. Gullit called - Gullit summoned a short meeting to inform his men what they had discussed [...]").

<sup>7675</sup> Perry Kamara, Transcript 6 February 2008, p. 3218-3219.

suggested, as the Defence sought to argue, that by moving forward to Freetown without Bockarie's reinforcements, Gullit was rejecting either Bockarie's authority or his offer of assistance. On their evidence, Gullit was receptive to the idea of reinforcements, but military exigencies dictated a more immediate advance into Freetown. On cross-examination, Kamara made clear that he did not believe that this was disobedience to Bockarie; rather, Gullit exercised his discretion and judgement as to whether those reinforcements were necessary. Kamara pointed out that, on capturing the State House, Gullit duly reported to Bockarie.<sup>7676</sup> Moreover, according to Kamara, before the call to Bockarie was made, Gullit's forces decided that "[w]hatever [Bockarie] said we would tell him to accept, so that we would work together again".<sup>7677</sup> Kamara also believed that if Bockarie's reinforcements had met Gullit outside Freetown before 6 January 1999, they would have entered Freetown together.<sup>7678</sup> According to Bobson Sesay, when Gullit called Bockarie after entering the State House, he stated that he was still waiting for Bockarie's reinforcements.<sup>7679</sup>

3410. The evidence of Dauda Aruna Fornie and Isaac Mongor's evidence on examination-in-chief also support the idea that Gullit did not wait for Bockarie's reinforcements due to those reinforcements being unduly delayed, rather than as a refusal of Bockarie's support. Dauda Aruna Fornie also confirmed that Gullit requested reinforcements from Bockarie before the commencement of the 6 January attack.<sup>7680</sup>

3411. The evidence of Mongor in cross-examination, Mohamed Kabbah and Issa Sesay are somewhat inconsistent with that of Bobson Sesay, Fornie and Kamara. On Issa Sesay's evidence, the Trial Chamber again recalls its finding that the evidence of Issa Sesay must be

<sup>7676</sup> Perry Kamara, Transcript 7 February 2008, p. 3384 (PS) ("Q. [...] Gullit disobeyed Bockarie, didn't he, by continuing on from Waterloo into Freetown? A. Well, I cannot particularly refer to that as disobedience, but he said because of the manpower you have and the command structure you shouldn't enter Freetown. But the man had the idea that he had enough manpower and forces so that he could enter Freetown and that was a discretionary job. So the man decided to enter Freetown and when he entered Freetown he duly informed Mr Bockarie that he has entered Freetown. Q. Bockarie had given an order not to proceed into Freetown. Correct? A. Yes. The order had a reason and that is what I'm saying. The order had a reason, because of the manpower and strength and materials. But some other people didn't even think that we were strong enough to enter Freetown, so therefore they said we will enter Freetown and when we get to Freetown we will inform him and that was what happened. When we entered Freetown the AFRC informed him that we have entered Freetown and he didn't give any negative comment about that").

<sup>7677</sup> Perry Kamara, Transcript 6 February 2008, p. 3217.

<sup>7678</sup> Perry Kamara, Transcript 6 February 2008, p. 3237.

<sup>7679</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8286-8287.

<sup>7680</sup> Dauda Aruna Fornie, Transcript 5 December 2008, pp. 21851-21853.

approached with caution,<sup>7681</sup> and notes that he had an interest in minimising his own role in the events in Freetown of January 1999. The Trial Chamber also notes that he was not privy to the conversation between Bockarie and Gullit, and only heard about the death of SAJ Musa and the subsequent communication from Bockarie in January when he was in Makeni.<sup>7682</sup> In relation to Sam Kolleh's evidence, the Trial Chamber considers that his testimony concerning what occurred in the lead-up to Freetown contained a number of inaccuracies. Notably, Kolleh maintained that SAJ Musa's troops entered Freetown before Musa died at Benguema.<sup>7683</sup> Further, Kolleh had little foundational basis for his testimony that Gullit did not ask for reinforcements; he did not claim to have heard the conversation between Gullit and Bockarie, and he was in Pendembu at the beginning of 6 January 1999, not with Bockarie or Gullit.<sup>7684</sup> In light of contradictory evidence from other witness, the Trial Chamber does not find the evidence of Issa Sesay and Sam Kolleh that Gullit never asked for reinforcements credible.

3412. Concerning Kabbah and Mongor's evidence, the Trial Chamber considers it is not clear whether the two witnesses are describing events which occurred after SAJ Musa's death. Kabbah, in particular, stated that the instruction from Bockarie to wait took place during "the period of SAJ Musa and Gullit", and affirmed that both SAJ Musa and Gullit refused. He was next questioned by Defence counsel on SAJ Musa's ban on his group maintaining radio contact with Bockarie,<sup>7685</sup> which, as noted above, was lifted after Musa's death. Similarly, while Mongor in examination-in-chief was asked explicitly concerning the communication between Bockarie and Gullit after SAJ Musa's death, his evidence on cross-examination was elicited on questioning about his prior statement that the Freetown invasion was generally an AFRC project. It is possible that the witnesses may have conflated SAJ Musa's initial refusal to join in Bockarie's plan to attack Freetown from the Waterworks meeting<sup>7686</sup> with Gullit's later failure to wait for Bockarie's reinforcements. In any case, the Trial Chamber is not satisfied that their evidence as to the troops led by Gullit and SAJ Musa refusing to wait for the RUF relates specifically to the period after the death of SAJ Musa.

<sup>7681</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>7682</sup> Issa Sesay, Transcript 19 August 2010, pp. 46734-46737.

<sup>7683</sup> Sam Kolleh, Transcript 5 November 2010, pp. 48908-48910.

<sup>7684</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48451, 48453-48454.

<sup>7685</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16446.



3413. Accepting the evidence of Bobson Sesay and Kamara, as corroborated by Dauda Aruna Fornie, the Trial Chamber finds that by advancing to Freetown from Waterloo and Benguema without Bockarie's reinforcements, Gullit was not rejecting either Bockarie's authority or his offer of assistance.

3414. The Prosecution goes further to contend, on the basis of Perry Kamara's evidence, that even though Gullit made his decision to enter Freetown without waiting for reinforcements from Bockarie, he only did so knowing that the RUF were in Makeni moving with reinforcements towards Freetown and in a position to block further ECOMOG troops moving towards the capital.<sup>7687</sup> The Trial Chamber acknowledges that there is evidence that Bockarie did discuss with Gullit targeted attacks by the RUF to prevent the deployment of enemy reinforcements to Freetown.<sup>7688</sup>

3415. In relation to Bockarie's reaction to Gullit's failure to wait for reinforcements, the Defence placed emphasis on evidence from Mohamed Kabbah that the first the RUF heard of Gullit's entry into Freetown was from the BBC, that it came as a surprise to the RUF when Gullit's group entered Freetown, having heard nothing from them until they reached the State House, and that Kabbah believed the entry into Freetown was an independent mission of Gullit's troops.<sup>7689</sup> Kabbah also testified that Bockarie and Gullit argued during this communication over Gullit's alleged disobedience to Bockarie's orders.<sup>7690</sup> According to the Defence, this belies the Prosecution suggestion that the RUF was involved in the Freetown invasion.<sup>7691</sup>

3416. Certainly, the evidence from Kamara that Bockarie told Gullit to delay entering Freetown "for the command structure" indicates Bockarie was concerned about maintaining his authority over the troops led by Gullit.<sup>7692</sup> That there were tensions between Bockarie and Gullit during the hostilities in Freetown is also acknowledged by Dauda Aruna Fornie,

<sup>7686</sup> Military Operations: The Freetown Invasion, The Plan.

<sup>7687</sup> Prosecution Final Trial Brief, paras 506, 519-520.

<sup>7688</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8254 (Bobson Sesay noted that Bockarie assured Gullit in the conversation after SAJ Musa's death that Issa Sesay and Denis Mingo from Kono and Makeni were making targeted attacks to weaken ECOMOG and prevent the deployment of enemy reinforcements to Freetown. This was "an operation that was planned" and "the strategy that we used").

<sup>7689</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16447.

<sup>7690</sup> Mohamed Kabbah, Transcript 17 September 2008, pp. 16448-16449.

<sup>7691</sup> Defence Final Trial Brief, para. 617.

<sup>7692</sup> Perry Kamara, Transcript 6 February 2008, pp. 3218-3219.

who noted that when he heard one of the troops who had entered Freetown on the BBC, Bockarie became concerned that Gullit would take power in Freetown on his own.<sup>7693</sup>

3417. However, the evidence does not support the Defence contention that coordination between Bockarie and Gullit broke down at this point. Perry Kamara specifically disagreed with the suggestion of Defence counsel that Bockarie was dissatisfied with the troops entering Freetown without waiting.<sup>7694</sup> The Trial Chamber notes that both Kabbah and Fornie indicated that despite these tensions, Bockarie promised Gullit that he would send reinforcements to Freetown.<sup>7695</sup> The Trial Chamber also considers significant the evidence of TF1-371, a senior member of the RUF, that while he considered that the decision of the AFRC to enter Freetown in January 1999 without waiting for the RUF to be hasty, he did not consider the division to be serious.<sup>7696</sup> Similarly, Isaac Mongor conceded that throughout the relationship between the RUF and AFRC there were problems but he believed that these problems were manageable.<sup>7697</sup>

3418. Further, as the Trial Chamber has found above, the radio room in Buedu and the troops in Freetown communicated frequently during the assault on the capital concerning strategic matters.<sup>7698</sup> Fornie attested to direct communication between Boston Flomo (a.k.a. RUF Rambo) and Gullit in which they spoke about how their forces would meet.<sup>7699</sup> The submission that coordination between Bockarie and Gullit did not progress beyond Gullit's initial call to Bockarie is also belied by the evidence, examined by the Trial Chamber below, that continued attempts were made to facilitate the entry into Freetown of troops under Bockarie's command.

<sup>7693</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21578-21579.

<sup>7694</sup> Perry Kamara, Transcript 7 February 2008, p. 3385 (PS).

<sup>7695</sup> Mohamed Kabbah, Transcript 17 September 2008, pp. 16448-16449; Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21580-21581; TF1-371, Transcript 28 January 2008, p. 2426 (CS) (when Gullit contacted Bockarie from the State House, Bockarie told Gullit that he should not be concerned and that "the RUF is already on the way to give them support"); Exhibit P-149, "Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL 2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21/1/1999", ERN 25494 ("Upon hearing the confirm [sic] report that the Strike Force Commander Brigadier Goodial entered Freetown with his troops, Colonel Boston Flomo (Alias Verndame) was instructed to meet him with his troops"); see also Defence Final Trial Brief, para. 633 ("When Gullit was at State house, he contacted Bockarie...Bockarie told Gullit that he had instructed Rambo, who was already at Waterloo, to link up with them").

<sup>7696</sup> TF1-371, Transcript 30 January 2008, p. 2613 (CS).

<sup>7697</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6721-5722.

<sup>7698</sup> Mohamed Kabbah, Transcript 15 September, pp. 16170-16171.

<sup>7699</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21605-21607.

(v) Attempts at coordination and the entry into Freetown of Rambo Red Goat

3419. Evidence indicates that Bockarie continued to order his troops to connect with the troops in the capital during the Freetown assault.<sup>7700</sup> Dauda Aruna Fornie testified that he monitored a direct conversation on 6 January 1999 between Gullit and Bockarie in which Bockarie told Gullit to try to coordinate with Rambo and General Issa concerning reinforcements so that Rambo would move faster and meet Gullit in Freetown.<sup>7701</sup> In cross-examination, Fornie was questioned about a prior statement in which he stated that prior to the Freetown invasion, there was communication but no coordination between the AFRC and RUF,<sup>7702</sup> and that it was the AFRC who attacked Freetown.<sup>7703</sup> However, Fornie explained that when he was first interviewed, he still believed that he himself was at risk of arrest, and therefore tried to downplay the degree of the RUF's involvement in the Freetown invasion and later told the Prosecution that his earlier statements were incomplete.<sup>7704</sup> Fornie recalled that he added in a later statement that there was direct coordination between the AFRC and RUF after the death of SAJ Musa<sup>7705</sup> which begun in Benguema and continued through the Freetown attacks.<sup>7706</sup>

3420. Recalling that Fornie is a generally credible witness,<sup>7707</sup> the Trial Chamber accepts his explanation of this inconsistency, and notes that his testimony is supported by a number of other witnesses. Perry Kamara testified that in reaction to news that Gullit's forces were experiencing difficulties in Freetown, Bockarie sent a message that the troops should move to Waterloo and join fighters led by Morris Kallon, Issa Sesay, Denis Mingo (a.k.a. Superman) and Boston Flomo (a.k.a. RUF Rambo) in Waterloo.<sup>7708</sup> Exhibit D-084, a Salute

<sup>7700</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21727 (immediately upon arriving in Freetown Gullit contacted Bockarie to inform him of his movements. Bockarie ordered Rambo through Issa Sesay to join Gullit and Gullit and Rambo then coordinated their movements); TF1-371, Transcript 28 January 2008, pp. 2426-2427 (CS) (Bockarie ordered Boston Flomo (a.k.a. Rambo), who was in Waterloo, to link up with the AFRC troops, in the eastern part of Freetown); Isaac Mongor, Transcript 11 March 2008, pp. 5819-5820 (after 6 January 1999, Rambo and other fighters in Makeni continued to advance with Superman to Waterloo, fighting ECOMOG on the way. They then advanced towards Jui, in the Hastings area).

<sup>7701</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21569.

<sup>7702</sup> Dauda Aruna Fornie, Transcript 5 December 2008, pp. 21819-21820.

<sup>7703</sup> Dauda Aruna Fornie, Transcript 5 December 2008, pp. 21825; Transcript 8 December 2008, p. 21905.

<sup>7704</sup> Dauda Aruna Fornie, Transcript 5 December 2008, pp. 21826-21628; Transcript 8 December 2008, pp. 21966-21968.

<sup>7705</sup> Dauda Aruna Fornie, Transcript 5 December 2008, pp. 21819-21820.

<sup>7706</sup> Dauda Aruna Fornie, Transcript 5 December 2008, pp. 21820-21821.

<sup>7707</sup> Credibility Assessment, Dauda Aruna Fornie, paras 346-358.

<sup>7708</sup> Perry Kamara, Transcript 6 February 2008, pp. 3234, 3237, 3245 (in reaction to news that Gullit's forces were experiencing difficulties in Freetown, Bockarie sent a message that the troops should move to Waterloo and

Report from Issa Sesay to Foday Sankoh dated 27 September 1999 noted that when “our forces Freetown [sic] were under enemy cut off from the rear and were in danger of being boxed-in”, Rambo was “withdrawn from his operation in Port Loko and instructed to open a through-way to connect with our men in Freetown”.<sup>7709</sup> Some witnesses testified that Issa Sesay passed the instruction from Bockarie to Boston Flomo to deploy to Freetown.<sup>7710</sup>

3421. A further two witnesses testified that fighters led by Issa Sesay, Superman and others in Makeni headed to Freetown. Komba Sumana testified that after the capture of Makeni in 1998,<sup>7711</sup> Issa told the fighters that they were to reinforce the forces in Freetown,<sup>7712</sup> and he and other fighters travelled on a truck to Lunsar while two other trucks went on towards Freetown. According to the witness’s friend, some of the fighters were able to bypass ECOMOG and enter Freetown.<sup>7713</sup> TF1-174 also testified seeing Issa Sesay in Makeni on 28 December 1998 and then, shortly afterwards, RUF or AFRC fighters who informed the witness that they were heading towards Freetown.<sup>7714</sup>

3422. The Defence submits that the reinforcements sent by Bockarie did not get any closer to Freetown than Waterloo,<sup>7715</sup> and the evidence largely supports this proposition, with most of the attempts by the forces commanded by Boston Flomo to enter Freetown being unsuccessful.<sup>7716</sup>

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join fighters led by Morris Kallon, Issa Sesay Denis Mingo (a.k.a. Superman) and RUF Rambo in Waterloo, Bockarie stated that the troops at Waterloo had come as reinforcements for Gullit’s troops; their intent was to enter Freetown).

<sup>7709</sup> Exhibit D-084, “RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL to the Leader of the Revolution, dated 27 September 1999”, pp. 9-10, ERN 7764-7765.

<sup>7710</sup> TF1-567, Transcript 2 July 2008, pp. 12918-12919 (Once Bockarie heard that the “brothers” had entered Freetown, he instructed Issa Sesay “to try and connect with his brothers in Freetown whereby Gullit was the commander”. Sesay in turn instructed Boston Flomo to meet the men in Freetown); TF1-375, Transcript 24 June 2008, pp. 12604-12605, 12608 (TF1-375 testified that on their way to Waterloo, Superman said that they should try to open the road to Freetown, to join their “friends and brothers” in the city and at Waterloo, Superman, Issa Sesay, Komba Gbundema and other senior officers decided that RUF Rambo should take a group to attack Hastings and get across the bridge to go to Freetown to join their “brothers”).

<sup>7711</sup> Komba Sumana, Transcript 6 October 2008, pp. 17973-17974.

<sup>7712</sup> Komba Sumana, Transcript 6 October 2008, pp. 17976-17978.

<sup>7713</sup> Komba Sumana, Transcript 6 October 2008, p. 17979.

<sup>7714</sup> TF1-174, Transcript 27 January 2009, pp. 23692-23694.

<sup>7715</sup> Defence Final Trial Brief, para. 636.

<sup>7716</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38680 (Ngebeh stated that the RUF never reached closer to Freetown than Waterloo. The RUF operated out of Waterloo, Benguema and Hastings, but only after the AFRC had already passed through and captured these places); Issa Sesay, Transcript 9 July 2010, p. 44169 (The RUF forces did not get any closer to Freetown than Waterloo); Exhibit P-149, “Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL





3423. However, the evidence documents one partly successful attempt by Bockarie to organise for Boston Flomo to join up with Gullit's forces. Exhibit P-149, a memo from the Overall Intelligent Officer Commander and Black Guard Adjutant to Issa Sesay, dated 21 January 1999, notes that on 15 January 1999, "it was agreed that the men in Freetown and the men at our point were to do joint operation on Jui and Kosso town", but "the Freetown men never turn up".<sup>7717</sup> Exhibit P-149 was adduced through TF1-567, who testified that when he was stationed at Waterloo in early 1999 with Issa Sesay, he was in charge of receiving reports from various securities,<sup>7718</sup> and that Exhibit P-149 was one of those reports.<sup>7719</sup> TF1-567, whom the Trial Chamber has found to be generally credible,<sup>7720</sup> affirmed that Issa Sesay instructed Boston Flomo to meet with Gullit's troops and that Flomo's troops in Hastings attempted to join up with the troops in Freetown in the planned operation to attack Kossoh Town, but failed to do so.<sup>7721</sup> TF1-567's evidence is also corroborated by Perry Kamara, who testified that in reaction to receiving news that Gullit's troops were facing increasing pressure from ECOMOG, Bockarie sent a message that in order to "clear the route" for the troops led by Kallon and Sesay to enter Freetown, Gullit's men had to attack Kossoh Town with Superman's group.<sup>7722</sup> Kamara also confirmed that Gullit did not ultimately send troops to Kossoh Town,<sup>7723</sup> explaining on cross-examination that this was because Gullit was unable to assemble men to receive the reinforcements, his forces being scattered across the city.<sup>7724</sup>

3424. However, according to Perry Kamara, the troops waiting at Waterloo did attack Kossoh Town. Although they were unable to capture it, an AFRC "strong fighter" known as Idrissa Kamara (a.k.a. Rambo Red Goat) from the group at Waterloo was able to gather a

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2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21/1/1999", ERN 25495 (The memo notes that the problems at the frontline include: "(1) We have not yet connected physically with our brothers in Freetown (2) Menpower indeed to be engaged on this Urban Warfare (3) The strategic positions of the enemies mainly Port Loko, Lungi, Jui, Kabala are delaying our progress").

<sup>7717</sup> Exhibit P-149, "Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL 2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21/1/1999", ERN 25495.

<sup>7718</sup> TF1-567, Transcript 2 July 2008, pp. 12921-12922.

<sup>7719</sup> TF1-567, Transcript 2 July 2008, pp. 12938-12939.

<sup>7720</sup> Credibility Assessment, TF1-567, paras 313-317.

<sup>7721</sup> TF1-567, Transcript 4 July 2008, pp. 12939-12941.

<sup>7722</sup> Perry Kamara, Transcript 6 February 2008, pp. 3234, 3237.

<sup>7723</sup> Perry Kamara, Transcript 6 February 2008, p. 3237.

<sup>7724</sup> Perry Kamara, Transcript 7 February 2008, p. 3388 (PS).

smaller contingent, bypass ECOMOG and join the troops in Freetown at Kissy Road.<sup>7725</sup> Perry Kamara testified that the troops led by Rambo Red Goat and Striker were part of the troops that remained behind in Freetown after Gullit retreated with the civilian brigade, and Rambo Red Goat and Striker's troops carried out Gullit's orders to make the area fearful.<sup>7726</sup>

3425. Alimamy Bobson Sesay, also with the troops in Freetown, corroborated the key aspects of Perry Kamara's testimony. Bobson Sesay stated that during the second week of January, while the troops were still at the State House, RUF Rambo communicated to Gullit that he was preparing reinforcements to join Gullit, stating that a former SLA member known as Rambo Red Goat, was advancing together with Superman and others toward Freetown.<sup>7727</sup> RUF Rambo explained that he had received the order to send these reinforcements from Bockarie.<sup>7728</sup> The witness explained that in the conversation RUF Rambo stated that he had moved with Issa Sesay and SLA Rambo as far as Hastings, but that RUF Rambo noted that the reinforcements were still afraid as they did not believe that SAJ Musa was dead.<sup>7729</sup> However, Bobson Sesay noted that despite this fear, some men, led by Rambo Red Goat, were sent to join Gullit's troops in Freetown.<sup>7730</sup> Rambo Red Goat arrived some time before the third week of January, and Gullit appointed the witness and Colonel Eddie to receive Red Goat from Allen town.<sup>7731</sup>

3426. In cross-examination, the Defence sought to challenge the credibility of Bobson Sesay's evidence concerning the reinforcements brought by Red Goat, pointing out a prior statement in which Bobson Sesay had stated that when the "reinforcements" arrived, they "only saw one Colonel Rambo also called Red Goat" and that Red Goat told them that the other men he came with remained behind fearing that SAJ Musa was still alive.<sup>7732</sup> However, Bobson Sesay maintained that Red Goat did bring 50 fighters to Freetown but that there were more that had not joined them and insisted that when he said "one Colonel

<sup>7725</sup> Perry Kamara, Transcript 6 February 2008, pp. 3237-3238.

<sup>7726</sup> Perry Kamara, Transcript 6 February 2008, pp. 3241-3242.

<sup>7727</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8300-8302; Transcript 23 April 2008, pp. 8321-8323.

<sup>7728</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8327.

<sup>7729</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8300-8302; Transcript 23 April 2008, p. 8323.

<sup>7730</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8323;

<sup>7731</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8301-8302; Transcript 23 April 2008, pp. 8326-8328 ("this was almost during the third week of 6 January when we entered").

<sup>7732</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8854-8855.





Rambo” he did not mean there was only one man.<sup>7733</sup> The Trial Chamber considers this a plausible explanation of his words, noting in particular the practice of witnesses of introducing persons for the first time in their testimony as “one so-and-so”.<sup>7734</sup>

3427. TF1-375, who was deployed with Superman’s group on the outskirts of Freetown during the attack, testified that reinforcements led by Idrissa Kamara joined Gullit’s troops in Freetown around the time that Gullit’s forces took over the State House.<sup>7735</sup> TF1-375 stated that at Waterloo, Superman, Issa Sesay, Komba Gbundema and other senior officers decided that RUF Rambo should take a group to attack Hastings and get across the bridge to go to Freetown to join their “brothers”.<sup>7736</sup> Issa Sesay appointed an AFRC commander known as Rambo Red Goat to lead the group that went to Freetown because, as Sesay stated, Rambo Red Goat was once an SLA soldier and “knew his brothers in the city well”.<sup>7737</sup> According to TF1-375, Red Goat’s group was able to enter Freetown by the way of a back road.<sup>7738</sup> He testified that later he monitored a conversation in which Red Goat called the troops on the outskirts of Freetown to inform them of what was happening inside the city.<sup>7739</sup>

3428. The Trial Chamber recalls its finding that the evidence of TF1-375 must be considered with caution and requires corroboration.<sup>7740</sup> In this context, however, the Trial Chamber considers his evidence to be amply corroborated by Perry Kamara and Bobson Sesay, who were both inside Freetown during the January 1999 assault. The Trial Chamber notes that Bobson Sesay was present at the conversation in which RUF Rambo communicated to Gullit that he was sending Red Goat to join Gullit on Bockarie’s orders.<sup>7741</sup> The evidence of TF1-375, Perry Kamara and Bobson Sesay is also consistent with TF1-371’s testimony that during the AFRC’s retreat, Boston Flomo (a.k.a. “Rambo”),

<sup>7733</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8847-8850.

<sup>7734</sup> See for example, TF1-371, Transcript 30 January 2008, p. 2610 (CS) (“There was one Eddie Murphy who was also a radio operator later”); Samuel Kargbo, Transcript 21 May 2008, p. 10436 (“we saw one Major Johnny Paul Koroma [...]”); Joseph Marzah, Transcript 12 March 2008, p. 5923 (“[...] to my surprise there was one Peanut Butter, commonly known at Adolphus Dolo”).

<sup>7735</sup> TF1-375, Transcript 24 June 2008, pp. 12610-12611.

<sup>7736</sup> TF1-375, Transcript 24 June 2008, p. 12608.

<sup>7737</sup> TF1-375, Transcript 24 June 2008, p. 12609.

<sup>7738</sup> TF1-375, Transcript 24 June 2008, pp. 12610-12611.

<sup>7739</sup> TF1-375, Transcript 24 June 2008, p. 12612.

<sup>7740</sup> Credibility Assessment, TF1-375, paras 308-312.

<sup>7741</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8302.

already in Waterloo, was successful in linking up with the AFRC troops on Bockarie's instructions.<sup>7742</sup>

3429. The evidence concerning Bockarie ordering Issa Sesay to reinforce the troops in Freetown is contradicted by Issa Sesay, who testified that Bockarie never instructed him to send reinforcements to Freetown.<sup>7743</sup> He asserted that while Rambo did eventually go to Waterloo, this was not until late February 1999.<sup>7744</sup> By that time, Gullit's forces were retreating from Freetown.<sup>7745</sup> Sesay testified that when Gullit contacted Bockarie from the State House to request reinforcements, Bockarie refused because Gullit had ignored Bockarie's instruction to wait previously in Benguema and that, as a result, Bockarie did not send troops to reinforce the AFRC in Freetown.<sup>7746</sup> Sesay denied sending any reinforcements to Lunsar or Waterloo.<sup>7747</sup> Sesay also testified that he had never seen P-149 prior to his trial<sup>7748</sup> and that he believed the information set out in it to be false.<sup>7749</sup> raising a range of issues concerning the accuracy of the contents of the document.<sup>7750</sup> The Trial Chamber notes that Defence witness Charles Ngebeh also regarded the portion of Exhibit P-149 describing the 9 January 1999 RUF attacks on Jui and Kossoh Town as 'false information', stating that the RUF did not work with the AFRC to attempt an attack on Jui and Kossoh Town.<sup>7751</sup>

<sup>7742</sup> TF1-371, Transcript 28 January 2008, pp. 2427-2428 ("A. [...] And at a point in time they have repelled them as far as Kissy and they were entangled from the back, from the rear, and they were calling for reinforcement and Sam Bockarie told them that he had instructed Boston Flomo who was already at Waterloo at that point in time to open the way and to link up with them. [...] Q. Now Boston Flomo and his troops, were they able to link up with AFRC troops? A. Yes, they were able to link up with the AFRC troops in eastern - in the eastern part of Freetown").

<sup>7743</sup> Issa Sesay, Transcript 19 August 2010, pp. 46744, 46747.

<sup>7744</sup> Issa Sesay, Transcript 19 August 2010, pp. 46767-46768.

<sup>7745</sup> Issa Sesay, Transcript 19 August 2010, pp. 46750-46751.

<sup>7746</sup> Issa Sesay, Transcript 9 July 2010, p. 44168; Transcript 12 July 2010, pp. 44187-44188.

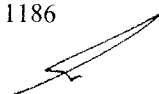
<sup>7747</sup> Issa Sesay, Transcript 19 August 2010, p. 46804

<sup>7748</sup> Issa Sesay, Transcript 12 July 2010, p. 44189.

<sup>7749</sup> Issa Sesay, Transcript 12 July 2010, p. 44199.

<sup>7750</sup> Issa Sesay, Transcript 12 July 2010, pp. 44189-44190, 44197-44198 (he stated that Superman, Rambo and Sesay all had radios at this time and communicated on a daily basis, so it would not make sense to request reinforcements via a typed letter; the men in Waterloo did not have access to a typewriter; Ibrahim Mannah, who was alleged to have written the document, was with Sesay in Makeni at this time, not in Waterloo with Rambo; Bombali District, listed on the letter as the location of the Brigade headquarters indicates that the document originated in Makeni; Sesay was a Colonel in January 1999, not a Brigadier General; Sesay did not know the Intelligence Officer (IO) Commander Ibrahim Mannah by the name of Christ A. Mannah; Sesay did not know a Brigadier Goodial).

<sup>7751</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38688.







3430. According to Issa Sesay, Idrissa Kamara (a.k.a. Rambo Red Goat) was part of the AFRC group led by Brigadier Mani,<sup>7752</sup> which had left Bockarie's command to join SAJ Musa in the Koinadugu District in around August 1998. Sesay testified that Brigadier Mani did not take instruction from Bockarie from February 1998 until 1999 after the Lomé Accord.<sup>7753</sup> According to Sesay, in late 1998, there was no communication at all between Bockarie and Brigadier Mani's group.<sup>7754</sup> Sesay denied ever commanding Red Goat or instructing him to go to Freetown.<sup>7755</sup>

3431. The Prosecution submits that Issa Sesay's testimony concerning his knowledge of Idrissa Kamara is also inconsistent. He testified firstly that he knew Idrissa Kamara as part of the "Red Goat Battalion" with Brigadier Mani at the Koinadugu flank.<sup>7756</sup> Next, he testified that, at the time of giving evidence, he was not aware that Rambo Red Goat's real name was Idrissa Kamara.<sup>7757</sup> Later, he stated that he came to know Kamara's real name during his period of detention with Kamara's commanders.<sup>7758</sup> On re-examination, Sesay maintained that the first time he heard the name Idrissa Kamara was when the Defence investigators suggested that it was the same person as Rambo Red Goat.<sup>7759</sup>

3432. The Trial Chamber notes that Sesay's testimony concerning the relationship between the group led by Brigadier Mani, of which Kamara was a member, and the RUF is also inconsistent in several respects. Although Sesay testified at first that Brigadier Mani's group did not take instructions from Bockarie from February 1998 until after the Lomé Peace Accord,<sup>7760</sup> during the course of examination-in-chief Sesay admitted that he was working with Brigadier Mani, on Bockarie's orders, for the attacks on Makeni in December 1998. Sesay later revised his testimony to state that the period in which Brigadier Mani was not cooperating with Bockarie and the RUF was limited to February to December 1998.<sup>7761</sup> Indeed, Issa Sesay stated that Brigadier Mani's group was not part of the initial attack on Freetown by Gullit because Brigadier Mani and General Bropleh were "with" Sesay until Superman

<sup>7752</sup> Issa Sesay, Transcript 28 July 2010, p. 44916.

<sup>7753</sup> Issa Sesay, Transcript 8 July 2010, pp. 44081-44082.

<sup>7754</sup> Issa Sesay, Transcript 8 July 2010, pp. 44051-44052.

<sup>7755</sup> Issa Sesay, Transcript 27 August 2010, p. 47335.

<sup>7756</sup> Issa Sesay, Transcript 28 July 2010, p. 44916.

<sup>7757</sup> Issa Sesay, Transcript 19 August 2010, p. 46801.

<sup>7758</sup> Issa Sesay, Transcript 19 August 2010, p. 46810.

<sup>7759</sup> Issa Sesay, Transcript 27 August 2010, p. 47333-47334.

<sup>7760</sup> Issa Sesay, Transcript 8 July 2010, pp. 44081-44082.





and Massaquoi attacked Sesay in March 1999.<sup>7762</sup> Further, although Sesay emphasised that he and Brigadier Mani separately commanded the RUF and AFRC respectively,<sup>7763</sup> he also testified that the Red Goat “Battalion” comprised RUF fighters,<sup>7764</sup> but also that it was led by an SLA fighter, Idrissa Kamara. Later on in cross-examination, he rejected his earlier testimony that the Red Goat “Battalion” was made up of RUF soldiers, but clarified that that battalion was a “combined” group operating in the Koinadugu area with Brigadier Mani, and “all of them together with Superman came to Makeni” in December 1998.<sup>7765</sup>

3433. Due to these inconsistencies, the Trial Chamber does not consider to be credible Sesay’s evidence that Idrissa Kamara could not have provided reinforcements to Gullit’s group in Freetown because he and Brigadier Mani were in Makeni or because he and the AFRC had separate commands. Sesay’s evidence to this effect is contradicted by TF1-375, who testified that Brigadier Mani was involved with Sesay in operations on the outskirts of Freetown while Gullit’s group was in Freetown.<sup>7766</sup> It is also contradicted by the evidence of Komba Sumana that after the capture of Makeni in 1998,<sup>7767</sup> Issa Sesay told the fighters that they were to reinforce the forces in Freetown.<sup>7768</sup>

3434. The Trial Chamber also does not accept the challenge by Issa Sesay and Charles Ngebeh to the accuracy of the information contained in Exhibit P-149.<sup>7769</sup> The Trial Chamber recalls its finding that the evidence of Issa Sesay must be approached with caution.<sup>7770</sup> It further notes that Ngebeh’s suggestion that the RUF did not know the radio codes used by the AFRC radio operators in Freetown, and therefore could not have agreed to a joint operation on Jui and Kossoh Town,<sup>7771</sup> contradicts the consistent and undisputed evidence of Prosecution witnesses that there were RUF radio operators with the forces in

<sup>7761</sup> Issa Sesay, Transcript 8 July 2010, pp. 44082-44083; Transcript 19 August 2010, pp. 46679-46680.

<sup>7762</sup> Issa Sesay, Transcript 9 July 2010, pp. 44159-44160; Transcript 28 July 2010, p. 44916.

<sup>7763</sup> Issa Sesay, Transcript 27 August 2010, p. 47335.

<sup>7764</sup> Issa Sesay, Transcript 9 July 2010, pp. 44167-44168.

<sup>7765</sup> Issa Sesay, Transcript 19 August 2010, pp. 46798-46799.

<sup>7766</sup> TF1-375, Transcript 24 June 2008, pp. 12608-12609.

<sup>7767</sup> Komba Sumana, Transcript 6 October 2008, pp. 17973-17974.

<sup>7768</sup> Komba Sumana, Transcript 6 October 2008, pp. 17976-17978. Although the witness only refers to a person named “Issa”, he previously testified that “Issa” was General Issa, who is in turn described by other rebels as their “boss” (Transcript 6 October 2008, pp. 17917, 17971-17972).

<sup>7769</sup> Issa Sesay, Transcript 12 July 2010, p. 44189.

<sup>7770</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>7771</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38690.





Freetown. Noting that the origin of Exhibit P-149 is confirmed by TF1-567<sup>7772</sup> and its account of events is corroborated by Perry Kamara, the Trial Chamber accepts that Exhibit P-149 is a reliable record of the movements of the RUF during the January 1999 operation.

3435. On the basis of the Prosecution evidence, particularly that of Bobson Sesay, Perry Kamara, TF1-567, TF1-375 and Exhibit P-149, the Trial Chamber is satisfied that after resuming communications with Gullit, Bockarie ordered his troops to advance towards Freetown, with the aim of joining forces with Gullit in Freetown, and that Gullit, Bockarie and Bockarie's commanders coordinated in order to achieve that aim. It is also satisfied that a small contingent of the troops Bockarie sent as reinforcements, led by Idrissa Kamara (a.k.a. Rambo Red Goat), was able to join Gullit's troops in Freetown some time after Gullit's forces had captured the State House.

(vi) Whether fighters in Freetown took orders from Bockarie

3436. The Prosecution contends that from 6 January 1999, Gullit's forces not only coordinated with Bockarie but also implemented his orders. It alleges that unlike SAJ Musa, Gullit and his comrades were willing to subordinate themselves to Bockarie. The Prosecution submits that during the Freetown invasion, the AFRC and RUF forces inside the city implemented specific instructions from Bockarie, including orders that resulted in many of the atrocities.<sup>7773</sup> The Prosecution adduced evidence in relation to a number of specific instructions from Bockarie which the AFRC and RUF forces inside Freetown were alleged to have implemented, including the instruction to make the area "fearful", to send Pademba Road prisoners to secure locations, to execute captured ECOMOG soldiers and to kill released prisoner Martin Moinama.<sup>7774</sup>

3437. In support of its submissions concerning the general relationship between Bockarie and Gullit, the Prosecution relies on Dauda Aruna Fornie's evidence that those RUF fighters

<sup>7772</sup> TF1-567, Transcript 2 July 2008, pp. 12922-12923, 12938-12939 (TF1-567 testified that he worked with the Intelligence Officer (IO) Commander, Christ A. Mannah, and his adjutant, Raymond Kartewu, and recalled seeing at the time a report both had sent to Sesay. He verified that the signatures on the document were those of Raymond Kartewu and Christ A. Mannah and that this was the same report to which he had previously referred as having seen); pp.12939-12941 (TF1-567 affirmed that the "Strike Force commander Brigadier Goodial" referred in Exhibit P-149 was Gullit and that the person who instructed Boston Flomo to meet with Gullit's troops was Issa Sesay).

<sup>7773</sup> Prosecution Final Trial Brief, paras 553, 558.

<sup>7774</sup> Prosecution Final Trial Brief, paras 553, 558.

who entered Freetown on 6 January 1999 took “direct instructions” from Sam Bockarie.<sup>7775</sup> Fornie also testified that during the radio conversations that he monitored between Gullit and Bockarie, Gullit referred to Bockarie as “Sir” and sometimes as “Master”.<sup>7776</sup> Isaac Mongor testified that Gullit called Bockarie “Sir” when they communicated over the radio during the attack because Gullit was aware of Bockarie’s position as “Chief of Defence”.<sup>7777</sup> Both Bobson Sesay and Kabbah explained that while Gullit was the overall commander of the troops, he reported to Bockarie, who was in charge of the “entire movement”.<sup>7778</sup> According to TF1-516, Bockarie gave the contingents in Freetown instructions on military strategy, particularly in regards to setting ambushes, manoeuvring, on how to capture particular targets and when to withdraw.<sup>7779</sup> Similarly, Perry Kamara testified that when Bockarie communicated with Gullit’s troops during the Freetown assault, Bockarie would give the troops in Freetown instructions concerning which targets to attack and destroy, such as the Kissy Terminal refinery, which was then burnt by the Freetown forces, and where to set road blocks.<sup>7780</sup> The Prosecution also cited the evidence from Foday Lansana and Exhibit P-085A concerning Bockarie’s public claims that Gullit was “his” commander in support of the allegation that the Freetown forces implemented Bockarie’s orders.

3438. The Defence submits that there is no evidence of a superior-subordinate relationship between Bockarie and Gullit that would have led Gullit to comply with Bockarie’s orders. It contends that neither the alleged claims by Bockarie that Gullit was his subordinate commander nor the evidence that Gullit referred to Bockarie as “Sir” would suffice,<sup>7781</sup> and that there is evidence in Exhibit P-067 to the contrary that Gullit was not following orders from Bockarie during the Freetown invasion.<sup>7782</sup> The Defence contends that the Prosecution allegations ignore evidence suggesting that, in the period prior to SAJ Musa’s death, Gullit clearly did not consider Bockarie as his superior and was disgruntled at his treatment by the RUF.<sup>7783</sup> The Defence also challenged the credibility of the Prosecution evidence. For

<sup>7775</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21666.

<sup>7776</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21604.

<sup>7777</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5825-5826.

<sup>7778</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8289; Mohamed Kabbah, Transcript 15 September 2008, p. 16172.

<sup>7779</sup> TF1-516, Transcript 8 April 2008, pp. 6942-6943.

<sup>7780</sup> Perry Kamara, Transcript 6 February 2008, pp. 3231-3232, 3235.

<sup>7781</sup> Defence Response to Prosecution Final Trial Brief, para. 151.

<sup>7782</sup> Defence Final Trial Brief, para. 880.

<sup>7783</sup> Defence Response to Prosecution Final Trial Brief, para. 152.





example, it notes that on cross-examination, Fornie insisted that both Gullit and Five-Five were members of the RUF, and contends that this inaccuracy is a sign of the witness's general lack of reliability concerning the structure of the RUF and AFRC factions.<sup>7784</sup> The Defence also cited one of Fornie's responses during his examination in chief, which could be construed to indicate that only the RUF invaded Freetown: Fornie described a radio recording as being made "after the Freetown invasion on January 6 by the RUF".<sup>7785</sup> The Prosecution did not question Fornie again on whether it was the RUF alone that invaded Freetown.

3439. The Trial Chamber has already opined that the evidence of Bockarie's public claims concerning his authority over the troops in Freetown should be accorded little weight, although they evidence his desire and intention to exercise command and control over the joint AFRC and RUF forces. While it also considers that evidence that Gullit referred to Bockarie as "Sir" or "Master" is not sufficient alone to substantiate any conclusions concerning the terms on which the two individuals engaged, it is relevant to corroborating other evidence concerning a formal or de facto superior-subordinate relationship.

3440. Concerning Dauda Aruna Fornie's evidence, the Trial Chamber accepts, as the Defence points out, that neither Gullit nor Five-Five were members of the RUF.<sup>7786</sup> However, the Trial Chamber does not consider this discrepancy to cast any serious doubt on the reliability of Fornie's evidence concerning the command relationship between the two leaders, which, given that following the ECOMOG Intervention Bockarie was appointed as the leader of the joint RUF/AFRC forces.<sup>7787</sup> It also notes that Fornie had previously indicated his awareness that both Gullit and Five-Five were in fact, members of the AFRC.<sup>7788</sup> As to his reference to "the Freetown invasion on January 6 by the RUF", the Trial Chamber notes that not only does this testimony not exclude the possibility that both the RUF and the AFRC participated in the Freetown invasion, but Fornie later presented a

<sup>7784</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21667.

<sup>7785</sup> Defence Final Trial Brief, paras. 899-901. Q: Do you recall approximately when this recording occurred? Fornie: It was around ... February to March 1999. That was after the Freetown invasion on January 6 by the RUF". Dauda Aruna Fornie, Transcript 2 December 2008 p. 21500.

<sup>7786</sup> Defence Final Trial Brief, para. 901.

<sup>7787</sup> Context: Civil War in Sierra Leone (1998-1999).

<sup>7788</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21422 ("And then some council members of the AFRC, like Five-Five, he was doing individual mining there"); Transcript 3 December 2008, p. 21564 ("Gullit was one of the bosses in the AFRC").

detailed account of the movements by the RUF and AFRC that culminated in the invasion.<sup>7789</sup>

3441. The Trial Chamber also notes that on cross-examination, Fornie confirmed that he had previously told the Prosecution that Gullit only accepted operational orders from Bockarie because his fighters needed Bockarie's support to maintain their hold on Freetown in January 1999.<sup>7790</sup> However, Fornie explained that he believed this was only one of the reasons that Gullit was willing to accept orders from Bockarie, another being that Gullit believed he would not be able to achieve his goals as long as there was infighting between the AFRC and the RUF. Fornie stated that "indeed when he started working with Sam Bockarie he started seeing some improvement".<sup>7791</sup>

3442. The Defence submission is supported by Exhibit P-067, a 1999 report to Foday Sankoh by the Black Guards, authored by Junior Vandi, a Black Guard commander.<sup>7792</sup> Exhibit P-067 recounts the operation to capture Kono and Makeni led by Colonel Rambo and notes that after the fall of Makeni, Rambo tried to "link up with the other brothers that entered Freetown", but failed because "Commander Black Jah [Gullit] was not going by the instruction from the High Command".<sup>7793</sup> However, recalling evidence from witnesses who provided firsthand accounts of Gullit's command, the Trial Chamber notes that certain decisions made by Gullit which had the appearance either of insubordination, or a rejection of Bockarie's involvement, were explicable by military necessity. The Trial Chamber also considers significant the testimony of TF1-371 that accounts of serious divisions within the AFRC/RUF command structure were often exaggerated,<sup>7794</sup> and that generally it was not difficult for Bockarie to control commanders on the ground, including Gullit, even if there were isolated instances when that control was not effective.<sup>7795</sup>

<sup>7789</sup> Dauda Aruna Fornie, Transcript 5 December 2008 pp. 21555 -21564, et seq.

<sup>7790</sup> Dauda Aruna Fornie, Transcript 5 December 2008, pp. 21848-21849.

<sup>7791</sup> Dauda Aruna Fornie, Transcript 5 December 2008, pp. 21846-21847.

<sup>7792</sup> TF1-371, Transcript 28 January 2008, p. 2406 (CS) (Vandi authored it and he was a Black Guard commander); TF1-567, Transcript 2 July 2008, p. 12903.

<sup>7793</sup> Exhibit P-067, "RUF People's Army- Situation Report to Foday Sankoh from the Black Guard Commander", ERN 9679. Note that the report had previously described the BFC as Brigadier Issa Sesay: ERN 9679; Dauda Aruna Fornie, Transcript 3 December 2008, p. 21564 ("Black Jah" is the code name for Alex Tamba Gullit (a.k.a. Gullit)).

<sup>7794</sup> TF1-371, Transcript 1 February 2008, pp. 2868-2881 (CS).

<sup>7795</sup> TF1-371, Transcript 30 January 2008, pp. 2616-2618 (CS).

3443. The Trial Chamber also notes that Issa Sesay maintained that the men in Freetown did not take orders from Bockarie, were not answerable to Bockarie and they had their own command structure.<sup>7796</sup>

3444. The Trial Chamber considers that the general evidence on Bockarie's relationship with Gullit will need to be examined in the context of specific orders he is alleged to have made.

(vii) Withdrawal from Freetown and order make it "fearful"

3445. A significant amount of evidence was adduced in support of the allegation that as Gullit was facing increasing pressure from ECOMOG, Bockarie ordered him to make the area "fearful". Alimamy Bobson Sesay confirmed that he was present in the State House when Bockarie contacted Gullit to give an order to start burning strategic positions in Freetown and to capture civilians.<sup>7797</sup> Similarly Perry Kamara testified that he first heard Bockarie order Gullit to "make Freetown more fearful than before" after the fighters were inside Freetown,<sup>7798</sup> and then again when Bockarie told Gullit that he believed Gullit should leave Freetown and that Gullit should "make the area fearful" until they came back and reorganised themselves to "regain Freetown".<sup>7799</sup> One of the more detailed accounts is provided by Dauda Aruna Fornie, who testified that he monitored a conversation between Gullit and Bockarie in which Bockarie gave "direct instructions" to Gullit for Gullit to "to cause a lot of mayhem in the city [...] whereby the international community would show more concern about the RUF until they released Foday Sankoh". Bockarie specifically referred to the destruction of government buildings and the amputation of civilians, explaining that "Gullit and others should raise alarm to the level of the international community so that they can come in".<sup>7800</sup>

<sup>7796</sup> Issa Sesay, Transcript 12 August 2010, p. 46111

<sup>7797</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8328-8329.

<sup>7798</sup> Perry Kamara, Transcript 6 February 2008, pp. 3234-3235.

<sup>7799</sup> Perry Kamara, Transcript 6 February 2008, pp. 3241-3242.

<sup>7800</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21590 (Mosquito was giving direct instructions to Gullit for Gullit to- for Gullit to tell the men, I mean the RUF and the AFRC combatants, to cause a lot of mayhem in the city. That is like to destroy some important government buildings and to tell people to take their hands off the war and to cause real damage whereby the international community- whereby the international community would show more concern about the RUF until they released Foday Sankoh. He said if it is possible- Mosquito said if it is possible to chop off anybody's arm, he said- no. He said if it is possible to give anybody short sleeves or long sleeves, meaning to amputate anybody, he said that wouldn't be any problem. He said that they should raise alarm. He said Gullit and others should raise alarm to the level of the international community

3446. The Trial Chamber notes that on cross-examination, Defence counsel questioned Fornie on why the alleged conversation he monitored between Bockarie and Gullit in which the former ordered Gullit to destroy government property and amputate civilians to cause international alarm, was not mentioned by Fornie in any of his previous 28 witness statements. However, Fornie maintained that he was certain that he had informed Prosecution investigators about this incident but that it was not recorded.<sup>7801</sup>

3447. The Trial Chamber recalls that Fornie is a generally credible witness<sup>7802</sup> and considers that his explanation for failing to mention the conversation between Bockarie and Gullit to be forthright and credible, and does not undermine the reliability of his account. In any case, other witnesses provide very similar accounts. Isaac Mongor overheard Bockarie instructing Gullit that if they were unable to hold their ground in Freetown they should start a campaign of destruction.<sup>7803</sup> Specifically, Mongor stated that he heard Bockarie on the radio ordering the Nigerian Embassy to be burnt.<sup>7804</sup>

3448. The remaining witnesses who worked as radio operators during the January 1999 attack all confirmed that Bockarie told Gullit to commit acts of terror, including the destruction of government buildings and violence towards civilians, as they retreated from Freetown. TF1-516 overheard Bockarie speaking to Gullit on the radio stating: "If they mount pressure on us, burn down the fucking place".<sup>7805</sup> Similarly, TF1-585 testified that when ECOMOG put pressure on Gullit and his fighters, Bockarie ordered Gullit to withdraw, stating "but before they should pull out of the town they should kill many people and burn down many houses before they should leave the town".<sup>7806</sup> Mohamed Kabbah also testified that when Gullit called Bockarie to tell him that his troops would not withstand the ECOMOG assault and were withdrawing from Freetown, Bockarie told Gullit that as the troops retreated they should destroy everything so that anyone passing in the area after the rebel troops would know they had been there.<sup>7807</sup> Further, Alice Pyne testified that Bockarie

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so that they can come in. Maybe it would force government to peace talks whereby Foday Sankoh would be released).

<sup>7801</sup> Dauda Aruna Fornie, Transcript 10 December 2008, pp. 22113-22115.

<sup>7802</sup> Credibility Assessment, Dauda Aruna Fornie, paras 346-358.

<sup>7803</sup> Isaac Mongor, Transcript 11 March 2008, p. 5825.

<sup>7804</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5825-5826, 6161.

<sup>7805</sup> TF1-516, Transcript 8 April 2008, pp. 6934-6935.

<sup>7806</sup> TF1-585, Transcript 8 September 2008, p. 15726.

<sup>7807</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16171.



told Gullit that if ECOMOG forced Gullit's troops from Freetown, "they should burn the fucking place and [...] should not spare anything".<sup>7808</sup> Foday Lansana also recalled that when Gullit reported to Bockarie that the troops in Freetown were under serious threat from ECOMOG, Bockarie told Gullit that "if it causes you to kill all the civilians, burn all the houses where you are, just so that you will not leave Freetown you should go ahead and make sure that you maintain where you were".<sup>7809</sup>

3449. One of the reasons that Bockarie gave for his direction to make Freetown "fearful" was in order to improve the RUF's negotiating position in relation to any future peace talks and the release of Foday Sankoh.<sup>7810</sup> The Trial Chamber recalls its finding that when discussing the plan to attack Kono and Freetown, the Accused told Bockarie that the operation should be "fearful" and that the RUF should use "all means", also in order to pressure the Government into negotiations for the release of Foday Sankoh.<sup>7811</sup>

3450. Witnesses confirmed that Gullit's response was one of acquiescence. Bobson Sesay stated that Gullit responded: "Yes, sir, I will do according to your wish. Just as you have given me order, I will also order the men now to start the operation to burn down and capture people in Freetown",<sup>7812</sup> and in the presence of the witness and others, Gullit ordered senior commanders to distribute fuel as they burnt areas in Freetown.<sup>7813</sup> Perry Kamara testified that after receiving the instruction from Bockarie to make the area fearful, Gullit in turn passed on the order to Rambo Red Goat after leaving him in charge of Freetown.<sup>7814</sup> Both Pyne and Lansana testified that after Bockarie gave that order, Gullit replied "Yes, sir",<sup>7815</sup> and according to Lansana, Major CY, who was part of the group that was stationed

<sup>7808</sup> Alice Pyne, Transcript 19 June 2008, pp. 12281-12283 (Pyne understood from Bockarie's message that he intended the indiscriminate destruction of property and persons).

<sup>7809</sup> Foday Lansana, Transcript 22 February 2008, pp. 4561-4562.

<sup>7810</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21590 (Bockarie gave "direct instructions" to Gullit for Gullit to "to cause a lot of mayhem in the city [...] whereby the international community would show more concern about the RUF until they released Foday Sankoh"); Perry Kamara, Transcript 6 February 2008, p. 3236 (Bockarie told the troops to make the area fearful because "the international body would intervene and maybe [...] start calling for peace talks").

<sup>7811</sup> Military Operations: The Freetown Invasion, The Plan.

<sup>7812</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8329-8330.

<sup>7813</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8331-8332; Bobson Sesay also testified that subsequent to that order, the troops in Freetown burnt property and maimed and killed civilians as they retreated from Freetown: Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8335-8336, 8368-8372.

<sup>7814</sup> Perry Kamara, Transcript 6 February 2008, pp. 3241-3242.

<sup>7815</sup> Alice Pyne, Transcript 19 June 2008, pp. 12281-12282; Foday Lansana, Transcript 22 February 2008, pp. 4563-4564.

at the State House in Freetown, confirmed that Bockarie's order to make themselves fearful was passed by the top commanders down to the "least person".<sup>7816</sup> According to Kabbah, Gullit told Bockarie that "he would go according to his instruction"<sup>7817</sup>

3451. While some witnesses did not give evidence as to Gullit's response, they attested as to the implementation of Bockarie's order. TF1-516, for example, noted that following Bockarie's order to Gullit to burn down public structures, Elongima sent a message to the operators in Buedu informing them that "the men have gone on a rampage. They are killing people, they are wounding civilians. The area has become fearful".<sup>7818</sup> Similarly, after the instruction from Bockarie, Fornie heard on the BBC that on their retreat from Freetown, the RUF left behind amputees, corpses and had burnt many houses.<sup>7819</sup> TF1-371 also stated that there were media reports on the BBC and the VOA at this time concerning the carnage in Freetown as the RUF and AFRC were retreating, including the burning of houses and the killing and amputating of civilians. TF1-371 noted that this destruction was consistent with Sam Bockarie's description of "Operation No Living Thing".<sup>7820</sup>

3452. The Trial Chamber notes that Issa Sesay testified that he believed that it was doubtful that Bockarie gave the order for the destruction of Freetown or that Gullit would have obeyed it. He noted that Gullit, having being born, educated and joined the army in Freetown, would not likely have committed these crimes only on the orders of someone located in Buedu.<sup>7821</sup> The Trial Chamber does not consider Sesay's evidence, which the Trial Chamber notes is not direct knowledge but rather an inference drawn from his knowledge of Bockarie and Gullit, to be plausible in light of the numerous Prosecution witnesses who testified as to Bockarie's instruction to Gullit. In particular, Sesay's query concerning why Bockarie would have ordered destruction in Freetown when he had not done so for the capture of Makeni is explicable by reference to the fact that Gullit's troops had in fact failed to retain Freetown. As Kamara stated, Bockarie told the troops to make the area fearful because "the international body would intervene and maybe [...] start calling for

<sup>7816</sup> Foday Lansana, Transcript 22 February 2008, pp. 4567-4568.

<sup>7817</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16171.

<sup>7818</sup> TF1-516, Transcript 8 April 2008, p. 6936.

<sup>7819</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21599.

<sup>7820</sup> TF1-371, Transcript 28 January 2008, pp. 2428-2429.

<sup>7821</sup> Issa Sesay, Transcript 12 August 2010, p. 46109; Transcript 19 August 2010, pp. 46795-46796.

peace talks”.<sup>7822</sup> The Trial Chamber is satisfied, on the strength of the Prosecution evidence, that Bockarie did direct Gullit to use terror tactics against the civilian population on the retreat from Freetown, and that Gullit complied.

(viii) To send Pademba Road prisoners to Buedu

3453. The Prosecution also alleged that Bockarie passed onto Gullit instructions he had received from the Accused through Benjamin Yeaten that the high-profile prisoners who had been released from Pademba Road Prison during the Freetown assault, be taken to RUF-controlled areas.<sup>7823</sup>

3454. The Trial Chamber notes its finding that the Prosecution proved beyond a reasonable doubt that the Accused did provide directions to Bockarie concerning the security of the persons released from Pademba Road Prison.<sup>7824</sup> Concerning whether those instructions were then transmitted from Bockarie to Gullit, the Trial Chamber notes that the Prosecution relies on witnesses Alimamy Bobson Sesay, Perry Kamara, Dauda Aruna Fornie, TF1-516 and Mohamed Kabbah. The Trial Chamber recalls that it had no general reservations concerning the evidence of these witnesses.<sup>7825</sup>

3455. All of these witnesses confirm that Bockarie did instruct Gullit to send the politically prominent members of the prisoners released from Pademba Road to RUF controlled-territory. According to Perry Kamara, when Gullit told Bockarie that they had been able to capture State House, National Stadium and Pademba Road Prison, in response, Bockarie “urged” Gullit to “do as a military man” and provide security for the persons released from Pademba Road.<sup>7826</sup> On the retreat of Gullit’s forces to Waterloo, Gullit sent the prisoners released from Pademba Road directly to Makeni.<sup>7827</sup> Bobson Sesay corroborated this account, noting that at some point after the release of the prisoners, the witness heard from

<sup>7822</sup> Perry Kamara, Transcript 6 February 2008, p. 3236.

<sup>7823</sup> Prosecution Final Trial Brief, para. 556.

<sup>7824</sup> Military Operations: The Freetown Invasion, Allegation that the Accused Directed the Freetown Invasion.

<sup>7825</sup> Credibility Assessment, Alimamy Bobson Sesay, paras 285-289; Credibility Assessment, Perry Kamara, paras 227-236; Credibility Assessment, Dauda Aruna Fornie, paras 346-358; Credibility Assessment, TF1-516, paras 275-284; Credibility Assessment, Mohamed Kabbah, paras 334-338.

<sup>7826</sup> Perry Kamara, Transcript 6 February 2008, p. 3229.

<sup>7827</sup> Perry Kamara, Transcript 6 February 2008, pp. 3253-3254 (Kamara testified that one of the prisoners, Hilton Fyle, a radio broadcaster, Bockarie requested to be taken by Issa Sesay to Buedu).

Gullit that the released prisoners were taken by RUF Rambo and Issa Sesay to Makeni due to security reasons.<sup>7828</sup>

3456. Similarly, Dauda Aruna Fornie testified that when when Gullit transmitted a radio message to Bockarie via Perry Kamara that the troops in Freetown had released the political detainees,<sup>7829</sup> Bockarie instructed Mohamed Kabbah, a radio operator, to send a radio message to Gullit to send those big names to the rear for safety.<sup>7830</sup> The witness knew that the message was received by Gullit because Gullit acted on Bockarie's instructions and sent the prisoners to Makeni.<sup>7831</sup> While Mohamed Kabbah himself did not attest to having personally received this instruction,<sup>7832</sup> he affirmed that when Gullit contacted Bockarie to discuss his increasingly insecure situation in Freetown, Bockarie told Gullit to retreat with the prisoners Gullit had released from Pademba Road Prison, specifically telling Gullit not to leave the prisoners he released behind in Freetown, in particular President Momoh.<sup>7833</sup> Kabbah then testified that Gullit later brought the persons released from Pademba Road Prison into RUF-controlled territory.<sup>7834</sup> TF1-516 testified that two or three days after Gullit informed Bockarie of the capture of the State House, Bockarie received another call from Gullit notifying him that Gullit had released some prisoners from Pademba prison and Bockarie ordered that all the released prisoners be sent to Buedu.<sup>7835</sup>

3457. The Trial Chamber is satisfied, on the strength of the evidence of Bobson Sesay, Kamara, Fornie and Kabbah, which the Trial Chamber considers to be credible, that Bockarie did direct Gullit to send high-profile political detainees released from Pademba Road Prison to RUF-controlled territory and Gullit complied with that instruction.

(ix) Other orders

3458. The Prosecution also adduced evidence as to an order given by Bockarie for the execution of Martin Moinama, a former radio operator who had testified in Foday Sankoh's

<sup>7828</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8318.

<sup>7829</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21581, 21588.

<sup>7830</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21586-21588.

<sup>7831</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21589-21590.

<sup>7832</sup> The Trial Chamber notes that having testified prior to Fornie, Kabbah was not questioned further on his testimony concerning the release of the Pademba Road prisoners.

<sup>7833</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16171.

<sup>7834</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16179.

<sup>7835</sup> TF1-516, Transcript 8 April 2008, pp. 6932-6933.





treason trial and had been released when the troops in Freetown overran Pademba Road Prison, and an order for the execution of captured ECOMOG prisoners.<sup>7836</sup>

3459. Two radio operators, both stationed with Superman in Lunsar throughout the Freetown attack, testified concerning the alleged order to execute Martin Moinama. Foday Lansana recalled that he monitored one communication in which Bockarie gave an order concerning the execution of Martin Moinama, who had been a witness against Foday Sankoh during his trial in 1989 in Freetown.<sup>7837</sup> Moinama was captured during the invasion by Gullit's troops on 6 January 1999. When Gullit reported his capture to Bockarie, Bockarie ordered that Moinama be executed as a traitor. Gullit "did as he was instructed". Lansana learnt of the execution from Gibril Massaquoi when Massaquoi arrived in Lunsar along with other combatants after the retreat from Freetown.<sup>7838</sup> Alice Pyne also told the Trial Chamber that she heard that Martin Moinama, one of the persons released from Pademba Road Prison in January 1999, was killed on Bockarie's orders for testifying against Foday Sankoh.<sup>7839</sup>

3460. In its submissions, the Defence point out that Foday Lansana was imprisoned for seven years alongside other former RUF and AFRC fighters, and admitted that he spoke to other RUF prisoners about events during the civil war. In particular, in a prior statement Lansana had been asked about Martin Moinama and did not tell the Prosecution that he had been executed.<sup>7840</sup> Further, Lansana had told the Prosecution in a prior statement that the man who carried out the execution of Moinama was Alhaji Conteh (a.k.a. Black Jesus), whom Lansana affirmed was one of the inmates with him at Pademba Road.<sup>7841</sup> The Defence suggests that consciously or subconsciously, Lansana amended his own account to include what he was told by those other prisoners.<sup>7842</sup> In relation to Pyne's evidence, the Defence pointed out that Pyne was questioned about prior statements to the Prosecution in which she stated that she believed that Martin Moinama was killed before the Intervention of February 1998, rather than during the Freetown invasion.<sup>7843</sup> The Defence suggests that

<sup>7836</sup> Prosecution Final Trial Brief, para. 555.

<sup>7837</sup> Foday Lansana, Transcript 22 February 2008, pp. 4562-4563.

<sup>7838</sup> Foday Lansana, Transcript 22 February 2008, pp. 4562-4563.

<sup>7839</sup> Alice Pyne, Transcript 20 June 2008, pp. 12340-12343.

<sup>7840</sup> Foday Lansana, Transcript 26 February 2008, pp. 4747-4751.

<sup>7841</sup> Foday Lansana, Transcript 26 February 2008, pp. 4747-4749, 4763-4766.

<sup>7842</sup> Defence Final Trial Brief, para. 1490.

<sup>7843</sup> Alice Pyne, Transcript 20 June 2008, pp. 12343-12345.

Pyne heard about the alleged killing from Foday Lansana, as she met with Lansana in June 2008, the same week as her departure to The Hague to testify in these proceedings.<sup>7844</sup>

3461. The Trial Chamber finds that objections raised by the Defence to the evidence of Lansana and Pyne are insufficient to cast doubt as to the credibility of their evidence on the execution of Moinama. The suggestion that both witnesses amended their accounts after having spoken to others is not supported by anything other than circumstantial evidence, and both witnesses denied that their accounts were so influenced.<sup>7845</sup> Both also offered plausible explanations for the alleged inconsistencies in their evidence. Lansana explained that he did not initially tell the Prosecution about Moinama's death because he did not yet feel safe as a witness,<sup>7846</sup> while Alice Pyne explained that before the Intervention Moinama's wife told Pyne that Moinama had been killed when he had in fact been taken prisoner and that she later learnt from other prisoners released from Pademba Road Prison that Moinama had been killed. In light of these considerations, and the Trial Chamber's previous findings that both Lansana and Pyne are generally credible witnesses,<sup>7847</sup> the Trial Chamber accepts their evidence that Bockarie ordered the execution of Moinama.

3462. In relation to the alleged order to execute ECOMOG prisoners, Kamara testified that Bockarie told Gullit that as there was no prison for ECOMOG, any captured ECOMOG soldiers should be killed. Kamara stated that captured fighters were then executed under the cotton tree near the State House.<sup>7848</sup> Bobson Sesay corroborated Kamara's evidence that when the troops in Freetown had control of the State House, Gullit ordered the execution of captured Nigerian ECOMOG soldiers at the back of the State House,<sup>7849</sup> although Bobson Sesay did not attribute the order to Bockarie. The Trial Chamber considers that as one of the radio operators located in Freetown, Kamara was privy to the communications between Gullit and Bockarie to which Bobson Sesay, as a fighter on the ground, would not always

<sup>7844</sup> Defence Final Trial Brief, para. 1493; Alice Pyne, Transcript 23 June 2008, pp. 12438-12439.

<sup>7845</sup> Foday Lansana, Transcript 26 February 2008, pp. 4750-4754 (denied the Defence suggestion that he heard the entire story concerning Moinama's death at Pademba Prison); Alice Pyne, Transcript 23 June 2008, pp. 12438-12439 (stating that she never spoke to Lansana concerning his testimony before this Trial Chamber).

<sup>7846</sup> Foday Lansana, Transcript 26 February 2008, pp. 4747-4751; Alice Pyne, Transcript 20 June 2008, pp. 12343-12345 (explaining that before the Intervention Moinama's wife told Pyne that Moinama had been killed when he had in fact been taken prisoner. She later learnt from other prisoners released from Pademba Road prison that Moinama had been killed).

<sup>7847</sup> Credibility Assessment, Foday Lansana, paras 237-243; Credibility Assessment, Alice Pyne, paras 304-307.

<sup>7848</sup> Perry Kamara, Transcript 6 February 2008, pp. 3230-3231.

<sup>7849</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8292.





have had access. Hence, that Bobson Sesay failed to refer to Bockarie's involvement in the order does not undermine the credibility of Kamara's evidence. Recalling its finding that Perry Kamara is a generally credible witness,<sup>7850</sup> the Trial Chamber accepts his evidence that the order to execute the ECOMOG soldiers originated from Bockarie.

3463. The Trial Chamber is satisfied, on the Prosecution evidence, that Bockarie gave Gullit orders to execute Martin Moinama, and a group of captured ECOMOG soldiers near the State House, and both of which orders were carried out by Gullit.

(x) Conclusion on whether fighters in Freetown took orders from Bockarie

3464. The Trial Chamber recalls that after the ECOMOG Intervention in February 1998, Bockarie took command over both the RUF and the AFRC,<sup>7851</sup> pursuant to which he had a formal superior-subordinate relationship with Gullit. It is clear that throughout the Freetown operation, Bockarie issued a number of specific instructions to Gullit, including instructions leading to the commission of crimes, which were implemented by Gullit and his troops. In light of this evidence, the Trial Chamber does not consider credible Issa Sesay's testimony that the men in Freetown did not take orders from Bockarie.<sup>7852</sup> Coupled with the general evidence concerning the level of deference exhibited by Gullit towards Bockarie in their communications,<sup>7853</sup> and that Gullit reported to Bockarie as the overall commander,<sup>7854</sup> the Trial Chamber accepts that the fighters in Freetown did take orders from Bockarie, through Gullit, and that Bockarie exercised effective command and control over Gullit from the point at which Gullit reported to Bockarie after the capture of the State House and Pademba Road Prison.

(xi) Whether Bockarie assisted the retreat of Gullit's forces from Freetown

3465. In support of their contention that when Gullit's forces retreated from Freetown, Bockarie instructed his forces on the outskirts of the city to ensure a safe line of retreat for

<sup>7850</sup> Credibility Assessment, Perry Kamara, paras 227-236.

<sup>7851</sup> Prosecution Final Trial Brief, para. 450; Defence Final Trial Brief, para. 603; Context: Civil War in Sierra Leone (1998-1999).

<sup>7852</sup> Issa Sesay, Transcript 12 August 2010, p. 46111

<sup>7853</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21604; Isaac Mongor, Transcript 11 March 2008, pp. 5825-5826.

<sup>7854</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8289; Mohamed Kabbah, Transcript 15 September 2008, p. 16172.

the withdrawing troops,<sup>7855</sup> the Prosecution relies on the evidence of Alice Pyne, TF1-375 and Exhibit D-009.

3466. Alice Pyne, a radio operator under Superman's command, testified that she was in Yams Farm for over two weeks during the Freetown invasion. At Yams Farm, she monitored a communication in which Bockarie give an order to Gullit to destroy people and property in Freetown.<sup>7856</sup> Bockarie then ordered Superman and his fighters to remain at Yams Farm to ensure there is "a safe corridor for those coming from Freetown".<sup>7857</sup> Pyne testified that by "safe corridor", she meant that Superman's fighters "created a safe area, that was Yams Farm, for ECOMOG not to be able to base there, so those who would be coming from Freetown would come and join us safely".<sup>7858</sup> TF1-375, who fought with Superman's troops during the Freetown operation, also testified that when Gullit's forces retreated, Bockarie called Superman, informing Superman that Gullit's forces would need protection while they were retreating from ECOMOG,<sup>7859</sup> and instructing Superman and Issa Sesay to defend Gberi Junction, Benguema barracks and Waterloo "so as to give free passage to the forces that were in Freetown [...] whilst they were retreating".<sup>7860</sup> He testified that the forces retreating from Freetown took the road from Grafton, to the Peninsula, through the mountains and then to Waterloo, and during that retreat, the witness' group defended Waterloo, Klay, Benguema Barracks, and Gberi Junction, preventing the Guinean contingent at Porto Loko from taking Gberi Junction.<sup>7861</sup> Isaac Mongor also testified that when RUF Rambo engaged the ECOMOG forces in the Hastings area, the men who retreated from Freetown were able to use the forest and hilly area nearby to come towards the Waterloo area.<sup>7862</sup>

3467. Exhibit D-009, a salute report to Sankoh by Bockarie dated 26 September 1999, corroborates this version of events. It states that when the troops who entered Freetown "had

<sup>7855</sup> Prosecution Final Trial Brief, para. 565.

<sup>7856</sup> Alice Pyne, Transcript 19 June 2008, pp. 12283-12284.

<sup>7857</sup> Alice Pyne, Transcript 19 June 2008, p. 12284 ("After Sam Bockarie had given this order to Gullit he gave another to Superman saying that Superman and his men should stay at Yams Farm to ensure that there is a safe corridor for those coming from Freetown, because they were now in disarray in Freetown and so we were to stay at Yams Farm to wait on the group that was coming from Freetown").

<sup>7858</sup> Alice Pyne, Transcript 19 June 2008, p. 12285.

<sup>7859</sup> TF1-375, Transcript 24 June 2008, pp. 12613-12614.

<sup>7860</sup> TF1-375, Transcript 24 June 2008, p. 12614.

<sup>7861</sup> TF1-375, Transcript 24 June 2008, pp. 12614-12617.

<sup>7862</sup> Isaac Mongor, Transcript 31 March 2008, p. 6162.



been cut off from the rear”, Bockarie was able to “coordinate their operations over set and got them to combine their forces and bulldoze from the side accessing them to the mountains through which they took a bypass to join our troops at Benguema and Waterloo”.<sup>7863</sup> TF1-375 confirmed that the incident described in Exhibit D-009 referred to the Peninsula route through the mountains which the retreating forces took from Freetown to Waterloo.<sup>7864</sup>

3468. As stated previously, the Trial Chamber considers that as one of the witnesses who participated in the Freetown attack and withdrew with those forces from Freetown, Bobson Sesay’s evidence is of particular relevance as to what occurred during the operation. Bobson Sesay testified that the retreat from Freetown took place in two stages. Gullit first moved with a civilian brigade to Benguema,<sup>7865</sup> and notified the remaining forces in Freetown that reinforcements were advancing to assist them at Jui. When those reinforcements were not forthcoming, the troops took a bypass from Jui to the Grafton Hastings jungle towards Benguema.<sup>7866</sup> The Trial Chamber does not consider Bobson Sesay’s failure to refer to any attempt by the forces led by Superman and Issa Sesay to assist this retreat to contradict the evidence of Pyne, Exhibit D-009 and TF1-375, given that he was in Freetown and in the midst of hostilities at the time. Moreover, he corroborates the evidence of TF1-375 and Exhibit D-009 concerning the path taken by the retreating forces to Benguema, and his account of the promised reinforcements at Jui suggests that on the retreat, the forces in Freetown were coordinating with those on the outskirts.

3469. Issa Sesay testified that when Gullit retreated from Freetown, the RUF were in Waterloo. He confirmed that the forces from Freetown “took the hills to Benguema”.<sup>7867</sup> He agreed that the troops in Freetown were encircled by ECOMOG, who were deployed at Waterloo, Mile 38 and Masiaka. However, he maintained that the fact that the RUF was at Waterloo did not assist in their withdrawal; the retreating forces would still have been able to withdraw because they had bypassed ECOMOG troops in the same positions on the way

<sup>7863</sup> Exhibit D-009, “RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie”, pp. 7-8, ERN 9665-9666; see also TF1-371, Transcript 1 February 2008, pp. 2866-2877 (CS) (During cross-examination, TF1-371 also confirmed the statement in Exhibit D-009 which stated that during the Freetown operation, as Gullit’s troops were cut off from the rear, Bockarie coordinated the positions of the fighters over the radio. Bockarie ordered them to combine their forces and to join RUF troops at Benguema and Waterloo).

<sup>7864</sup> TF1-375, Transcript 28 August 2008, pp. 14833-14834.

<sup>7865</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8373-8375.

<sup>7866</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8375-8377.

<sup>7867</sup> Issa Sesay, Transcript 12 July 2010, pp. 44201-44203

into Freetown. Hence, it was not inevitable that they would have to battle with ECOMOG. In response to counsel's question about whether Gullit's troops would have been able to set up a base at Benguema, as they did, without the support of RUF troops at Waterloo, Sesay stated that they could have bypassed ECOMOG and surfaced behind Benguema and then retreated.<sup>7868</sup>

3470. However, regardless of whether Bockarie's manoeuvres in Waterloo, Benguema Barracks, and Gberi Junction actually assisted Gullit's troops to retreat, the Trial Chamber considers that the evidence is sufficient to establish that Bockarie did intend, by his instructions to his commanders, to ensure safe passageway for Gullit's retreat. The Trial Chamber recalls its previous finding that Pyne is a generally reliable witness,<sup>7869</sup> and notes that Pyne was personally monitoring communications between Bockarie and Gullit and other commanders.<sup>7870</sup> Further, her evidence is corroborated by the evidence of TF1-375 and contemporary documentary evidence in the form of Exhibit D-009.

3471. Moreover, notably, on re-examination, Issa Sesay acknowledged that any ECOMOG reinforcements at Port Loko had to travel southwards through Gberi Junction, through Gberi Bridge, down to Masiaka to reach Freetown.<sup>7871</sup> This evidence is consistent with TF1-375's account that the RUF troops on the outskirts of Freetown were instructed to prevent the Guinean contingent at Porto Loko from taking Gberi Junction in order to protect the withdrawing forces from ECOMOG reinforcements.<sup>7872</sup> On the Prosecution evidence, the Trial Chamber is satisfied that when Gullit's forces withdrew from Freetown, Bockarie instructed his forces on the outskirts of the city to ensure a secure line of retreat for the withdrawing troops.

#### 1) Joint RUF and AFRC attempts to re-enter Freetown

3472. Concerning joint attempts to re-enter Freetown after the retreat, Bobson Sesay and TF1-567 also testified there was a joint AFRC and RUF operation to attack Tombo involving groups led by Gullit and by Issa Sesay.<sup>7873</sup> Bobson Sesay gave evidence that when

<sup>7868</sup> Issa Sesay, Transcript 23 August 2010, pp. 46840-46842.

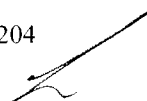
<sup>7869</sup> Credibility Assessment, Alice Pyne, paras 304-307.

<sup>7870</sup> Alice Pyne, Transcript 19 June 2008, pp. 12283-12284.

<sup>7871</sup> Issa Sesay, Transcript 26 August 2010, pp. 47303-47306; Transcript 27 August 2010, p. 47324.

<sup>7872</sup> TF1-375, Transcript 24 June 2008, pp. 12614-12617.

<sup>7873</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8379-8381; TF1-567, Transcript 2 July 2008, pp. 12923-12925; Transcript 8 July 2008, pp. 13154-13154.





the fighters that had left Freetown reached Benguema, in the presence of Gullit, Five-Five, Superman, RUF Rambo, Rambo Red Goat, 0-Five, Issa Sesay then planned an operation to recapture Freetown by using Tombo axis instead of the Freetown-Waterloo highway, where ECOMOG forces were concentrated.<sup>7874</sup> Bobson Sesay was personally chosen to lead as an advanced team to settle a base at Macdonald.<sup>7875</sup> Around mid-February 1999, as instructed by Five-Five, Superman, Bomb Blast, RUF Rambo Five-Five, Morris Kallon, Issa Sesay, Med Bajejeh, Rambo Red Goat bombarded Tombo village and were repelled by ECOMOG troops.<sup>7876</sup> While Issa Sesay, Morris Kallon and others moved to Waterloo, Five-Five, the witness, Bomb Blast and others moved to Benguema barracks where they spent a month.<sup>7877</sup> Bobson Sesay stated that at Benguema there was cordiality between the RUF and the AFRC because they were able to organise to re-attack. He also noted that Issa Sesay “had command over Gullit” but agreed that these were essentially two groups working together against a common enemy, the Sierra Leonean government.<sup>7878</sup>

3473. TF1-567 similarly testified that when Gullit’s troops were in Waterloo, the witness travelled with Issa Sesay to Waterloo,<sup>7879</sup> where there was a joint AFRC/RUF attempt to recapture Freetown.<sup>7880</sup> Sesay planned an attack on Tombo, in which Gullit’s group also took part, but the operation was unsuccessful.<sup>7881</sup> Perry Kamara also testified that the purpose of returning to Waterloo, as instructed by Bockarie,<sup>7882</sup> was to regroup and re-attack Freetown.<sup>7883</sup> After Gullit’s contingent arrived at Waterloo, commanders Issa Sesay, Denis Mingo, Morris Kallon, and RUF Rambo were also there. Kamara stated that at Waterloo “they held a meeting and we were able to reorganise to re-attack Kossoh Town and we attacked twice but we couldn’t make it”.<sup>7884</sup> Dauda Aruna Fornie recalled hearing during the retreat a communication from Bockarie to Gullit in which the former instructed the latter to

<sup>7874</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8379-8380.

<sup>7875</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8381-8385.

<sup>7876</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8385-8389.

<sup>7877</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8389-8391.

<sup>7878</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8860-8861.

<sup>7879</sup> TF1-567, Transcript 2 July 2008, pp. 12920-12921.

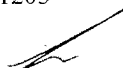
<sup>7880</sup> TF1-567, Transcript 2 July 2008, pp. 12921-12922.

<sup>7881</sup> TF1-567, Transcript 2 July 2008, pp. 12924-12925.

<sup>7882</sup> Perry Kamara, Transcript 6 February 2008, pp. 3241-3242 (Bockarie previously told Gullit that he believed Gullit should leave Freetown “and then we will re-organise and regain Freetown”).

<sup>7883</sup> Perry Kamara, Transcript 6 February 2008, p. 3245.

<sup>7884</sup> Perry Kamara, Transcript 6 February 2008, p. 3245.



assemble around the peninsula and wait for Rambo and others to join them in order to re-attack Freetown.<sup>7885</sup>

3474. Issa Sesay denied going to Waterloo to assist the AFRC in retaking Freetown.<sup>7886</sup> He testified that Bockarie sent him to Waterloo to instruct Gibril Massaquoi, who had just been freed by the AFRC from Pademba Road Prison and had joined Superman and Rambo in Waterloo,<sup>7887</sup> to take the APC politicians who had also been freed from Pademba Road Prison to go to Makeni to talk with Sam Bockarie.<sup>7888</sup> Massaquoi had refused to come when Bockarie called him after his release from Pendemba Road and instead told Bockarie that he was going to operate with Superman.<sup>7889</sup> Sesay denied that he made a plan with Gullit to re-attack Freetown after Gullit's forces left the city or that they jointly planned to attack Tombo with a view to retake Freetown.<sup>7890</sup> According to Issa Sesay, when the RUF was in Waterloo, Gullit was in Benguema and Bazy was based behind Hastings and there was a lot of tension between the groups because the AFRC forces had not provided necessary reinforcements.<sup>7891</sup>

3475. The Trial Chamber notes that there is support for Sesay's account that divisions between the RUF and AFRC erupted after Gullit's retreat from Freetown. TF1-567 testified that when he travelled with Issa Sesay to Waterloo and met Gullit, Gullit was angry with Sesay for his failure to send reinforcements, as Gullit had requested, forcing Gullit to retreat.<sup>7892</sup> There were further difficulties when Sesay attempted to arrest Gibril Massaquoi, on Bockarie's instructions, and Superman and other SLAs intervened to prevent the arrest of Massaquoi.<sup>7893</sup> Bobson Sesay testified that, as the remaining forces in Freetown retreated, Gullit warned them that Issa Seay and Superman at Waterloo were confiscating the valuables carried by the retreating forces.<sup>7894</sup> TF1-371 also confirmed that the part of the

<sup>7885</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21602-21604.

<sup>7886</sup> Issa Sesay, Transcript 11 August 2010, p. 45978.

<sup>7887</sup> Issa Sesay, Transcript 11 August 2010, p. 45976; Transcript 28 July 2010, pp. 44823-44824.

<sup>7888</sup> Issa Sesay, Transcript 11 August 2010, p. 45974-45975.

<sup>7889</sup> Issa Sesay, Transcript 12 July 2010, p. 44224.

<sup>7890</sup> Issa Sesay, Transcript 11 August 2010, p. 46016.

<sup>7891</sup> Issa Sesay, Transcript 19 August 2010, pp. 46792-46793.

<sup>7892</sup> TF1-567, Transcript 2 July 2008, pp. 12920-12921.

<sup>7893</sup> TF1-567, Transcript 2 July 2008, pp. 12923-12924.

<sup>7894</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8375-8377. It is not clear whether this actually occurred. He testified that when he actually arrived at Benguema, Five-Five and Gullit requested the retreating troops surrender their valuables to Gullit, which they did, although whether this was to keep the valuables from Sesay and Superman was not clear: Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8377-8378.

AFRC that was led by Gullit and Bazzy fell out with the RUF at Waterloo and their relationship was not mended throughout 1999.<sup>7895</sup> However, TF1-371 also testified that such divisions arose out of isolated “misunderstandings” and insubordination, and did not mean that the RUF was not a cohesive group.<sup>7896</sup>

3476. On the issue of whether cooperation took place, Sesay on cross-examination conceded that Superman and Rambo, both on Bockarie’s orders,<sup>7897</sup> jointly launched an attack on Tombo with Gullit in February 1999.<sup>7898</sup> Further, while Sesay testified that the RUF and Gullit were based in separate areas—the RUF in Waterloo, Gullit in Benguema,<sup>7899</sup> it is significant that Sesay later stated that it was only roughly 10-15 mins walk from the RUF base in Waterloo to Gullit’s camp in Benguema.<sup>7900</sup> Sesay also acknowledged seeing Perry Kamara, who was at that time part of Gullit’s group,<sup>7901</sup> while he was in Waterloo after the Freetown invasion.<sup>7902</sup>

3477. The Trial Chamber considers that Issa Sesay’s evidence concerning the coordination between the RUF and AFRC troops retreating from Freetown is not credible<sup>7903</sup> and is outweighed by the consistent evidence of Prosecution witnesses that there was such cooperation in which Sesay himself was involved. The Trial Chamber is satisfied that, despite emerging tensions between the AFRC and RUF forces at this stage, the factions made collaborative efforts to re-attack Freetown.

<sup>7895</sup> TF1-371, Transcript 30 January 2008, pp. 2613-2616 (CS); see also Transcript 28 January 2008, pp. 2427-2428 (CS) (there was a misunderstanding between the AFRC and the RUF that resulted in Gullit, Bazzy Kamara and other AFRC fighters going to Okra Hill instead of joining RUF fighters in Masiaka. Rambo’s troops retreated from Waterloo to Lunsar, where Denis Mingo was stationed).

<sup>7896</sup> TF1-371, Transcript 1 February 2008, pp. 2868-2881 (CS).

<sup>7897</sup> Issa Sesay, Transcript 23 August 2010, p. 46852; Transcript 25 August 2010, pp. 47145-47146.

<sup>7898</sup> Issa Sesay, Transcript 23 August 2010, p. 46851; Sesay had earlier denied this but changed his testimony when confronted with his testimony in the RUF trial: Transcript 23 August 2010, p. 46850 (“Q. Rambo and Superman were sent to attack Tombo with Gullit, correct? A. No”)

<sup>7899</sup> Issa Sesay, Transcript 19 August 2010, pp. 46792-46793.

<sup>7900</sup> Issa Sesay, Transcript 23 August 2010, pp. 46841-46842. Sesay did not agree with Counsel’s estimate that the distance was five to ten minutes walk.

<sup>7901</sup> Issa Sesay, Transcript 28 July 2010, p. 44908.

<sup>7902</sup> Issa Sesay, Transcript 28 July 2010, pp. 44908-44909.

<sup>7903</sup> Additionally, Sesay was inconsistent on his own movements during January 1999. While first stating that he stayed in Makeni throughout the invasion of Freetown up until Superman attacked him in March 1999 (Issa Sesay, Transcript 12 July 2010, p. 44200) he later testified that when the AFRC withdrew from Freetown but still at some point in January 1999, he travelled to Waterloo from Makeni (Issa Sesay, Transcript 11 August 2010, p. 45974).





## Conclusion

3478. The evidence suggests that while, as TF1-371 testified, the initiative for the invasion of Freetown was taken by the group commanded by SAJ Musa and Gullit, and the RUF under Bockarie's command were "Johnny-come-latelies" who "effectively tagged on on the tail end",<sup>7904</sup> Bockarie's troops already had "their own in-house planning"<sup>7905</sup> and took the opportunity presented by SAJ Musa's death and the concomitant resumption of cooperation with his troops to attempt a coordinated effort to get to Freetown. The Trial Chamber considers that the Defence submission that the two factions were "no more than fighting a common enemy"<sup>7906</sup> fails to capture the level of coordination that took place and the control that Bockarie exercised over Gullit.

3479. The Prosecution also went further in its submissions to submit that even though the attempts to coordinate Bockarie and Gullit's forces largely failed, with the exception of the entry into Freetown of Rambo Red Goat, the RUF attacks by Boston Flomo and other troops under Bockarie's command had the effect of assisting Gullit's troops to enter Freetown and maintain their position in Freetown.<sup>7907</sup> The Trial Chamber does not consider it necessary to make a determination on the effect of the RUF attacks because regardless of the impact of Bockarie's efforts to assist the forces in Freetown, what is relevant to the responsibility of the Accused is whether Bockarie was effectively in command of a concerted and coordinated effort to take Freetown, with Gullit as his subordinate. The Trial Chamber is satisfied that this was the case.

3480. The Trial Chamber notes that the plan made by Bockarie and the Accused, without the involvement of Gullit's troops, succeeded to the extent that the attack on Kono was successful and fighters under the leadership of Rambo Red Goat were able to enter

<sup>7904</sup> TF1-371, Transcript 30 January 2008, pp. 2643-2644 (CS); see also Dauda Aruna Fornie, Transcript 4 December 2008, pp. 21723-21724 (Fornie agreed with Defence counsel's suggestion that SAJ Musa wanted his troops to arrive in Freetown before the RUF under Bockarie's command. Fornie agreed that even after Musa's death, the objective of his group remained to get to Freetown ahead of the RUF); Perry Kamara, Transcript 7 February 2008, pp. 3380-3382 (PS) (On cross-examination, Kamara stated that Sam Bockarie did not order SAJ Musa to attack Freetown, and confirmed that when SAJ Musa announced the attack on Freetown, he was acting entirely on his own initiative); Sam Kolleh, Transcript 1 November 2010, pp. 48451, 48453-48454 (Kolleh understood when SAJ Musa and his troops were at Benguema, that they were on their way to Freetown but that they "went on their own", meaning they were no longer part of the junta or RUF forces).

<sup>7905</sup> TF1-371, Transcript 30 January 2008, pp. 2648-2649 (CS).

<sup>7906</sup> Defence Final Trial Brief, para. 915.

<sup>7907</sup> Prosecution Final Trial Brief, paras 519-527, 547-552; Defence Response to Prosecution Final Trial Brief, paras 144-146.

Freetown, although the attempts to take over and capture Kenema and Freetown were unsuccessful. However, recalling that even at Waterworks Bockarie envisaged SAJ Musa's direct involvement in the implementation of this plan,<sup>7908</sup> and having regard to Isaac Mongor's evidence that the plan made by Bockarie and Taylor did not envisage a specific group going to Freetown,<sup>7909</sup> the Trial Chamber considers that with SAJ Musa's death in or around 23 December 1998, when Gullit took over the leadership of the troops at Benguema and resumed contact with Bockarie. Bockarie and Gullit coordinated in their efforts to capture Freetown. From that point onwards, the Trial Chamber finds that SAJ Musa's original plan was abandoned, and Gullit's movements were incorporated into the Bockarie/Taylor plan, as had been envisioned by Bockarie at Waterworks.

### Findings

3481. The Prosecution has proved beyond reasonable doubt that Gullit resumed communications with Bockarie on the death of SAJ Musa and that Gullit maintained frequent daily contact with Bockarie throughout the Freetown operation to discuss the ongoing military situation in the capital.

3482. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that Bockarie ordered his troops to advance towards Freetown, with the aim of joining forces with Gullit in Freetown, and that Gullit, Bockarie and Bockarie's commanders coordinated in order to achieve that aim.

3483. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that although the attempts at coordination were largely unsuccessful, a small contingent of the troops Bockarie sent as reinforcements were able to join Gullit's troops in Freetown some time after Gullit's forces had captured the State House.

3484. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that when Gullit's forces withdrew from Freetown, Bockarie instructed his forces on the outskirts of the city to ensure a secure line of retreat for the withdrawing troops, and that after the retreat from Freetown the RUF and AFRC made joint efforts to re-attack the city.

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<sup>7908</sup> Military Operations: The Freetown Invasion, the Plan.

<sup>7909</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6720-6721.

3485. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that, throughout the Freetown operation, Bockarie issued a number of instructions to Gullit, including an order to use terror tactics against the civilian population on the retreat from Freetown, which were implemented by Gullit and the fighters in Freetown. Bockarie exercised effective command and control over Gullit during the capture of the State House and Pademba Road Prison.

3486. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that following his first conversation with Gullit after the death of SAJ Musa, Bockarie and Gullit coordinated in their efforts to capture Freetown. From that point on, SAJ Musa's original plan to attack Freetown was abandoned, and Gullit's movements were incorporated into the Bockarie/Taylor plan, as had been contemplated by Bockarie and the Accused.

(c) Allegation that the Accused directed the Freetown Invasion

Submissions of the Parties

3487. The Prosecution contends that in addition to planning the multi-axis offensive culminating in the January 1999 attack on Freetown, the Accused remained in control of the overall implementation of the plan both directly by communicating with Bockarie and also through his trusted subordinate, Benjamin Yeaten. The Prosecution points to several examples of the Accused's role in directing this operation, including when the original plan for Bockarie to obtain arms and ammunitions from Libya failed, directing Bockarie to go to Burkina Faso instead.<sup>7910</sup> The Prosecution alleges that Yeaten travelled to Buedu to meet with Bockarie just before the attack on Kono in December 1998.<sup>7911</sup>

3488. The Prosecution submits that during the operation, Bockarie and Yeaten were in contact every 3-4 hours on a daily basis, with Bockarie providing Yeaten with updates from the front line.<sup>7912</sup> In particular, Bockarie spoke directly with Yeaten on the satellite phone immediately after the capture of Koidu town to inform him of troop movements.<sup>7913</sup> The Prosecution also contends that during the attacks on Koidu, Makeni and locations in Kenema district, Marzah, Sampson and Jungle were in Buedu on multiple occasions. They

<sup>7910</sup> Prosecution Final Trial Brief, para. 169.

<sup>7911</sup> Prosecution Final Trial Brief, para. 170.

<sup>7912</sup> Prosecution Final Trial Brief, paras 170-171.

<sup>7913</sup> Prosecution Final Trial Brief, para. 171.



met with Bockarie and received his briefings about the operations, then went back to inform Yeaten.<sup>7914</sup>

3489. The Prosecution also submits that the Accused issued a number of orders during the operation. The Accused firstly ordered the release of captured ECOMOG soldiers held in Buedu after the capture of Koidu Town. Bockarie complied with the Accused's order and released them to Yeaten and Tuah in Foya.<sup>7915</sup> Second, around 7 January 1999, the Accused sent an order to Bockarie via Yeaten for the high profile prisoners released from Pademba Road Prison, including former President of Sierra Leone Joseph Momoh, to be sent to RUF-controlled areas at Buedu.<sup>7916</sup> Third, the Accused also provided instructions on military attacks and strategy.<sup>7917</sup> Fourth, the Accused announced a ceasefire during the fighting.<sup>7918</sup> Finally, during the Freetown invasion, Bockarie even took a trip to Monrovia during which the Accused had instructed him that he should maintain the RUF-controlled areas.<sup>7919</sup>

3490. The Prosecution submits that Bockarie continued to take direct instruction from the Accused after the withdrawal from Freetown and continued to keep the Accused informed of what was happening in Sierra Leone through Bockarie's visits to Monrovia and through constant radio communication between his radio operators in Sierra Leone and the Accused's subordinates in Liberia.<sup>7920</sup>

3491. The Defence denies generally that the Accused had any involvement in the Freetown invasion in January 1999,<sup>7921</sup> and specifically that the Accused communicated with Bockarie either directly or through Yeaten about the progress of the Freetown invasion.<sup>7922</sup> The Defence alleges that the evidence concerning such interactions between Bockarie and the Accused or between Bockarie and the Accused's subordinates is unreliable and inconsistent.<sup>7923</sup> Specifically, it suggests that the evidence indicating Yeaten visited Buedu prior to the December 1998 attacks is uncorroborated and contradicted by other Prosecution

<sup>7914</sup> Prosecution Final Trial Brief, para. 175.

<sup>7915</sup> Prosecution Final Trial Brief, para. 171.

<sup>7916</sup> Prosecution Final Trial Brief, paras 172, 556.

<sup>7917</sup> Prosecution Final Trial Brief, para. 172.

<sup>7918</sup> Prosecution Final Trial Brief, para. 173.

<sup>7919</sup> Prosecution Final Trial Brief, para. 173.

<sup>7920</sup> Prosecution Final Trial Brief, para. 174.

<sup>7921</sup> Defence Final Trial Brief, para. 920.

<sup>7922</sup> Defence Final Trial Brief, para. 1282.

<sup>7923</sup> Defence Final Trial Brief, paras 1280-1282.

evidence;<sup>7924</sup> that the evidence relating to the Accused's subordinates visiting Buedu is also contradicted by other Prosecution evidence;<sup>7925</sup> and, with respect to the orgy of violence that followed the retreat from Freetown after the January 6 invasion there was a general breakdown of command and control and most of the violence was attributable to the rogue elements within the retreating forces.<sup>7926</sup> In relation to the alleged order to release the ECOMOG peacekeepers captured during the Kono operation in December 1998, the Defence contests the allegation that the peacekeepers were released per the Accused's 'orders'.<sup>7927</sup>

3492. Even accepting that interactions occurred between Yeaten and Bockarie, the Defence submits that the evidence fails to prove beyond all reasonable doubt that Yeaten's alleged communication with Bockarie carried the force of superior command, or that the alleged communication with Yeaten was at Taylor's behest. The Defence refers to its argument that Bockarie and Yeaten developed a close personal relationship outside the knowledge and control of the Accused. The Defence also contends that the Prosecution evidence only indicates interactions between Yeaten and Bockarie at the time, and not between Yeaten and Taylor.<sup>7928</sup> In any case, the Defence contends that taken at face value, Prosecution evidence suggests a relationship between Taylor and Bockarie that was largely based on the latter's reverence to the former and cannot found superior responsibility or effective control.<sup>7929</sup>

3493. The Defence further alleges that the evidence also fails to connect the Accused to the crimes committed in Freetown: first, because the RUF played no part in the Freetown invasion; even assuming that the Accused had effective control over Bockarie, the Prosecution fails to show a clear chain of command between the Accused and members of the AFRC who carried out the Freetown invasion; and second, the evidence fails to establish effective control on the Accused's part over the specific persons who carried out the atrocities.<sup>7930</sup>

<sup>7924</sup> Defence Final Trial Brief, para. 899.

<sup>7925</sup> Defence Final Trial Brief, para. 888.

<sup>7926</sup> Defence Final Trial Brief, para. 921.

<sup>7927</sup> Defence Final Trial Brief, para. 1291.

<sup>7928</sup> Defence Final Trial Brief, para. 1279.

<sup>7929</sup> Defence Final Trial Brief, para. 1284-1285.

<sup>7930</sup> Defence Final Trial Brief, para. 1278.





EvidenceProsecution Witness Dauda Aruna Fornie

3494. Witness Dauda Aruna Fornie testified that, prior to the December 1998 attack on Kono,<sup>7931</sup> he saw Bockarie having a discussion with Benjamin Yeaten (a.k.a. Five-Zero) one evening around 10.00 to 11.00pm at Bockarie's house. The witness had just received a message from the front line and was going to take it to Bockarie. He saw two vehicles enter and persons alight from those vehicles. When the witness approached, he saw Yeaten sitting together with Bockarie in Bockarie's backyard. Some Liberian SSS members were also present, wearing blue SSS uniforms. Fornie only remained there for long enough to give Bockarie the message and then left. The two men then left to take a stroll towards Dawa Road. Fornie did not know what the two men discussed but asserts that they met for about an hour, and then Yeaten returned to Liberia. Other radio operators also knew about this meeting.<sup>7932</sup>

3495. Fornie testified that an "all-out" attack by the RUF on the Kono and Kenema districts began around 15 to 20 December 1998. When this general attack started he was in Buedu. At Buedu, Bockarie was in constant contact with Yeaten on a daily basis and was monitoring the frontlines. This attack led to the capture of Kono.<sup>7933</sup> After the fall of Kono, Bockarie contacted Yeaten and informed him of the capture of Kono. The witness was the first person to receive the message from Issa Sesay that Kono had fallen. Sesay also stated that some other fighters, led by Morris Kallon and Bai Bureh, were heading towards the Masingbi area.<sup>7934</sup> When the witness gave Bockarie this message, he called Yeaten immediately using a satellite phone to inform him that Kono was under RUF control. The witness was present when Bockarie contacted Yeaten. Yeaten would call Bockarie often seeking updates from the frontline during the Kono operation. Bockarie would receive at least one message every three to four hours that the witness spent with Bockarie.<sup>7935</sup>

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<sup>7931</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21560.

<sup>7932</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21558-21561.

<sup>7933</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21555.

<sup>7934</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21556.

<sup>7935</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21557.

3496. On 6 January 1999, the witness was in Buedu monitoring the radio constantly. Any time that the RUF received a message, he would bring the messages from the monitoring station to Bockarie's transmitting station to send to the front line commanders.<sup>7936</sup>

3497. Bockarie was in constant contact with Yeaten in Liberia during the course of the January operation. They spoke at least two or three times a day through the satellite phone. The witness would often be in the radio room with Bockarie during these conversations.<sup>7937</sup> These communications would concern arms and ammunition, food, supplies, fuel, operational decisions and updates. Fornie stated that sometimes Bockarie "would contact Benjamin to consult him on some decisions before he ever took them".<sup>7938</sup>

3498. On the morning of 7 January 1999,<sup>7939</sup> Gullit transmitted a radio message to Bockarie via King Perry that the troops in Freetown had released the political detainees, from Pademba Road Prison. Among those who were released included the late ex-President Momoh, Steve Bio, Victor Foh, Osho-Williams, and other Sierra Leone politicians.<sup>7940</sup> Less than an hour after Bockarie received this message, he called Benjamin Yeaten on the satellite phone to inform him of the release of the prisoners.<sup>7941</sup> Fornie was present when the call was made.<sup>7942</sup> After some time, Yeaten came back on the telephone line and gave Bockarie instructions to ensure that the prisoners released were transferred to Buedu, because they should not be at the frontlines.<sup>7943</sup> Yeaten told Bockarie that this was an instruction from Taylor. Bockarie then instructed Mohamed Kabbah, a radio operator, to send a radio message to Gullit to send the released prisoners to the rear for their safety. The witness knew Bockarie was speaking to Yeaten because Bockarie asked the person on the line to confirm that it was "Five-Zero", and it was confirmed. In their conversation, Bockarie responded to Yeaten by saying "Yes, Sir. Okay, okay, I will do that". Further, when the conversation ended, Bockarie told Mohamed Kabbah directly that he had had instructions from Taylor through Yeaten.<sup>7944</sup> The witness knew that the message was

<sup>7936</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21562-21563.

<sup>7937</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21609-21610.

<sup>7938</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21615.

<sup>7939</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21589.

<sup>7940</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21581, 21588.

<sup>7941</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21581-21582.

<sup>7942</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21583-21585.

<sup>7943</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21586-21587.

<sup>7944</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21586-21588.





received by Gullit because Gullit acted on Bockarie's instructions and sent the prisoners to Makeni. When these freed prisoners were transported to Makeni, Steve Bio was killed by an enemy bomb fragment.<sup>7945</sup>

3499. There was frequent communication between Bockarie and Gullit during the course of the Freetown operation, with communications occurring every hour or so.<sup>7946</sup> The communication concerned requests from Gullit to Bockarie for ammunition. As a result, Bockarie contacted Yeaten in turn to ask for ammunition.<sup>7947</sup> Fornie testified that as Bockarie was too busy co-ordinating the front lines, he sent Fornie and two others to Monrovia where they were met by Yeaten. This trip occurred two days after Gullit entered Freetown on 6 January 1999. Yeaten took them to White Flower where they retrieved approximately 25 boxes of ammunition and some RPGs and grenades and returned to Buedu, all within 36 hours.<sup>7948</sup>

3500. Fornie testified that the ammunition he brought back to Buedu immediately after the Freetown invasion was dispatched directly to Kono where Peter Vandi received it and sent it directly on to Issa Sesay in Makeni who dispatched it to Rambo and others in the Waterloo area. The ammunition reached Rambo approximately 3 days after Fornie came with them to Buedu. The witness explained that he knew all this because it was written down in the message log book.<sup>7949</sup>

#### Prosecution Witness TF1-567

3501. Witness TF1-567 testified that after the capture of Koidu Town in December 1998, when the witness was on his way toward Makeni, there were communications with Benjamin Yeaten's radio operator, Sunlight, in Monrovia. Radio operators informed Sunlight that the RUF had captured Koidu, as well as arms and ammunition and some Nigerian soldiers. The witness was in the radio room when these communications were going on.<sup>7950</sup>

#### Prosecution Witness Abu Keita

<sup>7945</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21589-21590.

<sup>7946</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21589.

<sup>7947</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21593-21594.

<sup>7948</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21522, 21594-21595.





3502. Witness Abu Keita, who took part in the RUF December 1998 offensives,<sup>7951</sup> testified that after the RUF recapture of Kono on 25 December 1998,<sup>7952</sup> Issa Sesay arrested 11 Nigerian ECOMOG soldiers in Kono as prisoners of war. They were taken to Buedu and kept in a dungeon at the military police headquarters.<sup>7953</sup> Benjamin Yeaten and Sam Bockarie met at Dawa. Yeaten told Bockarie that Taylor had informed him that he wanted the ECOMOG soldiers released to him in Liberia. Bockarie did not disagree but he did not release the soldiers that day. A “couple of days” later, Bockarie stated that he had a call from Yeaten telling him that Charles Taylor’s request was in fact an order. Following this call, the witness, Marzah, and Sampson drove to Foya in Liberia with the ECOMOG soldiers where they were handed over to Yeaten and Joe Tuah.<sup>7954</sup>

3503. Keita testified that during the attack on Freetown, he and Bockarie were in Buedu.<sup>7955</sup> When Bockarie heard on BBC radio on 6 January 1999 a commander speaking from Freetown stating that he was in control of the State House, Bockarie became angry that he was not the first to speak to the BBC. Bockarie then called the BBC on his satellite phone and stated that the RUF were approaching the State House.<sup>7956</sup> Bockarie was speaking to various commanders in and around Freetown, including Issa Sesay and Morris Kallon, over the RUF radio network. Bockarie also communicated with Benjamin Yeaten and Joseph Tuah on the satellite phone at night, and Bockarie told the witness he was reporting to them on the status of the operation. The witness did not hear Yeaten giving any instructions to Bockarie.<sup>7957</sup>

3504. Keita also testified that during the Freetown invasion,<sup>7958</sup> Bockarie travelled back to Liberia. The witness accompanied Bockarie to Foya where a helicopter came to fetch

<sup>7949</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21595-21596.

<sup>7950</sup> TF1-567, Transcript 2 July 2008, p. 12918.

<sup>7951</sup> Abu Keita, Transcript 23 January 2008, pp. 2007-2008

<sup>7952</sup> Abu Keita, Transcript 23 January 2008, pp. 2008-2009.

<sup>7953</sup> Abu Keita, Transcript 23 January 2008, pp. 2028-2029.

<sup>7954</sup> Abu Keita, Transcript 23 January 2008, pp. 2028-2029.

<sup>7955</sup> Abu Keita, Transcript 23 January 2008, p. 2020.

<sup>7956</sup> Abu Keita, Transcript 23 January 2008, pp. 2019-2020.

<sup>7957</sup> Abu Keita, Transcript 23 January 2008, pp. 2020-2022.

<sup>7958</sup> Abu Keita, Transcript 23 January 2008, p. 2020 (Q. Sir, where were you when the attack on Freetown happened? A. When the attack on Freetown happened I was in Buedu. Q. Where was Sam Bockarie? A. Sam Bockarie was in Buedu. That was the time I told you that he came with these jean trousers and T-shirts and the car).

Bockarie.<sup>7959</sup> Bockarie was picked up by Joe Tuah in a helicopter and flown to Monrovia. Bockarie spent a day in Liberia,<sup>7960</sup> and when he returned to Foya the witness met him there. Bockarie brought with him a Toyota Land Cruiser, which he said had been given to him by Taylor. The vehicle also contained jeans, t-shirts, medicine and bandages.<sup>7961</sup> Keita also saw Bockarie depart on another trip to Monrovia from Foya via helicopter, on which Bockarie carried a seriously wounded soldier. When Bockarie returned on the trip during the Freetown invasion, he told the witness that he had brought back a message from Taylor that the RUF should maintain its controlled areas. He passed this message onto Issa Sesay and Morris Kallon.<sup>7962</sup>

Prosecution Witness Mohamed Kabbah

3505. Witness Mohamed Kabbah, who was in Buedu on 6 January 1999,<sup>7963</sup> testified that one morning after Gullit's troops entered Freetown, Benjamin Yeaten contacted Sam Bockarie over the radio from Foya. The contact was initiated by Yeaten's radio operator.<sup>7964</sup> The witness and other operators in Buedu heard this conversation on VHF radio as it was quite loud. Yeaten asked Bockarie about the situation in Freetown, and Bockarie told him that "our men in Freetown" were under enormous pressure, that they had been pushed out of State House and that ECOMOG had cut off their supply lines. Yeaten told Bockarie to reinforce the troops in Freetown so that they would not lose the city, and Bockarie responded that he had given Rambo instructions to put together reinforcements and move to assist the troops in Freetown.<sup>7965</sup>

3506. Kabbah testified that eventually ECOMOG cut off the supply lines of the rebel troops in Waterloo, which meant that Rambo and his reinforcements were not able to get through. When Gullit contacted Bockarie to discuss this situation, Bockarie told Gullit to move with the prisoners Gullit had released from Pademba Road Prison at night in order to evade ECOMOG jets. Bockarie told Gullit specifically not to leave the prisoners he released

<sup>7959</sup> Abu Keita, Transcript 23 January 2008, p. 2011.

<sup>7960</sup> Abu Keita, Transcript 23 January 2008, p. 2023.

<sup>7961</sup> Abu Keita, Transcript 23 January 2008, pp. 2011-2013.

<sup>7962</sup> Abu Keita, Transcript 23 January 2008, pp. 2023-2024.

<sup>7963</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16166.

<sup>7964</sup> Mohamed Kabbah, Transcript 15 September, pp. 16168-16170.

<sup>7965</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16168-16169.





behind in Freetown, in particular President Momoh.<sup>7966</sup> When Gullit withdrew, he brought the persons released from Pademba Road Prison into RUF-controlled territory, which at that point stretched from Lunsar to Kabala, Kailahun and Kono.<sup>7967</sup>

3507. Kabbah testified that generally when Bockarie was the leader of the RUF,<sup>7968</sup> and also during the period that Gullit was in Freetown,<sup>7969</sup> Bockarie would communicate with Benjamin Yeaten. Communication between Bockarie and Benjamin Yeaten during the Freetown invasion was the continuation of a “sisterly or brotherly operation”, and the two men would share both good and bad news. Kabbah observed that Bockarie spoke to Yeaten as if Bockarie was in the position of a subordinate receiving instruction from a superior. Kabbah noted as an example that when Bockarie told Yeaten about the increasing difficulties Gullit’s troops were facing in Freetown, Yeaten told Bockarie to send reinforcements to the city.<sup>7970</sup> More generally during Bockarie’s leadership, Bockarie spoke to Yeaten because “[i]t was a sort of a joint operation that was going on. Everybody wanted to know the successes and the failures that each had at a particular time, so they used to talk on those things”.<sup>7971</sup> Kabbah knew that Bockarie was talking to Yeaten while the witness was in Buedu because Yeaten’s radio operator used to conduct the dialogue from Liberia.<sup>7972</sup>

3508. During the Freetown invasion, Bockarie would also communicate directly with Charles Taylor by satellite phone, and he would do so openly.<sup>7973</sup> In one instance, on the very day that King Perry initially made contact with the Buedu radio station, Bockarie told the operator on duty, Tiger, to inform Taylor’s operator Sunlight that he wanted to talk to Taylor. Bockarie then drove with the witness and others to the MP headquarters in Buedu where the satellite could get reception, and Bockarie spoke with Taylor on the phone.<sup>7974</sup> The witness heard Bockarie say that his men had entered Freetown, and had captured State

<sup>7966</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16171, 16179.

<sup>7967</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16179.

<sup>7968</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16144.

<sup>7969</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16173.

<sup>7970</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16173-16175; Transcript 12 September 2008, pp. 16143-16145 (“at one time when in fact the 6 January invasion took place in Freetown when ECOMOG was pushing the men, at that time Mosquito spoke with Benjamin Yeaten and so he said, ‘The situation is becoming bad at the front line. The enemies were pushing our men out of the town’, so Benjamin Yeaten told him why he was not trying to reinforce the men in the city. He said, ‘You know the city is big. You need to reinforce them’”).

<sup>7971</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16145.

<sup>7972</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16145.

<sup>7973</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16173, 16175.



House. Bockarie was laughing when he spoke on the phone and said “Yes sir” several times.<sup>7975</sup> The witness understood that Bockarie was speaking with Charles Taylor because, just prior to this conversation, Bockarie had stated that he had wanted to speak with Taylor.<sup>7976</sup>

3509. Kabbah also testified that he did not recall Bockarie discussing any crimes over the radio, although he noted that such matters would not be discussed over the air. Rather, Bockarie and Yeaten would discuss developments at the frontlines, and Bockarie might request materiel, or relate the death of a prominent member of RUF but they never discussed civilian deaths or mistreatment of civilians.<sup>7977</sup>

3510. On cross-examination, Kabbah was questioned on a prior statement to the Prosecution in which he had said that Yeaten never gave Bockarie advice or instructions on military strategy. Defence counsel asked why he had testified in direct examination in relation to the Freetown invasion that he had heard Yeaten telling Bockarie that Freetown was a “big city” and that Bockarie should send troops to reinforce the troops that had invaded Freetown.<sup>7978</sup> Kabbah explained that he did not consider this to be an instruction related to military strategy, and affirmed that Yeaten did not give directions relating to whether the RUF should attack particular areas or set a certain ambush, but he did occasionally offer suggestions. Kabbah confirmed another prior statement that he did not recall hearing any orders or instructions from Charles Taylor or his subordinates regarding the Freetown invasion.<sup>7979</sup>

3511. Kabbah testified further on cross-examination that while Yeaten was a “Special Force”, Bockarie was “a trainee from Liberia”. However, although Yeaten was superior to Bockarie, Bockarie felt that he did not want to take orders from Yeaten because Bockarie “was commanding a whole revolution”.<sup>7980</sup> Kabbah then affirmed a prior statement to the Prosecution in which he stated that while Bockarie did not “take orders” from Yeaten

<sup>7974</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16176-16178.

<sup>7975</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16178.

<sup>7976</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16178.

<sup>7977</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16349-16350.

<sup>7978</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16144; Transcript 15 September 2008, pp. 16173-16175.

<sup>7979</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16350-16352.

<sup>7980</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16379.





because Bockarie would have seen Yeaten as “inferior” in rank, nonetheless Bockarie would have followed instructions by Yeaten because it “had to have come from Charles Taylor”.<sup>7981</sup> Kabbah testified that even if a message from Yeaten did not specifically refer to Taylor, it was understood in the RUF, and by Bockarie, that anything Yeaten said must have been sanctioned by Taylor as Yeaten was the President’s “right-hand man”. However, Kabbah agreed in cross-examination that there was no evidence to support the assumption that all instructions from Yeaten stemmed from Taylor, and that it was just what people assumed.<sup>7982</sup>

Prosecution Witness TF1-585

3512. Witness TF1-585 testified that just after Bockarie used his satellite phone to inform the BBC that his troops would be in Freetown within three days time,<sup>7983</sup> the witness heard the radio operator on duty receive a call from Benjamin Yeaten’s operator Sunlight, asking them to find Bockarie so that he could speak with Yeaten.<sup>7984</sup> Bockarie came to the radio, and the witness heard Yeaten tell Bockarie that if what he heard on the BBC was true, Bockarie should expect Yeaten to come to Buedu in two days’ time. He told Bockarie to switch on his satellite phone because “my father”, whom the witness understood to be Taylor, “would want to talk to you”.<sup>7985</sup> Bockarie went directly to the veranda where the satellite phone was located and spoke on the phone. The witness was not present for this conversation. She also testified that Yeaten came to Buedu two days later, and Bockarie instructed her to prepare food for Yeaten.<sup>7986</sup> This was the first time that the witness saw Yeaten in Buedu.<sup>7987</sup> Yeaten came with Sampson, Junior and Jungle and stayed for a night in Buedu before going to Kono with Issa Sesay and others. The witness did not know the purpose of their trip, or when they returned to Buedu.<sup>7988</sup>

3513. After the troops withdrew from Freetown, persons released from Pademba Road Prison in Freetown, including Victor Foh, came to Buedu. The witness read in the radio

<sup>7981</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16380-14381.

<sup>7982</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16380-14381.

<sup>7983</sup> TF1-585, Transcript 8 September 2008, pp. 15717-15719.

<sup>7984</sup> TF1-585, Transcript 8 September 2008, pp. 15720-15721.

<sup>7985</sup> TF1-585, Transcript 8 September 2008, pp. 15719-15722.

<sup>7986</sup> TF1-585, Transcript 8 September 2008, pp. 15722-15724.

<sup>7987</sup> TF1-585, Transcript 8 September 2008, p. 15723.

<sup>7988</sup> TF1-585, Transcript 8 September 2008, pp. 15722-15723.

logbook that Bockarie had instructed Superman to send them to Buedu. He also invited Gibril Massaquoi, but Massaquoi did not come.<sup>7989</sup>

Prosecution Witness TF1-516

3514. Witness TF1-516, an RUF radio operator based in Buedu during the Freetown invasion,<sup>7990</sup> testified that when the troops arrived in Freetown, Gullit contacted Sam Bockarie by radio and reported that he had captured State House. Two or three days later, Bockarie received another call from Gullit notifying Bockarie that Gullit had released some prisoners from Pademba Road Prison. Bockarie ordered that all the released prisoners be sent to Buedu.<sup>7991</sup> The witness monitored this conversation on the radio.<sup>7992</sup>

3515. During this period Bockarie was also in “persistent” communication with Charles Taylor, call sign “020”, and Benjamin Yeaten, call sign “Base 1”.<sup>7993</sup> After Benjamin Yeaten’s radio operator, Sunlight, intercepted Bockarie’s radio communications about the release of prisoners from Pademba Road Prison in Freetown, Yeaten contacted Bockarie by radio to congratulate him on the release of the prisoners. Sunlight had access to the RUF radio network and knew almost all of the RUF frequencies.<sup>7994</sup>

3516. There were also communications between Bockarie and Taylor during the invasion of Freetown via satellite phone. After conversing with Taylor, Bockarie would come to the radio station and draft instructions for the commanders regarding military manoeuvres. After such conversations Bockarie would instruct Gullit to set ambushes and go on attacks. The witness overheard these satellite communications.<sup>7995</sup>

3517. The witness also recalled two particular orders issued by Bockarie during the invasion of Freetown after discussions with Yeaten or Taylor. Following a satellite phone conversation with “020” in Liberia, at a time when the forces in Freetown were under increasing pressure from ECOMOG attack, Bockarie told Gullit over the radio to instruct his

<sup>7989</sup> TF1-585, Transcript 8 September 2008, pp. 15730-15731.

<sup>7990</sup> TF1-516, Transcript 8 April 2008, p. 6857 (The witness was assigned to Buedu as a radio operator to Sam Bockarie after the ECOMOG Intervention); Transcript 8 April 2008, pp. 6858-6860 (the witness moved to Liberia in mid-1999).

<sup>7991</sup> TF1-516, Transcript 8 April 2008, pp. 6932-6933.

<sup>7992</sup> TF1-516, Transcript 9 April 2008, p. 6978.

<sup>7993</sup> TF1-516, Transcript 8 April 2008, pp. 6936-6937.

<sup>7994</sup> TF1-516, Transcript 8 April 2008, pp. 6938-6939.

<sup>7995</sup> TF1-516, Transcript 8 April 2008, pp. 6942-6943.

men to burn down areas in Freetown, including government buildings, in order to attract the attention of the international community.<sup>7996</sup> The instruction that Bockarie gave to Gullit to send the prisoners released from Pademba Road Prison to Buedu was also made following a conversation with Yeaten's radio station "Base 1".<sup>7997</sup>

3518. In cross-examination, the witness confirmed that he had made a prior statement to the Prosecution that he "was not aware of any directives by Charles Taylor or Benjamin Yeaten regarding the Freetown invasion of January 1999".<sup>7998</sup> TF1-516 explained that this statement was referring strictly to radio communications, and noted that there were discussions via satellite phone, after which Bockarie would issue instructions over the radio.<sup>7999</sup>

3519. Brima's radio operator, Elongima, informed the RUF in Buedu of reports that the fighters in Freetown had gone on a rampage and were committing atrocities. He said that they had captured large numbers of women and were "wounding civilians".<sup>8000</sup> In response to counsel's question on whether the atrocities that were committed were reported to any other party, TF1-516 testified that Bockarie would provide reports on the situation at the frontlines to Base 1 and sometimes to "020". The witness himself called "Base 1" several times on Bockarie's behalf. Bockarie would then communicate with Yeaten either by phone or over the radio.<sup>8001</sup>

3520. TF1-516 also testified initially that during the Freetown invasion Bockarie flew to Monrovia from Foya in a helicopter to see Charles Taylor and returned 72 hours later by air.<sup>8002</sup> However on cross-examination, TF1-516 admitted that he had made a mistake and that the incident he described had not taken place during the Freetown invasion and, although he could not recall exactly when it had happened, "the operation in Freetown had long been undertaken".<sup>8003</sup>

#### Prosecution Witness Perry Kamara

<sup>7996</sup> TF1-516, Transcript 9 April 2008, pp. 6976-6977.

<sup>7997</sup> TF1-516, Transcript 9 April 2008, pp. 6977-6978.

<sup>7998</sup> TF1-516, Transcript 16 April 2008, p. 7778.

<sup>7999</sup> TF1-516, Transcript 16 April 2008, pp. 7778-7779.

<sup>8000</sup> TF1-516, Transcript 9 April 2008, pp. 6978-6979.

<sup>8001</sup> TF1-516, Transcript 9 April 2008, p. 6979.

<sup>8002</sup> TF1-516, Transcript 8 April 2008, pp. 6945-6946, 6962-6965; Transcript 9 April 2008, pp. 6980-6981.

3521. Witness Perry Kamara testified that he was part of the forces led by Alex Tamba Brima (a.k.a. Gullit) who entered Freetown on 6 January 1999.<sup>8004</sup> Before invading Freetown, the troops were divided into groups, with one group appointed to attack areas of Ferry Junction, Upgun and State House in Freetown, National Stadium, and another group assigned to attack Pademba Road Prison to release Foday Sankoh and all the detainees who were members of the AFRC/RUF or who had collaborated with them.<sup>8005</sup> Kamara belonged to the group that entered Pademba Road Prison.<sup>8006</sup> Among those released were former president J S Momoh, Gibril Massaquoi, the former RUF spokesman, and Steve Bio.<sup>8007</sup>

3522. When Gullit had captured the State House, he updated Bockarie about the release of the prisoners.<sup>8008</sup> In response, Bockarie urged Gullit to “do as a military man” and keep the freed prisoners secure until he could dispatch them to Kailahun.<sup>8009</sup> The witness recalled that later, pursuant to Bockarie’s orders, Gullit took the released prisoners directly to Makeni.<sup>8010</sup> In relation to one of the prisoners, Hilton Fyle, Sam Bockarie requested that he be taken by Issa Sesay to Buedu.<sup>8011</sup>

#### Prosecution Witness TF1-371

3523. Witness TF1-371 testified that during the December 1998 attacks on Koidu to Makeni, Zigzag Marzah, Sampson and Jungle were frequent visitors to Buedu. Sometimes they met with Bockarie, and at one point Zigzag received looted materials, including generators and TV sets, to take back to Monrovia. Bockarie often briefed them on the operation plans. TF1-371 recalled that Christopher Varmoh (a.k.a. Liberian Mosquito) came once to Buedu with Dopoe Menkarzon and met Bockarie to discuss Bockarie travelling to Monrovia to see Taylor and to discuss the organisation of a fighting force to give support to the Liberian Anti-Terrorist Unit (ATU) under attack in Lofa County by LURD rebels. However, Bockarie was awaiting the outcome of the Freetown invasion. At first, Zigzag,

<sup>8003</sup> TF1-516, Transcript 16 April 2008, pp. 7820-7821.

<sup>8004</sup> Perry Kamara, Transcript 6 February 2008, p. 3221.

<sup>8005</sup> Perry Kamara, Transcript 6 February 2008, p. 3224.

<sup>8006</sup> Perry Kamara, Transcript 6 February 2008, p. 3225.

<sup>8007</sup> Perry Kamara, Transcript 6 February 2008, p. 3226.

<sup>8008</sup> Perry Kamara, Transcript 6 February 2008, p. 3229.

<sup>8009</sup> Perry Kamara, Transcript 6 February 2008, pp. 3229-3230.

<sup>8010</sup> Perry Kamara, Transcript 6 February 2008, p. 3253.

<sup>8011</sup> Perry Kamara, Transcript 6 February 2008, pp. 3253-3254.

Sampson and Jungle stayed in a guesthouse provided by Bockarie. Towards the latter point of 1998, they would stay with their girlfriends in Buedu.<sup>8012</sup>

3524. TF1-371 also testified that immediately after the retreat from Freetown in 1999, discipline was not under control for the AFRC faction leaving Freetown, although somewhere along the way the commanders took control of their men.<sup>8013</sup>

3525. TF1-371 testified that after the AFRC and RUF forces retreated from Freetown, Sam Bockarie went to Monrovia for a week to meet the Accused, accompanied by his bodyguards and Jungle.<sup>8014</sup> TF1-371 stated that when Bockarie returned to Buedu, he summoned the commanders for a briefing, and Jungle told them that Bockarie had been promoted to a “two-star” lieutenant general by Taylor. TF1-371 said that Taylor promoted Bockarie because he had accomplished the mission of capturing of Koidu and Freetown. The witness also saw Bockarie with two sets of the SS uniform used by Taylor’s securities.<sup>8015</sup>

#### Prosecution Witness Varmuyan Sherif

3526. Witness Varmuyan Sherif testified that before 6 January 1999,<sup>8016</sup> he went to Foya on a monitoring mission to ascertain that there was free movement on the border. In Foya he saw Sam Bockarie and Benjamin Yeaten together. On the way back, he met Zigzag Marzah, who told him that he had some arms and ammunitions which he was taking to Bockarie.<sup>8017</sup>

3527. On 6 January 1999, Sherif learned of the Freetown attack from the BBC. Sherif explained that he was with a group of Taylor’s bodyguards when he heard the announcement. Sherif testified that he heard Bockarie over the BBC explaining that he would not retreat except when his “father” tells him to, and that Bockarie explained that by “father” he meant “Charles Taylor”. Sherif said that he and the other bodyguards were annoyed about the news because he publicly involved Taylor’s name.<sup>8018</sup>

#### Prosecution Witness Joseph Marzah

<sup>8012</sup> TF1-371, Transcript 28 January 2008, pp. 2423-2425 (CS).

<sup>8013</sup> TF1-371, Transcript 1 February 2008, pp. 2807-2808.

<sup>8014</sup> TF1-371, Transcript 28 January 2008, pp. 2429-2430 (CS).

<sup>8015</sup> TF1-371, Transcript 28 January 2008, pp. 2430-2431 (CS).

<sup>8016</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 865.

<sup>8017</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 864-865.

<sup>8018</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 866.

3528. Witness Joseph Marzah (a.k.a. Zigzag Marzah), testified that he personally took part in the Freetown attack and that during the attack the RUF took instructions from Charles Taylor. He stated that “[t]here was no RUF. From Freetown to Liberia we took instructions from one man and that was Charles Taylor”.<sup>8019</sup> Marzah testified that it was in Freetown that he received an injury to his head and that he had entered Freetown in a vehicle.<sup>8020</sup>

#### Prosecution Witness TF1-168

3529. Witness TF1-168 was imprisoned by the RUF in Buedu during the first half of 1999. He testified that in the same camp where he was held, there were also 12 ECOMOG soldiers captured from the Kono attack in December 1998 or January 1999 and kept as prisoners of war.<sup>8021</sup> One of these ECOMOG soldiers was a Nigerian national and was killed in Buedu because he had tuberculosis and the RUF did not want the disease to spread to the rest of the prisoners.<sup>8022</sup>

#### The Accused

3530. The Accused testified that neither he nor his government was involved in the Freetown invasion on 6 January 1999.<sup>8023</sup> He had no prior knowledge, never instructed anyone, nor encouraged anyone to invade Freetown.<sup>8024</sup> The Accused denied even knowing, at the time, an AFRC Commander named Gullit who led troops in the invasion of Freetown.<sup>8025</sup>

3531. The Accused testified that the first he knew of the Freetown invasion was on 6 January 1999 at 10.00am, when his national security adviser, Lewis Brown, informed him of the news. The Accused acknowledged that upon his instructions, Brown called Sam Bockarie on the phone. Sam Bockarie stated that he did not know what was going on in Freetown.<sup>8026</sup> One of the Accused’s security personnel then told the Accused that he heard

<sup>8019</sup> Joseph Marzah, Transcript 12 March 2008, p. 5952.

<sup>8020</sup> Joseph Marzah, Transcript 12 March 2008, p. 5952.

<sup>8021</sup> TF1-168, Transcript 22 January 2009, pp. 23369-23370 (CS).

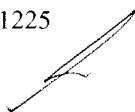
<sup>8022</sup> TF1-168, Transcript 22 January 2009, pp. 23369-23370 (CS).

<sup>8023</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29273-29277; Transcript 16 September 2009, p. 29104.

<sup>8024</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29273-29277

<sup>8025</sup> Charles Ghankay Taylor, Transcript 17 September 2009, p. 29266.

<sup>8026</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26225-26227.





on Bockarie announcing over BBC radio that his men had attacked Freetown.<sup>8027</sup> In order to verify the situation, the Accused again instructed his security personnel to contact Bockarie. Bockarie explained that he only said that on the radio for “morale” and to take “some claim for it”.<sup>8028</sup>

3532. The Accused stated that he did not speak with Bockarie on a satellite phone on the night before the Freetown invasion. He stated that the Freetown invasion of January 1999 came as a surprise to those involved in the Sierra Leonean peace process, who were preparing to implement the Abidjan peace agreement of November 1996.<sup>8029</sup> The Accused denied, as Mohamed Kabbah testified, that he received any information about the Freetown invasion from Benjamin Yeaten.<sup>8030</sup> The Accused believed that no official in the Liberian Government had anything to do with the Freetown invasion,<sup>8031</sup> or were in contact with Bockarie via satellite phone during the Freetown invasion, because they would have no reason to be.<sup>8032</sup>

3533. The Accused denied Dauda Aruna Fornie’s testimony that Benjamin Yeaten gave instructions on the Accused’s behalf during the Freetown invasion which were then relayed to troops in Freetown.<sup>8033</sup> The Accused affirmed that on 6 January 1999, he did not communicate with Bockarie or instruct Benjamin Yeaten to pass on instructions.<sup>8034</sup> In relation to Kabbah’s testimony that he overheard conversations on the satellite phone between the Accused and Bockarie, the Accused referred to other Prosecution witnesses who said that whenever Sam Bockarie received a call on his satellite phone, he moved away and spoke secretly.<sup>8035</sup>

3534. Concerning communications between Yeaten and Bockarie through Sunlight, the Accused did not know whether Benjamin Yeaten had a radio operator named “Sunlight” or whether Yeaten would have received communications concerning the capture of Koidu town

<sup>8027</sup> Charles Ghankay Taylor, Transcript 6 August 2009, p. 26227.

<sup>8028</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26227-26228.

<sup>8029</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29106-29108; Transcript 22 September 2009, p. 29401.

<sup>8030</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29104-29105.

<sup>8031</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29104-29105.

<sup>8032</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29395-29396.

<sup>8033</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29271-29273

<sup>8034</sup> Charles Ghankay Taylor, Transcript 17 September 2009, p. 29273.

<sup>8035</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29106-29108.



and the capture of Nigerian soldiers, as TF1-567 testified. However, he acknowledged that Yeaten did have a radio operator and acknowledged the possibility that Yeaten, as the coordinator of security, would have reason to contact Bockarie by radio.<sup>8036</sup>

3535. The Accused denied knowledge of specific instructions alleged to have come from him. In relation to the alleged instruction to Bockarie to send reinforcements to Freetown, the Accused believed that Bockarie, being an experienced General, would not have required Yeaten to tell him to send reinforcements to Freetown if the troops there were under siege.<sup>8037</sup>

3536. The Accused testified that he did not know about Bockarie's instructions to Gullit to burn government buildings to raise alarm in the international community, and to take released prisoners from Pademba Road Prison to Buedu, nor did he order Sam Bockarie to do these things.<sup>8038</sup> The Accused testified that he did not condone amputations carried out on civilians in Sierra Leone, emphasising that he had no motive to order any kind of atrocities in Freetown.<sup>8039</sup>

3537. The Accused denied, as Abu Keita testified, that Issa Sesay captured 11 Nigerian ECOMOG peacekeepers after the Christmas 1998 Kono attack and released them into Liberia on the Accused's orders. The Accused denied knowledge of any such event, stating that the only peacekeepers released in Liberia occurred in 2000 and there were several hundreds of them.<sup>8040</sup>

3538. The Accused testified that he was involved in negotiations between the RUF and the Sierra Leonean government during the Freetown invasion. On either 6 or 7 January 1999, he spoke to President Kabbah as part of his role on the ECOWAS Committee of Six. There was also a meeting between Sankoh and Kabbah on 7 January 1999 about which the Committee was briefed.<sup>8041</sup> The Accused and the Committee continued their participation in the

<sup>8036</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28738 ("The second thing factually is that I would not dispute the fact that the operator of Benjamin - because of Benjamin coordinating the security, it would not be out of reason for his operator to call Sam Bockarie, okay? [...] So I wouldn't have the details, and so I don't have a quarrel with the fact that maybe there's communication").

<sup>8037</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29104-29105.

<sup>8038</sup> Charles Ghankay Taylor, Transcript 27 October 2009, pp. 30453-30454.

<sup>8039</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29278-29280.

<sup>8040</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29410-29411; Transcript 14 September 2009, p. 28738.

<sup>8041</sup> Charles Ghankay Taylor, Transcript 10 August 2009, pp. 26270-26272.

negotiations until the Accused successfully secured a ceasefire between the RUF and the Government of Sierra Leone on or around 12 January 1999.<sup>8042</sup> On 14 January 1999, the Accused made an announcement concerning the undertaking by the RUF to agree to a ceasefire on behalf of the three countries charged with the responsibility of engagement with the RUF forces, Cote d'Ivoire, Ghana and Liberia. Liberia had been the frontline mediator but all of the other parties had been fully briefed on this development. Tambakai Jangaba, the Liberian Deputy Minister for Foreign Affairs, was the senior foreign ministry official responsible for the Sierra Leone portfolio.<sup>8043</sup>

3539. The Accused affirmed that in January 1999, there was communication between the government of Liberia and Bockarie in order to negotiate the cease-fire. However, there were no visits by Bockarie to Liberia in that period.<sup>8044</sup>

#### Defence Witness Issa Sesay

3540. Witness Issa Sesay testified that he attacked Kono in December 1998. During the attack, on 16 to 17 December 1998 in Koidu Town, he captured 12 Nigerian ECOMOG soldiers.<sup>8045</sup> Sesay affirmed that the capture of these men is the same incident as that to which Abu Keita testified.<sup>8046</sup> During the fighting, the ECOMOG soldiers raised their arms up and surrendered.<sup>8047</sup>

3541. Bockarie told Sesay to send the ECOMOG soldiers to him in Buedu. So with escorts, Sesay took them to Buedu,<sup>8048</sup> where they were detained until the Lomé Accord, at which time they were released to a delegation comprised of the Nigerian ambassador to Lomé, the Nigerian ambassador to Liberia, and one other ambassador from Nigeria, as well as Musa Cissé, SYB Rogers, Omrie Golley.<sup>8049</sup> Sankoh ordered Bockarie to release the soldiers to the ambassadors as a goodwill gesture, to show the RUF's commitment to the Lomé Accord.<sup>8050</sup>

<sup>8042</sup> Charles Ghankay Taylor, Transcript 10 August 2009, pp. 26270-26272.

<sup>8043</sup> Charles Ghankay Taylor, Transcript 11 August 2009, pp. 26433-26436; Transcript 16 September 2009, p. 29048.

<sup>8044</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29096-29097; Transcript 27 October 2009, pp. 30452-30453.

<sup>8045</sup> Issa Sesay, Transcript 6 August 2010, pp. 45583- 45585.

<sup>8046</sup> Abu Keita, 23 January 2008, p. 2028.

<sup>8047</sup> Issa Sesay, Transcript 6 August 2010, pp. 45585-45586.

<sup>8048</sup> Issa Sesay, Transcript 6 August 2010, p. 45586.

<sup>8049</sup> Issa Sesay, Transcript 9 July 2010, pp. 44154-44158; Transcript 6 August 2010, p. 45587.

<sup>8050</sup> Issa Sesay, Transcript 6 August 2010, p. 45587.

Sesay did not hear any directive by Taylor to Bockarie to release the ECOMOG peacekeepers, but having seen Musa Cissé, Taylor's chief of protocol among the delegation, he assumed that Taylor must have known about their release.<sup>8051</sup> Sesay was not aware of the discussion between Bockarie and Benjamin Yeaten that Abu Keita described, nor did he hear that the peacekeepers were to be released to Benjamin Yeaten.<sup>8052</sup>

3542. Sesay testified that he was in Makeni at the time of the Freetown invasion. He denied receiving a message that AFRC/RUF combatants had captured the State House.<sup>8053</sup> During the Freetown invasion, Sesay denied knowledge of Bockarie telephoning Benjamin Yeaten<sup>8054</sup> and denied hearing that Benjamin Yeaten had given instructions to Bockarie, to send the politicians from Pademba Road Prison to Buedu for safety.<sup>8055</sup> Rather, Sesay stated that Bockarie had sent Sesay to Waterloo to tell Gibril Massaquoi to travel to Buedu to escort the politicians who had been freed from Pademba Road Prison to go to Makeni to speak with Bockarie. The AFRC had freed Massaquoi and other politicians held at Pademba Road Prison when they entered Freetown.<sup>8056</sup> Sesay denied any involvement by Benjamin Yeaten or Taylor in the invasion of Freetown on 6 January 1999.<sup>8057</sup>

3543. Sesay knew Pascal to be Bockarie's operator based in Buedu.<sup>8058</sup> Bockarie was Pascal's boss in 1998 and 1999. In December 1999 Pascal went to Liberia with Bockarie but returned to Sierra Leone with Sesay in 2000. Sesay denied Pascal was assigned to Benjamin Yeaten or based in Foya, Liberia, in 1998 and 1999.<sup>8059</sup> Sesay denied that Bockarie gave the order for the destruction of Freetown. It was carried out by the AFRC. Sesay did not hear of Yeaten and Taylor directly communicating with Bockarie or instructing him during the Freetown invasion. The troops in Freetown were not answerable to Bockarie. They had their own command structure and when they retreated, reports were not sent to Bockarie.<sup>8060</sup>

#### Defence Witness DCT-008

<sup>8051</sup> Issa Sesay, Transcript 6 August 2010, p. 45593.

<sup>8052</sup> Issa Sesay, Transcript 6 August 2010, p. 45592

<sup>8053</sup> Issa Sesay, Transcript 11 August 2010, pp. 46073-46074.

<sup>8054</sup> Issa Sesay, Transcript 11 August 2010, p. 46077.

<sup>8055</sup> Issa Sesay, Transcript 11 August 2010, pp. 46077-46078.

<sup>8056</sup> Issa Sesay, Transcript 11 August 2010, pp. 45974-45976.

<sup>8057</sup> Issa Sesay, Transcript 11 August 2010, pp. 46078-46079; Transcript 12 August 2010, pp. 46106-46107.

<sup>8058</sup> Issa Sesay, Transcript 12 August 2010, p. 46105.

<sup>8059</sup> Issa Sesay, Transcript 12 August 2010, pp. 46106-46107.

<sup>8060</sup> Issa Sesay, Transcript 12 August 2010, p. 46111.

3544. Witness DCT-008, a Liberian radio operator,<sup>8061</sup> testified that Sunlight, the primary operator at Base 1, the radio station located at Benjamin Yeaten's home, would receive coded messages on Base 1 and decode them for Yeaten.<sup>8062</sup> DCT-008 testified to an incident in September 1998, in which Sampson Wehyee (a.k.a. Sampson), a bodyguard for Benjamin Yeaten, arrived at Base 1 and introduced Sunlight to Daniel Tamba (a.k.a. Jungle).<sup>8063</sup> Wehyee told Sunlight that Yeaten had ordered him to allow Tamba to use Base 1 to contact the RUF.<sup>8064</sup> Tamba had a piece of paper with the RUF frequency, "RUF 35B", which was the same frequency the NPFL used in 1991 and 1992 to contact the RUF. Sunlight entered onto the RUF frequency, and operator "Sellay" answered the call.<sup>8065</sup>

3545. In November or December 1998, Sampson and Tamba brought Memunatu Deen to Base 1 so that she could use the radio to communicate with the RUF.<sup>8066</sup> DCT-008 testified that the messages that Deen sent could not be understood because they were in code.<sup>8067</sup> After one month, around December 1998 or January 1999, she gave the code to Sunlight so that he could take down messages while she was away.<sup>8068</sup>

3546. DCT-008 testified that Sunlight never intercepted a message between Gullit and Bockarie about the release of prisoners from Pademba Road, maintaining that the only communication intercepted by Base 1 within the RUF net was between Bockarie and Sankoh in late 1999, when they argued over the peace process.<sup>8069</sup> DCT-008 also stated that Yeaten could not have spoken to Bockarie on the radio, because Yeaten did not know the RUF communication code. Further, Yeaten was afraid of being heard on the radio, so he would not have spoken on the VHF radio, but rather only over the satellite phone.<sup>8070</sup> DCT-008 denies that Bockarie called to make situation reports concerning operations around

<sup>8061</sup> DCT-008, Transcript 24 August 2010, pp. 46998-46999.

<sup>8062</sup> DCT-008, Transcript 24 August 2010, pp. 47030-47031, 47034-47035.

<sup>8063</sup> DCT-008, Transcript 24 August 2010, pp. 47034-47037, 47042-47043

<sup>8064</sup> DCT-008, Transcript 24 August 2010, pp. 47034-47037.

<sup>8065</sup> DCT-008, Transcript 24 August 2010, pp. 47042; Transcript 27 August 2010, p. 47375-47376.


<sup>8066</sup> DCT-008, Transcript 27 August 2010, pp. 47400-47408; Transcript 30 August 2010, pp. 47403-47404.

<sup>8067</sup> DCT-008, Transcript 27 August 2010, p. 47405.

<sup>8068</sup> DCT-008, Transcript 27 August 2010, p. 47406.

<sup>8069</sup> DCT-008, Transcript 28 August 2010, pp. 47595-47596.

<sup>8070</sup> DCT-008, Transcript 28 August 2010, pp. 47595-47596.





Freetown.<sup>8071</sup> He testified that there was no communication between Base One and any RUF radio or Buedu in January 1999.<sup>8072</sup>

Defence Witness Fayia Musa

3547. Witness Fayia Musa was held prisoner by the RUF in Buedu during the first half of 1999. He testified that he was incarcerated with some Nigerian ECOMOG soldiers kept as prisoners of war. One of these ECOMOG soldiers was executed after having contracted tuberculosis.<sup>8073</sup>

Prosecution Exhibit P-261

3548. Exhibit P-261<sup>8074</sup> is an audio clip of an RUF radio conversation personally recorded by Dauda Aruna Fornie around February to March 1999, after the Freetown invasion on 6 January 1999.<sup>8075</sup> Exhibit P-261 is one of a number of recordings Fornie recorded on cassette tapes, which remained in the possession of Fornie until he turned them over to Prosecution investigators.<sup>8076</sup> Although the Prosecution provided to the Court a purported transcript of the recording, it did not seek to have the transcript marked for identification or tendered as evidence.<sup>8077</sup> Prosecution counsel explained that the purpose of playing the audio recording before the Trial Chamber was to elicit Fornie's evidence as to the identification of persons on the recording.<sup>8078</sup>

<sup>8071</sup> DCT-008, Transcript 28 August 2010, p. 47602.

<sup>8072</sup> DCT-008, Transcript 28 August 2010, p. 47606.

<sup>8073</sup> Fayia Musa, Transcript 21 April 2010, p. 39511.

<sup>8074</sup> Exhibit P-261, "Audio File - Clip One (P-261). RUF radio conversation recorded by TF1-274 after the invasion of Freetown on 6 January 1999. Identifies voices of Foday Sankoh, Sam Bockarie, Sunlight and Isaac Mongor".

<sup>8075</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21500. ("Q: Do you recall approximately when this recording occurred? A: It was around ... February to March 1999. That was after the Freetown invasion on January 6 by the RUF").

<sup>8076</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21505-21506.

<sup>8077</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21499, 21501 (Prosecution counsel expressed the belief that the transcript proffered was not "particularly reliable").

<sup>8078</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21501, 21504 (the Trial Chamber overruled an objection by Defence counsel on the basis of a lack of an independent verification of the identity of the persons speaking on the recording).

3549. Fornie identified on the recording the voices of Foday Sankoh, Sam Bockarie, Isaac Mongor and Sunlight, Benjamin Yeaten's radio operator and the language in which they were speaking as Liberian English.<sup>8079</sup>

Prosecution Exhibit P-361

3550. Exhibit P-361 is a radio log book covering communications within the RUF for the period 28 April 1999 to 11 September 1999. Exhibit P-361 was part of a series of documents seized from Foday Sankoh's house on Spur Road in Freetown in May 2000 admitted through rule 92*bis*.<sup>8080</sup> It records a message sent by Foday Sankoh (a.k.a. the Leader) to "all commanders" dated 25 July 1999 instructing them "to prepare to hand over the P.O.W. s and all political prisoners to ICRC, UNOMSIL or ECOMOG at any time they call upon you".<sup>8081</sup>

3551. It further records a message sent by Issa Sesay (a.k.a. SSS) to Foday Sankoh (a.k.a. Smile) dated 27 July 1999 in reply to Sankoh's instruction to release prisoners of war held by the RUF. The message states: "This headquarter [sic] only have 12 Nigerian war prisoners and one at Makeni. We are presently waiting for the ICRC to hand over them".<sup>8082</sup>

Defence Exhibit D-189

3552. Exhibit D-189 is an official Statement released by the Government of Liberia on measures it has taken to "Dispel Allegations Regarding Liberia's Support for the RUF/Junta between May 1998 and February 1999". It takes the form of a chronology, and states that on 14 January 1999, "President Taylor announces an undertaking by the RUF to agree to a cease-fire in response to a request by Liberia".<sup>8083</sup>

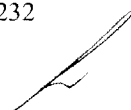
<sup>8079</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21505 (He identified the first voice as Foday Sankoh, stating "I'm not getting you clearly", the second voice as Sunlight, stating "35 Bravo, come in. Come in, 35 Bravo", and the third as Bockarie's, stating "My man, stand by". Sunlight then continued speaking, stating something to the effect of: "You can't remember what [...] you and my father spoke just now, or what you and I spoke?". Fornie identified the last speaker as Isaac Mongor.)

<sup>8080</sup> *Prosecutor v Taylor*, SCSL-03-01-T-747, Decision on Prosecution Motion For Admission of Documents Seized from Foday Sankoh's House, 26 February 2009, para. 51; Tariq Malik, 19 January 2009, pp. 22940-22941.

<sup>8081</sup> Exhibit P-361, "Radio Log Book covering communication for the period - 28/04/1999 - 11/09/1999 - 00008636 - 00008726 (CMS PGS 21955-22046)", ERN 8667.

<sup>8082</sup> Exhibit P-361, "Radio Log Book covering communication for the period - 28/04/1999 - 11/09/1999 - 00008636 - 00008726 (CMS PGS 21955-22046)", ERN 8697; Issa Sesay, Transcript 13 July 2010, pp. 44385-44386 (confirming that this message referred to the release of the 12 ECOMOG prisoners captured during the December 1998 attacks).

<sup>8083</sup> Exhibit D-189, "Statement on Measures Taken by the Government of Liberia to Dispel Allegations





## Deliberations

3553. The Trial Chamber will first consider the Prosecution allegation that, from the commencement of the December 1998 offensives to Gullit's withdrawal from Freetown, the Accused, either directly or through Yeaten, remained in communication with Bockarie concerning the progress of the Freetown attack. It will then turn to examine allegations of specific instructions or directions given by the Accused concerning the operation.

### (i) Contact between Bockarie and the Accused, or the Accused's subordinates

#### a. Radio or Satellite phone contact between Bockarie and Yeaten, Bockarie and the Accused during the Operation

3554. In support of its allegation that the Accused was in constant contact with Bockarie through Yeaten during the Freetown operation, the Prosecution relied on witnesses Dauda Aruna Fornie, TF1-585, Abu Keita, TF1-516, TF1-567 and Mohamed Kabbah.

3555. Fornie testified that from the commencement of the attacks by the RUF on the Kono and Kenema districts on around 15 to 20 December 1998, Bockarie was in constant contact with Yeaten, providing him with updates on progress on the frontlines.<sup>8084</sup> Fornie saw Bockarie contact Yeaten using a satellite phone and inform him of the capture of Kono,<sup>8085</sup> and maintained this contact during the course of the January operation.<sup>8086</sup> Similarly, TF1-516 testified that during this period Bockarie contacted the Accused's radio station in Monrovia, radio call sign "020", and Benjamin Yeaten's radio station, call sign "Base 1".<sup>8087</sup> Mohamed Kabbah also testified that during the period that Gullit was in Freetown, Bockarie would communicate with Benjamin Yeaten via radio,<sup>8088</sup> and also directly with Charles Taylor by satellite phone.<sup>8089</sup> TF1-567 also testified that RUF radio operators informed Sunlight that the RUF had captured Koidu, as well as arms and ammunition and some

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Regarding Liberia's Support for the RUF/Junta between May 1998 and February 1999 – DCT 177", p. 3.

<sup>8084</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21555-21557, 21615.

<sup>8085</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21557.

<sup>8086</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21609-21610.

<sup>8087</sup> TF1-516, Transcript 8 April 2008, pp. 6936-6937.

<sup>8088</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16173.

<sup>8089</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16173, 16175.

Nigerian soldiers.<sup>8090</sup> Abu Keita testified that Bockarie communicated with Benjamin Yeaten and Joseph Tuah on the satellite phone, telling the witness that he was reporting to them on the status of the operation.<sup>8091</sup> A number of witnesses agreed that this contact was frequent. Fornie testified that during the Kono operation, Bockarie would receive at least one message every three to four hours that the witness spent with Bockarie,<sup>8092</sup> and that during the Freetown invasion, they spoke at least two or three times a day through the satellite phone.<sup>8093</sup> The evidence also suggests that such reports were promptly given as progress on the frontline developed.<sup>8094</sup>

3556. Sometimes these communications concerned operational decisions. TF1-516 stated that after conversing with the Accused, Bockarie would come to the radio station and draft instructions for the commanders, including Alex Tamba Brima (a.k.a. Gullit) in Freetown, regarding military manoeuvres, the setting of ambushes and attacks on particular targets.<sup>8095</sup> Kabbah noted as an example that when Bockarie told Yeaten about the increasing difficulties Gullit's troops were facing in Freetown, Yeaten told Bockarie to send reinforcements to the city.<sup>8096</sup> Fornie stated that sometimes Bockarie "would contact Benjamin to consult him on some decisions before he ever took them".<sup>8097</sup>

3557. Kabbah attested to a complicated relationship between Yeaten and Bockarie during the conversations concerning the Kono and Freetown operations. He stated initially that Bockarie spoke to Yeaten as part of a "sisterly or brotherly operation", or a "joint operation", where each party sought to be kept updated on each other's successes and

<sup>8090</sup> TF1-567, Transcript 2 July 2008, p. 12918.

<sup>8091</sup> Abu Keita, Transcript 23 January 2008, pp. 2020-2022.

<sup>8092</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21557.

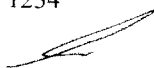
<sup>8093</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21609-21610; see also TF1-516, Transcript 8 April 2008, p. 6937 (Bockarie was in "persistent" communication with Charles Taylor, call sign "020", and Benjamin Yeaten, call sign "Base 1").

<sup>8094</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16176-16178 (Kabbah testified that Bockarie informed the Accused that Gullit had entered Freetown and captured State House on the day that Bockarie himself received the news); Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21581-21582 (Less than an hour after Bockarie received the message concerning the release of the Pademba Road prisoners, he called Benjamin Yeaten on the satellite phone to inform him).

<sup>8095</sup> TF1-516, Transcript 8 April 2008, pp. 6942-6943.

<sup>8096</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16173-16175; see also Transcript 12 September 2008, pp. 16143-16145, where the witness refers to the same incident ("at one time when in fact the 6 January invasion took place in Freetown when ECOMOG was pushing the men, at that time Mosquito spoke with Benjamin Yeaten and so he said, 'The situation is becoming bad at the front line. The enemies were pushing our men out of the town', so Benjamin Yeaten told him why he was not trying to reinforce the men in the city. He said, 'You know the city is big. You need to reinforce them'").

<sup>8097</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21615.



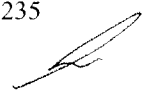




failures.<sup>8098</sup> Kabbah also observed that Bockarie spoke to Yeaten as if Bockarie was in the position of a subordinate receiving instruction from a superior.<sup>8099</sup> However, Kabbah in cross-examination then affirmed a seemingly inconsistent prior statement in which he stated that Bockarie did not “take orders” from Yeaten because Bockarie would have seen Yeaten as “inferior” in rank.<sup>8100</sup> Kabbah explained to the Trial Chamber that while Yeaten was officially of a higher rank, Bockarie viewed Yeaten as inferior because Bockarie had a larger and more important role in Sierra Leone.<sup>8101</sup> Kabbah testified that Bockarie nonetheless followed instructions by Yeaten because he would have assumed such orders came from the Accused.<sup>8102</sup> Even if a message from Yeaten did not specifically refer to the Accused, it was understood in the RUF that Yeaten was the conduit for the Accused’s instructions as he was the Accused’s “right-hand man”.<sup>8103</sup>

3558. The Defence contends that the evidence of the Prosecution witnesses is unreliable.<sup>8104</sup> It cites, as an example, Mohamed Kabbah’s evidence that he got the information concerning the alleged radio communications between Bockarie and Yeaten during the Freetown invasion through TF1-516 whom he alleged was Yeaten’s radio operator at the time, even though, TF1-516 testified that he was only assigned to Yeaten in Liberia from about mid-1999.<sup>8105</sup> The Trial Chamber notes that Kabbah did become confused at one stage of his testimony when discussing a communication between Yeaten and Bockarie concerning the ECOMOG assault on the supply lines of the troops in Freetown. He first stated that this communication was initiated by Pascal, who was stationed in Liberia,<sup>8106</sup> but corrected his testimony to state that it was TF1-516 who was stationed in Liberia and was assigned to Yeaten.<sup>8107</sup> However, Kabbah did indicate that TF1-516 was, at

<sup>8098</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16145.  
<sup>8099</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16173-16175; see also Transcript 12 September 2008, pp. 16143-16145, where the witness refers to the same incident (“at one time when in fact the 6 January invasion took place in Freetown when ECOMOG was pushing the men, at that time Mosquito spoke with Benjamin Yeaten and so he said, ‘The situation is becoming bad at the front line. The enemies were pushing our men out of the town’, so Benjamin Yeaten told him why he was not trying to reinforce the men in the city. He said, ‘You know the city is big. You need to reinforce them’”).  
<sup>8100</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16380-14381.  
<sup>8101</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16379.  
<sup>8102</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16380-14381.  
<sup>8103</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16380-14381.  
<sup>8104</sup> Defence Final Trial Brief, para. 1281.  
<sup>8105</sup> TF1-516, Transcript 8 April 2008, p. 6858.  
<sup>8106</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16168-16169.  
<sup>8107</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16170.



one point, assigned as an operator for Yeaten,<sup>8108</sup> and recognised that there was a period when Yeaten spoke to Bockarie before TF1-516 had been assigned to Liberia.<sup>8109</sup> The Trial Chamber considers this discrepancy minor; in light of the passage of time and the witness's acknowledgement that TF1-516 was only stationed in Liberia for a certain period of time, it is understandable that Kabbah may have become confused about precisely when that period was.<sup>8110</sup>

3559. The Defence also pointed to alleged inconsistencies in TF1-516's evidence regarding alleged communications between Bockarie and Yeaten, noting that it conflicted with TF1-516's testimony that the Liberian government did not have the codes for the RUF radio net in January 1999 and that TF1-516 later confirmed that he never heard any directive from Taylor or Yeaten concerning the Freetown Invasion.<sup>8111</sup>

3560. In relation to the first alleged inconsistency, the Trial Chamber notes that DCT-008 also stated that Yeaten could not have spoken to Bockarie on the radio, because Yeaten did not know the RUF communication codes.<sup>8112</sup> The Trial Chamber notes that it does not accept the contention of the Defence that messages between Liberian radio operators and the RUF operators could not have been relayed simply because they did not possess each others' codes, having concluded that the RUF and NPFL radio networks were accessible by operators from outside their respective networks.<sup>8113</sup> In any case, DCT-008 also testified that in November or December 1998, Memunatu Deen, an RUF radio operator, began operating out of Base 1,<sup>8114</sup> and that around December 1998 or January 1999, she gave the RUF codes to Sunlight so that he could take down messages while she was away.<sup>8115</sup> Hence, it is clear

<sup>8108</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16144; Transcript 12 September 2008, p. 16134; Transcript 15 September 2008, p. 16170.

<sup>8109</sup> Operational Support: Communications, Use of Liberia Communications by the RUF.

<sup>8110</sup> TF1-371, Transcript 28 January 2008, pp. 2381-2382 (CS) (Memunata Deen was assigned to work at the RUF radio station based in Monrovia in late 1998 and early 1999); Mohamed Kabbah, Transcript 12 September 2008, pp. 16134-16135. (Memu Deen, Tolo's wife was in Monrovia working as a radio operator at Cissé Musa's house when Bockarie was stationed in Buedu). Note that although DCT-008 first testified that Memunatu would use the radio at Base One in Liberia every day in November or late December 1998, and she continued to do so in 1999 (DCT-008, Transcript 27 August 2010, pp. 47400, 47407-411, Transcript 30 August 2010, pp. 47403-47404) later in his testimony he stated that there was no radio contact between the RUF and Deen in Liberia in early January 1999 because Memunatu was in Sierra Leone (DCT-008, Transcript 27 August 2010, p. 47420).

DCT-008, Transcript 27 August 2010, pp. 47400-47408; Transcript 30 August 2010, pp. 47403-47404.

<sup>8111</sup> Defence Final Trial Brief, para. 1281; TF1-516, Transcript 16 April 2008, pp. 7778-7779.

<sup>8112</sup> DCT-008, Transcript 28 August 2010, pp. 47595-47596.

<sup>8113</sup> Operational Support: Communications, RUF and NPFL Radio Codes and Communications.

<sup>8114</sup> DCT-008, Transcript 27 August 2010, pp. 47400-47408; Transcript 30 August 2010, pp. 47403-47404.

<sup>8115</sup> Witness DCT-008, Transcript 27 August 2010, p. 47406.

that at least by the time of the Freetown invasion the Liberian operators were in possession of the relevant RUF codes. DCT-008 also testified that Yeaten was afraid of being heard on the radio, so he would not have spoken on the VHF radio, but rather only over the satellite phone.<sup>8116</sup> However, TF1-516 testified that generally, discussions between Yeaten and Bockarie did occur via satellite phone, after which Bockarie would issue instructions over the radio.<sup>8117</sup>

3561. In relation to the second alleged inconsistency, the Trial Chamber considers that the Defence has mischaracterised TF1-516's evidence. In cross-examination, the witness confirmed that he had said in a prior statement to the Prosecution that he "was not aware of any directives by Charles Taylor or Benjamin Yeaten regarding the Freetown invasion of January 1999". However, TF1-516 explained that he was referring strictly to radio communications, and emphasised that he had also noted in the prior statement that discussions concerning military strategy were conducted via satellite phone, after which Bockarie would issue instructions over the radio.<sup>8118</sup> In light of the witness's explanation, the Trial Chamber is not satisfied that the prior statement referred to by the Defence is inconsistent with TF1-516's testimony.

3562. Reviewing the reliability of the evidence concerning communications between Bockarie and the Accused or Yeaten during the Kono and Freetown operations, the Trial Chamber takes into account that much of the evidence adduced was from radio operators in Buedu during the relevant time period, and that the witnesses were careful to substantiate the basis on which they believed such communications took place. These radio operators were either monitoring or facilitating such radio communications with Liberia,<sup>8119</sup> present in the radio room when such communications occurred,<sup>8120</sup> or present when Bockarie spoke on the satellite phone with Yeaten or the Accused.<sup>8121</sup>

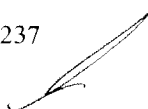
<sup>8116</sup> DCT-008, Transcript 28 August 2010, pp. 47595-47596.

<sup>8117</sup> TF1-516, Transcript 16 April 2008, pp. 7778-7779.

<sup>8118</sup> TF1-516, Transcript 16 April 2008, pp. 7778-7779.

<sup>8119</sup> TF1-516, Transcript 9 April 2008, p. 6979 (During the Freetown invasion, the witness himself called "Base 1" several times on Bockarie's behalf); Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21562-21563 (On 6 January 1999, the witness was in Buedu monitoring the radio constantly); Mohamed Kabbah, Transcript 15 September, pp. 16168-16169 (one morning after Gullit's troops entered Freetown, Benjamin Yeaten contacted Sam Bockarie over the radio from Foya. The witness and other operators in Buedu were monitoring the VHF radio and heard this conversation as it was quite loud).

<sup>8120</sup> TF1-567, Transcript 2 July 2008, p. 12918 (The witness was in the radio room when radio operators in Buedu passed on updates to Yeaten's radio operator, Sunlight); TF1-585, Transcript 8 September 2008, pp.




3563. The Accused contended that Kabbah's testimony that conversations on the satellite phone between the Accused and Bockarie were conducted openly<sup>8122</sup> contradicts the evidence of other Prosecution witnesses that whenever Sam Bockarie received a call on his satellite phone, he moved away and spoke secretly.<sup>8123</sup> The Trial Chamber notes that the Accused did not specify with which witnesses he was contrasting Kabbah's testimony and the evidence clearly establishes that there was no particular secrecy surrounding Bockarie's satellite phone conversations with Yeaten at this time. TF1-585 testified that the satellite phone in Buedu was located on an open veranda and conversations were easily overheard.<sup>8124</sup> TF1-516,<sup>8125</sup> Abu Keita<sup>8126</sup> and Dauda Aruna Fornie<sup>8127</sup> also heard Bockarie speak to Yeaten via satellite phone. Apart from Keita's evidence that these conversations would take place at night, none of these witnesses testified that there were any secrecy measures in place concerning the satellite phone communication.

3564. The Accused stated that neither he nor any official in the Liberian Government was in contact with Bockarie via satellite phone during the Freetown invasion.<sup>8128</sup> There are inconsistencies in the Accused's testimony which cast doubt on his denial that he was communicating with Bockarie directly or through Yeaten. First his insistence that no official in the Liberian Government would have been in contact with Bockarie during the Freetown invasion because they would have no reason to be<sup>8129</sup> is undermined somewhat by his later acknowledgement that in January 1999, there was communication between the government of Liberia and Bockarie in order to negotiate the cease-fire for which the Liberian

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15720-15721(the witness heard the radio operator on duty receive a call from Benjamin Yeaten's operator Sunlight, asking them to find Bockarie so that he could speak with Yeaten).

<sup>8121</sup> TF1-516, Transcript 8 April 2008, pp. 6942-6943 (TF1-516 testified that he overheard satellite phone conversations between Bockarie and Taylor during the invasion of Freetown); Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21609-21610 (The witness would often be in the radio room with Bockarie during satellite conversations with Yeaten); Mohamed Kabbah, Transcript 15 September 2008, p. 16178 (The witness heard Bockarie speak to the Accused on the satellite phone); TF1-585, Transcript 8 September 2008, pp. 15722-15724 (When Yeaten wished to speak to Bockarie, Bockarie went directly to the veranda where the satellite phone was located and spoke on the phone).

<sup>8122</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16173, 16175.

<sup>8123</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29106-29108.

<sup>8124</sup> TF1-585, Transcript 8 September 2008, pp. 15722-15724.

<sup>8125</sup> TF1-516, Transcript 8 April 2008, pp. 6942-6943.

<sup>8126</sup> Abu Keita, Transcript 23 January 2008, pp. 2020-2022.

<sup>8127</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21609-21610.

<sup>8128</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29395-29396.

<sup>8129</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29395-29396.

government took credit.<sup>8130</sup> Further, when asked about communications between Yeaten and Bockarie through Sunlight, the Accused stated that he was not aware of such communications, but importantly, acknowledged the possibility that Yeaten, as the coordinator of security, would have reason to contact Bockarie by radio.<sup>8131</sup> In light of these inconsistencies, and against the weight of the Prosecution evidence, the Trial Chamber does not find the Accused's denial that he was communicating with Bockarie directly or through Yeaten during the Kono or Freetown operations credible. The Trial Chamber is satisfied that in December 1998 and January 1999, Bockarie was in frequent contact via radio or satellite phone with the Accused, either directly or through Yeaten, in relation to the progress of the Kono and Freetown operations.

3565. The Prosecution also contends that Bockarie continued to update the Accused on the Sierra Leone situation and take instructions from the Accused after the withdrawal from Freetown. In support, the Prosecution refers to Exhibit P-261,<sup>8132</sup> an audio clip of an RUF radio conversation which Dauda Aruna Fornie testified that he recorded around February to March 1999.<sup>8133</sup> Fornie identified on the recording the voices of Foday Sankoh, Sam Bockarie, Isaac Mongor and Sunlight, Benjamin Yeaten's radio operator and the language in which they were speaking as Liberian English.<sup>8134</sup> The Defence adduced evidence from DCT-008 challenging the authenticity of this Exhibit. In particular, DCT-008 testified that he did not recognise any of the voices on Exhibit P-261 and disagreed that the second voice on the recording, which stated "35 Bravo, come in. Come in, 35 Bravo", was the voice of Sunlight, as Fornie had testified.<sup>8135</sup> DCT-008 also stated that Sunlight never used "35B" or "35 Bravo" as the call sign for Buedu, and that although he had heard from previous

<sup>8130</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29096-29097; Transcript 27 October 2009, pp. 30452-30453.

<sup>8131</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28738 ("The second thing factually is that I would not dispute the fact that the operator of Benjamin - because of Benjamin coordinating the security, it would not be out of reason for his operator to call Sam Bockarie, okay? [...] So I wouldn't have the details, and so I don't have a quarrel with the fact that maybe there's communication").

<sup>8132</sup> Exhibit P-261, "Audio File - Clip One (P-261). RUF radio conversation recorded by TF1-274 after the invasion of Freetown on 6 January 1999. Identifies voices of Foday Sankoh, Sam Bockarie, Sunlight and Isaac Mongor".

<sup>8133</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21500 ("Q: Do you recall approximately when this recording occurred? Fornie: It was around ... February to March 1999. That was after the Freetown invasion on January 6 by the RUF").

<sup>8134</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21505.

<sup>8135</sup> DCT-008, Transcript 2 September 2010, pp. 47799-47801.





operators that the RUF code during 1991 to 1992 was “35 Bravo”,<sup>8136</sup> from the time when Base 1 was established, until late 1999, the call sign for Buedu was either “Planet 1” or “Bravo Zulu 4”.<sup>8137</sup>

3566. The Trial Chamber recalls its previous finding that Dauda Aruna Fornie is a generally reliable witness, and that the evidence of DCT-008 must be treated with caution.<sup>8138</sup> The Trial Chamber observes that the evidence of DCT-008 as to Exhibit P-261 should be treated with particular caution, noting that he had earlier testified to an incident in September 1998, in which, at the instruction of Daniel Tamba (a.k.a. Jungle),<sup>8139</sup> Sunlight had used the RUF frequency, “RUF 35B” to contact the RUF in Buedu,<sup>8140</sup> directly contradicting his evidence that “35B” or “35 Bravo” was no longer the call sign for Buedu.

3567. On the basis of Exhibit P-261 and the supporting evidence of Dauda Aruna Fornie, the Trial Chamber is satisfied that around February to March 1999, after the withdrawal of AFRC troops from Freetown, there was contact between the RUF radio stations and Yeaten’s radio operator. However, it notes that the content of the recording, as described by Dauda Aruna Fornie and corroborated by DCT-008, suggests no substantive discussion between the parties to the conversation concerning the situation in Sierra Leone. As such, the Trial Chamber is not satisfied that Exhibit P-261 indicates Bockarie was updating the Accused on the Sierra Leone situation or taking instructions from the Accused at this time.

b. Visits by Benjamin Yeaten to Buedu in December 1998 and January 1999

3568. The Trial Chamber heard evidence from two witnesses concerning visits by Benjamin Yeaten to Bockarie’s headquarters in Buedu in December 1998 and January 1999 immediately prior to and during the Kono and Freetown operations. Dauda Aruna Fornie testified that, prior to the December 1998 attack on Kono,<sup>8141</sup> he saw Bockarie having a discussion with Benjamin Yeaten (a.k.a. Five-Zero) one evening at Bockarie’s house, but

<sup>8136</sup> DCT-008, Transcript 2 September 2010, pp. 47799-47800.

<sup>8137</sup> DCT-008, Transcript 2 September 2010, pp. 47799-47800.

<sup>8138</sup> Credibility Assessment, DCT-008, paras 373-380; Credibility Assessment, Dauda Aruna Fornie, paras 346-358.

<sup>8139</sup> Witness DCT-008, Transcript 24 August 2010, pp. 47034-47037, 47042-47043.

<sup>8140</sup> Witness DCT-008, Transcript 24 August 2010, pp. 47042; Transcript 27 August 2010 p. 47375-47376.

<sup>8141</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21560.

did not know what the two men discussed.<sup>8142</sup> TF1-585 also testified that two days after Bockarie used his satellite phone to inform the BBC that his troops would be in Freetown, Yeaten came to Buedu, and Bockarie instructed her to prepare food for the visitor.<sup>8143</sup>

3569. The Defence contends that despite Fornie's insistence that there were other people who witnessed this meeting, no other witness corroborates his account. The Defence also points to evidence that Bockarie made a trip to Liberia to see Yeaten during this time, not the other way around, and that TF1-585 "claimed that Yeaten's first trip to Buedu was after the troops had entered Freetown".<sup>8144</sup>

3570. The Trial Chamber considers both contentions to be without merit. First, it does not consider the evidence that Bockarie made a trip to Liberia to see Yeaten during the Kono-Freetown operation to preclude the possibility of Yeaten also visiting Buedu, and notes that in any case, the evidence was that Bockarie's visits to Monrovia took place during January 1999, while Fornie's evidence concerns a visit in December 1998.

3571. Second, the Trial Chamber notes that the Defence has mischaracterised TF1-585's evidence. She did not claim that Yeaten's first trip to Buedu was after the AFRC troops had entered Freetown. Rather, she testified that the visit in January 1999 was the first time that she herself saw Yeaten in Buedu.<sup>8145</sup> Given that the visit Fornie described took place late at night<sup>8146</sup> and lasted only for about an hour before Yeaten returned to Liberia,<sup>8147</sup> it is not improbable that TF1-585 would not have witnessed it.

3572. The Trial Chamber recalls that it has found TF1-585 and Dauda Aruna Fornie to be generally credible witnesses<sup>8148</sup> and has no reason to doubt their testimony in relation to these incidents. The Trial Chamber also considers that the testimony of Varmuyan Sherif that before 6 January 1999,<sup>8149</sup> he saw Bockarie and Yeaten together in Foya<sup>8150</sup>

<sup>8142</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21558-21561.

<sup>8143</sup> TF1-585, Transcript 8 September 2008, pp. 15722-15724.

<sup>8144</sup> Defence Final Trial Brief, para. 899.

<sup>8145</sup> TF1-585, Transcript 8 September 2008, p. 15723.

<sup>8146</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21557 (the meeting took place around 10.00pm to 11.00pm).

<sup>8147</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21561.

<sup>8148</sup> Credibility Assessment, TF1-585, paras 330-333; Credibility Assessment, Dauda Aruna Fornie, paras 346-358.

<sup>8149</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 865.

<sup>8150</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 864-865.

corroborates the evidence of TF1-585 and Fornie that Yeaten and Bockarie met during the Kono-Freetown operations. On the evidence of TF1-585 and Dauda Aruna Fornie, the Trial Chamber is satisfied that Bockarie and Benjamin Yeaten met at least twice in December 1998 and January 1999.

c. Trips by Bockarie and his subordinates to Monrovia during the Freetown invasion

3573. The Prosecution also alleges that Bockarie took trips to Monrovia during the Freetown operation, relying on the evidence of Abu Keita. Keita testified that during the Freetown invasion,<sup>8151</sup> Bockarie travelled to Liberia. The first time, the witness accompanied Bockarie to Foya where a helicopter came to fetch Bockarie<sup>8152</sup> and the witness met Bockarie on his return at Foya in a new ash-coloured Toyota Land Cruiser pick-up from the Accused loaded with clothing, medicine and bandages.<sup>8153</sup> Keita also saw Bockarie depart on another trip to Monrovia from Foya via helicopter, on which Bockarie carried a seriously wounded soldier,<sup>8154</sup> although it is not clear from Keita's evidence whether this also took place during the Freetown invasion. On Keita's evidence, when Bockarie returned from Liberia on the trip during the Freetown invasion, he told the witness that he had brought back a message from the Accused that the RUF should maintain its controlled areas.<sup>8155</sup>

3574. The Trial Chamber recalls its finding that Abu Keita is a generally reliable witness.<sup>8156</sup> The Prosecution cites TF1-516's account of Bockarie flying to Monrovia from Foya in a helicopter to see the Accused during the Freetown invasion in support of Keita's account.<sup>8157</sup> However, the Trial Chamber notes that TF1-516 admitted on cross-examination that he had made a mistake and that the incident he described had not taken place during the Freetown invasion, but instead, long after the Freetown operation.<sup>8158</sup> The Trial Chamber

<sup>8151</sup> Abu Keita, Transcript 23 January 2008, p. 2020 ("Q. Sir, where were you when the attack on Freetown happened? A. When the attack on Freetown happened I was in Buedu. Q. Where was Sam Bockarie? A. Sam Bockarie was in Buedu. That was the time I told you that he came with these jean trousers and T-shirts and the car").

<sup>8152</sup> Abu Keita, Transcript 23 January 2008, p. 2011.

<sup>8153</sup> Abu Keita, Transcript 23 January 2008, pp. 2011-2013, 2023-2024.

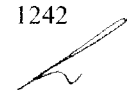
<sup>8154</sup> Abu Keita, Transcript 23 January 2008, pp. 2023-2024.

<sup>8155</sup> Abu Keita, Transcript 23 January 2008, pp. 2023-2024.

<sup>8156</sup> Credibility Assessment, Abu Keita, paras 213-219.

<sup>8157</sup> TF1-516, Transcript 8 April 2008, pp. 6945-6946, 6962-6965; Transcript 9 April 2008, pp. 6980-6981.

<sup>8158</sup> TF1-516, Transcript 16 April 2008, pp. 7820-7821.







does not therefore consider that TF1-516's evidence corroborates Keita's evidence concerning trips by Bockarie to Monrovia during January 1999.<sup>8159</sup> The Trial Chamber also notes that Varmuyan Sherif's evidence that before 6 January 1999,<sup>8160</sup> he saw Bockarie and Benjamin Yeaten together in Foya supports to some extent Keita's evidence, but only partially, indicating that Bockarie did travel to Foya.<sup>8161</sup>

3575. However, two other Prosecution witnesses suggest that Bockarie was unable to travel to Monrovia during the Kono and Freetown operations. TF1-371 testified that when Christopher Varmoh (a.k.a. Liberian Mosquito) and Dopoe Menkarzon came to Buedu during the December 1998 attacks to discuss Bockarie travelling to Monrovia to see the Accused, Bockarie did *not* go because he was "waiting for the success of the operation, especially the Freetown invasion".<sup>8162</sup> Similarly, Dauda Aruna Fornie testified that Bockarie was too busy co-ordinating the front lines to travel to Monrovia to pick up materiel after Gullit entered Freetown on 6 January 1999 and he sent Fornie and two others instead.<sup>8163</sup>

3576. The Trial Chamber notes the evidence of TF1-371 that after the AFRC and RUF forces retreated from Freetown, in January 1999, Bockarie did travel to Monrovia for a week to meet the Accused, who promoted Bockarie to a "two-star" lieutenant general.<sup>8164</sup> It has assessed TF1-371's evidence concerning the promotion in a separate section of the Judgement.<sup>8165</sup> However, it is apparent from TF1-371's evidence that this took place after the Freetown operation had concluded, after the AFRC and RUF forces retreated from Freetown,<sup>8166</sup> in contrast to the evidence of Keita that Bockarie travelled to Monrovia around the time of the Freetown attack.<sup>8167</sup> TF1-371's evidence that Bockarie was in Monrovia for a week<sup>8168</sup> would also suggest that he is referring to a different trip to that discussed by Abu

<sup>8159</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockarie's Leadership (February 1998-December 1999).

<sup>8160</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 865.

<sup>8161</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 864-865.

<sup>8162</sup> TF1-371, Transcript 28 January 2008, pp. 2423-2425 (CS).

<sup>8163</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21522, 21594-21595.

<sup>8164</sup> TF1-371, Transcript 28 January 2008, pp. 2429-2430 (CS).

<sup>8165</sup> Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Sam Bockarie.

<sup>8166</sup> TF1-371, Transcript 28 January 2008, pp. 2429-2430 (CS).

<sup>8167</sup> Abu Keita, Transcript 23 January 2008, p. 2020 (Q. Sir, where were you when the attack on Freetown happened? A. When the attack on Freetown happened I was in Buedu. Q. Where was Sam Bockarie? A. Sam Bockarie was in Buedu. That was the time I told you that he came with these jean trousers and T-shirts and the car).

<sup>8168</sup> TF1-371, Transcript 28 January 2008, pp. 2429-2430 (CS).

Keita, who told the Trial Chamber that Bockarie was gone from Buedu for only a day. TF1-371 also does not refer to Bockarie bringing back, as Keita testified, either a vehicle containing jeans, t-shirts, medicine and bandages or carrying with him to Monrovia a seriously wounded soldier.<sup>8169</sup> According to TF1-371, Bockarie returned with two sets of the SS uniform used by the Accused's securities.<sup>8170</sup> TF1-371 also does not refer to any instruction by the Accused that the RUF should maintain its controlled areas. For these reasons, the Trial Chamber is of the view that the trip described by TF1-371 to Monrovia is not the same trip described by Keita and that the trip described by TF1-371 took place later than that referred to by Keita.

3577. The Trial Chamber recalls its finding that both TF1-371 and Dauda Aruna Fornie are generally reliable witnesses,<sup>8171</sup> and considers that their evidence supports the conclusion that during the Kono and Freetown operations, Bockarie was too occupied with the military front to travel to Monrovia. The Trial Chamber notes that it has previously considered and accepted the Prosecution allegation that Dauda Aruna Fornie travelled to Monrovia during the Freetown invasion to obtain materiel.<sup>8172</sup>

3578. In light of the lack of corroborative evidence, and the testimonies of TF1-371 and Dauda Aruna Fornie, the Trial Chamber does not accept Abu Keita's evidence that Bockarie travelled to Liberia during the Freetown operation to take instruction from the Accused.

(ii) Contact between Bockarie and Daniel Tamba, Joseph Marzah and Sampson Weah during the operation

3579. The Prosecution also contends that during the December 1998 offensives, Joseph Marzah, Sampson Weah and Daniel Tamba (a.k.a. Jungle) met with Bockarie in Buedu and reported back to Yeaten.<sup>8173</sup> The Prosecution relies primarily on the evidence of witness TF1-371. The Trial Chamber notes that TF1-371 did testify that Marzah, Weah and Tamba,

<sup>8169</sup> Abu Keita, Transcript 23 January 2008, pp. 2011-2013.

<sup>8170</sup> TF1-371, Transcript 28 January 2008, pp. 2430-2431 (CS).

<sup>8171</sup> Credibility Assessment, TF1-371, paras 220-226; Credibility Assessment, Dauda Aruna Fornie, paras 346-358.

<sup>8172</sup> See Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockarie's Leadership (February 1998-December 1999).

<sup>8173</sup> Prosecution Final Trial Brief, para. 175.

along with other subordinates of the Accused, Christopher Varmoh and Dopoe Menkarzon, were frequent visitors to Buedu and Bockarie often briefed them on operation plans.<sup>8174</sup>

3580. However, the Trial Chamber notes that TF1-371 did not himself say that these persons passed the briefings given by Bockarie to Yeaten. Furthermore, according to TF1-371, as the Defence pointed out,<sup>8175</sup> these individuals travelled to Buedu for a number of different reasons. For example, TF1-371 recalled that on one occasion Marzah received looted materials, including generators and TV sets, to take back to Monrovia, while on another Varmoh and Menkarzon came to discuss the organisation of an RUF fighting force to give support to the Liberian Anti-Terrorist Unit (ATU) under attack in Lofa County by LURD rebels.<sup>8176</sup> While the Trial Chamber considers that it is likely that these individuals did report back to the Accused on briefings they received from Bockarie, the Prosecution has adduced no evidence to establish a basis for a finding that this did in fact occur.

(iii) Specific directions from the Accused

a. To release the captured ECOMOG soldiers

3581. Turning to specific directions alleged to have been given by the Accused to Bockarie, the Prosecution alleges that the Accused ordered Bockarie to release ECOMOG soldiers captured in the attacks on Koidu Town in December 1998.<sup>8177</sup> It is not contested that 11 or 12 Nigerian ECOMOG soldiers were captured by the RUF after this attack, and detained in Buedu<sup>8178</sup> or that they were eventually released.<sup>8179</sup> However, the Defence contests the allegation that the peacekeepers were released pursuant to the Accused's 'orders'.<sup>8180</sup>

3582. In support of its allegation, the Prosecution relies primarily on the evidence of Abu Keita, who testified that after a meeting between Benjamin Yeaten and Bockarie at Dawa, Yeaten informed Bockarie that the Accused wanted the ECOMOG soldiers released to him

<sup>8174</sup> TF1-371, Transcript 28 January 2008, pp. 2423-2425 (CS).

<sup>8175</sup> Defence Final Trial Brief, para. 888.

<sup>8176</sup> TF1-371, Transcript 28 January 2008, pp. 2423-2425 (CS).

<sup>8177</sup> Prosecution Final Trial Brief, para. 171.

<sup>8178</sup> Defence Final Trial Brief, para. 1291; Issa Sesay, Transcript 6 August 2010, pp. 45583- 45585; Abu Keita, Transcript 23 January 2008, pp. 2028-2029; TF1-567, Transcript 2 July 2008, p. 12918.

<sup>8179</sup> Issa Sesay, Transcript 9 July 2010, pp. 44154-44158; Transcript 6 August 2010, p. 45587.

<sup>8180</sup> Defence Final Trial Brief, para. 1291.

in Liberia. After a “couple of days”, Bockarie told the witness that he had a call from Yeaten telling him that the Accused’s request was in fact an order, following which the witness, Marzah, and Sampson drove to Foya in Liberia and handed over the soldiers to Yeaten and Joe Tuah.<sup>8181</sup> While witness TF1-567 also testified that after the capture of Koidu Town in December 1998, RUF radio operators informed Benjamin Yeaten’s radio operator, Sunlight, about the capture of Nigerian soldiers,<sup>8182</sup> he did not state what happened to these soldiers. Keita is the only witness to testify as to instructions from Yeaten concerning their release.

3583. Keita’s evidence is contradicted by Issa Sesay, who contends that there were 12 ECOMOG prisoners captured in the December 1998 offensive, who were held at Buedu until Sankoh ordered Bockarie during the Lomé peace talks to release them as a show of commitment to the peace talks.<sup>8183</sup> In his examination-in-chief, Sesay was questioned about Exhibit P-361, an RUF radio log book recording a message sent by Issa Sesay to Foday Sankoh on 27 July 1999 in response to a previous directive by Sankoh to his commanders to turn all prisoners of war over to ICRC, UNOMSIL or ECOMOG.<sup>8184</sup> The message from Sesay notes the existence of 12 Nigerian “war prisoners” at Sesay’s headquarters ready to be released to the ICRC.<sup>8185</sup> Sesay confirmed in his testimony that this message referred to the release of the 12 ECOMOG prisoners captured during the December 1998 attacks.<sup>8186</sup>

3584. Sesay’s testimony is corroborated by TF1-168 and Fayia Musa, both of whom the Trial Chamber has found to be credible witnesses,<sup>8187</sup> also held prisoner in Buedu during the first half of 1999 and released as part of the Lomé peace talks, who testified that in the same camp where they were held, there were also Nigerian ECOMOG prisoners of war, one of whom was executed in February 1999 after having contracted tuberculosis.<sup>8188</sup> TF1-168 stated that these prisoners were captured from the Kono attack in December 1998.<sup>8189</sup>

<sup>8181</sup> Abu Keita, Transcript 23 January 2008, pp. 2028-2029.

<sup>8182</sup> TF1-567, Transcript 2 July 2008, p. 12918.

<sup>8183</sup> Defence Final Trial Brief, para. 1291.

<sup>8184</sup> Exhibit P-361, “Radio Log Book covering communication for the period - 28/04/1999 - 11/09/1999 - 00008636 - 00008726 (CMS PGS 21955-22046)”, ERN 8667.

<sup>8185</sup> Exhibit P-361, “Radio Log Book covering communication for the period - 28/04/1999 - 11/09/1999 - 00008636 - 00008726 (CMS PGS 21955-22046)”, ERN 8697; Issa Sesay, Transcript 13 July 2010, pp. 44385-44386 (confirming that the message recorded the release of the 12 ECOMOG prisoners).

<sup>8186</sup> Issa Sesay, Transcript 13 July 2010, pp. 44385-44386.

<sup>8187</sup> Credibility Assessment, TF1-168, Pre-Indictment period (1988-1996), para. 2328; Credibility Assessment, Fayia Musa, Pre-Indictment period (1988-1996), para. 2557.

<sup>8188</sup> TF1-168, Transcript 22 January 2009, pp. 23369-23370; Fayia Musa, Transcript 21 April 2010, p. 39510; see

3585. The Trial Chamber is satisfied that the 12 Nigerian ECOMOG soldiers referred to by Sesay, TF1-168 and Fayia Musa are the same Nigerian ECOMOG soldiers referred to by Abu Keita. In light of the fact that Keita's evidence is uncorroborated, and that his testimony is directly contradicted by Prosecution and Defence witnesses, the Trial Chamber does not accept his evidence that, on the Accused's orders, these captured ECOMOG soldiers were released in December 1998 to Liberia.

b. To send prisoners released from Pademba Road Prison to RUF controlled areas

3586. The Prosecution further alleges that around 7 January 1999, the Accused ordered Bockarie, via Yeaten, to send the high profile prisoners released from Pademba Road Prison to RUF-controlled areas at Buedu.<sup>8190</sup> The Defence made no specific submission as to the alleged instruction to release prisoners from Pademba Road Prison.

3587. Prosecution and Defence witnesses agree that shortly after their entry into Freetown, the troops led by Alex Tamba Brima (a.k.a. Gullit) released a number of political detainees from Pademba Road Prison, including, among others, the former President of Sierra Leone Joseph Momoh.<sup>8191</sup> All the witnesses, except Perry Kamara,<sup>8192</sup> agreed that on Bockarie's directive, the released prisoners were sent to Buedu. Three of the five Prosecution witnesses who testified as to this event, Kabbah,<sup>8193</sup> Perry Kamara,<sup>8194</sup> TF1-585,<sup>8195</sup> did not mention any instruction by Benjamin Yeaten or the Accused relevant to the Pademba Road prisoners. Issa Sesay specifically denied any involvement by Yeaten or the Accused in the invasion of Freetown on the 6 January 1999.<sup>8196</sup>

also Exhibit P-277, Confidential, p. 65, ERN 15895.

<sup>8189</sup> TF1-168, Transcript 22 January 2009, pp. 23369-23370.

<sup>8190</sup> Prosecution Final Trial Brief, paras 172, 556.

<sup>8191</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21581, 21588; TF1-516, Transcript 8 April 2008, pp. 6932-6933; Mohamed Kabbah, Transcript 15 September 2008, pp. 16171, 16179; TF1-585, Transcript 8 September 2008, pp. 15730-15731; Perry Kamara, Transcript 6 February 2008, p. 3226; Issa Sesay, Transcript 11 August 2010, pp. 45974-45976.

<sup>8192</sup> Perry Kamara, Transcript 6 February 2008, p. 3226 (The witness recalled that pursuant to Bockarie's orders, Gullit took the released prisoners directly to Makeni. Only in relation to one of the prisoners, Hilton Fyle, did Sam Bockarie request to be taken to Buedu).

<sup>8193</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16171, 16179.

<sup>8194</sup> Perry Kamara, Transcript 6 February 2008, pp. 3229-3230.

<sup>8195</sup> TF1-585, Transcript 8 September 2008, pp. 15730-15731.

<sup>8196</sup> Issa Sesay, Transcript 11 August 2010, pp. 46078-46079; Transcript 12 August 2010, pp. 46106-46107.

3588. However, Dauda Aruna Fornie testified that less than an hour after Bockarie received the news from Brima concerning the release of the prisoners, he called Benjamin Yeaten on the satellite phone<sup>8197</sup> and Yeaten told Bockarie that the Accused wanted him to ensure that the prisoners released were transferred to Buedu for their protection.<sup>8198</sup> Fornie testified that he was present when Bockarie spoke on the satellite phone to Yeaten to inform him of the release of the prisoners,<sup>8199</sup> that he knew Bockarie was speaking to Yeaten because Bockarie asked the person on the line to confirm that it was “Five-Zero”, and that when the conversation ended, he heard Bockarie telling Mohamed Kabbah that he had received instructions from the Accused through Yeaten.<sup>8200</sup> TF1-516 testified that after Benjamin Yeaten’s radio operator, Sunlight, intercepted Bockarie’s radio communication to Brima about the release of prisoners from Pademba Road Prison in Freetown, Yeaten contacted Bockarie by radio to congratulate him on the release of the prisoners.<sup>8201</sup> While TF1-516 did not specifically state that Yeaten gave Bockarie any directive concerning the Pademba Road prisoners, he later testified that the instruction that Bockarie gave to Brima to send the prisoners released from Pademba Road Prison to Buedu was made *following* a conversation with Yeaten’s radio station “Base 1”.<sup>8202</sup> TF1-516 stated that he monitored the conversation between Bockarie and Brima on the radio, but it is unclear from his evidence whether he also heard the conversation with Base 1.<sup>8203</sup>

3589. The Trial Chamber recalls its finding that TF1-516 and Dauda Aruna Fornie are generally credible witnesses.<sup>8204</sup> However, it notes that their accounts differ slightly. TF1-516 stated that the conversation preceding the instruction to send the Pademba Road prisoners to Buedu was made with Yeaten’s radio station “Base 1”,<sup>8205</sup> while according to Fornie, Bockarie spoke to Yeaten via satellite phone.<sup>8206</sup> The Trial Chamber considers such

<sup>8197</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21581-21582.

<sup>8198</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21586-21587.

<sup>8199</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21583-21585.

<sup>8200</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21587 (“And when Mosquito finished he told the operator directly that he had instructions from Benjamin from above, that is Charles Taylor through Benjamin, that Benjamin had told him that the Pa had said that they should make sure that those people who had been released from Pademba Road should come to Buedu”).

<sup>8201</sup> TF1-516, Transcript 8 April 2008, pp. 6938-6939.

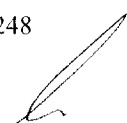
<sup>8202</sup> TF1-516, Transcript 9 April 2008, pp. 6977-6978.

<sup>8203</sup> TF1-516, Transcript 9 April 2008, p. 6978.

<sup>8204</sup> Credibility Assessment, TF1-516, paras 275-284 Credibility Assessment, Dauda Aruna Fornie, paras 346-358.

<sup>8205</sup> TF1-516, Transcript 9 April 2008, pp. 6977-6978.

<sup>8206</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21583-21585.




a discrepancy to be inconsequential, having regard to the witness's practice of using the Liberian radio call signs, "020" or "Base 1", even when referring to satellite phone conversations.<sup>8207</sup> The Trial Chamber also notes that while Fornie stated that Bockarie instructed Mohamed Kabbah to send a radio message to Gullit to send the released prisoners to the rear for their safety,<sup>8208</sup> Mohamed Kabbah himself did not attest to having personally received this instruction, or being told by Bockarie that it came from Yeaten or the Accused. However, having testified prior to Fornie, Kabbah was not questioned further on his testimony concerning the release of the Pademba Road prisoners. The Trial Chamber considers that the failure to mention such an instruction is explicable by the passage of time and does not undermine Fornie's evidence.

3590. DCT-008 testified that, to his knowledge, Sunlight never intercepted a message between Gullit and Bockarie about the release of prisoners from Pademba Road, although he acknowledged that Base 1 did intercept messages within the RUF net at a later period between Bockarie and Sankoh.<sup>8209</sup> The Trial Chamber recalls its finding that the evidence of DCT-008 must be treated with caution.<sup>8210</sup>

3591. On the evidence of Dauda Aruna Fornie, as corroborated by TF1-516, which the Trial Chamber considers to be credible, the Trial Chamber is satisfied that the Accused passed on instructions Bockarie to transfer the Pademba Road prisoners to Buedu.

c. In relation to military strategy/sending reinforcements

3592. The Prosecution alleges that immediately after the retreat from Freetown and after speaking to the Accused's radio operator, Bockarie issued a command to AFRC/RUF troops near Freetown to set ambushes and set specific attacks.<sup>8211</sup> The Prosecution relies primarily on the evidence of TF1-516. TF1-516 testified that there were communications between Bockarie and the Accused during the invasion of Freetown, after which Bockarie would

<sup>8207</sup> TF1-516, Transcript 8 April 2008, p. 6921 ("Q. When they say go on the 21 what do they mean? A. That is to put the telephone on, go to the telephone. Q. Which telephone? A. The satellite telephone which Sam Bockarie had. Q. And when he switched on the satellite phone who would he be communicating with? A. Sometimes from Base 1 the principal of Base 1 was Benjamin Yeaten and the principal of 020 was the president").

<sup>8208</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21586-21588.

<sup>8209</sup> DCT-008, Transcript 28 August 2010, pp. 47595-47596.

<sup>8210</sup> Credibility Assessment, DCT-008, paras 373-380.

<sup>8211</sup> Prosecution Final Trial Brief, para. 172.





come to the radio station and draft instructions for the commanders regarding military manoeuvres and instruct Alex Tamba Brima in Freetown to set ambushes and go on attacks.<sup>8212</sup>

3593. However, the Trial Chamber notes that while TF1-516 testified that Bockarie would instruct his commanders after communicating with the Accused via satellite phone, TF1-516 did not directly assert that Bockarie received any instructions from the Accused.<sup>8213</sup> While TF1-516 testified that he was in close physical proximity to Bockarie when he undertook these satellite communications,<sup>8214</sup> the witness did not give evidence as to the content of those conversations.<sup>8215</sup>

3594. In response to the Prosecution's allegation, the Defence points to<sup>8216</sup> evidence from Mohamed Kabbah that he did not recall hearing any orders or instructions from the Accused or his subordinates regarding the Freetown invasion<sup>8217</sup> and, importantly, that Yeaten never gave Bockarie advice or instructions on military strategy.<sup>8218</sup>

3595. The Trial Chamber notes that on cross-examination, Kabbah acknowledged having stated in a prior statement that Yeaten never gave Bockarie "advice or instructions" on military strategy.<sup>8219</sup> However, Kabbah also testified that on one occasion, when Benjamin Yeaten contacted Sam Bockarie over the radio from Foya during the period when ECOMOG were putting increasing pressure on the troops in Freetown,<sup>8220</sup> Kabbah stated that Yeaten told Bockarie to reinforce the troops in Freetown so that they would not lose the city.<sup>8221</sup> When asked about how this evidence coheres with his prior statement that Yeaten never gave Bockarie "advice or instructions" on military strategy, Kabbah explained that he did not consider that Yeaten telling Bockarie that he should send reinforcements to be an

<sup>8212</sup> TF1-516, Transcript 8 April 2008, pp. 6942-6943.

<sup>8213</sup> TF1-516, Transcript 8 April 2008, pp. 6942-6943.

<sup>8214</sup> TF1-516, Transcript 8 April 2008, p. 6943 ("Q. Were you present when the satellite communication was going on, or - A. We were in the vehicle and sometimes by the vehicle, if I was not on duty and we heard the satellite phone just in the room and we had the vehicle parked, let us say, by the window").

<sup>8215</sup> TF1-516, Transcript 8 April 2008, pp. 6942-6943.

<sup>8216</sup> Defence Final Trial Brief, para. 920.

<sup>8217</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16350-16352.

<sup>8218</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16144; Transcript 15 September 2008, pp. 16173-16175.

<sup>8219</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16144; Transcript 15 September 2008, pp. 16173-16175.

<sup>8220</sup> Mohamed Kabbah, Transcript 15 September, p. 16170.

<sup>8221</sup> Mohamed Kabbah, Transcript 15 September, pp. 16168-16169.



instruction related to military strategy.<sup>8222</sup> Kabbah affirmed that while Yeaten did not give directions relating to military strategy in the sense of whether the RUF should attack particular areas or set a certain ambush, he did occasionally offer suggestions in response to problems that Bockarie informed him about, such as the need for reinforcements.<sup>8223</sup>

3596. The Trial Chamber considers that although Kabbah drew a fine distinction between military and non-military advice, and between advice and instruction, such a distinction is not implausible or unreasonable against the texture of the evidence as to the relationship between Bockarie and Yeaten. Hence, for example, the Trial Chamber agrees with the Accused's suggestion that Bockarie, being an experienced General, would not likely have needed Yeaten's specific advice on the need to send reinforcements to Freetown.<sup>8224</sup> Even on Kabbah's evidence, Bockarie told Yeaten when Yeaten made the comment concerning reinforcements that he had already given instructions to RUF commanders to reinforce the troops in Freetown.<sup>8225</sup> However, that Yeaten offered suggestions and advice in response to problems that Bockarie informed him about,<sup>8226</sup> rather than instructions or directives is consistent with Kabbah's evidence that communication between Bockarie and Benjamin Yeaten during the Freetown invasion reflected a tense relationship in which rank and

<sup>8222</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16351-16352. ("A. I would not accept that is a military strategy, because it was something that had been going on within our rank and file that if there was an operation going on and it was difficult they should send reinforcement. [...] I am not taking it to be a piece of advice that he had been instructing that man to do it. I am not going to accept it like that. It was just a suggestion, sort of").

<sup>8223</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16350-16352 (When asked what he meant when he previously stated that "Yeaten would not give Bockarie any advice or instructions on military strategy", the witness explained "Military strategy which I meant, like when Yeaten would tell Sam Bockarie that they should attack such and such an area or he would tell you to go and set an ambush on a particular area, those are the military strategies I am talking about. When it comes to this area of giving a piece of advice, at times if they discussed if at all anyone complained about anything he would advise him, he would just say that, 'Why wouldn't you do this', just like a suggestion, but it would come in the form of an advice. It is just like a suggestion that he had been giving to him. If anything was going out of hands or if anything had been happening, you would need a piece of advice").

<sup>8224</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29104-29105.

<sup>8225</sup> Mohamed Kabbah, Transcript 15 September, pp. 16168-16169.

<sup>8226</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16350-16352 (When asked what he meant when he previously stated that "Yeaten would not give Bockarie any advice or instructions on military strategy", the witness explained "Military strategy which I meant, like when Yeaten would tell Sam Bockarie that they should attack such and such an area or he would tell you to go and set an ambush on a particular area, those are the military strategies I am talking about. When it comes to this area of giving a piece of advice, at times if they discussed if at all anyone complained about anything he would advise him, he would just say that, "Why wouldn't you do this", just like a suggestion, but it would come in the form of an advice. It is just like a suggestion that he had been giving to him. If anything was going out of hands or if anything had been happening, you would need a piece of advice").

equality between the parties was a sensitive issue.<sup>8227</sup> Hence, while the Trial Chamber is not satisfied that any “suggestions” made by Yeaten pertaining to military strategy were in the nature of instructions or directives, the evidence indicates that Bockarie frequently consulted Yeaten on operational and military decisions. The Trial Chamber considers Fornie’s evidence that sometimes Bockarie “would contact Benjamin to consult him on some decisions before he ever took them” to be corroborative of this view.<sup>8228</sup>

d. To burn down Freetown

3597. The Trial Chamber has also had regard to TF1-516’s evidence that on one occasion when the forces in Freetown were under increasing pressure from ECOMOG attack, he overheard Bockarie speaking to Gullit on the radio specifically instructing Gullit to burn down areas in Freetown, including government buildings, in order to attract the attention of the international community.<sup>8229</sup> According to TF1-516, this order followed a satellite phone conversation with “020” in Liberia.<sup>8230</sup>

3598. The Accused testified that he did not know about or have anything to do with Bockarie’s instructions to Gullit to burn government buildings to raise alarm in the international community.<sup>8231</sup> The Accused testified that he did not condone amputations carried out on civilians in Sierra Leone, emphasising that he had no motive whatsoever to order any kind of atrocities in Freetown.<sup>8232</sup>

3599. The Defence suggests that the violence coinciding with the AFRC retreat from Freetown after the January 6 invasion was attributable to a general breakdown of command and control and the rogue elements within the retreating forces, rather than any specific order.<sup>8233</sup> They cite the evidence of TF1-371 that immediately after the retreat from Freetown in 1999, discipline was not under control for the AFRC faction leaving Freetown, although somewhere along the way the commanders took control of their men.<sup>8234</sup> However,

<sup>8227</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16379.

<sup>8228</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21615.

<sup>8229</sup> TF1-516, Transcript 8 April 2008, pp. 6934-6935.

<sup>8230</sup> TF1-516, Transcript 9 April 2008, p. 6977.

<sup>8231</sup> Charles Ghankay Taylor, Transcript 27 October 2009, pp. 30453-30454.

<sup>8232</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29278-29280

<sup>8233</sup> Defence Final Trial Brief, para. 921.

<sup>8234</sup> TF1-371, Transcript 1 February 2008, pp. 2807-2808.

TF1-371 explicitly noted that the AFRC faction in Freetown “managed to remain cohesive despite maybe insubordination from other commanders”.<sup>8235</sup>

3600. The Trial Chamber recalls that a number of witnesses testified to a specific directive from Bockarie to Alex Tamba Brima to destroy property in Freetown as Brima retreated. For example, TF1-516 overheard Bockarie speaking to Gullit on the radio specifically instructing Gullit “to burn down the fucking place”.<sup>8236</sup> Therefore the violence coinciding with the AFRC retreat cannot entirely be attributable to rogue elements. However, according to TF1-516’s evidence, Bockarie only made this directive after a conversation with the Accused in Liberia; TF1-516 did not testify that the Accused otherwise had anything to do with the order or even that it was discussed in the conversation. Due to the lack of evidentiary basis, the Trial Chamber is not able to find that the Accused, either directly or through Yeaten, directed or advised Bockarie that the troops in Freetown should destroy property in Freetown as they retreated after the 6 January 1999 invasion.

e. In relation to the ceasefire announced in mid-January 1999

3601. Finally, the Prosecution cites the Accused’s evidence that he and his government successfully secured a ceasefire between the RUF and the Government of Sierra Leone in mid-January 1999<sup>8237</sup> as evidence of the Accused’s “control” over the Freetown operation.<sup>8238</sup> However, neither the Accused nor any other witness suggest that the Liberian government’s role in securing a cease-fire reflected any control of or involvement by the Accused in the Freetown operation, or that it was indicative of any superior-subordinate

<sup>8235</sup> TF1-371, Transcript 1 February 2008, p. 2808 (“A. I mean the faction, the faction they had, they had their own commanders and they managed to remain cohesive despite maybe insubordination from other commanders, so somewhere along the way they took control of their men. Q. Somewhere along the way? A. Yes. Q. But there was a period when it was out of control? A. Yes, immediately after”).

<sup>8236</sup> TF1-516, Transcript 8 April 2008, pp. 6934-6935; Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21590-21593. (After ECOMOG had forced Gullit’s troops to commence their retreat from Freetown, Fornie monitored a live conversation in which Bockarie gave Gullit instructions to pass onto the RUF/AFRC troops in Freetown to “cause a lot of mayhem in the city”, including destroying government buildings and amputating civilians, in order to draw attention and force the international community to intervene); Mohamed Kabbah, Transcript 15 September 2008, p. 16171 (Bockarie told Gullit that as the troops retreated they should “make the area fearful”. The retreating troops were to destroy everything so that anyone passing in the area after the rebel troops would know they had been there); TF1-585, Transcript 8 September 2008, pp. 15725-15727 (Gullit informed Bockarie over the radio that they were being pushed out of Freetown by ECOMOG. Bockarie ordered Gullit to leave Freetown and kill many people and burn down many houses along the way).

<sup>8237</sup> Charles Ghankay Taylor, Transcript 10 August 2009, pp. 26270-26272; Transcript 11 August 2009, pp. 26433-26436; Transcript 16 September 2009, p. 29048.

<sup>8238</sup> Prosecution Final Trial Brief, para. 173.

relationship between the Accused and the AFRC/RUF. The Accused himself stated that the cease-fire was engineered as part of the ongoing peace talks.<sup>8239</sup> Due to the lack of any evidentiary basis in support, the Trial Chamber considers that the Liberian government's role in securing a cease-fire does not implicate the Accused's involvement in the Freetown operation.

(iv) General evidence that the Accused directed the Freetown operation

3602. The Trial Chamber has also considered the evidence of Varmuyan Sherif that on 6 January 1999, he heard Bockarie over the BBC stating that he would not retreat from Freetown except when his "father", the Accused, told him to,<sup>8240</sup> and the evidence of Joseph Marzah that he personally took part in the Freetown attack and that during the attack the RUF took instructions from Charles Taylor.<sup>8241</sup>

3603. In relation to Sherif's evidence, the Trial Chamber notes that of the BBC broadcasts in December 1998 or January 1999 admitted into the record, none support Sherif's testimony that Bockarie made any reference to the Accused or that he would only stop fighting on the instruction of the Accused.<sup>8242</sup> On the contrary, Exhibit P-350A, a clip from BBC Focus on Africa dated 8 January 1999 indicates that instead, Bockarie said his forces would only stop fighting if Foday Sankoh was freed from prison.<sup>8243</sup> No other witness corroborates Sherif's account of Bockarie making any statement to this effect. In light of the lack of testimonial evidence corroborating Sherif's evidence, the lack of documentary evidence of the BBC broadcast Sherif testified to, and considering the content of the BBC broadcast of 8 January 1999 that is in evidence, the Trial Chamber is not satisfied beyond

<sup>8239</sup> Charles Ghankay Taylor, Transcript 10 August 2009, pp 26270-26272; Transcript 11 August 2009, pp. 26433-26436; Transcript 16 September 2009, p. 29048.

<sup>8240</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 866.

<sup>8241</sup> Joseph Marzah, Transcript 12 March 2008, p. 5952.

<sup>8242</sup> See Exhibit P-340A, "BBC Focus on Africa Clip from track 1 - D0000524, 22 December 1998"; Exhibit P-340B, "Transcript - BBC Focus on Africa Clip from track 1 - D0000524, 22 December 1998 CMS PG 23589"; Exhibit P-430C, "Excerpts from: News article, Sierra Leone Web - Sierra Leone News Archive, December 1998 (pages 5 & 6 of 8)"; Exhibit P-430D, "Excerpts from: News article, Sierra Leone Web - Sierra Leone News Archive, December 1998 (pages 3 & 4 of 8)"; Exhibit P-343A, "BBC Focus on Africa Clip from track 2 - D0000537 27 December 1998"; Exhibit P-343B, "Transcript - BBC Focus on Africa Clip from track 2 - D0000537 27 December 1998 CMS PG 23596"; Exhibit P-430E, "Excerpts from: News article, Sierra Leone Web - Sierra Leone News Archive, December 1998 (page 2 of 8)".

<sup>8243</sup> Exhibit P-350A, "BBC Focus on Africa Clip from track 1 - D0000554, 8 January 1999"; Exhibit P-350B, "Transcript - BBC Focus on Africa Clip from track 1 - D0000554, 8 January 1999 - CMS PG 23611".

reasonable doubt that Bockarie made a statement over the BBC stating that he would not retreat from Freetown except when the Accused told him to.

3604. Concerning Marzah's evidence, the Trial Chamber recalls that Marzah's evidence must be treated with caution and requires corroboration.<sup>8244</sup> Significantly, no other witness places Marzah in Freetown during the January 1999 attack. The Trial Chamber notes that Defence counsel confronted Marzah with a statement that he made to the Prosecution on 13 March 2006, in which he said that he was in Monrovia and medically unable to join the RUF during the Freetown attack of January 1999.<sup>8245</sup> Marzah could not recall the year in which the Freetown attack took place but explained that during the attack, he was injured by a rocket and could not continue, and that he met Johnny Paul Koroma and Eddie Kanneh in Buedu but did not know how he had gotten there.<sup>8246</sup> In light of these inconsistencies, the Trial Chamber is not able to accept Marzah's evidence that he participated in the Freetown attack or his evidence concerning the role of the Accused in that attack.

(v) Conclusion on whether the Accused had control over the Freetown operation

3605. Although the evidence establishes that the Accused and Bockarie, whether directly or via Yeaten, communicated regularly and frequently during December 1998 and January 1999 concerning the operations in Kono and Freetown, it is not clear that the Accused had any level of control over the conduct of these operations. While the evidence indicates that Bockarie consulted Benjamin Yeaten or the Accused from time to time on operational decisions, the tone of these communications was largely in the nature of "suggestions" made by Yeaten rather than instructions and Bockarie spoke to Yeaten as part of a "sisterly or brotherly operation", or a "joint operation".<sup>8247</sup> Even if, as Kabbah testified, Bockarie followed instructions by Yeaten because he assumed such orders came from the Accused,<sup>8248</sup> there is little evidence that such orders were given. Of the instructions that the Prosecution allege that the Accused gave to Bockarie, the Trial Chamber has found that only one has been proved beyond reasonable doubt, that the Accused instructed Bockarie to transfer the Pademba Road prisoners to Buedu for their protection. The Trial Chamber

<sup>8244</sup> Credibility Assessment, Joseph Marzah, paras 263-268..

<sup>8245</sup> Joseph Marzah, Transcript 12 March 2008, p. 5952; Transcript 13 March 2008, pp. 5990-5991.

<sup>8246</sup> Joseph Marzah, Transcript 13 March 2008, pp. 5991-5993.

<sup>8247</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16145.

<sup>8248</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16380-14381.

considers that this is insufficient to establish, as the Prosecution has alleged, that the Accused directed or had control over the Kono and Freetown operations in December 1998 and January 1999.

### Findings

3606. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused gave advice to Bockarie and received updates in relation to the progress of the operations in Kono and Freetown in the implementation of their plan. Bockarie was in frequent and even daily contact via radio or satellite phone with the Accused in December 1998 and January 1999, either directly or through Benjamin Yeaten. Yeaten travelled to Sierra Leone to meet with Bockarie in Buedu during this period.

3607. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that Bockarie travelled to Monrovia during the Kono-Freetown operations to take instruction from the Accused.

3608. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the Accused directed Bockarie: 1) to release the ECOMOG soldiers captured in December 1998; 2) to burn down Freetown, 3) to effect a ceasefire in mid-January 1999; 4) to send reinforcements to Freetown; or 5) generally in relation to military strategy.

3609. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused directed Bockarie to send prisoners released from Pademba Road Prison to RUF controlled areas.

3610. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt the Accused directed the Kono and Freetown operations in December 1998 and January 1999.

### Summary of Findings

3611. The Trial Chamber has found that -

- (i) The Prosecution has proved beyond reasonable doubt that when the AFRC/RUF forces were pulling out of Kono during the Intervention, the radio station of Benjamin Yeaten in Monrovia, intercepted a radio transmission

between AFRC/RUF radio stations about the withdrawal and intervened to ask why the forces were withdrawing.

- (ii) The Prosecution has proved beyond reasonable doubt that the Accused told Johnny Paul Koroma to capture Kono, and after a first failed attempt, the Accused gave instructions for a second attack, which led to the ultimate recapture of Koidu Town in Kono District by the AFRC/RUF in late February/early March 1998.
- (iii) The Prosecution has proved beyond reasonable doubt that the Accused told Bockarie to be sure to maintain control of Kono for the purpose of trading diamonds with him for arms and ammunition.
- (iv) The Prosecution failed to prove beyond reasonable doubt that the Accused participated in the planning of or instructed the AFRC/RUF to recapture Kono in mid-June 1998, as the first step in a detailed plan with an overarching mission to recapture Freetown or otherwise.
- (v) The Prosecution has proved beyond reasonable doubt that the Accused advised Bockarie to recapture Kono so that the diamonds there would be used to purchase arms and ammunition. Such advice was transmitted to RUF commanders both through Bockarie and Liberian emissaries, Daniel Tamba (a.k.a. Jungle) and/or Ibrahim Bah, and resulted in the Fitti-Fatta attack in mid-June 1998.
- (vi) The Prosecution has proved beyond reasonable doubt that in November/December 1998 the Accused and Sam Bockarie jointly designed a two-pronged attack on Kono, Kenema and Freetown as the ultimate destination, the Accused emphasising the need to first attack Kono District.
- (vii) The Prosecution has proved beyond reasonable doubt that the Accused told Bockarie to make the operation "fearful" in order to force the Government into negotiation and free Foday Sankoh from prison and that after the Waterworks meeting, the Accused told Bockarie to use "all means" to get to Freetown in a satellite phone conversation. Subsequently, Bockarie named the operation

“Operation No Living Thing”, implying that anything that stood in their way should be eliminated.

- (viii) The Prosecution has proved beyond reasonable doubt that Gullit resumed communications with Bockarie on the death of SAJ Musa and that Gullit maintained frequent daily contact with Bockarie throughout the Freetown operation to discuss the ongoing military situation in the capital.
- (ix) The Prosecution has proved beyond reasonable doubt that Bockarie ordered his troops to advance towards Freetown, with the aim of joining forces with Gullit in Freetown, and that Gullit, Bockarie and Bockarie’s commanders coordinated in order to achieve that aim.
- (x) The Prosecution has proved beyond reasonable doubt that although the attempts at coordination were largely unsuccessful, a small contingent of the troops Bockarie sent as reinforcements were able to join Gullit’s troops in Freetown some time after Gullit’s forces had captured the State House.
- (xi) The Prosecution has proved beyond reasonable doubt that when Gullit’s forces withdrew from Freetown, Bockarie instructed his forces on the outskirts of the city to ensure a secure line of retreat for the withdrawing troops, and that after the retreat from Freetown the RUF and AFRC made joint efforts to re-attack the city.
- (xii) The Prosecution has proved beyond reasonable doubt that, throughout the Freetown operation, Bockarie issued a number of instructions to Gullit, including an order to use terror tactics against the civilian population on the retreat from Freetown, which were implemented by Gullit and the fighters in Freetown. Bockarie exercised effective command and control over Gullit during the capture of the State House and Pademba Road Prison.
- (xiii) The Prosecution has proved beyond reasonable doubt that following his first conversation with Gullit after the death of SAJ Musa, Bockarie and Gullit coordinated in their efforts to capture Freetown. From that point on, SAJ Musa’s original plan to attack Freetown was abandoned, and Gullit’s





movements were incorporated into the Bockarie/Taylor plan, as had been contemplated by Bockarie and the Accused.

- (xiv) The Prosecution has proved beyond reasonable doubt that the Accused gave advice to Bockarie and received updates in relation to the progress of the operations in Kono and Freetown in the implementation of their plan. Bockarie was in frequent and even daily contact via radio or satellite phone with the Accused in December 1998 and January 1999, either directly or through Benjamin Yeaten. Yeaten travelled to Sierra Leone to meet with Bockarie in Buedu during this period.
- (xv) The Prosecution failed to prove beyond reasonable doubt that Bockarie travelled to Monrovia during the Kono-Freetown operations to take instruction from the Accused.
- (xvi) The Prosecution failed to prove beyond reasonable doubt that the Accused directed Bockarie: 1) to release the ECOMOG soldiers captured in December 1998; 2) to burn down Freetown, 3) to effect a ceasefire in mid-January 1999; 4) to send reinforcements to Freetown; or 5) generally in relation to military strategy.
- (xvii) The Prosecution has proved beyond reasonable doubt that the Accused directed Bockarie to send prisoners released from Pademba Road Prison to RUF controlled areas.
- (xviii) The Prosecution failed to prove beyond reasonable doubt the Accused directed the Kono and Freetown operations in December 1998 and January 1999.

### Conclusion

3612. In February 1998, ECOMOG forces intervened in Sierra Leone and expelled the RUF/AFRC Junta from Freetown, reinstating Tejan Kabbah's SLPP Government to power in March 1998. Although ECOMOG initially forced RUF and AFRC forces to withdraw from Kono, under the orders of AFRC leader Johnny Paul Koroma, these forces managed to recapture Koidu Town in late February/early March 1998. A few weeks later, ECOMOG forces regained control of Koidu Town. In mid-June 1998, forces under the ultimate direction of Sam Bockarie, who had by then assumed leadership of the RUF/AFRC forces,

made another attempt to take Koidu Town, code-named Operation Fitti-Fatta. The Fitti-Fatta attack was unsuccessful, and in late November/early December 1998, after a trip by Bockarie to Liberia where he met with the Accused, a meeting was held at Waterworks in which Bockarie ordered RUF/AFRC troops under his command to carry out a two pronged attack on Kono and Kenema, with Freetown as the ultimate target. The attacks on Kenema and Kono were launched in mid-December 1998. While the former was unsuccessful, the latter attack succeeded, and the RUF/AFRC troops continued towards Freetown. On 6 January 1999, a group of predominantly AFRC troops led by Alex Tamba Brima (a.k.a. Gullit) launched an assault on Freetown.

3613. The Trial Chamber has found that from the time of the Intervention, the Accused and his subordinates communicated the imperative to maintain control over Kono, a diamondiferous area. When the AFRC/RUF forces were pulling out of Kono during the Intervention, the radio station of Benjamin Yeaten, Director of the Accused's Special Security Service, intercepted a radio transmission between AFRC/RUF radio stations about the withdrawal and intervened to ask why the forces were withdrawing. Then, in several satellite phone conversations with Johnny Paul Koroma, who was trying to make arrangements to get to Liberia by helicopter, the Accused instructed Koroma to capture Kono. After a first failed attempt, the Accused gave instructions for a second attack, which led to the ultimate recapture of Koidu Town in Kono District in late February/early March 1998. Once Kono had been recaptured, the Accused told Bockarie to be sure to maintain control over Kono for the purpose of trading diamonds with him for arms and ammunition.

3614. The Trial Chamber has found that the Accused advised Bockarie to recapture Kono following its loss to ECOMOG, again so that the diamonds there could be used to purchase arms and ammunition. Such advice was transmitted to RUF commanders both through Bockarie and Liberian emissaries Daniel Tamba (a.k.a Jungle) and/or Ibrahim Bah and resulted in the Fitti-Fatta attack on Koidu Town in mid-June 1998. Contrary to the Prosecution's submission, the evidence did not establish that the Accused participated in the formulation of a multi-axis operational attack plan leading to Freetown prior to the Fitti-Fatta attack.

3615. The Fitti-Fatta attack was unsuccessful, and in November 1998/December 1998, Sam Bockarie went with a delegation to Burkina Faso via Monrovia, meeting the Accused on the way to Burkina Faso and on the way back to Sierra Leone. In their meetings, the

Accused jointly designed with Bockarie the two-pronged attack on Kono, Kenema and Freetown as the ultimate destination. This plan was outlined by Bockarie to his commanders in a meeting at Waterworks on his return to Sierra Leone. Although the idea to advance towards Freetown was already in discussion when Bockarie went to Monrovia, the Accused emphasised to Bockarie the need to first attack Kono District and told Bockarie to make the operation “fearful” in order to pressure the Government of Sierra Leone into negotiations on the release of Foday Sankoh from prison. After the Waterworks meeting, Bockarie brief the Accused over a satellite phone conversation about the meeting. During this conversation, the Accused told Bockarie to use “all means” to get to Freetown. Subsequently, Bockarie named the operation “Operation No Living Thing”, implying that anything that stood in their way should be eliminated.

3616. The Trial Chamber has found that at this time there were two plans to attack Freetown, one made by Bockarie with the Accused, and one made by breakaway AFRC commander Solomon Anthony Joseph Musa (a.k.a. SAJ Musa), whose troops had already started an advance towards Freetown at the end of June/beginning of July 1998.

3617. Consistent with discussions he had made with the Accused, Bockarie invited SAJ Musa after the Waterworks meeting to join his efforts to attack Freetown but Musa refused. However, with SAJ Musa’s death in or around 23 December 1998, when Gullit took over the leadership of the troops at Benguema and resumed contact with Bockarie, Bockarie and Gullit coordinated in their efforts to capture Freetown. From that point onwards, the SAJ Musa’s original plan was abandoned, and Gullit followed the Bockarie/Taylor plan, as had been contemplated by Bockarie and the Accused. During the operation, Bockarie exercised effective command and control over Gullit, issuing a number of instructions to Gullit, including the order to use terror tactics against the civilian population on the retreat from Freetown. The Trial Chamber did not make a finding as to how SAJ Musa was killed, but noted that his death had been mentioned by Bockarie at the time of the Waterworks meeting.

3618. The Trial Chamber has found that the Accused gave advice to Bockarie and received updates in relation to the progress of the operations in Kono and Freetown in the implementation of their plan. Bockarie was in frequent contact via radio or satellite phone with the Accused in December 1998 and January 1999, either directly or through Benjamin Yeaten. Yeaten also travelled to Sierra Leone to meet with Bockarie in Buedu during this period. However, it is not clear that the Accused had any level of control over the conduct of

these operations. Of the instructions allegedly given to Bockarie by the Accused during this period, the Trial Chamber finds only one to have been proved beyond reasonable doubt, that being that the Accused instructed Bockarie to transfer the Pademba Road prisoners to Buedu for their protection. This finding is insufficient to establish, as the Prosecution has alleged, that the Accused directed or had control over the Kono and Freetown operations in December 1998 and January 1999.

**D. Operational Support**

1. Communications

(a) Radio Equipment and Training

Submission of the Parties

3619. The Prosecution alleges that the Accused provided communications equipment and training to the RUF, the benefits of which continued throughout the conflict in Sierra Leone.<sup>8249</sup> For example, through radio sets provided by the Accused, the RUF was later able to communicate with the Accused in Liberia and the RUF in Côte d'Ivoire.<sup>8250</sup> In addition, radio operators such as Foday Lansana (a.k.a. CO Nya), an NPFL member, installed equipment in Sierra Leone and then continued to operate with the RUF in Sierra Leone during the conflict.<sup>8251</sup>

3620. The Defence denies that the Accused provided communications equipment and training to the RUF which benefited the RUF during the conflict in Sierra Leone. The Defence concedes that the Accused sent an NPFL radio and NPFL radio operators to Sierra Leone during the period of the two groups' cooperation against ULIMO, in 1991 or 1992.<sup>8252</sup> The Defence argues, however, that the only purpose of this was to allow the NPFL to monitor the progress of NPFL operations in Sierra Leone.<sup>8253</sup> The Defence claims that no NPFL radio sets or operators were left inside Sierra Leone after the NPFL withdrew, and that no RUF operators had been trained by the NPFL.<sup>8254</sup>

3621. The Defence also notes that the RUF was capable of training radio operators of its own without assistance from the Accused, for Sankoh was an expert in communications, and that the RUF used radio sets captured in combat.<sup>8255</sup> Finally, the Defence contends there is

<sup>8249</sup> Prosecution Closing Brief, paras 7, 49, 93-94, 308.

<sup>8250</sup> Prosecution Closing Brief, para. 308.

<sup>8251</sup> Prosecution Closing Brief, para. 308.

<sup>8252</sup> Defence Corrected and Amended Final Trial Brief, para. 982.

<sup>8253</sup> Defence Corrected and Amended Final Trial Brief, paras 982, 984.

<sup>8254</sup> Defence Corrected and Amended Final Trial Brief, para. 984.

<sup>8255</sup> Defence Corrected and Amended Final Trial Brief, para. 988.

no evidence to prove that the Accused knew that RUF fighters were being trained on the radio by NPFL.<sup>8256</sup>

### Evidence

#### Prosecution Witness Foday Lansana

3622. Witness Foday Lansana testified that he was born in Liberia, and joined the NPFL in February or March 1990.<sup>8257</sup> Shortly thereafter, he underwent two months of training with the NPFL to become a radio operator, and was instructed by Emmanuel Zor and Roosevelt Nyameleyan.<sup>8258</sup> In September or October 1990, James Galakpalah, the deputy overall signal commander of the NPFL, requested that the witness undertake an advanced training on codes.<sup>8259</sup>

3623. While Lansana was working as a radio operator for the NPFL in Foya, Liberia, around July or August 1991, the operators received an instruction from the overall signal commander of the NPFL, Victor Gensei, through his deputy James Galakpalah, requesting that some of the communications operators in Foya be a part of the communications operations in Sierra Leone. Lansana, Nyameleyan and Moses Gargue, another operator in Foya, then travelled to Sierra Leone.<sup>8260</sup>

3624. They arrived in Koindu, Sierra Leone in July or August 1991.<sup>8261</sup> Sankoh instructed Lansana and the other radio operators to install a radio at his headquarters near Koidu Town in an area called Baidu. They installed the radio and tested it, calling various stations in Liberia.<sup>8262</sup> The witness testified that this was the very first radio station operated under Sankoh in Sierra Leone, and was the only radio station there at this time.<sup>8263</sup>

<sup>8256</sup> Defence Corrected and Amended Final Trial Brief, para. 987.

<sup>8257</sup> Foday Lansana, Transcript 20 February 2008, pp. 4315-4320. Lansana confirmed that he also goes by the name CO Nya. Foday Lansana, Transcript 25 February 2008, pp. 4703-4706.

<sup>8258</sup> Foday Lansana, Transcript 20 February 2008 pp. 4322-4327.

<sup>8259</sup> Foday Lansana, Transcript 20 February 2008 pp. 4337-4339.

<sup>8260</sup> Foday Lansana, Transcript 20 February 2008 pp. 4356-4358.

<sup>8261</sup> Foday Lansana, Transcript 20 February 2008, pp. 4359-4361.

<sup>8262</sup> Foday Lansana, Transcript 20 February 2008, pp. 4362-4364, 4411.

<sup>8263</sup> Foday Lansana, Transcript 20 February 2008, pp. 4364-4367.

3625. In May 1992, Taylor gave an instruction for all NPFL forces to evacuate from Sierra Leone. Lansana testified that he left Sierra Leone and went to Vahun, Liberia, bringing with him the radio set which he had installed in Sierra Leone for Sankoh.<sup>8264</sup>

3626. Approximately two weeks later, Galakpalah sent a message to Lansana's commander in Vahun, stating that Sierra Leone did not have any radios, and requesting that Lansana go to Pendembu, Sierra Leone with a radio set for Sankoh.<sup>8265</sup> Galakpalah also communicated that Lansana had been promoted by the NPFL<sup>8266</sup> to be Overall Signal Commander for the RUF in Sierra Leone.<sup>8267</sup>

3627. Lansana moved to Sierra Leone immediately, and travelled to Pendembu with the radio set he had taken from Baidu. He installed the radio at Sankoh's residence there, and tested it by establishing radio contact with Taylor.<sup>8268</sup> Lansana remained in Pendembu for the rest of 1992 and 1993, where he was asked by Sankoh to train RUF fighters on how to conduct communications and encode and build radios.<sup>8269</sup>

3628. In 1992, a Guinean and Nigerian contingent of government troops under the NPRC attacked the RUF position in Bayama, Sierra Leone, and the RUF captured communications equipment. Because of this they set up radio stations in Kailahun, Bunumbu, Gandorhun, Koidu, and Quiva, which were installed by the operators Lansana had trained.<sup>8270</sup> A few of the fighters whom Lansana trained included Alfred Brown, Sam Lamboi, Sahr James, and King Perry Kamara, among others.<sup>8271</sup>

3629. Lansana continued his work as an overall commander in Kangari Hills, Sierra Leone from April 1994 until 1997.<sup>8272</sup>

<sup>8264</sup> Foday Lansana, Transcript 20 February 2008, pp. 4378-4379.

<sup>8265</sup> Foday Lansana, Transcript 20 February 2008, pp. 4378-4379.

<sup>8266</sup> The witness confirmed that the NPFL promoted him to this position, but did not indicate the specific person who did so, only specifying that it was "Gbarnga" that did so. Foday Lansana, Transcript 20 February 2008, pp. 4380-4381; Transcript 25 February 2008, pp. 4684-4685. Gbarnga was the NPFL headquarters at this time.

<sup>8267</sup> Foday Lansana, Transcript 20 February 2008, pp. 4380-4381. Upon cross-examination the witness testified that because of coordination between the NPFL and RUF, he was working for both parties in 1991-1992: he was "on assignment with the NPFL" in Sierra Leone, but reported directly to Sankoh. Foday Lansana, Transcript 25 February 2008 pp. 4698-4699.

<sup>8268</sup> Foday Lansana, Transcript 20 February 2008, pp. 4379-4381, 4386.

<sup>8269</sup> Foday Lansana, Transcript 20 February 2008, pp. 4386-4387.

<sup>8270</sup> Foday Lansana, Transcript 20 February 2008, pp. 4388-4389, 4393.

<sup>8271</sup> Foday Lansana, Transcript 20 February 2008, pp. 4390.

<sup>8272</sup> Foday Lansana, Transcript 20 February 2008, pp. 4406-4407.

Prosecution Witness Perry Kamara

3630. Witness Perry Kamara, an RUF radio operator,<sup>8273</sup> was captured by the RUF in April 1991 in Zimmi, Sierra Leone, and taken to an RUF training base in Pujehun, Sierra Leone. Two months later Foday Sankoh came to the base and told them he needed people to be trained in radio operations.<sup>8274</sup> The witness and twelve others were trained by Sankoh.<sup>8275</sup> After one month of training, Sankoh told the witness and the other trainees that he was going to Liberia to meet with Taylor and ask for additional radios. While Sankoh was in Liberia, Sierra Leonean government forces attacked, and so the RUF fled to Liberia.<sup>8276</sup>

3631. In 1992, Kamara returned to Sierra Leone with the RUF and Sankoh requested his fighters to continue their communications training in Pendembu, Sierra Leone.<sup>8277</sup> Foday Lansana, an NPFL officer from Liberia, was introduced to the fighters and told them that Taylor sent him to provide training on the use of Liberian and Sierra Leonean code, as well as how to send and receive messages from Liberia.<sup>8278</sup> Lansana trained 15 men, including the witness.<sup>8279</sup> Kamara remained an RUF radio operator until at least 1998.<sup>8280</sup>

Prosecution Witness Dauda Aruna Fornie

3632. Witness Dauda Aruna Fornie (a.k.a. DAF)<sup>8281</sup> a Sierra Leonean, was captured by RUF rebels in April 1991 at the age of 16.<sup>8282</sup> He testified that late in the rainy season of 1991, he was taken for advanced military training in Bomi Hills, Liberia.<sup>8283</sup> At that time, Foday Sankoh arrived in Bomi Hills and told Bockarie to assign men to various units. Fornie joined the NPFL Signal Unit in Bomi Hills for training, which lasted until mid-1992.<sup>8284</sup> Joseph Demmy, who was also called “Bedcat”, or “Beckier”, was in charge of the NPFL

<sup>8273</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>8274</sup> Perry Kamara, Transcript 4 February 2008, pp. 3025-3027.

<sup>8275</sup> Perry Kamara, Transcript 4 February 2008, p. 3028.

<sup>8276</sup> Perry Kamara, Transcript 4 February 2008, pp. 3028-3029

<sup>8277</sup> Perry Kamara, Transcript 4 February 2008, p. 3037.

<sup>8278</sup> Perry Kamara, Transcript 4 February 2008, p. 3037.

<sup>8279</sup> Perry Kamara, Transcript 4 February 2008, pp. 3037-3038.

<sup>8280</sup> Perry Kamara, Transcript 6 February 2008, p. 3200.

<sup>8281</sup> Fornie confirmed that his nickname was “DAF”. Dauda Aruna Fornie, 1 December 2008 pp. 21292-21293.

<sup>8282</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21297-21300.

<sup>8283</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 31310-21312.

<sup>8284</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21335-21338, 21348.



Signal Unit at that time.<sup>8285</sup> The witness recalled that at this time the RUF had a radio station in the Kailahun area based in Pendembu at which Foday Lansana was the commander.<sup>8286</sup>

3633. During this time, the RUF did not have its own communications system and depended on the NPFL's, and the two groups shared codes.<sup>8287</sup> In late 1992, the witness moved to Pendembu, where Sankoh taught the operators British voice procedures. The RUF operators then used different codes from the Liberian operators, more specifically, British codes, but used Liberian codes to communicate with the NPFL.<sup>8288</sup>

3634. After the training, the witness was assigned to Kuiva and then Mendekeima, Sierra Leone. At that time, at the end of 1992, the RUF had four radio stations in Sierra Leone which could contact stations in Liberia.<sup>8289</sup> Sankoh later assigned the witness to Kailahun town, Sierra Leone, where he became a control station commander, responsible for transmitting instructions between Sankoh and the frontlines, and between Sankoh and Taylor.<sup>8290</sup> The witness continued his work as a radio operator until 1999.<sup>8291</sup>

#### Prosecution Witness TF1-585

3635. Witness TF1-585, an RUF radio operator,<sup>8292</sup> was trained for three months in 1995 by Foday Lansana to be a radio operator in Sierra Leone. The witness was later sent to Zogoda, where she was trained for six months by Foday Sankoh.<sup>8293</sup> The witness worked as a radio operator in the Western Jungle from 1995 to 1997.<sup>8294</sup> The witness then worked as an operator for Bockarie in 1999-2000, and for Yeaten for six months in 2001.<sup>8295</sup>

#### Prosecution Witness Mohamed Kabbah

<sup>8285</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21337.

<sup>8286</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21349-21350.

<sup>8287</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21349-21350, 21374-21375, 21378.

<sup>8288</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21372-75.

<sup>8289</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21376.

<sup>8290</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21383-21387.

<sup>8291</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21395-21398, 21427, 21458-21469; 21476-21479.

<sup>8292</sup> TF1-585, Transcript 5 September 2008, pp. 15589-15592 (PS).

<sup>8293</sup> TF1-585, Transcript, 5 September 2008, pp. 15586-15588 (PS).

<sup>8294</sup> TF1-585, Transcript 5 September 2008, p. 15590 (PS).

<sup>8295</sup> TF1-585, Transcript 5 September 2008, p. 15592 (PS).

3636. Witness Mohamed Kabbah testified that he was born in Kailahun Town, Sierra Leone, and captured by “rebels” there in April 1991.<sup>8296</sup> In early 1992, Kabbah was sent to Gohun village, in Kailahun, Sierra Leone to train as a radio operator.<sup>8297</sup> He testified that he was trained by CO Moses, who was from Liberia, while Foday Lansana, also from Liberia, conducted an exercise with the trainees to check what they had learned.<sup>8298</sup> Kabbah completed his radio training in early 1992, and worked as a radio operator until at least 1999.<sup>8299</sup>

#### Prosecution Witness TF1-516

3637. Witness TF1-516 testified that in approximately 1994 he was trained to be a radio operator by Foday Lansana at Kangari Hills, Sierra Leone.<sup>8300</sup> Foday Sankoh later requested that all newly trained radio operators, including the witness, be transferred to his location at Zogoda, Sierra Leone. The witness spent six more months being trained by Sankoh in radio operations in Zogoda, and completed his training in late 1995 or early 1996.<sup>8301</sup> The witness remained a radio operator until at least 1999.<sup>8302</sup>

#### Prosecution Witness Alice Pyne

3638. Witness Alice Pyne, an RUF radio operator,<sup>8303</sup> testified that she was captured by NPFL fighters in April 1991.<sup>8304</sup> In December 1993, she arrived in Ngiema, Sierra Leone with CO Mohamed and CO Papa, her immediate commander. Foday Sankoh thereafter passed an order for CO Mohamed and CO Papa to recruit radio signalers. CO Mohamed selected Pyne for training, and she was trained by Foday Lansana in radio operations.<sup>8305</sup> In

<sup>8296</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16087-16088.

<sup>8297</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16088-16096.

<sup>8298</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16106-16107.

<sup>8299</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16126-16127; Transcript 15 September 2008, pp. 16248-16250.

<sup>8300</sup> TF1-516, Transcript 14 April 2008, pp. 7456-7457.

<sup>8301</sup> TF1-516, Transcript 8 April 2008, pp. 6828-6839.

<sup>8302</sup> TF1-516, Transcript 8 April 2008, p. 6857.

<sup>8303</sup> Alice Pyne, Transcript 17 June 2008, p. 12074.

<sup>8304</sup> Alice Pyne, Transcript 17 June 2008, pp. 12048-12049.

<sup>8305</sup> Alice Pyne, Transcript 17 June 2008, pp. 12066-12072; Transcript 18 June 2008, p. 12105.

late December 1994 to January 1995, Pyne was trained in advanced radio operations by Sankoh.<sup>8306</sup> She worked as a radio operator until at least 1999.<sup>8307</sup>

#### Prosecution Witness Isaac Mongor

3639. Witness Isaac Mongor, a Liberian trader and RUF senior commander,<sup>8308</sup> was captured by NPFL rebels in December 1989.<sup>8309</sup> In March or April 1990, he was instructed by Taylor to help Foday Sankoh train people to fight in Sierra Leone, and the witness thereafter trained fighters at Camp Naama.<sup>8310</sup> Mongor testified that after they captured Pendembu in 1991, Sankoh brought them a radio operator named Foday Lansana, who brought a radio set with him. Sankoh said that Taylor had given him Lansana in order to establish radio communication and operate the radio for them.<sup>8311</sup>

#### The Accused

3640. The Accused denied knowing Foday Lansana, saying that he first saw him on the stand at trial, and denied sending Lansana to train RUF fighters in Sierra Leone.<sup>8312</sup> He also testified that Lansana was not NPFL,<sup>8313</sup> but stole an NPFL radio and went to Sierra Leone on his own initiative.<sup>8314</sup> The Accused stated that he gave direct orders to cease communications with the RUF after May 1992, and did not believe that Galakpalah would have given orders to Lansana counter to this.<sup>8315</sup>

3641. The Accused also questioned why a young person such as Lansana, without significant experience, and of whom the Accused had not heard, would have received a

<sup>8306</sup> Alice Pyne, Transcript 17 June 2008, pp. 12081-12084.

<sup>8307</sup> Alice Pyne, Transcript 19 June 2008, pp. 12272-12273.

<sup>8308</sup> See for example: Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March 2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>8309</sup> Isaac Mongor, Transcript 10 March 2008 p. 5647.

<sup>8310</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5660-5666.

<sup>8311</sup> Isaac Mongor, Transcript 10 March 2008 pp. 5675-5677.

<sup>8312</sup> Charles Ghankay Taylor, Transcript 15 September 2009, p. 28978; Transcript 30 September 2009 pp. 30037-38; Transcript 27 October 2009 pp. 30394-95, 30466-67, 30471.

<sup>8313</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28978-28979; Transcript 27 October 2009, pp. 30490-91; Transcript 28 October 2009 pp. 30499-30500. The Defence challenges Lansana's testimony as to the fact that he was ordered to Sierra Leone because Sankoh had no radio by observing that Sankoh had communication with Liberia before May 1992. This is a misinterpretation of Lansana's testimony, as Lansana testified that he installed a radio in Sierra Leone July or August 1991, Sankoh used this radio until May 1992, at which point Taylor ordered the withdrawal of troops, and Lansana took the radio back with him to Liberia. Lansana contends that he was ordered to return this very same radio to Sankoh two weeks later.

<sup>8314</sup> Charles Ghankay Taylor, Transcript 27 October 2009, p. 30490.

<sup>8315</sup> Charles Ghankay Taylor, Transcript 27 October 2009, pp. 30487-30488.

special assignment to train radio operators in Sierra Leone with Sankoh.<sup>8316</sup> The Accused also suggested that Lansana could not have travelled from Liberia into Sierra Leone after Operation Top Final in May 1992 without encountering ULIMO.<sup>8317</sup>

3642. The Accused stated that “to the best of his knowledge”, Foday Sankoh captured most of the radios he used from Sierra Leonean government forces.<sup>8318</sup>

#### Defence Witness Martin George

3643. Witness Martin George, (a.k.a. Mao Mao), a lieutenant, captain, major, brigade commander, colonel, and area commander of the RUF,<sup>8319</sup> testified that while he was being trained at Crab Hole, a section of Camp Naama, in Liberia, from January to March 1991, he was trained in radio communications by Foday Sankoh.<sup>8320</sup>

3644. A few months later, when his RUF battalion was in Sierra Leone in 1991 to 1992, they captured a long-range Thompson radio in Zimmi before they reached Pujehun. They installed the radio station in Potoru, in Sierra Leone and from then on were in communication with Foday Sankoh and others in Kailahun so they could keep each other updated as to their positions. When the RUF moved towards Pujehun, they left the radio in Potoru. They were able to capture other radio sets along the way and installed one in Pujehun.<sup>8321</sup>

3645. George testified that Alfred Brown, of the RUF, trained Dauda Aruna Fornie and King Perry, and he knew this was so because “[t]here was nobody to train signal men whom [he] knew because [Brown] was the most senior”.<sup>8322</sup>

#### Defence Witness Sam Kolleh

3646. Witness Sam Kolleh testified that Foday Sankoh was an expert on radio communications.<sup>8323</sup>

<sup>8316</sup> Charles Ghankay Taylor, Transcript 28 October 2009, pp. 30514-30515.

<sup>8317</sup> Charles Ghankay Taylor, Transcript 28 October 2009, p. 30516.

<sup>8318</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28964-28965.

<sup>8319</sup> Martin George, Transcript 21 April 2010, p. 39592; 22 April 2010, pp. 39627, 39708, 39710; 23 April 2010, pp. 39766, 39787-39795.

<sup>8320</sup> Martin George, Transcript 21 April 2010, pp. 39610-39614.

<sup>8321</sup> Martin George, Transcript 22 April 2010, pp. 39666-39669.

<sup>8322</sup> Martin George, Transcript 26 April 2010, pp. 39981-39982.

Defense Witness Issa Sesay

3647. Witness Issa Sesay, an RUF commander,<sup>8324</sup> was recruited into the RUF in approximately 1990 by Foday Sankoh.<sup>8325</sup> He testified that from 1991 to 1993, the RUF used field radios captured from government troops to communicate.<sup>8326</sup> Sankoh was a professional communications expert, and so he was the one who trained all of the RUF radio operators while he was head of the RUF.<sup>8327</sup>

Defence Witness John Vincent

3648. Witness John Vincent, a Liberian Vanguard commander,<sup>8328</sup> joined the RUF in 1990.<sup>8329</sup> He testified that while training at Camp Naama, in Liberia in 1991, Foday Sankoh taught the recruits how to use radio sets. He stated that Sankoh told them he had learned how to operate a radio during his time in the Sierra Leonean Army.<sup>8330</sup>

3649. Vincent also testified that when he was stationed in Pendembu, Sierra Leone, in 1991 Sankoh had a radio, and Sankoh's radio operator was Foday Lansana. Vincent heard that Lansana was a former NPFL radio operator who had escaped a ULIMO attack in Liberia and had entered Sierra Leone with his radio. He heard that Lansana met some Liberians who took him to Sankoh, and Lansana joined the RUF. The witness believed that Lansana's radio was the one he encountered with Sankoh in Pendembu.<sup>8331</sup> The witness captured a long-range communication radio, at Lelehan, Sierra Leone, in December 1991, when he captured a ULIMO soldier.<sup>8332</sup>

Defence Witness DCT-292

<sup>8323</sup> Sam Kolleh, Transcript 4 November 2010, pp. 48391-48392.

<sup>8324</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>8325</sup> Issa Sesay, Transcript 5 July 2010, p. 43604.

<sup>8326</sup> Issa Sesay, Transcript 5 July 2010, p. 43684.

<sup>8327</sup> Issa Sesay, Transcript 8 July 2010 pp. 44034-44036.

<sup>8328</sup> John Vincent, Transcript 26 March 2010, pp. 38107, 38114-38116, 38118, 38137, 38145; 30 March 2010, pp. 38226, 38239; 31 March 2010, p. 38390, 38408, 38460, 38461.

<sup>8329</sup> John Vincent, Transcript 30 March 2010, pp. 38261-38262.

<sup>8330</sup> John Vincent, Transcript 21 April 2010, pp. 39613-39614.

<sup>8331</sup> John Vincent, Transcript 25 March 2010 pp. 38044-38047.

<sup>8332</sup> John Vincent, Transcript 25 March 2010 pp. 38043-38044.

3650. Witness DCT-292 was a member of the RUF from 1990 to 1995.<sup>8333</sup> He testified that the NPFL did not have communication with the RUF in 1991 to 1992, as the RUF did not have a radio in Koindu, Sierra Leone. The RUF only acquired radios when Kono, Sierra Leone was attacked around 1994.<sup>8334</sup>

Defence Witness Joseph Dehmie

3651. Witness Joseph Dehmie, (a.k.a. Bearcat), an NPFL radio operator,<sup>8335</sup> testified that he was born in Liberia and was a member of the NPFL from 1990 to 1997.<sup>8336</sup> After one month he was recruited by James Galakpalah to train with the Signal Unit as a radio operator.<sup>8337</sup> Dehmie worked as a radio operator known as Bearcat in Bomi Hills for two years, from September 1990 to October 1992.<sup>8338</sup>

3652. Dehmie knew Dauda Aruna Fornie, but denied that Fornie trained as a radio operator in Bomi Hills in 1991, claiming that Fornie was his cook.<sup>8339</sup> It was not possible that Fornie was an operator without Dehmie's knowledge, because had he been an operator there at that time, Dehmie would have known.<sup>8340</sup> He stated that at the time he was in Bomi Hills, non-radio operators were not allowed in the radio room, and Fornie never operated NPFL radios.<sup>8341</sup> He further denied that the NPFL sent radio operators to Sierra Leone.<sup>8342</sup> Dehmie also denied that Sankoh arrived at Moni Hills and instructed Bockarie to assign men to units, stating that Sankoh did not once come to Bomi Hills from October 1990 to September 1992.<sup>8343</sup>

3653. With regards to the evidence of Foday Lansana, Dehmie denied that Galakpalah ordered Roosevelt Nyameleyan and Lansana to travel from Foya, Liberia to Sierra Leone to set up radio communication there. First, there was no radio station in Foya between 1991 and 1992. Second, the witness knew Nyameleyan, and stated he was never assigned to a

<sup>8333</sup> DCT-292, Transcript 31 May 2010, pp. 41673-41674 (PS).

<sup>8334</sup> DCT-292, Transcript 2 June 2010, p. 41894.

<sup>8335</sup> Joseph Dehmie, Transcript 21 May 2010, pp. 41467, 41494, 41523.

<sup>8336</sup> Joseph Dehmie, Transcript 18 May 2010, pp. 41133- 41135.

<sup>8337</sup> Joseph Dehmie, Transcript 18 May 2010, pp. 41152-47158.

<sup>8338</sup> Joseph Dehmie, Transcript 19 May 2010, pp. 41223-41225.

<sup>8339</sup> Joseph Dehmie, Transcript 19 May 2010, pp. 41285-41292; Transcript 31 May 2010, pp. 41623-41626.

<sup>8340</sup> Joseph Dehmie, Transcript 20 May 2010, pp. 41312-41323, 41340-41343.

<sup>8341</sup> Joseph Dehmie, Transcript 19 May 2010, pp. 41292-41293, 41311-41312.

<sup>8342</sup> Joseph Dehmie, Transcript 19 May 2010, pp. 41298-41299.

<sup>8343</sup> Joseph Dehmie, Transcript 20 May 2010, pp. 41324-41325.

radio station in Foya between 1991 and 1992.<sup>8344</sup> Finally, Dehmie stated that throughout his entire career with the NPFL, he never heard of a person named CO Nya, Lansana's nickname.<sup>8345</sup>

### Deliberations

3654. It is undisputed that one or more NPFL radios and radio operators entered Sierra Leone during the NPFL's cooperation with the RUF in their fight against ULIMO, from 1991 to 1992.<sup>8346</sup> The Prosecution contends that these NPFL operators, including Foday Lansana, trained RUF fighters in radio communication, and the RUF continued to benefit from this training throughout the conflict in Sierra Leone.<sup>8347</sup> The Prosecution also alleges that the Accused provided radio sets to the RUF, which the RUF later used to communicate with the Accused in Liberia and with the RUF in Côte d'Ivoire during the conflict in Sierra Leone.<sup>8348</sup>

3655. The Defence contends that all equipment and operators were evacuated in 1992,<sup>8349</sup> and denies that any of these NPFL operators, including Lansana, trained RUF fighters at this time.<sup>8350</sup> The Defence also argues that there is no evidence to prove that Taylor knew that RUF fighters were being trained on the radio by NPFL.<sup>8351</sup>

3656. The Prosecution has presented substantial evidence that Foday Lansana trained RUF fighters in Sierra Leone in radio communications from 1991 until as late as 1995. Lansana himself testified to this fact, and it was confirmed by several witnesses, including Perry Kamara, TF1-585, Mohamed Kabbah, TF1-516, Alice Pyne, and Isaac Mongor.<sup>8352</sup>

3657. The Defence contends that Lansana was not sent by the NPFL but entered Sierra Leone independently and of his own accord, citing the evidence of Defence Witness John

<sup>8344</sup> Joseph Dehmie, Transcript 20 May 2010, pp. 41357-41359, 41358-41360

<sup>8345</sup> Joseph Dehmie, Transcript 20 May 2010, pp. 41360-41361.

<sup>8346</sup> Prosecution Final Trial Brief, para. 308; Defence Final Trial Brief, para. 982.

<sup>8347</sup> Prosecution Final Trial Brief, para. 308.

<sup>8348</sup> Prosecution Final Trial Brief, para. 308.

<sup>8349</sup> Defence Final Trial Brief, para. 984.

<sup>8350</sup> Defence Final Trial Brief, para. 986.

<sup>8351</sup> Defence Final Trial Brief, para. 987.

<sup>8352</sup> Perry Kamara, Transcript 4 February 2008, pp. 3037-3038; TF1-585, Transcript 5 September 2008, pp. 15586-15588; Mohamed Kabbah, Transcript 15 September 2008, pp. 16106-16107; TF1-516, Transcript 14 April 2008, pp. 7456-7457; Alice Pyne, Transcript 17 June 2008, pp. 12066-12072; Transcript 18 June 2008, p. 12105; Isaac Mongor, Transcript 10 March 2008, pp. 5675-5677.

Vincent.<sup>8353</sup> Vincent, however, only “heard” this information regarding Lansana, and did not specify his source. The Trial Chamber recalls its finding that John Vincent’s testimony should be considered with caution and requires corroboration<sup>8354</sup> and does not find his testimony reliable. Lansana presented substantial evidence that he trained with the NPFL and answered to NPFL leaders before he left for Sierra Leone.<sup>8355</sup> Numerous witnesses, including Defence witnesses, testified to Lansana having been a member of the NPFL in Liberia before he joined the RUF in Sierra Leone in approximately 1991.<sup>8356</sup>

3658. The Accused testified that Lansana was not an NPFL member, that he, Taylor, did not send him to Sierra Leone, and that Lansana stole an NPFL radio and went to Sierra Leone on his own initiative.<sup>8357</sup> The Accused, however, provided no basis for his assertion that Lansana was not an NPFL member, nor for his assertion that Lansana stole an NPFL radio. Moreover, the Accused did not explain how Lansana could have stolen an NPFL radio if he was not an NPFL member. He testified that he did not know Lansana, from which it can be concluded that he could not have known whether Lansana was an NPFL member, nor whether he stole a radio. Defence counsel cross-examined Lansana on how he came to join the NPFL, his knowledge of the Accused’s orders for the NPFL to evacuate Sierra Leone,<sup>8358</sup> and whether he had been court martialled or disciplined for deserting the NPFL,<sup>8359</sup> thereby implying that Lansana was a member of the NPFL. Recalling that Lansana is a generally credible witness,<sup>8360</sup> the Trial Chamber accepts Lansana’s evidence, which was corroborated by other witnesses, and finds that he was sent by the NPFL to train RUF fighters in Sierra Leone.

3659. In addition to evidence that Lansana, an NPFL operator, trained RUF members, the Prosecution presented evidence that Dauda Aruna Fornie, a Sierra Leonean RUF member, was trained by the NPFL Signal Unit in radio communication in 1992, in Bomi Hills,

<sup>8353</sup> Defence Final Trial Brief para. 986.

<sup>8354</sup> Credibility Assessment, John Vincent, Provision of Military Personnel, paras 4463-4464.

<sup>8355</sup> The witness states that he was “on assignment” with the NPFL from 1991 to 1992. *See* Foday Lansana, 25 February 2008, p. 4698.

<sup>8356</sup> TF1-371, Transcript 25 January 2008, p. 2274 (CS); Perry Kamara, Transcript 4 February 2008, pp. 3037-3038; Mohamed Kabbah, Transcript 16 September 2008, pp. 16382-16383; John Vincent, Transcript 25 March 2010, pp. 38044-38045, John Vincent, 30 March 2010, p. 38316; Charles Ngebeh, Transcript 12 April 2010, p. 38748; DCT-292, Transcript 1 June 2010, pp. 41821-41822.

<sup>8357</sup> Charles Ghankay Taylor, Transcript 27 October 2009, pp. 30467-30468.

<sup>8358</sup> Foday Lansana, Transcript 25 February 2008 pp. 4622-4624, 4676-4680.

<sup>8359</sup> Foday Lansana, Transcript 25 February 2008 pp. 4658-4660, 4689-4690.



Liberia. Defence Witness Joseph Dehmie contradicted this testimony, denying that Fornie was trained as a radio operator, and stating that Fornie was his “cook”. Dehmie’s testimony, however, is uncorroborated, while Fornie provided substantial details as to his work as a radio operator. Further, several other witnesses, including Defence witnesses, contradicted Dehmie and identified Fornie as a radio operator for the RUF.<sup>8361</sup> The Trial Chamber did not find Dehmie’s evidence credible. It accepts Fornie’s testimony and finds that he was trained in radio communications by the NPFL in Liberia.

3660. Several witnesses testified as to whether the RUF continued to benefit from this training by the NPFL during the conflict in Sierra Leone. Lansana stated that he remained in Sierra Leone through at least 1997, Witness TF1-516 attested to being trained by him in 1994<sup>8362</sup> and Witness TF1-585 attested to being trained by him in 1995. Witnesses Kamara, TF1-585, Kabbah, TF1-516, Pyne and Mongor all testified that they were trained by Lansana. Kamara remained a radio operator with the RUF until at least 1998,<sup>8363</sup> Kabbah, TF1-516 and Pyne remained operators until at least 1999,<sup>8364</sup> and TF1-585 until at least 2001.<sup>8365</sup> Lansana himself also lists the names of other radio operators that he trained.<sup>8366</sup> Lansana testified that following an attack in 1992, RUF fighters captured a significant amount of communications equipment, which was installed by operators trained by Lansana.<sup>8367</sup> Additionally, Fornie testified that he was sent to Liberia for training with the NPFL signal unit; he remained a radio operator with the RUF until 1999.<sup>8368</sup>

3661. Though the Defence presents credible evidence that Sankoh trained many fighters in radio communications, and was himself an expert in communications,<sup>8369</sup> this evidence is

<sup>8360</sup> Credibility Assessment, Foday Lansana, paras 237-243.

<sup>8361</sup> TF1-371, Transcript 28 January 2008, p. 2381 (CS); TF1-516, Transcript 8 April 2008, pp. 6867-6868; Alimamy Bobson Sesay, Transcript 23 April 2008, p. 3976; Albert Saidu, Transcript 9 June 2008, p. 11333; Charles Ngebeh, Transcript 14 April 2010, p. 39010; Martin George, Transcript 23 April 2010, p. 39746; DCT-008, Transcript 1 September 2010 p. 47767; Sam Kolley, Transcript 4 September 2010, p. 48747. These witnesses sometimes referred to Fornie as DAF, his RUF operating code name.

<sup>8362</sup> Foday Lansana, Transcript 20 February 2008, pp. 4386-4387; TF1-516, Transcript 14 April 2008, pp. 7456-7457.

<sup>8363</sup> Perry Kamara, Transcript 6 February 2008, p. 3200.

<sup>8364</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16126-16127; TF1-516, Transcript 8 April 2008, p. 6857; Alice Pyne, Transcript 19 June 2008, pp. 12272-12273.

<sup>8365</sup> TF1-585, Transcript 5 Sept 2008, p. 15592 (PS).

<sup>8366</sup> Foday Lansana, Transcript 20 February 2008, pp. 4387, 4521.

<sup>8367</sup> Foday Lansana, Transcript 20 February 2008, pp. 4388-4389.

<sup>8368</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21335-21338, 21395-21398, 21427, 21458-21469; 21476-21479.

<sup>8369</sup> Perry Kamara, Transcript 4 February 2008, p. 3028; Dauda Aruna Fornie, Transcript 1 December 2008, pp.

not dispositive, for it does not exclude the possibility that Lansana, of the NPFL, also trained operators. Similarly, the Defence argument that Lansana was only an “assistant operator” and therefore not qualified to train RUF fighters does not negate the overwhelming evidence that he did provide this training.<sup>8370</sup>

3662. Lansana testified that upon an instruction from James Galakpalah, he brought a radio set for Sankoh to Sierra Leone in 1991.<sup>8371</sup> He then returned the radio to Liberia when Taylor withdrew NPFL troops in 1992, but brought it back upon instructions from James Galakpalah two weeks later. Mongor testified that Lansana brought a radio set with him when he came to train RUF fighters in 1991.<sup>8372</sup> Further, the Accused himself conceded that he may have provided radios during the NPFL cooperation period with the RUF. As there is no evidence that these radios were removed from Sierra Leone after 1992, the Trial Chamber can reasonably infer that the radios remained with and were used by the RUF. While several Defence witnesses, including the Accused, testified that they personally, or the RUF generally, used radios that they had captured in the conflict to communicate,<sup>8373</sup> this evidence is not dispositive of the fact that the NPFL provided radios in addition to those that might have been captured in combat.

3663. Considering all of the evidence, the Trial Chamber finds that NPFL operators, including Lansana, trained RUF fighters in radio communication, and provided radio equipment to the RUF, from which the RUF continued to benefit during the indictment period.

3664. Mongor testified that Sankoh told him that Taylor had provided a radio and radio operator, Lansana, to help set up and operate RUF communications.<sup>8374</sup> Additionally,

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21372-21375; Issa Sesay, Transcript 8 July 2010, p. 44035; TF1-516, Transcript 8 April 2008, pp. 6828-6839; Alice Pyne, Transcript 17 June 2008, pp. 12081-12084; DCT-062, Transcript 21 April 2010, pp. 39610-39614; Sam Kolley, Transcript 4 November 2010, pp. 48391-48392; John Vincent, Transcript 21 April 2010, pp. 39613-39614.

<sup>8370</sup> See Defence Closing Brief, para. 979, *citing* Foday Lansana, Transcript 25 February 2008, pp. 4658-4661.

<sup>8371</sup> TF1-275, Transcript 20 February 2008, pp. 4379-4381, 4386.

<sup>8372</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5676-5677.

<sup>8373</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28964-28965; Martin George, Transcript 22 April 2010, pp. 39666-39669; Issa Sesay, Transcript 5 July 2010, p. 43684; John Vincent, Transcript 25 March 2010, pp. 38043-38044; DCT-292, Transcript 2 June 2010, p. 41894. Witness DCT-292’s testimony that the RUF had no radios before 1994, when Kono was attacked, *See* DCT-292, Transcript 2 June 2010, p. 41894, contradicts the overwhelming evidence from other witnesses that the RUF was communicating by radio before this date.

<sup>8374</sup> Isaac Mongor, Transcript 10 March 2008, pp. 5675-5676.

Kamara testified that Lansana was introduced to the RUF fighters and he stated that Taylor had sent him to provide communications training to them.<sup>8375</sup> In light of this evidence, the Trial Chamber finds the proposition that the Accused would not have known that the NPFL had provided these operators to the RUF to be incredulous. The Trial Chamber further finds it incredulous that the Accused would not have known about the radio the NPFL provided to the RUF, particularly considering Sankoh used this radio to communicate with the Accused himself immediately after it was installed by Lansana.<sup>8376</sup> The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused knew that the NPFL provided these radio operators and equipment to the RUF.

### Findings

3665. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the NPFL provided radio operators, including Foday Lansana, and equipment to the RUF, to train RUF fighters in radio communication. Lansana stayed in Sierra Leone following the break with the NPFL in Operation Top Final, and the RUF continued to benefit from the training and equipment provided by the NPFL throughout the conflict in Sierra Leone and during the indictment period.

3666. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused knew that the NPFL provided these operators and equipment to the RUF.

### (b) Satellite Phones

#### Submissions of the Parties

3667. The Prosecution alleges that the Accused provided RUF leaders, including Foday Sankoh, Sam Bockarie, and Issa Sesay, with satellite phones which enabled the Accused to plan, facilitate and order RUF activities during which crimes were committed.<sup>8377</sup>

3668. The Defence concedes that the Accused provided Bockarie and Sesay each with a satellite phone, but stated that he did so in order to facilitate negotiations during the peace

<sup>8375</sup> Perry Kamara, Transcript 4 February 2008, p. 3037.

<sup>8376</sup> Foday Lansana, Transcript 20 February 2008, pp. 4362-4364, 4411.

<sup>8377</sup> Prosecution Final Trial Brief, paras 12, 17, 140, 142, 151, 168, 171, 239, 246, 307, 310, 313, 318, 323-324, 352, 356, 364, 426, 512, 612, 1208, 1239, 1242, 1249.

process between the RUF/AFRC and the Sierra Leonean government.<sup>8378</sup> The Accused denies that he provided Sankoh with a satellite phone. Further, the Defence contends, the RUF received satellite phones from sources other than the Accused and thus any provision of a phone from the Accused could not have had a substantial effect on the perpetration of any crime.<sup>8379</sup>

### Evidence

#### Prosecution Witness Dauda Aruna Fornie

3669. Witness Dauda Aruna Fornie was an RUF radio operator.<sup>8380</sup> Fornie testified that in early 1998 while Fornie was working in Buedu, Johnny Paul Koroma gave Sam Bockarie his first satellite phone.<sup>8381</sup> A second phone was given to him by Taylor, also around early 1998.<sup>8382</sup> Fornie testified that he travelled with Bockarie to Monrovia, and on their return Bockarie handed Fornie a bag to carry, stating that inside was a satellite phone given to him by Taylor.<sup>8383</sup>

3670. Bockarie used his satellite phones most often for direct communication with Benjamin Yeaten.<sup>8384</sup> Fornie knew that Bockarie was speaking to Yeaten on the satellite phone because he would stand close to Bockarie and hear Yeaten talking to Bockarie. Bockarie also asked Fornie to tell Yeaten to send phone credit to him so he could recharge his account.<sup>8385</sup>

3671. Fornie testified that Bockarie and Yeaten were in “constant contact” between the RUF’s attack on Kono in 1992, and when they entered Freetown, in 1997. When Kono fell to the RUF, Issa Sesay sent a message over the radio and Fornie transmitted this message to Bockarie. Bockarie then called Yeaten immediately on his satellite phone to inform him that Kono was under control.<sup>8386</sup>

<sup>8378</sup> Defence Final Trial Brief, paras 73, 97, 531, 538, 574, 699, 702, 934, 961, 998-1006, 1520.

<sup>8379</sup> Defence Final Trial Brief, paras 574, 934, 998-1006.

<sup>8380</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21376-21383.

<sup>8381</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21511-21512.

<sup>8382</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21479, 21510-21512; 10 December 2008 p. 22048.

<sup>8383</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21512.

<sup>8384</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21510-21511.

<sup>8385</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21511.

<sup>8386</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21555-21557.

3672. Bockarie was also in contact with Yeaten after the 6 January 1999 invasion, speaking with him two to three times a day on his satellite phone. Bockarie would ask him for advice, and provide reports regarding the situation on the ground.<sup>8387</sup> On 7 January, King Perry sent a radio message to Bockarie that RUF troops in Freetown had released political prisoners from Pademba Road Prison. Fornie was present in the room when Bockarie called Yeaten on his satellite phone to transmit this message and ask for more ammunition.<sup>8388</sup> After some time Yeaten called Bockarie back on his satellite phone and instructed him to bring the prisoners to Buedu, saying these were instructions from Taylor.<sup>8389</sup>

3673. In cross-examination, Fornie testified that Taylor gave Bockarie more than one satellite phone.<sup>8390</sup> Fornie also stated that the satellite phone could not have been used to facilitate peace negotiations because Taylor gave Bockarie the satellite phone when the RUF withdrew from Kenema after the intervention, and the RUF were very far off from the peace accord at the time.<sup>8391</sup>

#### Prosecution Witness Varmuyan Sherif

3674. Witness Varmuyan Sherif, an RUF fighter,<sup>8392</sup> was a member of Taylor's Special Security Service (SSS) during the operative time period.<sup>8393</sup> Sherif testified that in early 1998, Taylor instructed him to travel to Sierra Leone and bring him Sam Bockarie, but did not explain his reasons for doing so.<sup>8394</sup> Sherif thereafter travelled to Sierra Leone, found Bockarie and brought him back to Liberia to meet with Taylor.<sup>8395</sup>

3675. Following his meeting with Taylor, Bockarie thanked Sherif for making it possible for him to meet Taylor, and said he would never forget him.<sup>8396</sup> He told Sherif that Taylor

<sup>8387</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21609-21610, 21614-21615.

<sup>8388</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21581-21586.

<sup>8389</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21584-21588; 10 December 2008, pp. 22109-22112.

<sup>8390</sup> Dauda Aruna Fornie, Transcript 10 December 2008, p. 22048.

<sup>8391</sup> Dauda Aruna Fornie, Transcript 10 December 2008, pp. 22050-22051.

<sup>8392</sup> TF1-375, Transcript 23 June 2008, p. 12485.

<sup>8393</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 812.

<sup>8394</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 826, 828-829.

<sup>8395</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 830-846.

<sup>8396</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 849-850, Transcript 11 January 2008, p. 1045.

gave him money and a satellite phone, and showed Sherif the money and the satellite phone that Taylor had given him.<sup>8397</sup>

Prosecution Witness Mohamed Kabbah

3676. Witness Mohamed Kabbah was an RUF radio operator during the operative time period.<sup>8398</sup> Kabbah testified that the first time he saw an RUF member with a satellite phone was at the end of 1995 or beginning of 1996, when he saw Foday Sankoh with one just before Sankoh left for the Abidjan peace talks. Kabbah said that Sankoh received this phone from Dr Addai Sebo.<sup>8399</sup> The witness agreed that the satellite phone was given to Sankoh so that he could contact people while he was in Abidjan.<sup>8400</sup>

3677. Kabbah also testified that in approximately September 1999, Sam Bockarie returned from a trip to Monrovia with a satellite phone that Kabbah did not believe he had before he went.<sup>8401</sup> Kabbah did not know who gave the satellite phone to Bockarie.<sup>8402</sup>

3678. During the Freetown Invasion, Bockarie would communicate with Taylor by satellite phone, and he did so in public.<sup>8403</sup> In one instance, Bockarie told the operator on duty, Tiger, to inform the operator Sunlight that he wanted to talk to Taylor. Bockarie then drove with the witness and others to the MP headquarters in Buedu where the satellite could get reception, and Bockarie spoke with Taylor on the phone.<sup>8404</sup> The witness heard Bockarie say that his men had entered Freetown, and were advancing.<sup>8405</sup>

Prosecution Witness Jabaty Jaward

3679. Witness Jabaty Jaward testified that he was a member of the RUF, and worked in Sam Bockarie's home in Buedu from approximately February or March 1998 to December

<sup>8397</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 849-850; Transcript 11 January 2008, p. 1045.

<sup>8398</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16126-16127; Transcript 15 September 2008, pp. 16248-16250.

<sup>8399</sup> Kabbah referred to Dr Addai Sebo as "Dr Simbo", but owing to the witnesses' description of this person the Trial Chamber accepts that he is referring to Dr Sebo.

<sup>8400</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16285, 16353-16355.

<sup>8401</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16132, 16135; Transcript 15 September 2008, pp. 16175-16176; Transcript 16 September 2008, pp. 16355-16361.

<sup>8402</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16361.

<sup>8403</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16173; Transcript 16 September 2008, pp. 16327-16328.

<sup>8404</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16176-16178.

<sup>8405</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16178.

1999.<sup>8406</sup> At this time, he witnessed Bockarie comparing two satellite phones. Bockarie told Jaward he was collected by Varmuyan Sherif and brought to Monrovia, where Taylor gave him one of the satellite phones. Jaward did not know how Bockarie obtained the other satellite phone.<sup>8407</sup>

3680. Because of his position in Bockarie's house, Jaward overheard many of Bockarie's conversations on the satellite phone.<sup>8408</sup> Jaward was responsible for charging the batteries to the satellite phone. In approximately 1998 to 1999, Bockarie told Jaward that he had discussed the Guineans' attack on the RUF via satellite phone with Taylor.<sup>8409</sup>

Prosecution Witness TF1-585

3681. Witness TF1-585 testified that she was a radio operator for Sam Bockarie in Buedu at the end of 1997.<sup>8410</sup> The witness testified that while in Buedu, she saw Bockarie with a satellite phone, but she did not know who gave it to Bockarie.<sup>8411</sup>

3682. Benjamin Yeaten and Bockarie would often talk on the radio about Daniel Tamba (a.k.a. Jungle) bringing arms, ammunition, food, clothing and other supplies to Buedu.<sup>8412</sup> If there was anything more important than that, Yeaten would instruct Bockarie to switch on the satellite phone.<sup>8413</sup> The witness knew the content of these conversations because he was present when Bockarie would discuss them with the senior officers after they happened.<sup>8414</sup>

3683. In the beginning of 1998, the witness saw Bockarie talking on his satellite phone and then was present when Bockarie related his phone conversation to Eddie Kanneh. Bockarie stated that he had spoken to Yeaten, who had instructed him to bring Johnny Paul Koroma to Beudu because "they [had] something for them". Yeaten told Bockarie that this was an instruction from Taylor.<sup>8415</sup> Koroma was then brought to Buedu.<sup>8416</sup>

<sup>8406</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13383, 13390-13397; Transcript 16 July 2008, p. 13845.

<sup>8407</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13382, 13422-13423.

<sup>8408</sup> Jabaty Jaward, Transcript 16 July 2008, pp. 13815-13817.

<sup>8409</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13418, 13421-13424.

<sup>8410</sup> TF1-585, Transcript 5 September 2008, pp. 15608-15610.

<sup>8411</sup> TF1-585, Transcript 9 September 2008, pp. 15861-15862.

<sup>8412</sup> TF1-585, Transcript 8 September 2008, pp. 15652-15654.

<sup>8413</sup> TF1-585, Transcript 8 September 2008, pp. 15652-15654, 15657.

<sup>8414</sup> TF1-585, Transcript 8 September 2008, pp. 15654-15657.

<sup>8415</sup> TF1-585, Transcript 5 September 2008, pp. 15610-15615; Transcript 10 September 2008, p. 15911.

3684. Around 9 January 1999, during the attack on Freetown, Bockarie used his satellite phone to inform the BBC that Alex Tamba Brima (a.k.a. Gullit) and his men would be in Freetown within three days' time.<sup>8417</sup> Just after this announcement, the witness heard the radio operator on duty receive a call from Yeaten's operator Sunlight, asking them to find Bockarie so that he could speak with Yeaten.<sup>8418</sup>

3685. Bockarie came to the radio, and the witness heard Yeaten tell Bockarie that if what he heard on the BBC was true, Bockarie should expect Yeaten to come to Buedu in two days' time. He told him to switch on his satellite phone because "my father", whom the witness understood to be Taylor, "would want to talk to you". Bockarie went directly to the veranda where the satellite phone was located and spoke on the phone. The witness was not present for this conversation. She also testified that she was present when Yeaten came to Buedu two days later.<sup>8419</sup>

#### Prosecution Witness Perry Kamara

3686. Witness Perry Kamara, an RUF radio operator during the operative period,<sup>8420</sup> testified that in approximately 1994 or 1995 Dr Addai Sebo brought a satellite phone to Foday Sankoh.<sup>8421</sup> Sankoh used this phone to communicate with Taylor, and then Sankoh would transmit messages concerning what he discussed with Taylor to RUF commanders at RUF field radio stations.<sup>8422</sup>

3687. Issa Sesay took over as acting leader of the RUF each time Bockarie visited Taylor in Liberia, and also when Sankoh was arrested in Freetown in May 2000.<sup>8423</sup> During these times, Sesay had a satellite phone on which he would communicate with Taylor, and would

<sup>8416</sup> TF1-585, Transcript 5 September 2008, p. 15616.

<sup>8417</sup> TF1-585, Transcript 8 September 2008, pp. 15717-15719.

<sup>8418</sup> TF1-585, Transcript 8 September 2008, pp. 15720-15721.

<sup>8419</sup> TF1-585, Transcript 8 September 2008, pp. 15719-15724.

<sup>8420</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>8421</sup> Perry Kamara, Transcript 4 February 2008, pp. 3053-3054, 3057-3058. Kamara referred to Dr Addai Sebo as "Dr Simbo", but owing to the witnesses' description of this person the Trial Chamber accepts that he is referring to Dr Sebo.

<sup>8422</sup> Perry Kamara, Transcript 5 February 2008, p. 3082.

<sup>8423</sup> Perry Kamara, Transcript 5 February 2008, p. 3083.



transmit messages concerning his talks with Taylor to all RUF commanders at RUF field stations.<sup>8424</sup>

3688. Kamara testified that Bockarie had a satellite phone in 1998 or 1999, in Buedu.<sup>8425</sup> Around April or May 1998, Bockarie requested Denis Mingo (a.k.a. Superman) and Kamara to travel to Buedu for a meeting. Kamara participated in a meeting at Bockarie's house along with Mike Lamin, Isaac Mongor, Mingo and "Pa" or SYB Rogers. Bockarie showed those present a pile of arms and ammunition, commercial radios, and a satellite phone, and told them that Taylor had provided these materials in return for diamonds sent to him by the RUF. Bockarie then discussed with the men a plan to recapture Sierra Leone.<sup>8426</sup> Messages that Bockarie received on the phone would be transmitted to all RUF stations.<sup>8427</sup>

#### Prosecution Witness Karmoh Kanneh

3689. Witness Karmoh Kanneh was an RUF member under the direct command of Foday Sankoh during the operative time period.<sup>8428</sup> In early December 1996, Kanneh met at Sankoh's house for an officers' meeting.<sup>8429</sup> Sankoh was present, along with Sam Bockarie, Issa Sesay, Daniel Tamba (a.k.a. Jungle), Abubakkarr, Francis Oscar Charles, Jackson Swaray and the witness. Sankoh gave Bockarie a satellite phone and told them he was going on a political tour, but they should take their orders from Bockarie.<sup>8430</sup>

3690. Kanneh also testified that in May 1997, he conducted a mission to capture Tongo Field. When he later reported to Bockarie, Bockarie thanked him for successfully completing the mission. Kanneh then heard Bockarie call Taylor on a satellite phone and inform him that they had captured Tongo Field. Kanneh could hear Bockarie's side of the

<sup>8424</sup> Perry Kamara, Transcript 5 February 2008, p. 3083.

<sup>8425</sup> Perry Kamara, Transcript 5 February 2008, p. 3082; Transcript 7 February 2008, p. 3332.

<sup>8426</sup> Perry Kamara, Transcript 5 February 2008, pp. 3159-3164.

<sup>8427</sup> Perry Kamara, Transcript 7 February 2008, pp. 3332-3333.

<sup>8428</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9354-9355.

<sup>8429</sup> The witness testifies that this meeting occurred upon Sankoh's return from signing the Abidjan Peace Accords. Karmoh Kanneh, Transcript 8 May 2008, p. 9354, which were signed on 30 November 1996. Exhibit D-087, "Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front"; Decision on Judicial Notice, Annex A, Fact O.

<sup>8430</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9356-9359.

conversation, and could hear Taylor on the other side of the phone thanking Bockarie “a lot”.<sup>8431</sup>

3691. The witness also testified that around this time period, Bockarie called the witness, Jungle and Lion to his house in Tongo and thanked them for the diamonds that they had mined for him. Bockarie then called Taylor on a satellite phone and told him of the work that had been done. Kanneh could hear that Taylor thanking Bockarie, and told him to hand the diamonds over to Jungle, who would transport them to Liberia.<sup>8432</sup>

3692. Kanneh also testified that he attended a second meeting at Bockarie’s house in December 1998, which occurred after Bockarie travelled to Burkina Faso and returned with materials and arms.<sup>8433</sup> Those present included Bockarie, Issa Sesay, Daniel Tamba (a.k.a. Jungle), Eddie Kanneh, Major Francis, Matthew Barbor, Junior Vandi, Gbessay Gbobah and the witness.<sup>8434</sup> At this meeting they discussed their plan to take power in Sierra Leone, by attacking Kono and Makeni and then capturing Freetown.<sup>8435</sup> If they met President Kabbah at the State House, they were to kill him.<sup>8436</sup> After this meeting, Bockarie and the others briefed President Taylor by calling him on Bockarie’s satellite phone. All the participants were present as Bockarie told Taylor that he had implemented the plan Taylor had given to him in Monrovia. Kanneh knew that Bockarie was speaking to Taylor because he announced this to the group.<sup>8437</sup>

#### Prosecution Witness Abu Keita

3693. Witness Abu Keita was a former ULIMO fighter who was asked by Benjamin Yeaten to join the RUF in Sierra Leone in September 1998.<sup>8438</sup> Keita testified that in September 1998, he went to a meeting at Yeaten’s home with Joseph Marzah (a.k.a. Zigzag),<sup>8439</sup> Sampson, Daniel Tamba (a.k.a. Jungle,) Sam Bockarie, Eddie Kanneh, and

<sup>8431</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9369-9371.

<sup>8432</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9380-9382.

<sup>8433</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9416-9419.

<sup>8434</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9418-9420, 9425.

<sup>8435</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9423-9427.

<sup>8436</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9430-9431.

<sup>8437</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9433-9437; Transcript 13 May 2008, p. 9728.

<sup>8438</sup> Abu Keita, Transcript 23 January 2008, pp. 1967-1969.

<sup>8439</sup> The witness spells Marzah’s name as “Marzhar” and then refers to him as “Mazhar”, but also states that he was a special services officer and his nickname was “Zigzag”. Transcript 23 January 2008, p. 1967. The Trial Chamber is convinced that the witness was referring to Joseph Marzah.

others. During that meeting, the witness saw Bockarie with a satellite phone which he said had been given to him by Yeaten.<sup>8440</sup> The satellite phone calls were paid for by Yeaten, who would send “top up cards” to Bockarie.<sup>8441</sup>

3694. The witness also testified that during the attack on Freetown, the witness and Bockarie were in Buedu. Bockarie called the BBC on his satellite phone and stated that the RUF were approaching the State House.<sup>8442</sup> Bockarie then called Yeaten and Joseph Tuah on the satellite phone, and Bockarie told the witness he was reporting to them on the status of the operation.<sup>8443</sup>

3695. The witness also testified that in May 2000, “after Bockarie’s regime”, Sankoh ordered that Issa Sesay should be in charge of the RUF. Sesay travelled to Liberia and returned with a satellite phone, which Sesay said was given to him by Taylor.<sup>8444</sup>

#### Prosecution Witness Dennis Koker

3696. Witness Dennis Koker, an AFRC fighter,<sup>8445</sup> testified that he was present in Koidu in March 1998 when it was captured by the RUF. Koker saw Issa Sesay in the centre of Koidu near the mosque with a satellite phone. Koker heard Sesay say “Master, Kono is under our control”, and Koker believed that he was speaking to Sam Bockarie, because he called him Master.<sup>8446</sup>

#### Prosecution Witness TF1-371

3697. Witness TF1-371, an RUF member,<sup>8447</sup> testified that in March 1997, Foday Sankoh had two satellite phones.<sup>8448</sup>

3698. The witness also testified that in late 1998 or early 1999, he was present at a senior officer’s meeting at Sam Bockarie’s residence in Buedu attended by most of the senior

<sup>8440</sup> Abu Keita, Transcript 23 January 2008, pp. 1967-1969, 1974.

<sup>8441</sup> Abu Keita, Transcript 23 January 2008, pp. 2018-2019.

<sup>8442</sup> Abu Keita, Transcript 23 January 2008, pp. 2019-2020.

<sup>8443</sup> Abu Keita, Transcript 23 January 2008, pp. 2020-2022.

<sup>8444</sup> Abu Keita, Transcript 23 January 2008, pp. 2019, 2031-2032.

<sup>8445</sup> Dennis Koker, Transcript 15 January 2008, p. 1236.

<sup>8446</sup> Dennis Koker, Transcript 15 January 2008, pp. 1239-1240.

<sup>8447</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>8448</sup> TF1-371, Transcript 25 January 2008, pp. 2282-2284 (CS).

commanders of the RUF.<sup>8449</sup> Halfway through the meeting, a few senior leaders had lunch with Bockarie in his bedroom. Bockarie went outside and spoke on a satellite phone for ten to fifteen minutes. When he returned, he stated that he had been on the satellite phone with “the Pa”, whom the witness understood to be Taylor. Bockarie said that Taylor had given direct instructions for Operation No Living Thing, a mission to capture Freetown. Taylor instructed Bockarie to execute any fighter contesting his command or authority for this operation. In addition, no enemy forces should be captured, but only eliminated. He then informed the rest of the attendees to the meeting about the operation.<sup>8450</sup>

3699. While the witness and Bockarie were in Beudu, Bockarie communicated with Liberia primarily through his satellite phone, which he said Taylor had given him.<sup>8451</sup> During the Junta and in 1998 and 1999, Bockarie transmitted information on RUF actions to Taylor over satellite telephone.<sup>8452</sup>

3700. The witness disagreed that a satellite phone was made available to Bockarie and Sankoh for the purpose of facilitating peace negotiations. The witness testified that a satellite phone was given by the American ambassador to Sankoh in Lomé, and that with regard to the phone Taylor gave Bockarie, Bockarie did not use it to talk to any members of the Committee of Five on that phone, other than Taylor.<sup>8453</sup>

#### Prosecution Witness TF1-516

3701. Witness TF1-516 was an RUF radio operator from 1994 to 1999.<sup>8454</sup> Witness TF1-516 testified that in November or December 1996, Foday Sankoh left to attend peace talks in Yammassoukro. Zedman returned from Yamassouko with a new satellite phone and fax machine purchased by Sankoh.<sup>8455</sup>

3702. The witness first saw Sam Bockarie with a satellite phone in Kenema during the Junta period in 1997. Bockarie later told the witness that he had received a phone from his “chief” in Liberia. The one Bockarie had owned previously had been blocked because he

<sup>8449</sup> TF1-371, Transcript 28 January 2008, p. 2410 (CS).

<sup>8450</sup> TF1-371, Transcript 28 January 2008, pp. 2412-2414 (CS).

<sup>8451</sup> TF1-371, Transcript 28 January 2008, pp. 2431-2432 (CS).

<sup>8452</sup> TF1-371, Transcript 29 January 2008, pp. 2452 (CS).

<sup>8453</sup> TF1-371, Transcript 31 January 2008, pp. 2788-2790 (CS).

<sup>8454</sup> TF1-516, Transcript 8 April 2008, pp. 6828-6839; Transcript 14 April 2008, pp. 7456-7457.

<sup>8455</sup> TF1-516, Transcript 8 April 2008, pp. 6842-6843.

was not paying his bills.<sup>8456</sup> Bockarie and Benjamin Yeaten would speak over a satellite phone, and then Bockarie would transmit messages concerning these conversations via the radio to the frontlines.<sup>8457</sup> After speaking over the phone with Taylor, Bockarie would tell those around him, including the witness, about the conversation.<sup>8458</sup>

3703. During the Freetown Invasion, Bockarie spoke with radio call sign 020, which was at Taylor's Executive Mansion, on his satellite phone. Following this conversation, Bockarie told Alex Tamba Brima (a.k.a. Gullit) over the radio to instruct his men to burn down areas in Freetown, including government buildings, in order to attract the interest of the international community.<sup>8459</sup>

#### Prosecution Witness Joseph Marzah

3704. Witness Joseph Marzah, (a.k.a. Zigzag), an SSS member,<sup>8460</sup> testified that he was at a night club with Sam Bockarie when Bockarie received a phone call on his satellite phone concerning an ammunition shipment that had arrived. Marzah and Bockarie went to White Flower, where they met with Benjamin Yeaten, Joseph Tuah and Peter Saikpedeh, who confirmed the arrival of the ammunition.<sup>8461</sup> The witness did not specify the date of this incident.

#### Prosecution Witness TF1-168

3705. Witness TF1-168, an RUF member,<sup>8462</sup> was arrested by Sam Bockarie in March 1997.<sup>8463</sup> The witness testified that while he was detained in Bunumbu, Bockarie came to visit and told the detainees that Amara Essy had expressed concern about their fate. Bockarie set up a satellite phone so that the External Delegates could speak to Essy over the phone.<sup>8464</sup>

<sup>8456</sup> TF1-516, Transcript 8 April 2008, pp. 6911-6912, 6917.

<sup>8457</sup> TF1-516, Transcript 8 April 2008, pp. 6920-6924.

<sup>8458</sup> TF1-516, Transcript 8 April 2008, p. 6924.

<sup>8459</sup> TF1-516, Transcript 9 April 2008, p. 6977.

<sup>8460</sup> Joseph Marzah, Transcript 13 March 2008, pp. 6053-6055.

<sup>8461</sup> Joseph Marzah, Transcript 12 March 2008, pp. 5860-5861, 5884-5886.

<sup>8462</sup> TF1-168, Transcript 22 January 2009, pp. 23275-23282 (CS).

<sup>8463</sup> TF1-168, Transcript 22 January 2009, pp. 23320-23322 (CS).

<sup>8464</sup> TF1-168, Transcript 22 January 2009, pp. 23362-23364 (CS); Transcript 26 January 2009, pp. 23529-23532 (CS). Witness TF1-168 testified that Amara Essy was the foreign minister of Côte d'Ivoire. *See* TF1-168, Transcript 21 January 2009 pp. 23256-23257(CS).

The Accused

3706. The Accused acknowledged that he gave Sam Bockarie a satellite phone in October 1998.<sup>8465</sup> The Accused denied, however, giving Bockarie more than one phone.<sup>8466</sup>

3707. The Accused also acknowledged that he met with Bockarie in Liberia in September 1998, but denied that Varmuyan Sherif was present, or that he gave Bockarie a satellite phone at this time.<sup>8467</sup> The Accused testified that when Bockarie first came to Liberia, he already had a satellite phone that the Accused believed Sankoh had given him.<sup>8468</sup> It was on Bockarie's second trip to Liberia to meet with him, in October 1998, that he gave Bockarie a satellite phone, and only did so in order to facilitate the peace process, so that he and the other members of the Committee of Five could contact Bockarie.<sup>8469</sup>

3708. The Accused denied that he spoke with Bockarie on a satellite phone on the night of the Freetown Invasion. The Accused stated that in 1999, he was very busy dealing with peace negotiations and so would not have had time to talk.<sup>8470</sup> The Accused also denied that senior members of his regime were in contact with Bockarie via satellite phone during the Freetown Invasion, because they would have no reason to be.<sup>8471</sup>

3709. The Accused testified that he gave Issa Sesay a satellite phone in 2000, after Sesay had been made acting commander of the RUF.<sup>8472</sup> The Accused denied, however, providing Foday Sankoh with a satellite phone, testifying that Sankoh received a satellite phone when

<sup>8465</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26663-26664; Transcript 16 September 2009 pp. 29006, 29203; Transcript 17 September 2009, pp. 29282-29283; Transcript 1 October 2009 p. 30143; Transcript 27 October 2009, p. 30449; Transcript 25 November 2009, p. 32466; Transcript 18 January 2010, pp. 33455-33456; Transcript 27 January 2010, pp. 34294-34295.

<sup>8466</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29282-29283.

<sup>8467</sup> Charles Ghankay Taylor, Transcript 3 August 2009 pp. 25807, 25812-25814; Transcript 29 October 2009, pp. 30751-30753.

<sup>8468</sup> Charles Ghankay Taylor, Transcript 6 August 2009 p. 26208.

<sup>8469</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29282-29283; Transcript 25 November 2009, pp. 32464-66; Transcript 18 January 2010, pp. 33452-33457.

<sup>8470</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29106-29108; Transcript 22 September 2009, p. 29401.

<sup>8471</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29395-29396.

<sup>8472</sup> Charles Ghankay Taylor, Transcript 12 August 2009, p. 26664; Transcript 22 September 2009, p. 29392; Transcript 16 November 2009, p. 31657; Transcript 27 January 2010, pp. 34293-34294; Transcript 28 January 2010, pp. 34306-34310. The Trial Chamber notes at one point in his testimony Taylor denied giving Sesay a satellite phone, Charles Ghankay Taylor, 16 September 2009 p. 29006, but then recanted and said he had been mistaken, and that he did give a phone to Sesay, Transcript 28 January 2010, pp. 34309-34310.





he went to Abidjan.<sup>8473</sup> Finally, the Accused denied speaking with Bockarie when the RUF was under attack by Guinea, stating that he never spoke to Bockarie on his satellite phone.<sup>8474</sup>

Defence Witness John Vincent

3710. Witness John Vincent, an RUF member, testified that he did not understand much about the Lomé Peace Accords, but said that Dr Addai Sebo intervened to help bring about peace in Sierra Leone, and at one point, Dr Sebo gave Foday Sankoh a satellite phone.<sup>8475</sup>

3711. The witness heard that Sam Bockarie first went to Monrovia in August or September 1998 and then returned on a second trip, when Taylor gave him a guesthouse and a satellite phone.<sup>8476</sup>

Defence Witness Fayia Musa

3712. Witness Fayia Musa, a member of the External Delegation and an agricultural officer in the RUF,<sup>8477</sup> testified that during the peace talks in Abidjan in 1996, Foday Sankoh received a satellite phone as a gift from Omrie Golley, a Sierra Leonean lawyer based in London. Sankoh then sent the satellite phone with Daniel Tamba (a.k.a. Jungle) to Sam Bockarie in Sierra Leone. As far as the witness was aware this was Bockarie's first satellite phone.<sup>8478</sup>

3713. Musa, as a member of the External Delegation, was arrested by Sam Bockarie in March 1997.<sup>8479</sup> While the witness was detained in Bunumbu, some time between May 1997 and February 1998, Amara Essy, the Foreign Minister from Côte d'Ivoire, sent Bockarie a satellite phone. Essy explained to Bockarie that the international community

<sup>8473</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26663-26666; 16 September 2009, p. 29006; Transcript 27 October 2009, pp. 30425-30426.

<sup>8474</sup> Charles Ghankay Taylor, Transcript 26 October 2009, pp. 30269-30271.

<sup>8475</sup> John Vincent, Transcript 26 March 2010 pp. 38142-38144.

<sup>8476</sup> John Vincent, Transcript 26 March 2010 pp. 38142-38144.

<sup>8477</sup> Fayia Musa, Transcript 14 April 2010, p. 38949; Transcript 19 April 2010, p. 39283.

<sup>8478</sup> Fayia Musa, Transcript 14 April 2010, pp. 39026-39027; Transcript 16 April 2010, p. 39181; Transcript 20 April 2010, pp. 39441-39442. *See also* Fayia Musa, Transcript 14 April 2010, pp. 38965-38966 (where Musa testifies that Omrie Golley was a Sierra Leonean lawyer based in London).

<sup>8479</sup> Fayia Musa, Transcript 15 April 2010, pp. 39117-39118.





wanted him to ensure the prisoners' security, and Bockarie put each of the prisoners on the phone to speak with Essay.<sup>8480</sup>

Defence Witness Issa Sesay

3714. Witness Issa Sesay, a senior RUF commander,<sup>8481</sup> testified that Dr Sebo met with Foday Sankoh in Zogoda in March or April of 1995. Dr Sebo brought with him a satellite phone, and left the phone with Sankoh after the visit. This was the first time Sankoh had a satellite phone.<sup>8482</sup>

3715. Sesay also testified that Bockarie first received a satellite phone in October 1998 during his second visit to Taylor in Liberia. Bockarie obtained his second satellite phone in 1999 from a Canadian businessman named Carlos. Bockarie's third satellite phone came from Michel and Louis, Belgian businessmen, brought by Ibrahim Bah.<sup>8483</sup>

3716. Sesay received a satellite phone from Sankoh in January 2000, after Bockarie resigned from the RUF. The Witness could only receive calls and not make them, because the phone did not have any credit. Sankoh was the only person to call him on this phone.<sup>8484</sup>

3717. Sesay testified that he received a satellite phone from Taylor in October 2000, after he escorted the RUF delegation to the Abuja peace talks. Sesay was in a meeting with five heads of state, including Taylor, and told them that he was unable to make calls with his satellite phone. President Obasanjo, of Nigeria, stated that if Sesay was willing to work with them, they would provide him with a satellite phone.<sup>8485</sup> Sesay returned to Monrovia in October 2000. On that trip Sesay visited Taylor at White Flower and received the satellite phone promised to him.<sup>8486</sup>

<sup>8480</sup> Faya Musa, Transcript 15 April 2010, p. 39133. *See* Faya Musa, Transcript 14 April 2010, pp. 38953- 38954 (where Musa testifies that Amara Essy was the Foreign Minister of Côte d'Ivoire, involved in peace negotiations in 1995).

<sup>8481</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>8482</sup> Issa Sesay, Transcript 6 July 2010, pp. 43715-43717; Issa Sesay, Transcript 17 August 2010, pp. 46472-46473. Sesay referred to Dr Addai Sebo as "Dr Sebo", but owing to the witnesses' description of this person the Trial Chamber accepts that he is referring to Dr Sebo.

<sup>8483</sup> Issa Sesay, Transcript 8 July 2010, pp. 44038-44040.

<sup>8484</sup> Issa Sesay, Transcript 11 August 2010, pp. 46054-46055; Transcript 14 July 2010, pp. 44485-44488; Transcript 23 August 2010 p. 46909-46910.

<sup>8485</sup> Issa Sesay, Transcript 8 July 2010, pp. 44042-44043; Transcript 25 October 2010 p. 47172.

<sup>8486</sup> Issa Sesay, Transcript 30 July 2010, p. 45094; Transcript 23 August 2010 p. 46909. The Trial Chamber notes that Sesay first testified that his meeting with the five heads of state occurred in November 2000 and that he



3718. Sesay testified that he never spoke with Taylor on either of his satellite phones.<sup>8487</sup> When he started working with UNAMSIL, he used the phone Taylor gave him to call “General Opande and the others” and discuss Abuja II meetings. He also used this phone for personal phone calls to the RUF guesthouse in Monrovia, Gibril Massaquoi, or Ibrahim Bah.<sup>8488</sup>

Defence Witness Isatu Kallon

3719. Witness Isatu Kallon, a business woman who arranged supplies for the RUF,<sup>8489</sup> testified that contrary to Perry Kamara’s testimony, which indicates that Foday Sankoh received a satellite phone from Dr Addai Sebo when he passed through RUF territory, she took Dr Sebo into Sierra Leone but never saw him with a satellite phone.<sup>8490</sup>

Defence Exhibit D-205

3720. Defence Exhibit D-205 is a commercial invoice for a satellite phone. The document lists the “consignee” as “Chairman Foday Sankoh” and his address as care of Paulo Bangura at the Cape Sierra Hotel in Freetown. The date reads “10/7/1999”, and there is no sender listed.<sup>8491</sup> When shown this document, Taylor stated several times that he did not provide Sankoh with a satellite phone, and does not know the document’s origin.<sup>8492</sup>

Defence Exhibit D-467

3721. Defence Exhibit D-467 is a letter, on RUF letterhead, from Gibril Massaquoi,<sup>8493</sup> RUF spokesman, to President Olusegun Obasanjo, of Nigeria, dated “4/10/2000”. Massaquoi reminds President Obasanjo, “as per our last discussion in Monrovia”, to send

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received the satellite phone promised to him after this meeting. Issa Sesay, Transcript 8 July 2010, pp. 44042-44043. He later testified that he received the satellite phone from Taylor while traveling to sell diamonds in Liberia in October 2000. Issa Sesay, Transcript 26 July 2010, pp. 44575-44576; Transcript 25 August 2010 p. 47170; Transcript 26 August 2010 p. 47222-47223;

<sup>8487</sup> Issa Sesay, Transcript 8 July 2010, pp. 44040-44044; Transcript 26 July 2010 p. 44605.

<sup>8488</sup> Issa Sesay, Transcript 25 August 2010 p. 47170-47172; Transcript 26 August 2010 p. 47224.

<sup>8489</sup> Isatu Kallon, Transcript 16 June 2010, pp. 42687-42688, 42708; 17 June 2010, pp. 42733-42735, 42759-42760, 42807.

<sup>8490</sup> Isatu Kallon, Transcript 22 June 2010, pp. 43095-43097. Kallon referred to Dr Addai Sebo as “Dr Simbo”, but owing to the witnesses’ description of this person the Trial Chamber accepts that she is referring to Dr Sebo.

<sup>8491</sup> Defence Exhibit D-205 “Invoice for Purchase of Satellite Phone for Chairman Foday Sankoh, July 10 1999 – DCT-168”.

<sup>8492</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26661-26663.

<sup>8493</sup> In Defence Exhibit D-467 his name is spelled Gibril Massakhoi.





him and Issa Sesay each a satellite phone to facilitate daily communication with the President and other ECOWAS leaders. Massaquoi asks that the phones be sent to him and Sesay through Taylor, stating that there were many issues they want to communicate to the President directly but could not do so because they had no satellite phones.<sup>8494</sup>

### Deliberations

3722. It is undisputed that the Accused gave Sam Bockarie a satellite phone in October 1998.<sup>8495</sup> The Defence submits that this phone was for the purpose of facilitating negotiations during the peace process. The Prosecution proffered several witnesses who testified that Bockarie used a satellite phone to communicate with the Accused, Benjamin Yeaten, the international press and others with regard to RUF/AFRC actions.

3723. Witness TF1-371 testified that at an RUF officers' meeting in late 1998 or early 1999, he witnessed Bockarie speaking on a satellite phone, telling those present afterwards that he had been speaking to the Accused, and relaying instructions from the Accused for the Freetown Invasion.<sup>8496</sup> Mohamed Kabbah testified that during the Freetown Invasion he witnessed Bockarie call Taylor on a satellite phone and tell him that the RUF had advanced to Freetown.<sup>8497</sup> Witness TF1-516 testified that he heard Bockarie use his satellite phone to call the Executive Mansion, at 020, during the Freetown Invasion.<sup>8498</sup> Abu Keita similarly testified that during the Freetown Invasion he witnessed Bockarie use his satellite phone to

<sup>8494</sup> Defence Exhibit D-467 (Letter from Gibril Massakhoi, RUF Spokesman to His Excellency President Olusegun Obasanjo, Federal Republic of Nigeria. October 4 2000 - (00026024 - 00026025)) CMS 30219-30220.

<sup>8495</sup> See Defence Closing Brief, paras 97, 574, 934, 1001, 1005, 1520. Several Prosecution and Defence witnesses testified that Taylor provided Bockarie with a satellite phone. Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21479, 21510-21512; 10 December 2008 p. 22048; Jabaty Jaward, Transcript 10 July 2008 pp. 13382-13383, 13422-13423; Witness TF1-371, Transcript 28 January 2008, pp. 2431-2432 (CS); Charles Ghankay Taylor, Transcript 12 August 2009 pp. 26663-26664; Transcript 16 September 2009, pp. 29006, 29203; Transcript 17 September 2009, pp. 29282-29283; Transcript 1 October 2009, p. 30143; Transcript 27 October 2009, p. 30449; Transcript 25 November 2009, p. 32466; Transcript 18 January 2010, pp. 33455-33456; Transcript 27 January 2010 pp. 34294-34295; John Vincent, Transcript 26 March 2010 pp. 38142-38144; Issa Sesay, Transcript 8 July 2010, pp. 44038-44040. Though Prosecution Witness Varmuyan Sherif's testimony that Bockarie received a satellite phone upon his first meeting with Taylor is contradicted by the several witnesses who testified to this occurring on Bockarie's second visit to Liberia, Sherif's testimony that Bockarie received a phone from Taylor is corroborative. Varmuyan Sherif, Transcript 9 January 2008, pp. 849-850; Transcript 11 January 2008, p. 1045.

<sup>8496</sup> TF1-371, Transcript 28 January 2008, pp. 2412-2414 (CS).

<sup>8497</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16178.

<sup>8498</sup> TF1-516, Transcript 8 April 2008 pp. 6861, 6934-6935; Transcript 9 April 2008, p. 6977-6978. Although the Trial Chamber was not able to find that through this satellite phone conversation the Accused directed or advised Bockarie that the troops in Freetown should destroy property in Freetown during the retreat from Freetown, the evidence did establish that this satellite phone call was made. See Military Operations: The Freetown Invasion, Allegation that the Accused Directed the Freetown Invasion.

inform the BBC that his men were at the State House, and to give Benjamin Yeaten and Joseph Tuah an update on the operation.<sup>8499</sup> The Trial Chamber recalls that it had no general reservations concerning the testimonies of TF1-371, Mohamed Kabbah, TF1-516 or Abu Keita.<sup>8500</sup>

3724. Dauda Aruna Fornie testified that after the invasion of Freetown, he witnessed Bockarie call Yeaten on his satellite phone to inform him that the RUF had released prisoners from the Pademba Road Prison, and to ask for more ammunition. Yeaten later called Bockarie back on the satellite phone and instructed him to bring the prisoners to Buedu, on the orders of Taylor.<sup>8501</sup> Witness TF1-585 testified that on 9 January 1999, he saw Bockarie use his satellite phone to inform both the BBC and Yeaten that his men would be in Freetown within three days' time.<sup>8502</sup> And finally, Karmoh Kanneh testified that he attended a meeting in December 1999 at which Bockarie used his satellite phone to inform Taylor of his plan to capture Freetown.<sup>8503</sup> The Trial Chamber recalls its findings that Fornie, TF1-585 and Karmoh Kanneh are all generally credible witnesses.<sup>8504</sup>

3725. While maintaining that the Accused gave the phone to Bockarie in order to facilitate peace negotiations, the Defence has not provided any evidence, besides the Accused's assertions, that he used a satellite phone for this purpose. In light of the overwhelming evidence that Bockarie used satellite phone communications to speak with the Accused and others in furtherance of RUF/AFRC military activities, the Defence submission is not convincing in the view of the Trial Chamber.

3726. The Defence contends that the evidence shows that the RUF received satellite phones from sources other than the Accused.<sup>8505</sup> Prosecution Witnesses Dauda Aruna Fornie, Jabaty Jaward and TF1-168 and Defence Witnesses Fayia Musa and Issa Sesay testified to the fact that Bockarie had more than one phone during the conflict in Sierra

<sup>8499</sup> Abu Keita, Transcript 23 January 2008, pp. 2020-2022.

<sup>8500</sup> Credibility Assessment, TF1-371, paras 220-226; Credibility Assessment, Mohamed Kabbah, paras 334-338; Credibility Assessment, TF1-516, paras 275-284; Credibility Assessment, Abu Keita, paras 213-219.

<sup>8501</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21581-21588; 10 December 2008, pp. 22109-22112.

<sup>8502</sup> Witness TF1-585, Transcript 8 September 2008, pp. 15717-15724.

<sup>8503</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9433-9437; Transcript 13 May 2008 p. 9728.

<sup>8504</sup> Credibility Assessment, Dauda Aruna Fornie, paras 346-358; Credibility Assessment, TF1-585, paras 330-333. Credibility Assessment, Karmoh Kanneh, The Role of Intermediaries, para. 2704.

<sup>8505</sup> Defence Final Trial Brief, para. 998.

Leone.<sup>8506</sup> In addition, Prosecution Witnesses TF1-585, Perry Kamara, TF1-516 and Abu Keita and Defence Witness Fayia Musa testified to having seen Bockarie with a satellite phone before he received one from the Accused in October 1998.<sup>8507</sup> The evidence clearly establishes that Bockarie had at least two satellite phones, and the Trial Chamber is unable to ascertain from the evidence whether any of the calls made by Bockarie to the Accused and others in relation to RUF/AFRC activities were made on the satellite phone that the Accused gave Bockarie. Given the fact that Bockarie had two satellite phones, one of which was given to him by the Accused, the Trial Chamber considers that the provision of this satellite phone to Bockarie enhanced his communications infrastructure. The Trial Chamber further notes the evidence that the satellite phone calls were paid for by Yeaten, who sent “top up cards” to Bockarie, indicating ongoing support for satellite phone communications. In contrast, Issa Sesay testified that he was unable to make calls on the satellite phone he got from Sankoh because the phone did not have any credit.

3727. The Prosecution’s allegation that the Accused provided a satellite phone to Issa Sesay in 2000 is also undisputed.<sup>8508</sup> Prosecution Witness Perry Kamara testified that Sesay would send messages concerning his satellite phone conversations to all RUF commanders, but he did not testify as to the content of these messages.<sup>8509</sup> Prosecution Witness Dennis Koker testified that he saw Sesay in Koidu, reporting on a satellite phone to his “Master”, whom Koker believed to be Bockarie, that “Kono is under our control”.<sup>8510</sup> The Defence submitted a contemporaneous memorandum that indicates the satellite phone was given to Sesay with full knowledge of ECOWAS leaders, thereby implying it was used in the peace

<sup>8506</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21511-21512; Transcript 10 December 2008, p. 22048; Jabaty Jaward, Transcript 10 July 2008, pp. 13382-13383, 13422-13423; TF1-516, Transcript 8 April 2008, pp. 6911-6912, 6917; TF1-168, Transcript 22 January 2009, pp. 23362-23364 (CS); Transcript 26 January 2009, pp. 23529-23532 (CS); Charles Ghankay Taylor, Transcript 6 August 2009, p. 26208; Fayia Musa, Transcript 14 April 2010, pp. 39026 – 39027; Issa Sesay, Transcript 23 August 2010, pp. 46917-46919.

<sup>8507</sup> TF1-585, Transcript 9 September 2008, pp. 15861-15862; Perry Kamara, Transcript 5 February 2008, pp. 3159-3164; TF1-516, Transcript 8 April 2008 pp. 6911-6912, 6917, 6920-6924; Transcript 9 April 2008, p. 6977; Abu Keita, Transcript 23 January 2008, pp. 1967-1969, 1974, 2018-2019; Fayia Musa, Transcript 15 April 2010, pp. 39117-39118.

<sup>8508</sup> Abu Keita, Transcript 23 January 2008, pp. 2019, 2031-2032; Issa Sesay, Transcript 8 July 2010, pp. 44040-44044; Charles Ghankay Taylor, Transcript 12 August 2009 p. 26664; Transcript 22 September 2009, p. 29392; Transcript 16 November 2009, p. 31657; Transcript 27 January 2010, pp. 34293-34294; Transcript 28 January 2010 pp. 34306-34310. Curiously, Sesay testified at one point that in May 2000, he had a satellite phone given to him by Sankoh, and stated the phone was not from Liberia. Issa Sesay, Transcript 11 August 2010, p.46054-46055. Fayia Musa testified that “Mr Golley” gave Sankoh a satellite phone in 1996 as an incentive to join the peace process at that time. Fayia Musa, Transcript 14 April 2010, p. 39027, Transcript 20 April 2010, p. 39438.

<sup>8509</sup> Perry Kamara, Transcript 5 February 2008, p. 3083.

<sup>8510</sup> Dennis Koker, Transcript 15 January 2008, pp. 1239-1240.

process.<sup>8511</sup> Sesay also testified that he had more than one phone during the conflict in Sierra Leone.<sup>8512</sup> The Trial Chamber is unable to ascertain from the evidence whether the call referred to by Kamara was made in furtherance of AFRC/RUF activities, or whether either this call or the call referred to by Koker was made on the satellite phone provided to Sesay by the Accused. Nevertheless, noting in particular his testimony that he was unable to use the other phone he had received from Sankoh because it had no credits, the Trial Chamber considers that the provision of this satellite phone to Sesay facilitated his communications capability.

3728. Finally, concerning the allegation that the Accused provided Sankoh with a satellite phone, which is contested by the Defence, the Trial Chamber notes that in its Final Trial Brief the Prosecution alleges that Sankoh received a satellite phone both from Dr Addai Sebo, and from the Accused.<sup>8513</sup> Several witnesses confirmed that Sankoh received a phone from Dr Sebo before 1996.<sup>8514</sup> Witness TF1-371 testified that Sankoh was given a phone by an American ambassador in Lomé<sup>8515</sup> and Witness Fayia Musa testified Sankoh received a phone from Omrie Golley.<sup>8516</sup> The Prosecution has failed, however, to present evidence that Taylor was in any way connected to the provision of a satellite phone to Sankoh by these individuals.<sup>8517</sup> The Prosecution cites an undated commercial invoice for a satellite phone sent to Sankoh.<sup>8518</sup> Upon examination of this invoice, however, the Trial Chamber notes that there is no mention of Taylor, or any of his associates, in the document.<sup>8519</sup> Thus, the Trial

<sup>8511</sup> Exhibit D-467 (Letter from RUF Spokesman to President of Nigeria).

<sup>8512</sup> Issa Sesay, Transcript 14 July 2010 pp. 44485-44488; Transcript 26 July 2010 pp. 44575-44576; Transcript 11 August 2010 pp. 46054-46055.

<sup>8513</sup> Prosecution Final Trial Brief, para. 324.

<sup>8514</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16285, 16353-16355; Perry Kamara, Transcript 4 February 2008, pp. 3053-3054, 3057-3058; John Vincent, Transcript 26 March 2010 pp 38142-38144; Issa Sesay, Transcript 6 July 2010, pp. 43715-43717; Witness TF1-371, Transcript 31 January 2008 pp. 2788-2790 (CS). The Trial Chamber finds that Isatu Kallon's testimony that she did not see Dr Sebo with a satellite phone when traveling with him to Sierra Leone not dispositive of whether or not he gave Sankoh a phone. *See* Isatu Kallon, Transcript 22 June 2010, pp. 43095-43097. Notably, TF1-516 testified that Sankoh "purchased" a satellite phone in late 1996. TF1-516, Transcript 8 April 2008, pp. 6842-6843.

<sup>8515</sup> TF1-371, Transcript 31 January 2008 pp. 2788-2790 (CS).

<sup>8516</sup> Fayia Musa, Transcript 14 April 2010, pp. 39026-39027; Transcript 16 April 2010, p. 39181; Transcript 20 April 2010, pp. 39441-39442.

<sup>8517</sup> The Prosecution presented evidence that Dr Sebo was a former publicist or a colleague of Taylor's, *See* Fayia Musa, 20 April 2010, pp. 39405-39414; Transcript 21 April 2010, pp. 39505-03506; Isatu Kallon, Transcript 24 June 2010, pp. 43370- 43371, but no evidence that Taylor was in any way involved in Dr Sebo giving the satellite phone to Sankoh.

<sup>8518</sup> Prosecution Final Trial Brief para. 324, *citing* Exhibit D-205 (Commercial invoice for satellite phone delivered to Foday Sankoh).

<sup>8519</sup> Taylor denied having any knowledge of this invoice. Charles Ghankay Taylor, Transcript 12 August 2009,

Chamber finds that the Prosecution has not proved beyond a reasonable doubt that the Accused provided a satellite phone to Sankoh.<sup>8520</sup>

### Findings

3729. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused and Sam Bockarie communicated by satellite phone in furtherance of the Freetown Invasion and other RUF/AFRC military activities, during which crimes were committed.

3730. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the satellite phones the Accused provided to Sam Bockarie and Issa Sesay, and the “top up cards”, which the Trial Chamber finds were provided to Bockarie by Benjamin Yeaten for phone credit, enhanced the communications capability of both Bockarie and Sesay, which they used in furtherance of RUF and RUF/AFRC military activities.

3731. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the Accused provided Foday Sankoh with a satellite phone.

### (c) RUF and NPFL Radio Codes and Communications

#### Submission of the Parties

3732. The Prosecution contends that RUF and NPFL radio operators monitored and utilised each others’ communication networks and that they shared radio communication codes.<sup>8521</sup>

3733. The Defence denies that the RUF and NPFL shared radio communication codes, and alleges that the RUF and NPFL could not have communicated because they did not have access to each others’ codes.<sup>8522</sup>

3734. The Prosecution further alleges that during the Intervention in February 1998, the RUF received a message from Base 1, Benjamin Yeaten’s radio station, asking why the

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pp. 26663-26666.

<sup>8520</sup> The Trial Chamber further notes that TF1-371 testified that Sankoh had more than one satellite phone during the conflict in Sierra Leone. TF1-371, Transcript 25 January 2008 p. 2282-2284 (CS).

<sup>8521</sup> Prosecution Final Trial Brief, paras 94-99, 308, 312, 314.

<sup>8522</sup> Defence Final Trial Brief, paras 1281, 1497-1498, 1508-1509, 1518, 1531.

RUF was pulling out of Kono.<sup>8523</sup> The Defence challenges this allegation by claiming that Base 1 had not been established at that time.<sup>8524</sup>

## Evidence

### Prosecution Witness Foday Lansana

3735. Witness Foday Lansana, (a.k.a. Co Nya) an RUF radio operator,<sup>8525</sup> testified that during the early stages of the invasion of Sierra Leone, he and two other NPFL radio operators installed the first RUF radio station operated under Sankoh in Sierra Leone.<sup>8526</sup> He spent from 1992 to 1996 in Sierra Leone, training RUF radio operators by teaching them “code”, which would allow their communications to remain confidential to anyone that might be listening on the RUF network. He also taught them “nicknames”, grid references for towns and villages, frequency codes that were used in order to communicate from one station to another and use of frequency to communicate both to RUF stations and nationally.<sup>8527</sup>

3736. Radio operators would use codes in order to make communications secret. For example, the code name for Freetown might be Foxtrot Tango, or “FT” for short, or Sankoh’s code would be “Smile”. Grid references were code names for strategic locations, such as town, or equipment, like weapons.<sup>8528</sup>

3737. The RUF network consisted of the national frequency and private frequencies. The national frequency was one that every station was required to monitor in order to intercept messages sent to the entire network. Private frequencies were used when individuals wanted to talk: their radio operators would agree beforehand to connect on a specific frequency at a specific time, and at the appointed time the operators would change from the national frequency to that specific frequency so that the individuals could talk. These

<sup>8523</sup> Prosecution Final Trial Brief, para. 151.

<sup>8524</sup> Defence Final Trial Brief, para. 1497.

<sup>8525</sup> Foday Lansana, Transcript 20 February 2008, pp. 4361-4362.

<sup>8526</sup> Foday Lansana, Transcript 20 February 2008, pp. 4361, 4364-4367, 4371.

<sup>8527</sup> Foday Lansana, Transcript 20 February 2008, pp. 4386, 4389-4390; Transcript 21 February 2008, p. 4431.

<sup>8528</sup> Foday Lansana, Transcript 21 February 2008, pp. 4442-4443.

communications would not be encoded.<sup>8529</sup> In general, the RUF radio operators communicated in English.<sup>8530</sup>

3738. In addition, any station outside of Sierra Leone that wanted to communicate with the RUF would call the national frequency first, and would then connect to a specific station.<sup>8531</sup> Lansana knew that, for example, Yeaten and Sam Bockarie were communicating because he would hear them on the national frequency using the RUF code.<sup>8532</sup>

3739. Lansana testified that the codes were originally brought to the RUF from the NPFL, but as time went on the RUF manipulated and changed them.<sup>8533</sup> The code names would change depending on the situation or the area of operation, and the radio operators' code book would determine what code they would use at a particular time.<sup>8534</sup> When the codes changed, a copy of the new codes would be sent to every substation.<sup>8535</sup>

3740. Only radio operators had access to these codes, including RUF operators Osman Tolo and Memunatu Deen, who were at the guesthouse in Monrovia, and many others who were assigned with Benjamin Yeaten in Vahun and Foya.<sup>8536</sup> Deen and Tolo would also receive the new codes if they changed.<sup>8537</sup>

3741. "Back up" or "emergency" codes were those that were used by substations for a short period in emergency situations, when an operator wanted to ensure the security of the communication. This code was not accessible to any other stations that might be monitoring communications.<sup>8538</sup>

3742. Lansana testified that only the station which was with Sankoh or, when Sankoh was not there, with Sam Bockarie, had "every access" to communicate outside Sierra Leone.<sup>8539</sup>

#### Prosecution Witness Alice Pyne

<sup>8529</sup> Foday Lansana, Transcript 21 February 2008, pp. 4438-4440.

<sup>8530</sup> Foday Lansana, Transcript 21 February 2008, p. 4437.

<sup>8531</sup> Foday Lansana, Transcript 21 February 2008, pp. 4440-4441.

<sup>8532</sup> Foday Lansana, Transcript 21 February 2008, p. 4483.

<sup>8533</sup> Foday Lansana, Transcript 21 February 2008, pp. 4443-4445, 4475.

<sup>8534</sup> Foday Lansana, Transcript 21 February 2008, pp. 4443-4445.

<sup>8535</sup> Foday Lansana, Transcript 21 February 2008, p. 4483.

<sup>8536</sup> Foday Lansana, Transcript 21 February 2008, pp. 4475- 4476.

<sup>8537</sup> Foday Lansana, Transcript 21 February 2008, p. 4483.



3743. Witness Alice Pyne, who was a radio operator at PC Ground for around five months from around March 1998<sup>8540</sup>, testified that during that time, she used to hear Liberian radio stations coming on the RUF national frequency calling Buedu station. The witness never spoke to the radio operators in Liberia herself because she did not have permission to speak to them; they only had dealings with Buedu. Only the Buedu station, being the overall headquarters station, had permission to speak to the Liberian stations.<sup>8541</sup>

Prosecution Witness Dauda Aruna Fornie

3744. Witness Dauda Aruna Fornie was trained as an RUF radio operator at the NPFL Signal Unit in Bomi Hills in 1991 to 1992.<sup>8542</sup> At this time, the RUF members who were around the 1<sup>st</sup> Battalion area did not have a communications “net” (network) of its own, but used the NPFL net. All of the radio stations operated on the same frequency.<sup>8543</sup>

3745. When he returned to Sierra Leone in approximately December 1992, Fornie remained in Pendembu, where Foday Sankoh told him and the other operators that he wanted them to establish a communications network independent from that of the NPFL.<sup>8544</sup> They did this by creating an RUF code separate from the Liberian code they were using, and establishing their RUF national network.<sup>8545</sup> The RUF and NPFL could still communicate, however, just by coming onto each other’s networks and making an inquiry.<sup>8546</sup>

3746. The RUF code was prepared by Foday Lansana (a.k.a. CO Nya) and sent to Gbarnga and other radio stations in late 1992, when the RUF first set up their communications system.<sup>8547</sup> Lansana also sent the RUF code to designated radio stations in Liberia, and the

<sup>8538</sup> Foday Lansana, Transcript 21 February 2008, pp. 4479-4480.

<sup>8539</sup> Foday Lansana, Transcript 21 February 2008, p. 4436.

<sup>8540</sup> Alice Pyne, Transcript 18 June 2008, p. 12160.

<sup>8541</sup> Alice Pyne, Transcript 18 June 2008, pp. 12169-12171.

<sup>8542</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21335-21338.

<sup>8543</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21350-21354.

<sup>8544</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21372.

<sup>8545</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21374.

<sup>8546</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21374-21375.

<sup>8547</sup> Dauda Aruna Fornie, Transcript 2 December 2008 pp. 21416-21417.

RUF received Liberian codes as well.<sup>8548</sup> The RUF codes were changed every two to three months, and were delivered to each radio station by hand.<sup>8549</sup>

3747. A radio net was a group of radio stations that worked together on the same set of frequencies, and for the RUF and NPFL this was called the national network.<sup>8550</sup> When one person wanted to talk to another they would have their operator send a message on the national network to the other person's operator, stating that they wanted to meet on a private frequency. Because they knew that their enemies were monitoring the network, they had code names for the private frequencies. By the time the enemy found the private frequency they were using, they would be finished with their conversation. These private frequency code names would also change.<sup>8551</sup>

3748. Commanders would also send coded messages to each other. If one person wanted to send a message pertaining to, for example, the reinforcement of troops, their operator would be given a message, which the operator would write down, encode, and transmit to the receiving station. The receiving station would then decode the message and give it to the recipient.<sup>8552</sup>

3749. Following the ECOMOG Intervention, and as the RUF retreated from Kenema, Fornie was personally communicating with Sunlight, the radio operator at Base 1, which was Benjamin Yeaten's radio station.<sup>8553</sup> Fornie also testified that he visited Monrovia with Sam Bockarie within a week of reaching Buedu, during which trip he stayed at Yeaten's house and visited Base 1 where he met Yeaten's radio operator, Sunlight and used the equipment at Base 1 to communicate with the front lines. He testified that Base 1 was located "in one of the rooms at Benjamin Yeaten's back yard".<sup>8554</sup> Fornie also testified that there were restrictions on which operators had authority to call Base 1 directly. The witness testified that he, Alfred Brown, the late Sellay and "every operator that was assigned to Mosquito's radio station" had that authority.<sup>8555</sup>

<sup>8548</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21350, 21378-21379.

<sup>8549</sup> Dauda Aruna Fornie, Transcript 2 December 2008 pp. 21416-21417, 21517-21518.

<sup>8550</sup> Dauda Aruna Fornie, Transcript 1 December 2008 pp. 21344 -21346.

<sup>8551</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21344-21346.

<sup>8552</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21341-21344.

<sup>8553</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21436-21441, 21443.

<sup>8554</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21445; 21449-21452.

<sup>8555</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21493.

Prosecution Witness Perry Kamara

3750. Witness Perry Kamara, an RUF radio operator,<sup>8556</sup> was trained by Foday Sankoh and Foday Lansana (a.k.a. CO Nya) in Liberian and Sierra Leonean code in 1991 and 1992.<sup>8557</sup> Lansana told the trainees that he had been sent by Taylor to be with Foday Sankoh.<sup>8558</sup>

3751. RUF radio operators worked on one net with a general frequency number, called the “national frequency”, and all operators would monitor this frequency. If one RUF member wanted to speak to another, their radio operator would call on the national frequency and tell the second member’s operator to meet him on a particular private frequency where the two members could talk.<sup>8559</sup> When these private conversations occurred, however, it was possible for other operators to switch onto that frequency and listen to the discussion; it was difficult to have a private conversation without it being monitored by other radio operators.<sup>8560</sup> Each radio station had code names, but they changed their code names and the codes approximately every one or two months.<sup>8561</sup>

3752. RUF members could also send coded messages through the radio. The commander would give his operator a message in English, the operator would encode it, and send it to the second operator, who would decode it.<sup>8562</sup> A record of the commanders’ messages was recorded by the transmitting and receiving stations in log books which were kept forever.<sup>8563</sup>

3753. Kamara testified that the RUF communications system was not only located in Sierra Leone, and the operators also communicated with Liberia and with Côte d’Ivoire.<sup>8564</sup> The operators in Liberia knew the national frequency number as well.<sup>8565</sup> From approximately 1991 or 1992 up until disarmament, there was a direct link from the RUF’s control station, which was the main operator station, and Taylor’s radio station that was effective “every day”.<sup>8566</sup> Sometimes Foday Sankoh would talk to Taylor directly on the radio, in English

<sup>8556</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>8557</sup> Perry Kamara, Transcript 4 February 2008, pp. 3028, 3033, 3037-3038.

<sup>8558</sup> Perry Kamara, Transcript 4 February 2008, pp. 3037-3038.

<sup>8559</sup> Perry Kamara, Transcript 4 February 2008, pp. 3062-3063.

<sup>8560</sup> Perry Kamara, Transcript 5 February 2008, pp. 3141-3142

<sup>8561</sup> Perry Kamara, Transcript 5 February 2008, p. 3071; Transcript 7 February 2008, p. 3319.

<sup>8562</sup> Perry Kamara, Transcript 5 February 2008, pp. 3068-3069; Transcript 7 February 2008, pp. 3310-3311.

<sup>8563</sup> Perry Kamara, Transcript 4 February 2008, pp. 3067-3069

<sup>8564</sup> Perry Kamara, Transcript 5 February 2008, pp. 3071, 3073-3074.

<sup>8565</sup> Perry Kamara, Transcript 5 February 2008, p. 3076.

<sup>8566</sup> Perry Kamara, Transcript 5 February 2008, pp. 3074-3076.

with some coded language and on occasions in code.<sup>8567</sup> Other times, Sankoh would write an encoded message and his operator would transmit it to Taylor's operator.<sup>8568</sup> The witness also stated that up until 1994, the RUF and the NPFL would communicate frequently, because both groups knew each others' codes.<sup>8569</sup>

#### Prosecution Witness TF1-516

3754. Witness TF1-516 testified that he was a radio operator for the RUF working on Sam Bockarie's radio<sup>8570</sup> in Sierra Leone until mid-1999, when he was sent to Liberia to work as an operator for Benjamin Yeaten.<sup>8571</sup> At the time the witness was trained to be an operator in 1994, there had already been communication between the RUF and the NPFL because there were operators who knew and used the Liberian Code.<sup>8572</sup> Foday Lansana (a.k.a. CO Nya) had brought the Liberian code to Sierra Leone from Liberia before the witness was trained in 1994, and this code did not change until 1998.<sup>8573</sup>

3755. The witness testified that RUF radio communications were controlled by the senior commander of radio operations, who was based at the "control station".<sup>8574</sup> All other stations were called "substations".<sup>8575</sup> At 7.30am, all stations were required to be on the air. The control station would make what was called a "net call" on the national network, and all substations would respond giving a "sit-rep" that was "reporting on the situation".<sup>8576</sup>

3756. The control and substations would establish contact with each other by making a call on the national frequency and agreeing to meet at a pre-designated frequency, which was assigned a code name.<sup>8577</sup> The frequencies were not completely secure, however, so even if two operators were on a private frequency they would use code.<sup>8578</sup>

<sup>8567</sup> Perry Kamara, Transcript 7 February 2008, pp. 3306-3309.

<sup>8568</sup> Perry Kamara, Transcript 5 February 2008, p. 3074.

<sup>8569</sup> Perry Kamara, Transcript 4 February 2008, pp. 3049; Transcript 7 February 2008, pp. 3304-3308.

<sup>8570</sup> TF1-516, Transcript 8 April 2008, p. 6857.

<sup>8571</sup> TF1-516, Transcript 8 April 2008, pp. 6858 -6859, 6862, 6889-6890, 6909-6910.

<sup>8572</sup> TF1-516, Transcript 9 April 2008, pp. 6983-6984.

<sup>8573</sup> TF1-516, Transcript 9 April 2008, pp. 6984-6986. *See also* TF1-516, Transcript 14 April 2008 pp. 7456-7457 (stating Witness TF1-516 trained to be an operator in 1994).

<sup>8574</sup> TF1-516, Transcript 8 April 2008, pp. 6892-6894, 6909.

<sup>8575</sup> TF1-516, Transcript 8 April 2008, pp. 6892-6894, 6909.

<sup>8576</sup> TF1-516, Transcript 8 April 2008, p. 6904.

<sup>8577</sup> TF1-516, Transcript 8 April 2008, pp. 6891-6894, 6909.

<sup>8578</sup> TF1-516, Transcript 8 April 2008, pp. 6908, 6927-6929.

3757. When a commander wanted to transmit a message to a person at another radio station, they would hand a message to the operator, who would encode the message and then transmit it. Then the recipient operator would decode the message and give it to the recipient.<sup>8579</sup> Military terminology – such as attack, ambush, weapons – and persons' names also had codes.<sup>8580</sup>

3758. Whenever there was a change in the code, the station commanders would report to the control station in person as the code was “very much secretive”, and would be given the new code. They would then take the new code to their respective stations.<sup>8581</sup> The code would change when there was a fear that it was no longer confidential, for example, when there was an attack and an operator was forced to move without his materials, or if an operator was captured or killed on the frontlines.<sup>8582</sup>

3759. TF1-516 testified that the operators at Base 1, the radio station at Benjamin Yeaten's residence in Monrovia; 020, the radio station at the Executive Mansion in Monrovia; and Foxtrot Yankee, in Foya, knew RUF frequencies and possessed RUF codes.<sup>8583</sup> These RUF codes were carried from Sierra Leone to Liberia during Operation Mosquito Spray in June or July of 1999.<sup>8584</sup>

3760. The witness also stated that when he crossed into Liberia he was given a special code, which was distributed to Sunlight, Sky 1 and the radio operator who was in Foya, and this was the code that they all used to communicate. He testified that he himself gave the code to Sunlight.<sup>8585</sup> Only the stations named Marvel and Planet 1 had the authority from either Sam Bockarie or Issa Sesay, to communicate with Base 1, 20 and Foxtrot Yankee in Liberia,<sup>8586</sup> and only operators such as Dauda Aruna Fornie, Ebony Prince, Osman Tolo, Zedman, Perry Kamara and other senior radio operators knew the common code between the

<sup>8579</sup> TF1-516, Transcript 8 April 2008 p. 6908.

<sup>8580</sup> TF1-516, Transcript 8 April 2008 pp. 6901-6903, 6925-6926.

<sup>8581</sup> TF1-516, Transcript 8 April 2008 pp. 6895-6896.

<sup>8582</sup> TF1-516, Transcript 8 April 2008 pp. 6895-6896.

<sup>8583</sup> TF1-516, Transcript 8 April 2008 pp. 6889-6890, 6909-6912; 9 April 2008 pp. 6982-6983.

<sup>8584</sup> TF1-516, Transcript 9 April 2008 p. 6987. The Trial Chamber notes that Witness TF1-516 also calls this incident “Operation Vulture”, but owing to the context understands him to be talking about Operation Mosquito Spray. See TF1-516, Transcript 9 April 2008, pp. 7047-7049.

<sup>8585</sup> TF1-516, Transcript 8 April 2008, pp. 6891, 6912, 6918; Transcript 9 April 2008, pp. 6986-6987.

<sup>8586</sup> TF1-516, Transcript 8 April 2008, pp. 6910-6911.

RUF and the NPFL. There was also a NPFL radio operator sent to work with Bockarie, named Sallay Duwor, who knew NPFL code.<sup>8587</sup>

Prosecution Witness Mohamed Kabbah

3761. Witness Mohamed Kabbah was an RUF radio operator trained in 1992 by a Liberian CO Moses and by CO Nya.<sup>8588</sup> He testified that the RUF used a general frequency called a “national” frequency.<sup>8589</sup> All radio operators would monitor the national network, listening to all the calls.<sup>8590</sup> When one station wanted to communicate with another, they would go on the national frequency and call them, and then switch to a different frequency to talk.<sup>8591</sup> The frequencies, however, were not guaranteed to be private, because they were not owned by one person, and anyone world-wide could monitor them; this is why they spoke in code.<sup>8592</sup>

3762. While Kabbah was the overall signal unit commander in Buedu, from the time he left Kailahun Town until approximately December 1999, he testified that he used to communicate with the various RUF front lines, with Base 1 and with radio operator Sunlight.<sup>8593</sup> He identified Sunlight as the operator at “Charles Taylor’s Mansion Ground”<sup>8594</sup> and Base 1 as the station “where Tolo and others were... at Pa Musa’s place”.<sup>8595</sup>

3763. The two stations in Monrovia, Sunlight’s station and Memunatu Deen’s station at Pa Musa’s house were “restricted frequencies”, which meant that only certain stations were allowed to contact them. Kabbah explained that a “restricted station” was one that was “forbidden to somebody” and that only the headquarters station or a station belonging to the “high command” should communicate with them. The only stations that were allowed to speak to Monrovia were Sam Bockarie’s, Issa Sesay’s and Foday Sankoh’s stations (when Sankoh was in Sierra Leone).<sup>8596</sup>

<sup>8587</sup> TF1-516, Transcript 8 April 2008, pp. 6912-6914, 6918-6919; Transcript 9 April 2008 pp. 6982-6983.

<sup>8588</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16248.

<sup>8589</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16251.

<sup>8590</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16251-16252.

<sup>8591</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16251.

<sup>8592</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16252-16253.

<sup>8593</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16127.

<sup>8594</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16127.

<sup>8595</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16131-16132.

<sup>8596</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16254-16256.

Prosecution Witness TF1-585

3764. Witness TF1-585 was an RUF radio operator from 1995 until approximately 1999.<sup>8597</sup> The witness testified that in late 1997 through all of 1998 there were many radio operators under the command of Sam Bockarie.<sup>8598</sup> During this time, there were communications between where the witness was posted and Base 1, in Monrovia. It was only CO Sellay, however, who was authorised to have conversations with Base 1 over the radio. The operators would insist on speaking with either Bockarie or Sellay before they divulged any information.<sup>8599</sup>

3765. TF1-585 testified during the time Bockarie was based in Kenema, the calls between Sellay and Liberia were restricted from "the other RUF fighters" and that only Sam Bockarie, Issa Sesay and Jungle had access to them.<sup>8600</sup> She also testified to there being a secret frequency between Sam Bockarie's operators and Base 1 operators.<sup>8601</sup>

3766. The witness testified that all RUF stations used the same code and when a new code was created it was sent by hand with an operator who collected it in Buedu for each radio substation.<sup>8602</sup> The codes were "not changed frequently", however; for example from early 1998 to December 1999, the witness believed they were changed once or twice.<sup>8603</sup> Memunatu Deen, a radio operator stationed in Liberia, received these codes when they were changed.<sup>8604</sup>

The Accused

3767. The Accused denied that the NPFL shared radio frequencies with the RUF, and stated that the two could not enter onto each other's frequencies. He said there were many frequencies that the RUF had but that they, the NPFL, did not know or could not get into their frequencies. He conceded, however, that there was a dedicated line meaning a

<sup>8597</sup> TF1-585, Transcript 5 September 2008, pp. 15586-15587 (PS); Transcript 9 September 2008, pp. 15822-15824 (PS).

<sup>8598</sup> TF1-585, Transcript 9 September 2008, pp. 15821-15822 (PS).

<sup>8599</sup> TF1-585, Transcript 9 September 2008, pp. 15827-15828.

<sup>8600</sup> TF1-585, Transcript 5 September 2008, pp. 15605-15606; Transcript 8 September 2008, pp. 15636-15637; Transcript 9 September 2008, p. 15827.

<sup>8601</sup> TF1-585, Transcript 8 September 2008, p. 15651.

<sup>8602</sup> TF1-585, Transcript 9 September 2008 pp. 15876-15877.

<sup>8603</sup> TF1-585, Transcript 9 September 2008 pp. 15876-15877.

<sup>8604</sup> TF1-585, Transcript 9 September 2008 pp. 15877-15878.

frequency set up for exchange of security information between the NPFL and the RUF, but only from approximately August 1991 to the end of May 1992.<sup>8605</sup>

3768. The Accused confirmed that Base 1 was the radio station at Yeaten's compound.<sup>8606</sup>

Defence Witness DCT-008

3769. Witness DCT-008 testified that he was trained as an NPFL radio operator in 1994,<sup>8607</sup> and remained a radio operator with the NPFL until 2003.<sup>8608</sup>

3770. The Government of Liberia had a general frequency, on which every radio operator worked. If a Liberian operator wanted to connect to another operator they would connect on the general frequency and then switch to another frequency to communicate.<sup>8609</sup> The witness stated that it was possible for operators outside of Liberia to monitor the frequency on which the Government of Liberia operated.<sup>8610</sup>

3771. DCT-008 testified that Sunlight, the primary operator at Base 1, the radio station located at Benjamin Yeaten's home, would receive coded messages on Base 1, decode them for Yeaten and record them in a log book.<sup>8611</sup> These codes were created by and for the Government of Liberia and distributed to all radio operators, but were not distributed to anyone outside of the government.<sup>8612</sup>

3772. DCT-008 testified to an incident in September 1998, in which Sampson Wehyee (a.k.a. Sampson), a bodyguard for Benjamin Yeaten, arrived at Base 1 and introduced Sunlight to Daniel Tamba (a.k.a. Jungle).<sup>8613</sup> Wehyee told Sunlight that Yeaten had ordered him to allow Tamba to use Base 1 to contact the RUF.<sup>8614</sup> Tamba had a piece of paper with the RUF frequency, RUF 35B, which was the same frequency the NPFL used in 1991 and 1992 to contact the RUF. Sunlight entered onto the RUF frequency, operator Sellay

<sup>8605</sup> Charles Ghankay Taylor, Transcript 10 September 2009, pp. 28566-28567.

<sup>8606</sup> Charles Ghankay Taylor, Transcript 17 September 2009, p. 29204.

<sup>8607</sup> DCT-008, Transcript 24 August 2010, pp. 46996-46999, 31 August 2010, p. 47556 (PS).

<sup>8608</sup> DCT-008, Transcript 24 August 2010, p. 46949 (PS).

<sup>8609</sup> DCT-008, Transcript 24 August 2010, p. 47039.

<sup>8610</sup> DCT-008, Transcript 24 August 2010, p. 47039.

<sup>8611</sup> DCT-008, Transcript 24 August 2010, pp. 47030-47031, 47034-47035.

<sup>8612</sup> DCT-008, Transcript 24 August 2010, pp. 47034-47035.

<sup>8613</sup> DCT-008, Transcript 24 August 2010, pp. 47034-47037, 47042-47043

<sup>8614</sup> DCT-008, Transcript 24 August 2010, pp. 47034-47037.



answered the call, and spoke to Tamba.<sup>8615</sup> The witness believed that Sampson and Tamba had previously communicated with the RUF in Buedu from the Executive Mansion through a Liberian operator Mission 5.<sup>8616</sup>

3773. DCT-008 testified that Sunlight met TF1-516 for the first time on Bockarie's second trip to Monrovia in 1998.<sup>8617</sup> The day after Sunlight met TF1-516, Tamba brought him to Base 1 to send a coded message to Sella in Buedu. Sunlight did not understand the message because the operators at Base 1 did not have access to RUF code.<sup>8618</sup> DCT-008 denied that Sunlight received a copy of the RUF code from TF1-516 or that TF1-516 worked for Benjamin Yeaten, and stated that he would have known if either of these things had occurred.<sup>8619</sup> The witness also stated that in neither 1997 nor February 1998, was there a radio call sign named Base 1. It was not established at Benjamin Yeaten's house until after the Camp Johnson Road incident in mid-September 1998 when Sunlight became the radio operator there.<sup>8620</sup> When Sunlight did commence communications with the RUF, he was instructed that communications should only be made with Sam Bockarie in Buedu.<sup>8621</sup>

3774. In November or December 1998, Sampson and Tamba brought Memunatu Deen to Base 1 so that she could use the radio to communicate with the RUF and General Ibrahim.<sup>8622</sup> DCT-008 testified that the messages that Deen sent could not be understood because they were in code.<sup>8623</sup> After one month, around December 1998 or January 1999, she gave the code to Sunlight so that he could take down messages while she was away.<sup>8624</sup> Deen did not have access to Liberian code during the time she was using Base 1, and she did not use

<sup>8615</sup> DCT-008, Transcript 24 August 2010, pp. 47043; Transcript 27 August 2010 p. 47375-47376. Perry Kamara also testified to RUF and NPFL operators using the "35B" frequency for calls between the two groups. For example, Kamara stated, Sierra Leonean operators would say "35B to Butterfly" in order to call Taylor's operator, Butterfly, in Liberia; if Butterfly called "35B", the Sierra Leonean operators would know the Liberian stations were calling the RUF. Perry Kamara 5 February 2008, pp. 3074-3075.

<sup>8616</sup> DCT-008, Transcript 24 August 2010, p. 47046-47067.

<sup>8617</sup> DCT-008, Transcript 27 August 2010, p. 47371- 47373.

<sup>8618</sup> DCT-008, Transcript 27 August 2010, pp. 47385-47386.

<sup>8619</sup> DCT-008, Transcript 31 August 2010, pp. 47555 (PS), 47610, 47621, 47652.

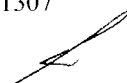
<sup>8620</sup> DCT-008, Transcript 24 August 2010, pp. 47026-47030; Transcript 30 August 2010, p. 47565; Transcript 31 August 2008, pp. 47600-47601; Transcript 1 September 2010, p. 47754; Transcript 2 September 2010, pp. 47809-47810.

<sup>8621</sup> DCT-008, Transcript 31 August 2010, p. 47601.

<sup>8622</sup> DCT-008, Transcript 27 August 2010, pp. 47400; Transcript 30 August 2010, pp. 47405-47408, 47403-47404.

<sup>8623</sup> DCT-008, Transcript-30 August 2010, p. 47405.

<sup>8624</sup> DCT-008, Transcript 30 August 2010, p. 47406.





any other Liberian radios to communicate with the RUF.<sup>8625</sup> These communications from Deen at Base 1 to the RUF were not intercepted by others, because the communications were made in RUF code.<sup>8626</sup> These were special codes created especially for communications between Base 1 and Buedu, not generic RUF codes, and they did not change.<sup>8627</sup> Base 1 never had access to the general RUF code.<sup>8628</sup>

3775. Finally, DCT-008 denied that Fornie had access to the Liberian radio codes, stating that Fornie could call on the general Liberian frequency, which is how he contacted Base 1.<sup>8629</sup>

#### Defence Witness Joseph Dehmie

3776. Witness Joseph Dehmie, an NPFL radio operator,<sup>8630</sup> testified that he was trained as an NPFL radio operator in 1990.<sup>8631</sup> When he was assigned to Bomi Hills, Dehmie had the code name Bearcat.<sup>8632</sup> Dehmie learned that the “net” was the communications system on which the NPFL operated, and a frequency was an assigned channel on the net.<sup>8633</sup> There was a broad frequency that every operator used, and if one operator wanted to talk to another operator they could meet each other on another frequency. These private frequencies were open, however, so other operators could hear this conversation if they were on the same frequency.<sup>8634</sup> The NPFL operators could therefore either speak in dialect or use code to keep their communications private,<sup>8635</sup> and frequencies also had code names, which were distributed and then destroyed to preserve their confidentiality.<sup>8636</sup>

3777. From approximately 1990 to 1994, the code that the NPFL used was not sophisticated; the operators would speak dialect to each other in order to keep messages

<sup>8625</sup> DCT-008, Transcript 30 August 2010, pp. 47411-47412; Transcript 1 September 2010, p. 47673.

<sup>8626</sup> DCT-008, Transcript 27 August 2010, p. 47485.

<sup>8627</sup> DCT-008, Transcript 27 August 2010, p. 47487; Transcript 28 August 2010, p. 47546.

<sup>8628</sup> DCT-008, Transcript 27 August 2010, p. 47487.

<sup>8629</sup> DCT-008, Transcript 31 August 2010, p. 47571.

<sup>8630</sup> Joseph Dehmie, Transcript 21 May 2010, pp. 41467, 41494, 41523.

<sup>8631</sup> Joseph Dehmie, Transcript, 18 May 2010, pp. 41156-47157, 41160.

<sup>8632</sup> Joseph Dehmie, Transcript, 18 May 2010, p.41182; Transcript 19 May 2010, p. 41182.

<sup>8633</sup> Joseph Dehmie, Transcript, 18 May 2010, pp. 41156-47157.

<sup>8634</sup> Joseph Dehmie, Transcript 19 May 2010, pp. 41175-41178, 41244; 21 May 2010, pp. 41476-41478.

<sup>8635</sup> Joseph Dehmie, Transcript 19 May 2010, pp. 41179, 41244-41245.

<sup>8636</sup> Joseph Dehmie, Transcript 21 May 2010, pp. 41477-41480.

confidential.<sup>8637</sup> In 1994 the NPFL developed a more complicated code system, which was distributed to all NPFL radio operators by the NPFL Chief of Signal.<sup>8638</sup>

3778. In this new code, every word in the communication would be encoded, with letters being represented by numbers.<sup>8639</sup> A commander would bring a message that he wanted to transmit to a radio operator, who would encode that message. The operators then spoke to each other on coded frequencies, and the operator at the other end would receive the encoded message and decode it.<sup>8640</sup> The witness testified that before he was stationed in Bomi radio operators would record all messages in a book, but they stopped when they were fighting with enemy forces for security reasons.<sup>8641</sup>

3779. Dehmie stated that NPFL radio codes were not distributed to anyone outside of NPFL members.<sup>8642</sup> In addition, NPFL codes were not written down, but memorised by the operators.<sup>8643</sup> Dehmie ceased being a member of the NPFL in 1997.<sup>8644</sup>

#### Defence Witness Yanks Smythe

3780. Witness Yanks Smythe worked as a radio operator and operations manager for Taylor from 1990 until Taylor became president.<sup>8645</sup> If two NPFL operators wanted to speak to each other they would meet on a private frequency that had a code, and the messages could also be coded or be “send”.<sup>8646</sup>

3781. The witness denied that the NPFL and RUF were communicating after May 1992 through 1994. Between 1990 and 1994 the RUF and the NPFL did not operate on the same frequency, and he monitored the NPFL frequency. Thus, if they were communicating he would have heard the radio call from the RUF.<sup>8647</sup> The witness stated that he was “not

<sup>8637</sup> Joseph Dehmie, Transcript 19 May 2010, pp. 41179-41182, 41244-41245; Transcript 21 May 2010, p. 41500.

<sup>8638</sup> Joseph Dehmie, Transcript 19 May 2010, pp. 41181-41182, 41282; DCT-282, Transcript 21 May 2010, pp. 41477-41478; 31 May 2010, pp. 41533-41535, 41539-41541.

<sup>8639</sup> Joseph Dehmie, Transcript 31 May 2010, pp. 41533-41535.

<sup>8640</sup> Joseph Dehmie, Transcript 31 May 2010, pp. 41536-41539.

<sup>8641</sup> Joseph Dehmie, Transcript 31 May 2010, p. 41244.

<sup>8642</sup> Joseph Dehmie, Transcript 21 May 2010, pp. 41473-41474; Transcript 31 May 2010, pp. 41536-41539.

<sup>8643</sup> Joseph Dehmie, Transcript 21 May 2010, pp. 41475-41476.

<sup>8644</sup> Joseph Dehmie, Transcript, 20 May 2010, pp. 41399-41400, 41411-41412.

<sup>8645</sup> Yanks Smythe, Transcript 22 February 2010, pp. 35640-35641.

<sup>8646</sup> Yanks Smythe, Transcript 1 March 2010, pp. 36264-36266.

<sup>8647</sup> Yanks Smythe, Transcript 24 February 2010, pp. 35969-35971; Transcript 1 March 2010 pp. 36263-36264.

aware” of whether the NPFL possessed RUF code from 1990 to 1994.<sup>8648</sup> Smythe testified that he worked with Taylor from 1990 to the end of his presidency, and he never had any communications with Sierra Leone.<sup>8649</sup>

3782. Yanks Smythe testified that he never saw radio equipment at Benjamin Yeaten’s house between 1998 and July 2000.<sup>8650</sup>

### Deliberations

3783. It is clear from both Prosecution and Defence witnesses’ testimony that in approximately 1991 or 1992, the NPFL assisted the RUF in establishing its own radio communications system.<sup>8651</sup> All RUF radio operators monitored the RUF network for messages. If one RUF member wanted to reach another RUF member, they would order their operator to make a call on the national network requesting the second member’s operator to meet at a specific frequency to talk. The two operators would then meet on the specific frequency, and the members would speak on this frequency.<sup>8652</sup>

3784. The frequency numbers on which operators would meet, of which there were many, would be coded, so as to deter any other persons from being able to hear what was being relayed.<sup>8653</sup> These conversations would not be absolutely secure, however; if another person knew the frequency code, or happened upon that frequency, they could hear the conversation between the two speakers. To increase confidentiality, the two speakers could speak in code on the private frequencies. For example, the speakers could use code names to indicate places, names, materials, or the movement of troops.<sup>8654</sup>

<sup>8648</sup> Yanks Smythe, Transcript 24 February 2010, p. 35965.

<sup>8649</sup> Yanks Smythe, Transcript 22 February 2010, pp. 35652-25653.

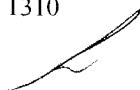
<sup>8650</sup> Yanks Smythe, Transcript 24 February 2010, p. 35962.

<sup>8651</sup> Foday Lansana, Transcript 20 February 2008, pp. 4364, 4386, 4389-4390; Transcript 21 February 2008, pp. 4431, 4443-4445, 4475; Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21350-21354, 21372-21374; Transcript 2 December 2008, pp. 21416-21417; Perry Kamara, Transcript 4 February 2008, pp. 3028, 3037-3038; TF1-516, Transcript 9 April 2008, pp. 6983-6986.

<sup>8652</sup> Foday Lansana, Transcript 21 February 2008, pp. 4438-4440; Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21344-21346; Perry Kamara, Transcript 4 February 2008, pp. 3062-3063; TF1-516, Transcript 8 April 2008, pp. 6891-6894, 6904, 6909; Mohamed Kabbah, Transcript 15 September 2008, p. 16251; Witness DCT-282, Transcript 21 May 2010, pp. 41475-41476; 31 May 2010, pp. 41533-41536; Yanks Smythe, Transcript 1 March 2010, pp. 36264-36266.

<sup>8653</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21344-21346; Yanks Smythe, Transcript 1 March 2010, pp. 36264-36266.

<sup>8654</sup> Foday Lansana, Transcript 20 February 2008, pp. 4386, 4389-4390; Transcript 21 February 2008, pp. 4431, 4442-4443, 4479-4480; Perry Kamara, Transcript 5 February 2008, pp. 3170-3171; TF1-516, Transcript 8 April





3785. Members could also communicate by sending coded messages from one operator to another. One member would relay a message in plain English to an operator, who would translate this message into code. The sending operator would then transmit it to the receiving operator, who would decode it for the recipient member.<sup>8655</sup> The NPFL communications network functioned similarly in all of these respects to the RUF network.<sup>8656</sup>

3786. The question at issue is whether the RUF could communicate in code with the NPFL or understand its coded messages, and vice versa. The Prosecution submits that the codes were shared and that the RUF and NPFL used each others' networks, while the Defence contends that the RUF and NPFL could not communicate because they did not share codes.<sup>8657</sup>

3787. Radio operators Foday Lansana and Dauda Aruna Fornie, whom the Trial Chamber has found to be generally credible,<sup>8658</sup> both testified that in 1991 or 1992 the RUF did not have their own code, but used that which was given to them by the NPFL. At a certain point, however, the RUF code changed, and the two codes were separate and different.<sup>8659</sup>

3788. Both Prosecution and Defence witnesses testified that RUF code changed intermittently throughout the conflict so as to guard the confidentiality of messages, although witness testimony varied as to how often this would happen.<sup>8660</sup> Several Prosecution witnesses also testified that RUF code was shared with operators in Liberia at various time periods.<sup>8661</sup> For example, Fornie testified that he brought RUF codes to

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2008, pp. 6908, 6989, 6901-6903, 6925-6929; Mohamed Kabbah, Transcript 15 September 2008, pp. 16252-16253.

<sup>8655</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21341-21344; Perry Kamara, Transcript 4 February 2008, p. 3063, Transcript 5 February 2008, pp. 3068-3069; TF1-516, Transcript 8 April 2008, p. 6908.

<sup>8656</sup> DCT-008, Transcript 24 August 2010, p. 47039; Joseph Dehmie, Transcript 19 May 2010, pp. 41175-41179, 41244-41245; 21 May 2010, pp. 41476-41480; Transcript, 31 May 2010, pp. 41533-41539; Yanks Smythe, Transcript 1 March 2010, pp. 36264-36266.

<sup>8657</sup> Defence Final Trial Brief, paras 1281, 1497-1498, 1508-1509, 1518, 1531.

<sup>8658</sup> Credibility Assessment, Foday Lansana, paras 237-243; Credibility Assessment, Dauda Aruna Fornie, paras 346-358.

<sup>8659</sup> Foday Lansana, 21 February 2008 pp. 4443-4445, 4475; Dauda Aruna Fornie, Transcript 1 December 2008, p. 21374.

<sup>8660</sup> Foday Lansana, 21 February 2008, pp. 4443-4445, 4479-4480; Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21416-21417, 21517-21518; Perry Kamara, Transcript 5 February 2008, p. 3071; TF1-516, Transcript 8 April 2008 pp. 6895-6896; TF1-585, Transcript 9 September 2008 pp. 15876-15877; Joseph Dehmie, Transcript 21 May 2010 pp. 41477-41480.

<sup>8661</sup> See also Perry Kamara, Transcript 4 February 2008, pp. 3049, 3052-3053; Transcript 7 February 2008 pp. 3304-3308 (testifying that up until 1994, the RUF and the NPFL would communicate frequently, because they had each others' codes).





Sunlight in Monrovia in mid-1998.<sup>8662</sup> Witness TF1-516 testified that Lansana brought Liberian codes to Sierra Leone before 1994, and this code did not change until 1998.<sup>8663</sup> Once the codes changed, TF1-516 stated, the new RUF codes were brought to Liberia by himself in mid-1999,<sup>8664</sup> and by Tiger<sup>8665</sup> during Operation Vulture just prior to this.<sup>8666</sup> Finally, Witnesses TF1-585 and Lansana testified that Memunatu Deen, the RUF radio operator stationed in Liberia, received RUF codes whenever they changed.<sup>8667</sup>

3789. Defence witnesses including the Accused, Joseph Dehmie, Yanks Smythe and DCT-008 denied that the RUF and NPFL shared codes or communications.<sup>8668</sup> DCT-008 denied that NPFL code was given to anyone other than NPFL operators,<sup>8669</sup> that Base 1 had access to the RUF code,<sup>8670</sup> and that TF1-516 provided RUF codes to the NPFL.<sup>8671</sup> The witness contended that when Deen and TF1-516 first came to Base 1 in 1998, they sent messages that could not be understood because the Base 1 radio operators did not have RUF code.<sup>8672</sup> The Trial Chamber recalls its finding that the testimony of DCT-008 must be treated with caution and requires corroboration.<sup>8673</sup>

3790. Defence Witness Joseph Dehmie testified that NPFL radio codes were not distributed to anyone other than NPFL members. The Trial Chamber notes that the testimony of Prosecution witnesses cited above concerns the distribution of RUF codes to NPFL members, not NPFL codes to RUF members. For this reason, the testimony of Dehmie is not inconsistent with the testimony of the Prosecution witnesses and it does not corroborate the testimony of DCT-008.

<sup>8662</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21516-21519.

<sup>8663</sup> TF1-516, Transcript 9 April 2008, pp. 6984-6985.

<sup>8664</sup> TF1-516, Transcript 8 April 2008, pp. 6858-6860, 6966-6967, 6891, 6912, 6918; TF1-516, 9 April 2008, pp. 6986-6987, 7003-7004.

<sup>8665</sup> Upon careful examination of the record, the Trial Chamber found only one reference to radio operator "Tiger's" given name: Sheku Sheriff. Mohamed Kabbah, Transcript 15 September 2008, pp. 16167, 16170.

<sup>8666</sup> TF1-516, Transcript 9 April 2008, pp. 6987.

<sup>8667</sup> TF1-585, Transcript 9 September 2008, pp. 15877-15878; Foday Lansana, 21 February 2008, p. 4483. Lansana also indicated that Osman Tolo, a second RUF radio operator stationed in Liberia, also received RUF codes when they changed. Foday Lansana, 21 February 2008, p. 4483.

<sup>8668</sup> Charles Ghankay Taylor, Transcript 10 September 2009, pp. 28566-28567; Joseph Dehmie, Transcript 21 May 2010 p. 41473-41474; 31 May 2010, pp. 41536-41539; Yanks Smythe, Transcript 24 February 2010 pp. 35969-35971; Transcript 1 March 2010 pp. 36263-36264.

<sup>8669</sup> DCT-008, Transcript 24 August 2010, pp. 47034-47035.

<sup>8670</sup> DCT-008, Transcript 27 August 2010, pp. 47487.

<sup>8671</sup> DCT-008, Transcript 28 August 2010, p. 47555 (PS); Transcript 28 August 2010, p. 47616, 47636.

<sup>8672</sup> DCT-008, Transcript 27 August 2010, pp. 47385-47386, 47405.

<sup>8673</sup> Credibility Assessment, DCT-008, paras 373-380.

3791. Similarly, while Defence witness Yanks Smythe denied that the NPFL and RUF were communicating, more specifically, he testified that the two did not operate on the same frequency. He said he monitored the NPFL frequency and that if there were communications he would have heard the RUF radio calls. However, the Trial Chamber notes that the communications to which the Prosecution witnesses testified were communications largely if not exclusively on the RUF network, not the NPFL network. Monitoring the NPFL network, Smythe presumably would not have heard these communications, which in no way precludes the possibility that they took place.

3792. The Trial Chamber further notes that Smythe testified that he was “not aware” of whether the NPFL possessed RUF code during the period from 1990 to 1994, which is the time period about which he was questioned.<sup>8674</sup> In the Trial Chamber’s view, this testimony does not corroborate the testimony of DCT-008 that the NPFL did not have the RUF code. Moreover, the Trial Chamber notes that Smythe testified in cross-examination that the RUF and NPFL were not communicating via radio between 1991 and 1992,<sup>8675</sup> which is inconsistent with the testimony of the Accused, who testified that there were communications during this time period.<sup>8676</sup>

3793. The Trial Chamber notes that while DCT-008 said that Sunlight did not have the code, TF1-516 testified that he himself gave the code to Sunlight.<sup>8677</sup> Mohamed Kabbah testified that the RUF had secret frequencies that only Sunlight knew about.<sup>8678</sup> Moreover, Lansana testified that he heard Benjamin Yeaten and Sam Bockarie on the national frequency using the RUF code. In light of the substantial evidence adduced to the contrary, and the lack of evidence corroborating his testimony, the Trial Chamber does not find the testimony of DCT-008, that the NPFL did not have RUF codes, to be credible.

3794. The Trial Chamber notes the denial of the Accused that the NPFL shared radio frequencies with the RUF, and his testimony that the NPFL did not know and could not get into these frequencies. As indicated, the testimony of both Prosecution and Defence witnesses establishes that the radio frequencies were accessible to all. The code added a

<sup>8674</sup> Yanks Smythe, Transcript 22 February 2010, pp. 35640-35641.

<sup>8675</sup> Yanks Smythe, Transcript 24 February 2010, pp. 35964-35966.

<sup>8676</sup> Charles Ghankay Taylor, Transcript 10 September 2009, pp. 28566-28567.

<sup>8677</sup> TF1-516, Transcript 8 April 2008, p. 6912.

<sup>8678</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16464-16366.

level of security by allowing the parties communicating to switch to a different frequency, but it is the understanding of the Trial Chamber that no code was required to access any particular frequency. For this reason, and in light of the substantial and credible evidence that the RUF code was shared with the NPFL, the Trial Chamber does not find the denial of the Accused to be credible.

3795. The Defence highlights Prosecution evidence that new RUF codes would be delivered by hand to all operators, and questions how this delivery could have occurred when the borders were closed at various time periods.<sup>8679</sup> The Trial Chamber notes that it is uncontested by the parties that Memunatu Deen, an RUF radio operator, was stationed at the RUF Guest House in Monrovia.<sup>8680</sup> Deen would have needed the RUF codes in order to effectively communicate between Liberia and Sierra Leone during the time she was at the guest house. Therefore, the Trial Chamber considers that the RUF codes must have been delivered to her in Liberia or she would not have been able to perform her function as a radio operator for the RUF. Further, TF1-585 and Foday Lansana testified that Deen had access to these codes, and Dauda Aruna Fornie testified that she brought RUF codes to Sunlight.<sup>8681</sup> For this reason, and in light of the evidence cited above that codes were delivered to Monrovia, the Trial Chamber does not consider this argument compelling.<sup>8682</sup>

3796. As noted above, the evidence indicates that, regardless of whether the RUF possessed NPFL code and vice versa, these groups could communicate with each other by radio. Prosecution and Defence witnesses confirmed that an RUF operator could enter onto the NPFL national network, the frequency of which was open to any operator, and make a call to an NPFL operator, and vice versa.<sup>8683</sup> The addition of code words for frequencies, names, and materials simply offered greater confidentiality. For this reason the Trial Chamber does not accept the contention of the Defence that messages between the two groups could not have been relayed because they did not possess each others' codes. The evidence is clear that the RUF and NPFL radio networks were able to be reached by

<sup>8679</sup> Defence Final Trial Brief, paras 1508-1509.

<sup>8680</sup> See Operational Support, RUF Guesthouse.

<sup>8681</sup> TF1-585, Transcript 9 September 2008 pp. 15877-15878; Foday Lansana, 21 February 2008 p. 4475- 4476, 4483; Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21516-21519.

<sup>8682</sup> See Arms and Ammunition: Preliminary Issues, Closure of Border.

<sup>8683</sup> Foday Lansana, Transcript 21 February 2008, pp. 4440-4441, 4483; Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21374-21375; Mohamed Kabbah, Transcript 16 September 2008, pp. 16364-16366; DCT-008, Transcript 24 August 2010, pp. 47039-47040; Perry Kamara, Transcript 5 February 2008, pp. 3074-3076.







operators from outside their respective networks, and the communications could begin from there.

3797. Regarding the Defence contention that Base 1 had not been established by the time of the Intervention, the Trial Chamber notes that Mohamed Kabbah, Witness TF1-585 and Dauda Aruna Fornie all testified to the existence and operation of Base 1 at the time of the Intervention or shortly thereafter.<sup>8684</sup> Only DCT-008 testified that Base 1 was not yet established, and while the Accused testified that Base 1 was the radio station at Benjamin Yeaten's compound, he did not provide a date when it was installed.<sup>8685</sup>

3798. The Trial Chamber recalls its findings that Kabbah, Witness TF1-585 and Fornie are generally credible<sup>8686</sup> and that DCT-008 is a witness whose testimony must be treated with caution and requires corroboration.<sup>8687</sup> The Trial Chamber notes that, in her testimony, TF1-585 generally had difficulty placing events in their correct time period.<sup>8688</sup> Further, the Defence notes that in a previous statement to the Prosecution, TF1-585 stated that Lima Bravo, 35 Bravo and 35B were the call signs at Yeaten's residence. The witness explained this inconsistency by stating that in the interim period she had second thoughts, and realised she had mixed up RUF call signs with Base 1; she also noted that one week before trial she corrected the first statement to read that Yeaten's call signs were Lima Bravo and Base 1. This was the first time that she had identified Base 1 as Yeaten's radio station.<sup>8689</sup>

3799. The Trial Chamber also notes that Kabbah incorrectly identified Base 1 as the station "where Tolo and others were ... at Pa Musa's place",<sup>8690</sup> and not the station at Yeaten's residence. Kabbah also testified that Sunlight worked from Charles Taylor's Mansion Ground.

<sup>8684</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16127; TF1-585, Transcript 5 September 2008, pp. 15604-15606; Transcript 9 September 2008, pp. 15827-15828; Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21436-21441, 21443, 21445, 21449-21452.

<sup>8685</sup> DCT-008, Transcript 24 August 2010, pp. 47026-47030; Transcript 30 August 2010, p. 47565; Transcript 1 September 2010, p. 47754; Transcript 2 September 2010, pp. 47809-47810. Charles Ghankay Taylor, Transcript 17 September 2009, p. 29204.

<sup>8686</sup> Credibility Assessment, Mohamed Kabbah, paras 334-338; Credibility Assessment, TF1-585, paras 330-333; Credibility Assessment, Dauda Aruna Fornie, paras 346-358.

<sup>8687</sup> Credibility Assessment, DCT-008, paras 373-380.

<sup>8688</sup> Credibility Assessment, TF1-585, paras 330-333.

<sup>8689</sup> TF1-585, Transcript 9 September 2008, pp. 15858-15861.

<sup>8690</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16131.

3800. The Trial Chamber considers the discrepancies in both TF1-585 and Kabbah's testimonies to be minor, particularly given the passage of time, and does not therefore find that they impact upon either witness's general credibility. In Kabbah's case, the Trial Chamber considers that, because Kabbah did not visit Monrovia, and his knowledge of Sunlight's location was therefore based solely on information given to him by other operators who went to Liberia with Sam Bockarie,<sup>8691</sup> and because Kabbah did not use the term "Executive Mansion" but rather spoke of "Charles Taylor's Mansion Ground", Kabbah may have conflated the Defendant's White Flower residence with the Executive Mansion.<sup>8692</sup> In view of the issues raised, however, the Trial Chamber does not rely on their testimonies in ascertaining the date upon which Base 1 was established.

3801. However, the testimony of Fornie, who testified that he visited Base 1 shortly after the Intervention, supports its existence at this time. The Defence challenges Fornie's evidence that he visited Base 1 at this time on the basis that the radio room was originally set up inside Yeaten's house and only later moved to the outhouse where Fornie testified that he saw it.<sup>8693</sup> Fornie testified that Base 1 was located "in one of the rooms at Benjamin Yeaten's backyard"<sup>8694</sup> which, in the Trial Chamber's view, could mean that it was located in a room inside the house overlooking the back yard, not necessarily in the yard itself.

3802. Defence Witness Yanks Smythe testified that he never saw radio equipment at Benjamin Yeaten's house between 1998 and July 2000,<sup>8695</sup> but this evidence contradicts that of DCT-008 and the Accused, who both testified that Base 1 was installed at Yeaten's residence.<sup>8696</sup> In light of these considerations the Trial Chamber rejects the testimony of DCT-008 and Yanks Smythe that Base 1 was not operational at the time of the Intervention.

3803. The Trial Chamber notes that there is some evidence that communications were restricted between Liberian and Sierra Leonean radio stations at this time.<sup>8697</sup> However, the evidence demonstrates that this was a matter of protocol rather than a technical barrier.<sup>8698</sup>

<sup>8691</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16133.

<sup>8692</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16127.

<sup>8693</sup> Defence Final Trial Brief, para. 1516.

<sup>8694</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21445; 21449-21452.

<sup>8695</sup> Yanks Smythe, Transcript 24 February 2010, p. 35962.

<sup>8696</sup> DCT-008, Transcript 24 August 2010, pp. 47026-47030.

<sup>8697</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16254-16255; Foday Lansana, Transcript 21 February 2008, p. 4436; Alice Pyne, Transcript 18 June 2008, pp. 12169-12171; DCT-008, Transcript 31 August 2010, p.

## Findings

3804. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that RUF radio codes were shared with the NPFL and that the RUF and NPFL were able to communicate via radio.

3805. The Trial Chamber also finds that the Prosecution has proved beyond reasonable doubt that Base 1 existed and was in operation at the time of the Intervention.

### (d) Use of Liberian Communications by the RUF/AFRC

#### Introduction

3806. The Prosecution submits several allegations concerning the RUF/AFRC's use of Taylor's radio communications equipment in Liberia. The circumstances of these allegations have been discussed in other sections of the judgement. The Trial Chamber will consider each allegation in turn, with regard to whether Taylor provided communications capabilities to the RUF/AFRC.

#### (i) Sankoh's Communication While Detained

3807. The Prosecution alleges that during Sankoh's detention in Nigeria, he used the NPFL radio network to communicate with the RUF in Sierra Leone.<sup>8699</sup>

3808. The Defence denies that Sankoh used the NPFL radio network to communicate with the RUF during his detention. The Defence contends that there was no need for Sankoh to rely on the NPFL network because he had his own communications system in place at that time. Furthermore, the Defence argues, Sankoh's messages were communicated by other means.<sup>8700</sup>

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47601.

<sup>8698</sup> For example, when describing "restricted stations" Mohamed Kabbah testified that they were stations that *should* not be contacted and were "forbidden", not that they could not be contacted. *See* Mohamed Kabbah, Transcript 15 September 2008, pp. 16254-16255. Foday Lansana testified that only the stations with Foday Sankoh and Sam Bockarie had "every access". *See* Foday Lansana, 21 February 2008 pp. 4435-4436. Alice Pyne testified that she did not have "permission" to speak with stations outside Sierra Leone. *See* Alice Pyne, Transcript 18 June 2008, pp. 12170-12171. Dauda Aruna Fornie also testified to restrictions in the *authority* to contact Base 1. *See* Dauda Aruna Fornie, Transcript 2 December 2008, p. 21493.

<sup>8699</sup> Prosecution Final Trial Brief, para. 309.

<sup>8700</sup> Defence Final Trial Brief, paras. 993, 1484.

EvidenceProsecution Witness Foday Lansana

3809. Witness Foday Lansana testified while Foday Sankoh was detained in Nigeria, he would transmit messages to the RUF through Taylor and his subordinates in Liberia. At the time, Bockarie told Lansana and others in the RUF that Moinama and Massquoui visited Sankoh in detention and received a message, and transmitted this message via telephone to Taylor or Yeaten in Liberia. Taylor or Yeaten then sent the message on the radio to Sam Bockarie, who issued orders to the RUF accordingly.<sup>8701</sup> Bockarie stated that he along with Isaac Mongor, Morris Kallon, Issa Sesay, Peter Vandi, and others, were promoted using this message system.<sup>8702</sup> The RUF also received the order to join the AFRC in this way.<sup>8703</sup>

3810. When Bockarie entered Freetown, Lansana added, he invited Moinama and Massaquoi to a meeting of the High Command, at which the witness was present. Moinama and Massaquoi “made it very clear” that the messages they had transmitted from Sankoh in detention were from Sankoh.<sup>8704</sup>

Prosecution Witness Augustine Mallah

3811. Witness Augustine Mallah, an RUF security officer for Mike Lamin, testified that after Lamin was arrested Mallah escaped to Danané, Côte d’Ivoire. Musa Cissé, Taylor’s protocol officer, lived in Danané, and had a radio operator named Action Man. The day after Mallah arrived in Côte d’Ivoire, which was two days after Sankoh was arrested in Nigeria, Action Man invited Mallah to Cissé’s house and told him that he had contact with Sankoh in detention in Nigeria. Sankoh told Action Man to connect him with Bockarie so he could give him some orders.<sup>8705</sup>

3812. The next night, Mallah, Action Man and Joseph Brown (a.k.a. Co Brown) were at Cissé’s house. Mallah was sitting two feet away when he saw Action Man contact Bockarie and Sankoh. Sankoh told Bockarie that he should not take any instructions from Fayah Musa, but should take instructions directly from Taylor in Liberia. Bockarie stated that he

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<sup>8701</sup> Foday Lansana, Transcript 21 February 2008 pp. 4490-4494.

<sup>8702</sup> Foday Lansana, Transcript 21 February 2008 pp. 4490.

<sup>8703</sup> Foday Lansana, Transcript 21 February 2008 p. 4491-4493.

<sup>8704</sup> Foday Lansana, Transcript 21 February 2008 pp. 4490-4494.

would adhere to Sankoh's instructions, and that he would support Sankoh as the leader of the RUF.<sup>8706</sup>

Prosecution Witness TF1-338

3813. Witness TF1-338, an RUF member, testified that after Foday Sankoh was arrested in Nigeria in 1997, Daniel Tamba (a.k.a. Jungle) called on the radio and stated that Taylor had instructed him to give a message to Bockarie from the Accused, which had been passed on to him by Sankoh. Tamba said that Sankoh instructed Bockarie to be promoted, and that he should take all direct orders from Taylor until Sankoh returned from Nigeria.<sup>8707</sup>

Prosecution Witness TF1-371

3814. Witness TF1-371 testified that in March 1997, he was in Foday Sankoh's residence in Abidjan waiting for him to return from Nigeria when he heard on the BBC that Sankoh had been arrested. He called Memunatu Deen, who was Sankoh's "communications lady", and who was at Sankoh's residence in Abidjan and had Sankoh's satellite phone. He asked Deen to put him in touch with Sankoh at his hotel in Abuja and she connected the two via the satellite phone. Sankoh told the witness not to worry, that he was not actually arrested but was at his hotel in Abuja, but that he would return soon.<sup>8708</sup>

Prosecution Witness TF1-168

3815. Witness TF1-168 testified that after Sankoh was arrested in Nigeria, he had a satellite phone. The Nigerian authorities confiscated it at a certain point, but, TF1-168 testified, Sankoh found other ways to communicate with the RUF in the field. For example, Sankoh called Mike Lamin, who was in Abidjan, and instructed him to "disarm" the witness. The witness heard about this and sought protection from the local police.<sup>8709</sup> Sankoh also, while detained in Nigeria, promoted seven RUF commanders.<sup>8710</sup>

Prosecution Witness Dauda Aruna Fornie

<sup>8705</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20124-20128.

<sup>8706</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20124-20128.

<sup>8707</sup> TF1-338, Transcript 1 September 2008, pp. 15114-15116.

<sup>8708</sup> TF1-371, Transcript 25 January 2008 pp. 2282-2284.

<sup>8709</sup> TF1-168, Transcript 22 January 2009, pp. 23311-23312.

<sup>8710</sup> TF1-168, Transcript 26 January 2009 pp. 23519-23520.

3816. Witness Dauda Aruna Fornie testified that in mid-1997 he heard Foday Sankoh on Sierra Leone Broadcasting Service, the Sierra Leonean radio station, instructing the RUF to leave the bush and join the AFRC.<sup>8711</sup>

Prosecution Witness Alimamy Bobson Sesay

3817. Witness Alimamy Bobson Sesay testified that following the AFRC coup, he heard Foday Sankoh on BBC radio ordering the commanders and members of the RUF to go immediately to Freetown and take orders from Johnny Paul Koroma.<sup>8712</sup>

Prosecution Witness Charles Ngebeh

3818. Witness Charles Ngebeh testified that in May 1997 he was in Giema when he heard, on the Sierra Leone Broadcasting Service, a recorded message from Foday Sankoh stating that the war was over and instructing the RUF to come out of the bush and join the AFRC in Freetown.<sup>8713</sup>

The Accused

3819. The Accused denied he transmitted any messages from Sankoh to Bockarie while Sankoh was detained in Nigeria, including a message that the RUF should join the AFRC junta or that Bockarie should take advice from Taylor while Sankoh was in prison.<sup>8714</sup> Taylor testified that the process by which the RUF joined the AFRC is well documented: a recorded conversation between Sankoh and Johnny Paul Koroma was played on Sierra Leonean radio and the BBC.<sup>8715</sup> In addition, Sankoh at that time had his own radio and operator in Côte d'Ivoire, and so did not need to transmit messages through Taylor.<sup>8716</sup> The Accused also denied the allegation that he sent a message to Sam Bockarie through Daniel Tamba (a.k.a. Jungle). The Accused testified that he had never known Tamba, and that he heard this name for the first time in court.<sup>8717</sup> The Accused asserted that he was not in

<sup>8711</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21400-21405.

<sup>8712</sup> Alimamy Bobson Sesay, 17 April 2008 p. 7872-7873.

<sup>8713</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37858 - 37860

<sup>8714</sup> Charles Ghankay Taylor, 28 October 2009 pp. 30527-30530; 1 October 2009 p. 30086.

<sup>8715</sup> T Charles Ghankay Taylor, 28 October 2009 pp. 30527-30529, 30534.

<sup>8716</sup> Charles Ghankay Taylor, Transcript 28 October 2009 p. 30531-30532.

<sup>8717</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28717; Transcript 28 October 2009, p. 30530.

communication with Sankoh or Bockarie after Sankoh’s arrest in Nigeria, and that he was not involved in any RUF promotions.<sup>8718</sup>

Defence Witness Fayia Musa

3820. Witness Fayia Musa denied that Foday Sankoh transmitted messages through NPFL radio networks, saying that he had others ways of communicating with RUF members. Musa testified that when Foday Sankoh was arrested in Nigeria, he was detained in a hotel.<sup>8719</sup> Following Sankoh’s arrest, Musa and other RUF colleagues held a press conference, in which they revoked their support for Foday Sankoh as leader of the RUF.<sup>8720</sup> Sankoh immediately called the witness on the telephone and told him that he was “playing with fire”. Sankoh also, the witness testified, telephoned the radio operator at his house in Abidjan, Juliet James, and told her to order Mike Lamin, who was also in Abidjan, to beat Philip Palmer and his wife to death. Juliet James then told Musa of this message.<sup>8721</sup> Finally, he told the operator to give Sam Bockarie and Issa Sesay a message that his arrest had been orchestrated by the External Delegation.<sup>8722</sup>

3821. Musa also denied the veracity of Augustine Mallah’s claim that he was present when Action Man connected Sankoh and Bockarie on the radio at Cissé’s house in Côte d’Ivoire. First, Musa denied that Musa Cissé had a radio operator named “Action Man”, stating that instead his operator was named “Cassell”.<sup>8723</sup> Second, Musa stated that at the time of Sankoh’s arrest, he had several other ways of communicating and did not need to use Cissé’s radio. When Foday Sankoh arrived in Côte d’Ivoire in March 1996, he brought with him two radios and several radio operators, including Juliet Gbessy James, Martin Moinama, Menamutu Deen, Eddie Murphy, and Dauda Aruna Fornie (a.k.a. “DAF”). One radio was set up at Phillip Palmer’s house in Danané, and the other was in Abidjan at Sankoh’s “Cocody house”.<sup>8724</sup> The witness and other members of the External Delegation had good

<sup>8718</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30859-30860; Transcript 28 October 2009, pp. 30530-30532.

<sup>8719</sup> Fayia Musa, Transcript 15 April 2010, P. 39100.

<sup>8720</sup> Fayia Musa, Transcript 15 April 2010, P. 39101.

<sup>8721</sup> Fayia Musa, Transcript 15 April 2010 pp. 39105-39107.

<sup>8722</sup> Fayia Musa, Transcript 15 April 2010 pp. 39105-39107; Transcript 21 April 2010 pp. 39525-39526.

<sup>8723</sup> Fayia Musa, Transcript 21 April 2010 p. 39565.

<sup>8724</sup> Fayia Musa, Transcript 14 April 2010 pp. 39010-39011; Transcript 21 April 2010 pp. 39566-39567.

relationships with the RUF operators in Abidjan, and none of them told him of a message from Sankoh to Bockarie that he should take orders from Taylor.<sup>8725</sup>

Defence Witness Issa Sesay

3822. Witness Issa Sesay testified that when Foday Sankoh was arrested in Nigeria in March 1997, he had two operators living at his house in Abidjan: Memunatu Deen and another woman whose name Sesay could not recall. Daniel Tamba (a.k.a. Jungle) was also living at Sankoh's house in Abidjan. While detained, if Sankoh wanted to contact Bockarie he would call Tamba on the telephone, who would then give the message to Memunatu Deen, who would then code the message and send it to Bockarie. This line of communication continued from the time Sankoh was arrested until the Nigerian authorities cut his telephone line. The Nigerian authorities did so after Sankoh's instruction that the RUF and Bockarie should take orders from Johnny Paul Koroma was played on Sierra Leonean radio, and Sankoh gave an interview with the BBC urging the RUF to join the AFRC.<sup>8726</sup>

3823. Sesay testified that Sankoh promoted several RUF members through a message sent in this way: Bockarie was promoted Field Commander, Mike Lamin became a Colonel, Denis Mingo became a Colonel, Isaac Mongor a Colonel, and Issa Sesay a Lieutenant Colonel. Sankoh made no mention of Taylor in this message, nor did he direct that Bockarie should take instructions from Taylor, but told Bockarie to take instructions from Johnny Paul Koroma.<sup>8727</sup> Sesay was inconsistent on the time period in which Sankoh made these promotions, stating first that he sent the message after he was arrested in Nigeria, and then that he sent the message while he was still in Abidjan, before he was arrested.<sup>8728</sup>

3824. Sesay testified that Tamba was a close friend of his, and was not a member of Taylor's special security forces in Liberia, nor did he work for Taylor. Tamba was a member of the RUF, and worked at Foday Sankoh's house in Abidjan in 1996.<sup>8729</sup> Sesay also

<sup>8725</sup> Fayia Musa, Transcript 21 April 2010, p. 39568.

<sup>8726</sup> Issa Sesay, Transcript 6 July 2010 p. 43798-43801; Transcript 2 August 2010, pp. 45184-45185; Transcript 17 August 2010 p. 46522.

<sup>8727</sup> Issa Sesay, Transcript 6 July 2010, pp. 43776-43779, 43800; Transcript 2 August 2010, pp. 45184-45185.

<sup>8728</sup> Issa Sesay, Transcript 17 August 2010, p. 46528-46532

<sup>8729</sup> Issa Sesay, Transcript 2 August 2010 pp. 45183-45184; 6 July 2010 p. 43801-43806, 43809.



testified that following his arrest, Sankoh used to communicate with Bockarie in Abidjan through telephone lines.<sup>8730</sup>

3825. Sesay denied Sesay denied Augustine Mallah's claim that Sankoh ordered Bockarie to take advice from Taylor over the radio at Musa Cissé's home in Danané. Sesay contends that in October 1996, Mallah was in Liberia with Mike Lamin, and therefore could not have been in Danané to hear that conversation.<sup>8731</sup>

### Deliberations

3826. The Trial Chamber must determine whether, while in detention, Foday Sankoh used the NPFL's communications network in order to transmit orders to the RUF, an allegation the Defence denies.

3827. The Prosecution has adduced evidence that Sankoh passed messages through the NPFL network, including one or more in which Sankoh promoted Bockarie and others, as Lansana testified, and one in which Sankoh instructed Bockarie to take orders from the Accused, as TF1-338 and Augustine Mallah testified. Lansana testified that Gibril Massaquoi or Martin Moinama would carry messages away from Sankoh and telephone the Accused or Yeaten in Liberia, who then radioed the messages to Sam Bockarie.<sup>8732</sup> Foday Lansana first heard that this occurred from Bockarie, but then Massaquoi and Moinama confirmed the same; thus, it is hearsay evidence, but originating from two different sources.

3828. TF1-338 testified that Sankoh called Taylor with the message that Bockarie was promoted and should take instruction from Taylor, which Taylor passed on to Daniel Tamba (a.k.a. Jungle), and Tamba then passed the message via radio to Bockarie.<sup>8733</sup> It is unclear from TF1-338's testimony whether he was in the room when the radio message between Tamba and Bockarie transpired, and the Trial Chamber notes that his evidence that Sankoh gave these instructions to Bockarie came from Tamba, who received it from Taylor. The Trial Chamber finds that the contention of the Accused that he only heard of Tamba for the first time at his trial to be lacking in credibility.

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<sup>8730</sup> Issa Sesay, Transcript 6 July 2010, p. 43797.

<sup>8731</sup> Issa Sesay, Transcript 12 August 2010, p.46132-46133; Transcript 17 August 2010 p. 46524.

<sup>8732</sup> Foday Lansana, Transcript 21 February 2008 pp. 4490-4494.

<sup>8733</sup> TF1-338, Transcript 1 September 2008 pp. 15114-15117.



3829. Finally, Issa Sesay testified that Sankoh passed the message of Bockarie's promotion to Tamba, who then sent the message over the radio to Bockarie. Though Sesay was, at this particular time, stationed in Buedu with Bockarie, Sesay did not indicate the source of his knowledge on this line of communication, or specify as to whether it was Bockarie who informed him. Furthermore, upon cross-examination Sesay's testimony was inconsistent concerning the date Sankoh's message promoting several RUF commanders occurred: before or after Sankoh's arrest in Nigeria. The Trial Chamber recalls its finding that Sesay's testimony must be treated with caution.<sup>8734</sup>

3830. The Trial Chamber recalls that it had no general reservations regarding the credibility of TF1-338, Mallah or Lansana.<sup>8735</sup> Though these witnesses' accounts differ in details and are in some instances hearsay, they corroborate each other in that Sankoh used either the Accused or Tamba to pass messages on to Bockarie. Though Lansana contends that the communication between Sankoh in detention and the Accused in Liberia occurred through two intermediaries, Moinama and Massaquoi, this may have been an extra detail that was not passed on to the other witnesses through Tamba or Bockarie. In addition, though Sesay does not mention the involvement of the Accused, the Trial Chamber notes its finding that at various times Tamba was an agent of the Accused.<sup>8736</sup>

3831. Regarding Sankoh's instruction to Bockarie to follow the Accused's orders, Augustine Mallah provided a first-hand account of Sankoh using the NPFL network to communicate with Bockarie: Mallah testified that he was present when "Action Man", a radio operator for Musa Cissé, connected Sankoh to Bockarie over the radio.<sup>8737</sup> The Trial Chamber has considered this allegation elsewhere in the judgement, and accepted Mallah's testimony.<sup>8738</sup> The Trial Chamber notes that Musa Cissé was an NPFL representative.<sup>8739</sup> His radio, in the Trial Chamber's view, was part of the NPFL communications network

3832. In addition to challenging these witnesses' testimonies directly, the Defence contends that Sankoh did not need the NPFL radio network to communicate with the RUF

<sup>8734</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>8735</sup> Credibility Assessment, TF1-338, paras 318-329; Credibility Assessment, Foday Lansana, paras 237-243; Credibility Assessment, Augustine Mallah, Pre-Indictment period (1988-1996), para. 2522.

<sup>8736</sup> See The Role of Intermediaries: Daniel Tamba (a.k.a. Jungle).

<sup>8737</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20124-20128.

<sup>8738</sup> See Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Sam Bockarie.

<sup>8739</sup> Defence Final Trial Brief, para. 991.

during his detention because he had other ways of transmitting messages. For example, several Defence witnesses testified that Sankoh's order for the RUF to join the AFRC was transmitted via radio.<sup>8740</sup> Witness TF1-371 testified that Memunatu Deen, the radio operator who was living at Sankoh's house in Abidjan, connected him to Sankoh during his detention.<sup>8741</sup> Witness TF1-168 and Samuel Kargbo testified that while Sankoh was arrested he used a telephone,<sup>8742</sup> and Fayia Musa described several incidents when Sankoh used his satellite phone to communicate with RUF members in Abidjan.<sup>8743</sup> The Trial Chamber also notes, upon careful examination of Isaac Mongor's testimony, that he does not corroborate the Prosecution allegation that Sankoh used the NPFL network in order to promote him, Mongor, and others, after his arrest.

3833. Sankoh's use of these alternate forms of communication, however, does not exclude the possibility that he also used the NPFL radio network to pass messages on to Bockarie. The NPFL radio network may have reached longer distances than Sankoh's communications options, or Sankoh may have believed the NPFL network was more confidential than any other. Notably, Issa Sesay testified that the message instructing the RUF to join the AFRC occurred both in a private message from Sankoh to Bockarie and a radio address transmitting the news.<sup>8744</sup>

### Findings

3834. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that while in detention in Nigeria, Sankoh used the NPFL communications network to communicate to the RUF, and sent messages to Bockarie via the Accused.

#### (ii) Communications between Memunatu Deen and Sam Bockarie in 1997

### Submissions of the Parties

<sup>8740</sup> Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21400-21405; Charles Ngebeh, Transcript 23 March 2010, pp. 37858 – 37860; Charles Ghankay Taylor, Transcript 28 October 2009 pp. 30527-30529, 30534; Alimamy Bobson Sesay, Transcript 17 April 2008 p. 7872-7873.

<sup>8741</sup> TF1-371, Transcript 25 January 2008 pp. 2282-2284.

<sup>8742</sup> TF1-168, Transcript 26 January 2009 pp. 23519-23520.

<sup>8743</sup> Fayia Musa, Transcript 15 April 2010 pp. 39105-39107; Transcript 21 April 2010 pp. 39525-39526.

<sup>8744</sup> Issa Sesay, Transcript 6 July 2010, pp. 43800, 43818-43821; Transcript 8 July 2010 pp. 44031-44032; Transcript 29 July 2010 pp. 44976-44977; Transcript 18 August 2010 pp. 46540-46541.

3835. The Trial Chamber has discussed in another section of this judgement whether a shipment of ammunition brought by Memunatu Deen and Fonti Kanu to Sierra Leone in 1997 was sent by the Accused.<sup>8745</sup> The Prosecution alleges that Deen, an RUF radio operator based in Liberia, used radio equipment at the home of Musa Cissé, to facilitate this arms shipment.<sup>8746</sup>

3836. The Defence does not answer this specific allegation concerning whether Memunatu Deen used Liberian equipment to communicate with the RUF in Sierra Leone, but denies that this shipment occurred and contends that Dauda Aruna Fornie is not a credible witness.<sup>8747</sup>

### Evidence

#### Prosecution Witness Dauda Aruna Fornie

3837. Witness Dauda Aruna Fornie, an RUF radio operator,<sup>8748</sup> testified that in or about late 1997, three months after arriving in Kenema, he was assigned to work as a radio operator with Sam Bockarie in Kenema Town.<sup>8749</sup> Memunatu Deen, a radio operator who worked in Monrovia at Musa Cissé's house, contacted the witness via radio from Monrovia and told him that she and Fonti Kanu were going to bring materials given to them by Taylor. They then travelled to Daru, where she called to tell him that she had arrived, and Fornie and Bockarie travelled to Daru to receive the shipment.<sup>8750</sup>

#### Prosecution Witness Mohamed Kabbah

3838. Prosecution Witness Mohamed Kabbah, an RUF radio operator,<sup>8751</sup> testified that junior radio operators would not know of arms orders as "that area is a very sensitive

<sup>8745</sup> Arms and Ammunition, Allegations of Direct Supply by the Accused, Junta Period.

<sup>8746</sup> Prosecution Final Trial Brief, para. 310. In their Final Trial Brief, the Prosecution cites to the testimony of TF1-371 to support the above proposition. See Prosecution Final Trial Brief, para. 310, citing TF1-371, Transcript 31 January 2008 pp. 2689-2700 (CS). Upon careful examination of the testimony cited, however, the Trial Chamber notes that TF1-371 does not testify that Memunatu Deen, an RUF radio operator, used Liberia radio equipment to facilitate this arms deal, but only that Bockarie contacted Taylor from Kenema requesting materiel. This testimony was given in closed session.

<sup>8747</sup> Defence Final Trial Brief, paras 1508-1512.

<sup>8748</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21395; Transcript 2 December 2008, p. 21418.

<sup>8749</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21428-21429.

<sup>8750</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21429-21433.

<sup>8751</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

one”.<sup>8752</sup> However he stated that he was in Kailahun, not Kenema, during the AFRC regime, did not operate with Sam Bockarie directly,<sup>8753</sup> and was not always on the radio.<sup>8754</sup> In addition, Foday Lansana, Witness TF1-585, Dauda Aruna Fornie, TF1-567, TF1-539, Alice Pyne, Jabaty Jaward, and TF1-516 confirmed that Memunatu Deen, an RUF radio operator, lived and worked in Monrovia.<sup>8755</sup>

### The Accused

3839. The Accused denied knowing Memunatu Deen or Fonti Kanu. He stated that a man named Musa Cissé was his Chief of Protocol, but he did not know whom Cissé hosted at his house.<sup>8756</sup>

### Deliberations

3840. The Trial Chamber recalls its finding that Dauda Aruna Fornie, who provided the central testimony for this allegation, is a generally credible witness.<sup>8757</sup> The Trial Chamber also notes that Witness TF1-516 testified that Fornie was one of the senior radio operators authorised to contact Liberian radio stations, and several witnesses testified to Fornie being a radio operator for Sam Bockarie during this time period.<sup>8758</sup> In addition, the fact that Memunatu Deen was an RUF radio operator stationed in Liberia during this time period is corroborated by several witnesses.<sup>8759</sup>

<sup>8752</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16291-16293.

<sup>8753</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16284.

<sup>8754</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16286.

<sup>8755</sup> Foday Lansana, Transcript 21 February 2008, pp. 4475-4477; TF1-585, Transcript 9 September 2008 pp. 15832-15833; Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21434-21436; TF1-567, Transcript 4 July 2008, pp. 12990-12991 (PS); TF1-539, Transcript 10 June 2008, pp. 11463-1464; Alice Pyne, Transcript 19 June 2008, p. 12296; Jabaty Jaward, Transcript 10 July 2008, pp. 13418-13421; TF1-516, Transcript 9 April 2008, pp. 7106-7108; Transcript 15 April 2008 p. 7640; 16 April 2008 p. 7743.

<sup>8756</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29171-29178.

<sup>8757</sup> Credibility Assessment, Dauda Aruna Fornie, paras. 346-358.

<sup>8758</sup> TF1-371, Transcript 28 June 2008, p. 2381 (CS); TF1-567, Transcript 4 July 2008, p. 12976-12977; Issa Sesay, Transcript 8 July 2010, pp. 44044-44045. Note that these witnesses refer to Fornie as “DAF”, which Fornie recognised as his nickname during the conflict.

<sup>8759</sup> Foday Lansana, Transcript 21 February 2008, pp. 4475-4477; TF1-585, Transcript 9 September 2008, pp. 15832-15833; Dauda Aruna Fornie, Transcript 2 December 2008, pp., 21434-21436; TF1-567, Transcript 4 July 2008, pp. 12990-12991; TF1-539, Transcript 10 June 2008, pp. 11463-1464; Alice Pyne, Transcript 19 June 2008, p. 12296; Jabaty Jaward, Transcript 10 July 2008, pp. 13418-13421; TF1-516, Transcript 9 April 2008, pp. 7106-7108; Transcript 15 April 2008, p. 7640; Transcript 16 April 2008 p. 7743.

3841. Although Mohamed Kabbah testified that junior operators would not know of arms shipments, he also stated that he was in Kailahun, not Kenema, during the AFRC regime, did not operate with Sam Bockarie directly<sup>8760</sup> and was not always on the radio<sup>8761</sup>. Thus, the Trial Chamber finds that Kabbah's testimony does not raise a doubt as to this allegation.

### Findings

3842. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that Dauda Aruna Fornie, a radio operator for Sam Bockarie, communicated by radio with Memunatu Deen, an RUF radio operator based in Liberia, regarding a shipment of ammunition that the Accused sent to Bockarie.

#### (iii) Communications relating to Eddie Kanneh in Liberia in 1998

### Submissions of the Parties

3843. The Trial Chamber has, in another section of the judgement, considered Taylor's involvement in the facilitation of the diamond trade between Sierra Leone and Liberia. The Prosecution alleges that Eddie Kanneh used Liberian radio communications equipment to conduct diamond transactions. More specifically, the Prosecution contends that radio communications were sent from Sam Bockarie to Base 1 to report that Kanneh was travelling to Liberia, and Kanneh would confirm his arrival in Liberia by calling Sierra Leone from Base 1 or Base 020.<sup>8762</sup> The Prosecution further alleges that the RUF's mining activity was monitored through either Base 1 or 020.<sup>8763</sup>

3844. Apart from challenges to the credibility of Witness TF1-516,<sup>8764</sup> and challenges to the legal significance of the Accused's alleged provision of radio and communications equipment,<sup>8765</sup> the Defence does not make specific challenges to this allegation.<sup>8766</sup>

<sup>8760</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16284.

<sup>8761</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16286.

<sup>8762</sup> Prosecution Final Trial Brief, para. 322.

<sup>8763</sup> Prosecution Final Trial Brief, para. 369.

<sup>8764</sup> Defence Final Trial Brief, paras 1496-1502.

<sup>8765</sup> Defence Final Trial Brief, para. 978.

<sup>8766</sup> The Trial Chamber notes the Defence's acknowledgement of this specific allegation at paragraph 944 of its Final Trial Brief and the cross-reference to the Aiding and Abetting section of its Final Trial Brief, where the

EvidenceProsecution Witness TF1-516

3845. Witness TF1-516 testified that in late 1998, he was a radio operator in Buedu, working for Sam Bockarie.<sup>8767</sup> During this time, the RUF brought civilians from Kailahun to mine diamonds for the RUF in Kono.<sup>8768</sup> The mining commander brought diamonds from Kono to Bockarie in Buedu. Prior to his departure, the mining commander would inform Bockarie of his impending arrival in Buedu.<sup>8769</sup> The witness did not see the diamonds, but because the mining commander radioed prior to his arrival that he was bringing diamonds, the witness deduced that when he saw the mining commander, the mining commander had brought diamonds. Upon the arrival of the mining commander in Buedu with the diamonds, Bockarie would inform Benjamin Yeaten (a.k.a. 50) at Base 1, or he would inform 020, that Eddie Kanneh was coming with a parcel of diamonds for Taylor.<sup>8770</sup> After arriving in Monrovia, Kanneh would call from Base 1 or 020 to inform of his arrival.<sup>8771</sup> The witness personally transmitted and received messages regarding these movements over the radio. These trips took place frequently, every two weeks or a month, at least until the witness left Buedu in mid-1999.<sup>8772</sup>

3846. Once the witness relocated to Liberia in mid-1999 and was assigned to Benjamin Yeaten, he continued to receive information about mining from Issa Sesay's operator Elevation, who told the witness that they were mining "big, big" diamonds.<sup>8773</sup> Sesay was in charge of mining in Kono after Bockarie left Sierra Leone.<sup>8774</sup> Eddie Kanneh still brought diamonds to Monrovia during that time. The witness received radio messages informing him that Kanneh was coming to Monrovia with parcels of diamonds for Taylor, and when he

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Defence states that the allegation will be addressed. However, the specific allegation does not appear in the Aiding and Abetting section of the Defence Final Trial Brief. Defence Final Trial Brief, para. 944.

<sup>8767</sup> TF1-516, Transcript 8 April 2008, p. 6857.

<sup>8768</sup> TF1-516, Transcript 9 April 2008, p. 7131; Transcript 10 April 2008, pp. 7161-7162.

<sup>8769</sup> TF1-516, Transcript 10 April 2008, p. 7163.

<sup>8770</sup> TF1-516, Transcript 10 April 2008, pp. 7164-7165.

<sup>8771</sup> TF1-516, Transcript 10 April 2008, p. 7165.

<sup>8772</sup> TF1-516, Transcript 10 April 2008, pp. 7164-7168.

<sup>8773</sup> TF1-516, Transcript 10 April 2008, pp. 7164-7168.

<sup>8774</sup> TF1-516, Transcript 10 April 2008, p. 7169.





arrived in Monrovia, he would instruct the witness to inform Sesay that he had arrived.<sup>8775</sup>  
 These messages continued until the witness left in late 2001.<sup>8776</sup>

### Deliberations

3847. TF1-516 provided direct evidence of Eddie Kanneh's movements between Buedu and Monrovia with diamonds, as he sent and received some of those messages while he was stationed in Kono and later from Monrovia. The Trial Chamber notes that the witness's account of mining activity is based on what he was told by Elevation, but considers that Elevation's statements regarding mining have been corroborated by numerous witnesses who testified about mining in Kono during that time,<sup>8777</sup> and are conceded by the Defence. In this context, the Trial Chamber has considered whether the conversations about mining with Elevation from Monrovia actually occurred rather than the details of their content. In the Trial Chamber's view, TF1-516's testimony on this point was consistent and detailed. The Trial Chamber further notes that this testimony was not effectively challenged on cross-examination. Moreover, the Trial Chamber recalls its finding that TF1-516 is generally credible<sup>8778</sup> and considers his testimony in this context as credible.

### Findings

3848. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that radio communications were sent back and forth from Bockarie to Base 1 or Base 020 in Monrovia, and later from Issa Sesay, to report the movements of Eddie Kanneh between Liberia and Sierra Leone with diamonds, and information on diamond mining in Sierra Leone.

#### (iv) Communications between Dauda Aruna Fornie and Sierra Leone in 1998

### Submissions of the Parties

<sup>8775</sup> TF1-516, Transcript 10 April 2008, pp. 7171-7172.

<sup>8776</sup> TF1-516, Transcript 10 April 2008, p. 7172.

<sup>8777</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16188; Augustine Mallah, Transcript 13 November 2008, pp. 20248-20249.

<sup>8778</sup> Credibility Assessment, TF1-516, paras. 275-284.



3849. The Trial Chamber has considered in another section of this judgement whether Sam Bockarie made regular trips to Liberia in 1998 for arms, ammunition, and other assistance from the Accused. The Prosecution further alleges that on one of Bockarie's first trips to Monrovia for this purpose, Dauda Aruna Fornie accompanied Bockarie and used Base 1, the radio station at Benjamin Yeaten's home in Monrovia, to keep Bockarie apprised of what was happening in Sierra Leone.<sup>8779</sup>

3850. The Defence does not directly address this allegation of Fornie using Base 1, but submits that the Prosecution's allegation that Fornie travelled with Bockarie is contradicted by another account of Bockarie's first trip to Monrovia, testified to by Varmuyan Sherif. The Defence also contends that though Fornie claimed to have stayed at Base 1 on this trip, DCT-008 testified that it was not set up at this time. Finally, the Defence challenges the very existence of this first trip in February 1998, stating that the Accused first met Bockarie in September 1998.<sup>8780</sup>

## Evidence

### Prosecution Witness Dauda Aruna Fornie

3851. Witness Dauda Aruna Fornie, Sam Bockarie's radio operator, testified that in early 1998,<sup>8781</sup> he travelled with Bockarie to Monrovia to meet Taylor.<sup>8782</sup> According to Fornie, he did so in order to monitor the radio and give Bockarie updates on the front lines in Sierra Leone. He and Bockarie arrived in Monrovia late at night, and the witness was taken to Benjamin Yeaten's residence in Congo Town, where he stayed with Sunlight. Fornie awoke early in the morning and went to the radio room in Yeaten's residence, called Base 1, and used it to contact the radio stations at various front lines in Sierra Leone, including Issa Sesay's, Denis Mingo's and Eagle's stations, among others. When Bockarie came in the morning to Yeaten's house to meet with Yeaten, Fornie gave him updates from the front lines. Bockarie, Yeaten, Rashid and Sellay then went out and said they were going to meet

<sup>8779</sup> Prosecution Final Trial Brief, para. 316.

<sup>8780</sup> Defence Final Trial Brief, paras 529-530.

<sup>8781</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21436-21438, 21444.

<sup>8782</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21445-21447.

with Taylor, and left Fornie at Yeaten's.<sup>8783</sup> When Bockarie returned that evening, he told Fornie to pack up his things, and they returned to Sierra Leone.<sup>8784</sup>

#### Prosecution Witness Varmuyan Sherif

3852. Witness Varmuyan Sherif, a former ULIMO-K fighter who became an officer in the SSS,<sup>8785</sup> contradicted Dauda Aruna Fornie's testimony as to Sam Bockarie's first trip to Monrovia, stating that he was instructed by Taylor to travel to Sierra Leone to bring Bockarie to Monrovia. Sherif did not testify to Fornie being present for Bockarie's first trip to Monrovia.<sup>8786</sup> The Accused testified that his first meeting with Bockarie was in September 1998.<sup>8787</sup> The Accused also denied that he would involve Sherif, a security officer in the SSS, in matters relating to the RUF and ECOWAS.<sup>8788</sup>

#### Deliberations

3853. The Prosecution relies on the testimony of Dauda Aruna Fornie to support the allegation that Fornie used Base 1, in Monrovia, in order to keep Sam Bockarie informed as to the situation on the front lines in Sierra Leone while he visited Monrovia. The Accused, however, contends that his first meeting with Bockarie was in September 1998, and that he would not have involved Varmuyan Sherif in this matter. Further, the Defence contends that this description of Bockarie's trip to Monrovia cannot be reconciled with the testimony of Sherif, and that Base 1 was not in existence at this time.

3854. The Trial Chamber has considered Fornie, Sherif and the Accused's testimony concerning this incident in other sections of the Judgement, and has accepted Fornie's testimony as credible, finding that the first meeting between Bockarie and the Accused occurred around February 1998.<sup>8789</sup> The Trial Chamber has also found that the Defence

<sup>8783</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21448-21451.

<sup>8784</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21451.

<sup>8785</sup> Varmuyan Sherif, Transcript, 9 January 2008, pp. 806, 820, 834, 836; 10 January 2008, pp. 940, 986-987.

<sup>8786</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 826, 828-851; Varmuyan Sherif, Transcript 10 January 2008, pp. 985-987, 1002-1005; Varmuyan Sherif, Transcript 11 January 2008, pp. 1032-1033.

<sup>8787</sup> Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24336-24338.

<sup>8788</sup> Charles Ghankay Taylor, Transcript 3 August 2009, pp. 25812-25813.

<sup>8789</sup> Arms and Ammunition: Alleged Direct Supply of Materiel, February 1998 to December 1999; Diamonds: February 1998 to July 1999; Military Operations: Alleged Message from Base 1 to Troops Retreating from Kono.

contention that Base 1 was not in existence at this time is without merit.<sup>8790</sup> In considering the above, therefore, the Trial Chamber finds that Fornie's description of this incident is credible, and the Prosecution has proved this allegation that Fornie used Base 1 to communicate with the RUF in Sierra Leone on this trip to Monrovia.

### Findings

3855. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that on one of Sam Bockarie's first trips to Monrovia after the Intervention, radio operator Dauda Aruna Fornie, who accompanied Bockarie on this trip, kept Bockarie apprised of events in Sierra Leone by using Base 1, a radio station at Benjamin Yeaten's home in Monrovia.

#### (v) Communications during the Freetown Invasion

### Submissions of the Parties

3856. The Trial Chamber has considered in another section of this judgement allegations that the Accused directed the Freetown Invasion, and more specifically, that there was contact between Sam Bockarie and Benjamin Yeaten during the Invasion. The Prosecution more specifically alleges that the Accused and Yeaten received reports and updates on the Freetown Invasion via RUF operators based in Monrovia.<sup>8791</sup> The Defence denies generally that the Accused had any involvement in the Freetown Invasion in January 1999,<sup>8792</sup> and that the Accused communicated with Bockarie either directly or through Yeaten concerning the Invasion.<sup>8793</sup>

### Evidence

3857. Witness Mohamed Kabbah, an RUF radio operator,<sup>8794</sup> testified that from just after the Intervention in February 1998 until December 1999, he was a radio operator based in

<sup>8790</sup> Operational Support: RUF and NPFL Radio Codes and Communications.

<sup>8791</sup> Prosecution Final Trial Brief, para. 317.

<sup>8792</sup> Defence Final Trial Brief, para. 920.

<sup>8793</sup> Defence Final Trial Brief, para. 1282.

<sup>8794</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

Buedu and was made overall signal commander of the RUF.<sup>8795</sup> The witness, who was in Buedu on 6 January 1999,<sup>8796</sup> testified that soon after Gullit's troops entered Freetown, Benjamin Yeaten's radio operator, TF1-516, contacted Bockarie over the radio from Foya.<sup>8797</sup>

3858. Prosecution Witness TF1-516, an RUF radio operator,<sup>8798</sup> testified that he only worked as a radio operator for Benjamin Yeaten after June or July 1999.<sup>8799</sup> The witness gave further evidence to the effect that he was stationed in Buedu, and not Monrovia, during the Invasion of Freetown in January 1999.<sup>8800</sup>

3859. Defence Witness DCT-008, a Liberian radio operator,<sup>8801</sup> testified that during Bockarie's second visit to Monrovia in 1998, Sunlight met radio operator TF1-516. During this visit, Daniel Tamba (a.k.a. Jungle) brought the radio operator to Base 1, located at Yeaten's house, so that he could send a coded message to Buedu. DCT-008 testified that Sunlight told him that TF1-516 never used the radio at Base 1 outside of this one instance.<sup>8802</sup> The witness denied that TF1-516 was ever a radio operator for Yeaten.<sup>8803</sup> DCT-008 said he would have known if this was the case.<sup>8804</sup> However, Witnesses TF1-567, TF1-375 and TF1-585 all testified that TF1-516 worked for Yeaten in Liberia.<sup>8805</sup>

3860. Witness DCT-008 also testified that in November or December 1998, Sampson and Tamba brought Memunatu Deen, an RUF radio operator, to Base 1 so that she could use the radio to communicate with the RUF.<sup>8806</sup> The witness also gave evidence to the effect that Deen would come and send messages from Base 1 to RUF controlled territory on "a regular

<sup>8795</sup> Mohamed Kabbah, Transcript 12 Sept 2008, pp. 16126-16127.

<sup>8796</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16166.

<sup>8797</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16168-16170.

<sup>8798</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>8799</sup> TF1-516, Transcript 8 April 2008, pp. 6858-6860, 6966-6967; Transcript 9 April 2008 pp. 7003-7004.

<sup>8800</sup> TF1-516, Transcript 8 April 2008, pp. 6931-6932; Transcript 9 April 2008, p. 6979.

<sup>8801</sup> DCT-008, Transcript 24 August 2010, pp. 46948-46951 (PS).

<sup>8802</sup> DCT-008, Transcript 30 August 2010, p. 47518.

<sup>8803</sup> DCT-008, Transcript 31 August 2010, p. 47528.

<sup>8804</sup> DCT-008, Transcript 31 August 2010, p. 47610, 47621, 47652.

<sup>8805</sup> TF1-567, Transcript 7 July 2008, pp. 13043-13044; TF1-375, Transcript 24 June 2008 pp. 12651-12652; TF1-585, Transcript 9 September 2008, pp. 15809-15910.

<sup>8806</sup> DCT-008, Transcript 27 August 2010, pp. 47400-47408; Transcript 30 August 2010, pp. 47403-47404.

basis”<sup>8807</sup> and that it was around mid-1999 that Memunatu Deen’s visits to Base 1 became less frequent.<sup>8808</sup>

3861. Witness DCT-008 also testified, however, that during the Freetown Invasion Memunatu Deen did not use Base 1 to transmit messages to the RUF and that he heard that she was not in Monrovia.<sup>8809</sup> The witness gave evidence that Memunatu Deen’s operation in Liberia was in fact kept secret from the Liberian Government and the President.<sup>8810</sup>

3862. Prosecution Witness TF1-371 testified that toward the end of 1998 and beginning of 1999, Sam Bockarie had a radio operator named Memunatu Deen, who was located in Monrovia and operated the RUF radio there.<sup>8811</sup> In addition, Foday Lansana, Witness TF1-585, Dauda Aruna Fornie, TF1-567, TF1-539, Jabaty Jaward, TF1-516 and TF1-371 all testified that Deen, an RUF radio operator, lived and worked in Monrovia.<sup>8812</sup>

3863. The Accused testified that neither he nor his government was involved in the Freetown Invasion on 6 January 1999.<sup>8813</sup> He had no prior knowledge, never instructed anyone, nor encouraged anyone to invade Freetown.<sup>8814</sup> The Accused also denied receiving any information about the Freetown Invasion from Benjamin Yeaten and stated that Lewis Brown, his Security Advisor, informed him of the occurrence of the event.<sup>8815</sup> The Accused further denied knowing TF1-516.<sup>8816</sup>

### Deliberations

3864. The Prosecution relies on the evidence of Mohamed Kabbah to support the allegation that during the Freetown Invasion, the Accused and Benjamin Yeaten received reports from

<sup>8807</sup> DCT-008, Transcript 30 August 2010, pp. 47406-47407.

<sup>8808</sup> DCT-008, Transcript 30 August 2010, p. 47408.

<sup>8809</sup> DCT-008, Transcript 30 August 2010, p. 47420.

<sup>8810</sup> DCT-008, Transcript 1 September 2010, pp. 47674-47674.

<sup>8811</sup> TF1-371, Transcript 28 January 2008, p. 2381 (CS).

<sup>8812</sup> Foday Lansana, 21 February 2008 pp. 4475-4477; TF1-585, Transcript 9 September 2008 pp. 15832-15833; Dauda Aruna Fornie, 2 December 2008 pp. 21434-21436; TF1-567, Transcript 4 July 2008, pp. 12990-12991 (PS); TF1-539, 10 June 2008 pp. 11463-1464; Jabaty Jaward, Transcript 10 July 2008 pp. 13418-13421; TF1-516, Transcript 9 April 2008, pp. 7106-7108; 15 April 2008, p. 7640; 16 April 2008 p. 7743; TF1-371, Transcript 28 January 2008, p. 2381.

<sup>8813</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29273-29277; Transcript 16 September 2009, p. 29104.

<sup>8814</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29273-29277.

<sup>8815</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29104-29105.

RUF operators stationed in Monrovia. Kabbah testified that on the day of the invasion, contact was initiated by TF1-516, who was Yeaten's radio operator in Monrovia.<sup>8817</sup> TF1-516 testified, however, that he was not assigned to Yeaten in Monrovia until June or July 1999, which would have been after the Freetown Invasion.

3865. Defence Witness DCT-008 offered blanket denials that TF1-516 ever worked for Yeaten in Monrovia.<sup>8818</sup> The Trial Chamber recalls its finding that the testimony of DCT-008 must be treated with caution, and requires corroboration.<sup>8819</sup> Moreover, the fact that TF1-516 worked in Monrovia for Yeaten at some point during the indictment period is corroborated by several witnesses,<sup>8820</sup> and so DCT-008's testimony to the contrary undermines his credibility.

3866. The Trial Chamber finds that the testimony of TF1-516, a generally credible witness,<sup>8821</sup> that he did not arrive in Monrovia until June or July 1999, which would have been after the Freetown Invasion, raises a doubt as to Kabbah's assertion that TF1-516 initiated contact between Sierra Leone and Liberia during the Freetown Invasion.

3867. The Trial Chamber notes that there is substantial evidence that at a certain point another RUF operator, Memunatu Deen, was stationed in Liberia. Apart from DCT-008, who testified that Deen used Base 1 between November 1998 and mid-1999, no other witnesses confirmed that Deen was stationed in Monrovia during the Freetown Invasion. DCT-008 also testified that Deen never used Base 1 during the Freetown Invasion. Furthermore, all other witnesses testified that Deen was stationed at either the RUF guesthouse or the home of Musa Cissé, and not at Benjamin Yeaten's house.<sup>8822</sup>

<sup>8816</sup> Charles Ghankay Taylor, Transcript 16 September 2009, p. 29114.

<sup>8817</sup> The Trial Chamber notes that Mohamed Kabbah was initially confused about whether Pascal or TF1-516 was Yeaten's radio operator at this time. Kabbah corrected himself to state that TF1-516 was assigned to Yeaten and Pascal was assigned to Bockarie. The Trial Chamber has found that this discrepancy was minor and did not affect his credibility. See Military Operations: Allegation that the Accused Directed the Freetown Invasion.

<sup>8818</sup> Issa Sesay, Transcript 28 July 2010, pp. 44900-44902; 11 August 2010, p. 45992; 12 August 2010, p. 46107; 25 August 2010, pp. 47016, 47110; DCT-008, 1 September 2010, pp. 47734.

<sup>8819</sup> Credibility Assessment, DCT-008, paras 373-380.

<sup>8820</sup> TF1-567, Transcript 7 July 2008, pp. 13043-13044; TF1-375, Transcript 24 June 2008, pp. 12651-12652; TF1-585, Transcript 9 September 2008, pp. 15809-15910 (PS).

<sup>8821</sup> Credibility Assessment, TF1-516, paras 275-284.

<sup>8822</sup> Foday Lansana, 21 February 2008, pp. 4475-4477 (RUF guesthouse); TF1-585, Transcript 9 September 2008, pp. 15832-15833 (Deen was not stationed Yeaten's house but would sometimes go to Yeaten's house, but was inconsistent on this point); Dauda Aruna Fornie, 2 December 2008, pp. 21434-21436 (Musa Cissé's house); TF1-567, Transcript 4 July 2008, pp. 12990-12991 (PS) (RUF guesthouse); TF1-539, 10 June 2008, pp. 11463-

3868. The Trial Chamber recalls its finding that the Prosecution has proved beyond reasonable doubt that during the Freetown Invasion, Bockarie was in frequent contact with the Accused, either directly or through Yeaten, in relation to the progress of the Freetown operation. The evidence shows, however, that these communications were made via satellite phone or through Sunlight, a Liberian radio operator based in Monrovia at Yeaten's house.<sup>8823</sup> In addition, several witnesses testified to the fact that Sunlight was Yeaten's radio operator in Monrovia.<sup>8824</sup>

3869. In consideration of the above, the Trial Chamber finds that the Prosecution has not proved beyond reasonable doubt the allegation that an RUF operator gave updates to the Accused and Yeaten during the Freetown Invasion.

### Findings

3870. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the Accused and Benjamin Yeaten received updates from an RUF operator stationed in Liberia during the Freetown Invasion.

#### (vi) Communications during Mosquito Spray incident

### Submissions of the Parties

3871. The Prosecution has considered in another section of this judgement whether the Accused used RUF/AFRC forces to assist him in his fight against Mosquito Spray and LURD forces. The Prosecution also alleges that around the time of the Mosquito Spray incident, the RUF sent a radio operator to work directly with Benjamin Yeaten, in order to coordinate and ensure smooth communications between the Government of Liberia and the RUF/AFRC.<sup>8825</sup>

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1464 (Musa Cissé's house); Jabaty Jaward, Transcript 10 July 2008, pp. 13418-13421 (did not know where Deen was located); TF1-516, Transcript 9 April 2008, pp. 7106-7108; 15 April 2008, p. 7640; 16 April 2008, p. 7743 (RUF guesthouse); TF1-371, Transcript 28 January 2008, p. 2381 (unknown).

<sup>8823</sup> Military Operations: The Freetown Invasion, Allegation that the Accused Directed the Freetown Invasion.

<sup>8824</sup> TF1-516, Transcript 8 April 2008 pp. 6890, 6938; TF1-567, 2 July 2008 p. 12918; Jabaty Jaward, Transcript 10 July 2008 p. 13362; TF1-585, Transcript 8 September 2008 p. 15632; Dauda Aruna Fornie, Transcript 2 December 2008 p. 21441; DCT-008, Transcript 24 August 2010, pp. 47024-47025;

<sup>8825</sup> Prosecution Final Trial Brief, para. 320.

3872. The Defence submits that the Prosecution's evidence is highly suspect and contested,<sup>8826</sup> and that Witness TF1-516 was not interested in telling the truth, but in providing an inculpatory testimony.<sup>8827</sup>

### Evidence

3873. Witness TF1-516, an RUF radio operator,<sup>8828</sup> testified that in June or July 1999, Issa Sesay ordered him to move to Liberia to work for Benjamin Yeaten, (a.k.a.) 50 or Unit 50. Joseph Marzah (a.k.a. Zigzag) provided accommodation to the witness until Yeaten's arrival, three days later.<sup>8829</sup>

3874. While he was working under Benjamin Yeaten, Witness TF1-516's task was to transmit messages between RUF leaders Bockarie and Sesay and Yeaten in order to ensure smooth operations to keep the supply route between Liberia and RUF open. Witness TF1-516 testified that he remained in Liberia until late 2001 when the witness fled Liberia because he had reason to believe he would be accused of collaborating with the Kamajors.<sup>8830</sup>

3875. Witness TF1-567 an RUF member,<sup>8831</sup> testified that upon meeting Varmuyan Sherif in Monrovia in late 2000, Sherif told him that RUF members were working with him on the front lines, fighting in Foya and in Guinea. Yeaten, who was based in Foya, was coordinating the fighting with the RUF troops coming from Sierra Leone and the other militias who combined their forces to attack Guinea. Witness TF1-567 heard also that, at that time, an RUF radio operator was brought from Sierra Leone to ensure the communications between RUF and Yeaten via long range radios. Witness TF1-567 met this operator on various occasions in Monrovia.<sup>8832</sup>

<sup>8826</sup> Defence Final Trial Brief para. 1293.

<sup>8827</sup> Defence Final Trial Brief paras 1496-1502

<sup>8828</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>8829</sup> TF1-516, Transcript 8 April 2008, pp. 6858-6860; 6968.

<sup>8830</sup> TF1-516, Transcript 8 April 2008, pp. 6862-6863, 6866-6969.

<sup>8831</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS).

<sup>8832</sup> TF1-567, Transcript 7 July 2008, pp. 13041-13044.



3876. Witness TF1-375, an RUF fighter,<sup>8833</sup> testified that, in 2000, he was assigned by Benjamin Yeaten to return to Sierra Leone in order to investigate the hostage-taking of Zambian peace-keepers. While there, Witness TF1-375 saw Issa Sesay addressing the peacekeepers. Witness TF1-375 testified that after this, he called an RUF radio operator to talk to Yeaten and confirmed the capture of the peacekeepers. Yeaten answered that he would call Sesay on his satellite phone, and asked Witness TF1-375 to return to Liberia.<sup>8834</sup>

3877. Mohamed Kabbah, an RUF radio operator,<sup>8835</sup> was appointed in 1999 by Sam Bockarie as overall signal commander of the RUF in Sierra Leone.<sup>8836</sup> Kabbah testified that at the time Benjamin Yeaten was in Foya, the RUF sent a radio operator in order to assist Yeaten was in radio communications.<sup>8837</sup>

3878. Witness Karmoh Kanneh, a senior commander in the RUF,<sup>8838</sup> testified that after fighting LURD forces in Liberia and Guinea, he reported the success of the operation by radio to Benjamin Yeaten who was in Voinjama. Kanneh testified that at that time, he had a radio operator who had been assigned to him for that operation.<sup>8839</sup>

### Deliberations

3879. Witness TF1-516 testified that in June or July 1999, Issa Sesay ordered him to move to Liberia in order to ensure communications between Benjamin Yeaten and the RUF during joint operations.<sup>8840</sup> The Trial Chamber recalls its finding that Witness TF1-516 is a generally credible witness.<sup>8841</sup> Moreover, Witness TF1-516's account is corroborated by Mohamed Kabbah, who testified that at the time Yeaten was in Foya, the RUF sent a radio operator in order to assist Yeaten in radio communications.<sup>8842</sup> Witnesses TF1-567 and TF1-

<sup>8833</sup> TF1-375, Transcript 23 June 2008, p. 12485.

<sup>8834</sup> TF1-375, Transcript 24 June 2008, pp.12650-12655.

<sup>8835</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>8836</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16126-16127.

<sup>8837</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16134.

<sup>8838</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9390.

<sup>8839</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9477-9478. *See also* summary of Kanneh's evidence in Relationship of the Accused with the RUF: Operations Outside Sierra Leone.

<sup>8840</sup> TF1-516, Transcript 8 April 2008, pp. 6858-6860; 6968.

<sup>8841</sup> Credibility Assessment, TF1-516, paras 275-284.

<sup>8842</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16134.

375, who contacted Benjamin Yeaten by radio in 2000, confirmed that this same RUF operator was assigned to Yeaten.<sup>8843</sup>

3880. The Trial Chamber notes that Joseph Marzah who, according to Witness TF1-516, provided TF1-516 with accommodation until Yeaten's arrival,<sup>8844</sup> did not testify about this event. However, neither the Prosecution nor the Defence questioned him on it. Similarly, Varmuyan Sherif was not asked to confirm Witness TF1-567's statement that Sherif told him that a RUF radio operator was sent by RUF to ensure communication between the RUF and Yeaten.<sup>8845</sup>

3881. The Trial Chamber recalls its finding that in April 1999 and onwards, AFRC/RUF forces fought alongside Liberian troops against LURD and their allies.<sup>8846</sup> The Trial Chamber also recalls its finding that during the fighting against Mosquito Spray's LURD between April 1999 and July 2000, RUF members operated under the overall command of Yeaten.<sup>8847</sup>

3882. In this particular context, and considering the strong corroboration of Witness TF1-516's account, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that, around the time of the Mosquito Spray incident in August 1999, the RUF sent a radio operator who worked directly with Yeaten, in order to coordinate communications between Yeaten and the RUF.

### Findings

3883. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that around the time of the Mosquito Spray incident in 1999, the RUF sent a radio operator to Liberia who worked directly with Benjamin Yeaten, in order to coordinate communications between Yeaten and the RUF.

#### (vii) Communications Capability to Johnny Paul Koroma

<sup>8843</sup> TF1-567, Transcript 7 July 2008, pp. 13041-13044; TF1-375, Transcript 24 June 2008, pp.12650-12655.

<sup>8844</sup> TF1-516, Transcript 8 April 2008, pp. 6858-6860; 6968.

<sup>8845</sup> TF1-567, Transcript 7 July 2008, pp. 13041-13044.

<sup>8846</sup> Relationship of the Accused with the RUF: Operations Outside Sierra Leone.

<sup>8847</sup> Relationship of the Accused with the RUF: Operations Outside Sierra Leone.

### Submissions of the Parties, Evidence and Deliberation

3884. The Trial Chamber has considered in another section of this judgement the Accused's role in facilitating a meeting between Foday Sankoh and Johnny Paul Koroma in order to facilitate the release of UN officials taken captive by the West Side Boys. The Prosecution alleges that Taylor provided communications capability to Koroma when he travelled to Monrovia for this meeting.<sup>8848</sup> The Defence concedes that the Accused provided Koroma with a long-range radio when he travelled to Monrovia, and insists that this was done in order for him to contact the West Side Boys and ensure them that he was free, and to give them instructions to release the hostages that were detained.<sup>8849</sup> Because the parties do not dispute that the communications capabilities were provided to Koroma, the Trial Chamber finds that the Prosecution has proved this allegation beyond reasonable doubt.

### Findings

3885. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that a Liberian radio was provided to Johnny Paul Koroma. However, this radio was provided specifically for the purpose of enabling Koroma to communicate with the West Side Boys about the UN peacekeepers that they had taken hostage.

### (e) "448" Warnings

### Submissions of the Parties

3886. The Prosecution alleges that communications between the RUF and Taylor's subordinates in Liberia included "448 messages", used to warn the RUF when ECOMOG jets left Monrovia to attack the AFRC/RUF forces in Sierra Leone.<sup>8850</sup> These warnings, the Prosecution contends, came from, among others, NPFL radio operators Sky 1 and Sunlight in Liberia, or radio stations in Vahun and Foya, Liberia. They were then passed to Buedu, Sierra Leone and on to AFRC/RUF units throughout the country.<sup>8851</sup>

<sup>8848</sup> Prosecution Final Trial Brief, para. 316.

<sup>8849</sup> Defence Final Trial Brief, para. 644; Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26678-26679; Transcript 16 November 2009, pp. 31651-31652.

<sup>8850</sup> Prosecution Final Trial Brief, paras 315, 530-31.

<sup>8851</sup> Prosecution Final Trial Brief, para. 315.

3887. The Defence denies that Taylor's subordinates in Liberia sent "448 messages" to the RUF, and submits that the RUF had its own operators stationed in Buedu, Sierra Leone who would monitor ECOMOG communications and alert fighters to the movement of ECOMOG jets. The Defence further contends that it is "highly doubtful" that a person stationed in Monrovia could ascertain the intended destination of a jet merely from observing its departure.<sup>8852</sup>

### Evidence

#### Prosecution Witness Mohamed Kabbah

3888. Witness Mohamed Kabbah, an RUF radio operator,<sup>8853</sup> was the Overall Signal Commander for the RUF in Buedu between early 1998 and December 1999. Kabbah testified that during this period the station in Buedu would receive radio messages from Sunlight<sup>8854</sup> in Monrovia, Liberia, telling the RUF when ECOMOG jets were moving from Monrovia. Sunlight would "tell us that the Four-Four-Eight or the iron bird is moving from Monrovia" and then the station in Buedu would pass on the message to all RUF stations on the frontlines so that they could take cover.<sup>8855</sup>

#### Prosecution Witness TF1-585

3889. Witness TF1-585 worked as a radio operator for the RUF from approximately 1995 until at least 2001.<sup>8856</sup> In 1998, when the witness was an operator in Buedu, the radio station in Buedu was used for "448 messages".<sup>8857</sup> Whenever an ECOMOG jet took off from Roberts International Airport in Monrovia, the NPFL operator Sky 1 in Liberia<sup>8858</sup> would send a message to the central RUF control station in Buedu that a "448" had left its location.

<sup>8852</sup> Defence Final Trial Brief, para. 1528.

<sup>8853</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>8854</sup> Several witnesses confirmed that "Sunlight" operated the radio at Base 1, Yeaten's residence in Liberia, during this time period. TF1-371, 29 January 2008 pp. 2452-53; TF1-516, Transcript 8 April 2008, pp. 6860-6861, 6889-6891, 6910; TF1-516, 9 April 2008 p. 7005, 11 April 2008 p. 7318; TF1-567, 2 July 2008 p. 12918; TF1-585, 9 September 2008 p. 15828; Dauda Aruna Fornie, Transcript 2 December 2008, p. 21494; DCT-008, Transcript 24 August 2010, pp. 46950, 47030.

<sup>8855</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16129-16130.

<sup>8856</sup> TF1-585, Transcript 5 Sept 2008, p. 15592.

<sup>8857</sup> TF1-585, Transcript 5 Sept 2008, pp. 15599-15600; 10 September 2008, pp. 15885.

<sup>8858</sup> Several witnesses confirmed that "Sky 1" operated a radio for Taylor in Liberia, either at Taylor's Executive Mansion or at Roberts International Airport. TF1-516, Transcript 8 April 2008, pp. 6890-6891; DCT-008, 31 August 2010, p. 47548.

The Buedu station would then tell the commanders in Buedu to “ring the bell”, telling any RUF in Buedu or its surroundings to go into hiding. The RUF would receive such messages not only from Sky 1 but also from Foxtrot Yankee station, at Foya airfield in Liberia; Lima Bravo station in Benjamin Yeaten’s compound in Monrovia, Liberia; and Victor 1 station, in Vahun, Liberia.<sup>8859</sup>

#### Prosecution Witness Abu Keita

3890. Witness Abu Keita, a former deputy chief of staff and commander of ULIMO-K who later became commander of the Scorpion Unit,<sup>8860</sup> was in Buedu, Sierra Leone during the 6 January 1999 attack on Freetown.<sup>8861</sup> He testified that radio operators Zedman,<sup>8862</sup> in Buedu, and Memunatu<sup>8863</sup> and Sita,<sup>8864</sup> who were stationed in Liberia, monitored ECOMOG radio stations based in Monrovia. If a jet took off from Roberts International Airport, in Monrovia, these operators would call 448 and “the radio operator would ring a bell and everybody would escape”.<sup>8865</sup>

#### Prosecution Witness Isaac Mongor

3891. Witness Isaac Mongor was a senior member of the RUF hierarchy.<sup>8866</sup> Mongor testified that as a field commander on the front lines in 1998, he would monitor the radio for “448 messages”. These warnings were sent to all stations alerting them to the movements of ECOMOG Alpha Jets, so that those on the front lines could take cover.<sup>8867</sup>

<sup>8859</sup> TF1-585, Transcript 5 September 2008, pp. 15597-15600; 8 September 2008, pp. 15628-32; 9 September 2008, p. 15855-58; 10 September 2008, pp. 15884-88, 15890-97, 15901-06.

<sup>8860</sup> Abu Keita, Transcript 22 January 2008, pp. 1953-1954; 23 January 2008, pp. 1970, 2000; 24 January 2008, pp. 2110, 2145.

<sup>8861</sup> Abu Keita, Transcript 23 January 2008, p. 2020.

<sup>8862</sup> Both Abu Keita and Witness TF1-516 testified that Zedman was a senior radio operator in Buedu, Sierra Leone at this time. Abu Keita, Transcript 23 January 2008, p. 2015; TF1-516, Transcript 8 April 2008, p. 6857.

<sup>8863</sup> Several witnesses testified that Memunatu was operating the radio at the guest house in Liberia during this time period. Issa Sesay, Transcript 12 July 2010, pp. 44239-44241; TF1-371, Transcript. 28 January 2008, pp. 2434-2435 (CS); DCT-008 first testified that Memunatu would use the radio at Base One in Liberia every day in November or late December 1998, and she continued to do so in 1999. DCT-008, Transcript 27 August 2010, pp. 47400, 47407-411, Transcript 30 August 2010, pp. 47403-47404. DCT-008 later contradicts himself by saying that there was no radio contact between the RUF and Deen in Liberia in early January 1999 because Memunatu was in Sierra Leone. DCT-008, Transcript 27 August 2010, p. 47420.

<sup>8864</sup> Abu Keita testified that Sita was a radio operator in Buedu, Sierra Leone at this time. Abu Keita, Transcript 23 January 2008, pp. 2016-18;

<sup>8865</sup> Abu Keita, Transcript 23 January 2008, pp. 2024-2025, 2069.

<sup>8866</sup> Isaac Mongor, Transcript 10 March 2008, p. 5692.

<sup>8867</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5771-5773.

3892. Mongor stated that 448 messages originated from operators in Buedu, and also from operators in Liberia. Most of these operators were former operators with the SLA, who were trained with the Nigerians and so knew the code that the Nigerian ECOMOG operators were using. Some of the monitors in Liberia included Memunatu Deen, Osman Tolo and Ebony.<sup>8868</sup> Mongor also testified that he heard “448 messages” over the radio he was monitoring on 6 January 1999 when the RUF entered Freetown.<sup>8869</sup>

Prosecution Witness Alimamy Bobson Sesay

3893. Witness Alimamy Bobson Sesay, an AFRC member<sup>8870</sup> and officer<sup>8871</sup>, testified that while in Koidu in 1998, Superman told him that Mosquito called and warned them that an ECOMOG “jet 448” was en route to Koidu.<sup>8872</sup> The witness stated that “Mosquito said that he had got information from President Taylor that the 448 had left and it was coming to attack positions in Koidu Town”.<sup>8873</sup> Before the RUF went to Koidu Town there were no ECOMOG air raids; after they started, however, radios were monitored, and when Superman received word that ECOMOG jets were coming he would pass this information to all RUF bases and everyone would take cover.<sup>8874</sup>

Prosecution Witness TF1-516

3894. Witness TF1-516 was an RUF radio operator from 1994 to 1999.<sup>8875</sup> The witness testified that during the Freetown Invasion the RUF had a team of former SLA radio operators based in Buedu named Gbamayagi, Atati, Ache and Sheku. They were responsible for monitoring and decoding ECOMOG messages. This included transmitting “448 messages” to the front line that an ECOMOG jet was in the air and the fighters should take cover. These operators were familiar with Morse code and could therefore understand ECOMOG communications, most of which were transmitted in Morse code.<sup>8876</sup>

<sup>8868</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5772-5775.

<sup>8869</sup> Isaac Mongor, Transcript 11 March 2008, p. 5826.

<sup>8870</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7859-7867, 7869; 28 April 2008, pp. 8684, 8689.

<sup>8871</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7865-7866.

<sup>8872</sup> Alimamy Bobson Sesay, 18 April 2008, pp. 8017-8018.

<sup>8873</sup> Alimamy Bobson Sesay, 18 April 2008, pp. 8018-8019.

<sup>8874</sup> Alimamy Bobson Sesay, 18 April 2008 p. 8019; 23 April 2008, pp. 8313-14.

<sup>8875</sup> TF1-516, Transcript 8 April 2008, pp. 6828-6839; Transcript 14 April 2008, pp. 7456-7457.

<sup>8876</sup> TF1-516, Transcript 8 April 2008, pp. 6943-6944.





Prosecution Witness Perry Kamara

3895. Witness Perry Kamara was an RUF radio operator from approximately 1991 to 1998.<sup>8877</sup> Kamara testified that in 1998, ECOMOG fighter jets from Lungi airport, in Sierra Leone, would attack RUF positions in Kailahun, Koinadugu, and Koidu. The RUF had a radio in Buedu, where Sam Bockarie was located, that was monitored by AFRC members who were formerly in the SLA. These operators would monitor ECOMOG radio activities, and then send a “448” coded message informing AFRC and RUF combatants that ECOMOG jets were on their way to attack. Kamara would pass this information along to other radio stations.<sup>8878</sup>

3896. Kamara also testified that while the RUF occupied State House, ECOMOG would attack from the air and he would receive a “448 message” from Buedu about every two hours.<sup>8879</sup>

Prosecution Witness Dauda Aruna Fornie

3897. Witness Dauda Aruna Fornie was a radio operator in Buedu at the time of the 6 January 1999 Freetown attack.<sup>8880</sup> On that day, Fornie was monitoring the radio by listening to ECOMOG communications, decoding them, and then taking them to Mosquito’s transmitting station.<sup>8881</sup>

3898. When Fornie heard air mission requests for ECOMOG Alpha Jets to bomb RUF zones, he took these communications to the transmitting station, where they were sent to the particular target station.<sup>8882</sup> Each target station had a bell, and any time a station heard a “448”, that is, that an enemy aircraft was coming, the operator in that station would ring the bell in order to alarm everyone.<sup>8883</sup> One specific example of this occurred when Fornie took an intercepted message to Bravo Zulu 4, and the operator on duty transmitted the message to

<sup>8877</sup> Perry Kamara, Transcript 4 February 2008, pp. 3028; Transcript 6 February 2008, p. 3200.

<sup>8878</sup> Perry Kamara, Transcript 6 February 2008, pp. 3223-3224.

<sup>8879</sup> Perry Kamara, Transcript 6 February 2008, pp. 3231, 3236.

<sup>8880</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21562.

<sup>8881</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21562-21563.

<sup>8882</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21566-215667.

<sup>8883</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 215667-215668.

Freetown. Two RUF stations in the area to be attacked received the message and by the time the jets arrived the fighters had changed their location.<sup>8884</sup>

### The Accused

3899. The Accused denied informing Bockarie that ECOMOG jets were en route to Koudi, as Alimany Bobson Sesay testified. He stated that as President, it would have been impossible for him to be on the radio or telephone in order to warn anyone of a possible attack.<sup>8885</sup> He also denied being familiar with the term “448” in reference to this type of warning.<sup>8886</sup>

3900. The Accused also denied knowing that, as TF1-585 testified, an operator named Sky 1 would warn fighters when “448” jets took off from the airport in Monrovia. He testified that there may have been a radio station at the airport, but that the RUF could not have installed a radio inside Liberia, except for the radio that was installed at the RUF guesthouse in Monrovia in late 1998.<sup>8887</sup>

3901. The Accused also stated that a person operating from the airport in Monrovia would not be able to tell where a jet was flying to when it took off from the airport.<sup>8888</sup>

### Defence Witness Issa Sesay

3902. Witness Issa Sesay was a high level leader in the RUF during the operative period.<sup>8889</sup> The witness testified that there was a strategy of monitoring ECOMOG radios, but denied that Zedman, Memunatu and Sita were doing so. Neither Zedman nor Memunatu knew Morse code, which was necessary in order to monitor these communications. Only the SLA knew Morse code, and it was former SLA operators in Buedu who would monitor ECOMOG communications. Sesay testified that Zedman was not in Buedu, and Sita was not a radio operator. Sesay also stated that from March to December 1998, ECOMOG Alpha jets assaulting RUF positions flew from Lungi airport, in Sierra Leone, and not from Monrovia,

<sup>8884</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21596-215997.

<sup>8885</sup> Charles Ghankay Taylor, Transcript 30 September 2009, pp. 29993-29995.

<sup>8886</sup> Charles Ghankay Taylor, Transcript 30 September 2009, pp. 29993-29998.

<sup>8887</sup> Charles Ghankay Taylor, Transcript 1 October 2009, pp. 30137-30139, p. 30142.

<sup>8888</sup> Charles Ghankay Taylor, Transcript 30 September 2009, p. 29996.

<sup>8889</sup> Issa Sesay, Transcript 5 July 2010, p. 43589.



in Liberia. It was from 1997 to January or February 1998 that these jets came from Monrovia.<sup>8890</sup>

#### Defence Witness DCT-008

3903. Witness DCT-008 was an NFPL radio operator in Liberia in 1998. He testified that he had never heard of the code “448”, and stated that the operators never had a specific code for the movement of ECOMOG jets.<sup>8891</sup> They had a different signal for the movement of any enemy jet, which was 15-2.<sup>8892</sup>

#### Deliberations

3904. The key issue over which the Prosecution and Defence differ is whether NPFL operators in Liberia transmitted 448 messages to RUF forces in order to warn them of impending ECOMOG jet attacks, or whether these messages were transmitted only by RUF and formerly SLA operators in Sierra Leone

3905. Five out of eight Prosecution witnesses gave evidence that Taylor’s radio operators in Liberia sent “448 messages” to RUF operators in Sierra Leone, which were then passed on to RUF combatants. Mohamed Kabbah testified that operators in Buedu received this information from an operator named Sunlight; Witness TF1-585 claimed that Buedu received the messages from Sky 1; and Abu Keita testified that Buedu received these messages from Memunatu and Sita. Isaac Mongor simply stated that these messages came from “operators in Liberia”, while Alimamy Bobson Sesay heard from Denis Mingo (a.k.a. Superman) that Sam Bockarie received this information from Taylor.

3906. The Defence contends that the testimony of these witnesses contradict one another. While three of these witnesses mentioned different operators in Liberia transmitting these messages, all five witnesses corroborated each other’s testimony on the fact that the messages were sent from positions in Liberia to Buedu, and passed on to RUF combatants. The Trial Chamber finds the evidence of these witnesses credible and considers that “448 messages” may have come from more than one operator.

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<sup>8890</sup> Issa Sesay, Transcript 5 August 2010, pp. 45564-45565.

<sup>8891</sup> DCT-008, 1 September 2010, pp. 47687, 47722-47723.

<sup>8892</sup> DCT-008, 1 September 2010, p. 47723.



3907. The Defence also highlights that Kabbah's testimony that "Sunlight was at the Mansion Ground in Monrovia"<sup>8893</sup> contradicts witnesses TF1-371,<sup>8894</sup> Issa Sesay<sup>8895</sup> and TF1-516,<sup>8896</sup> who testified that Sunlight was actually based in Benjamin Yeaten's house behind White Flower. In the Trial Chamber's view, because Kabbah did not visit Monrovia, and his knowledge of Sunlight's location was therefore based solely on information given to him by other operators who went to Liberia with Sam Bockarie,<sup>8897</sup> and because Kabbah did not use the term "Executive Mansion" but rather spoke of "Charles Taylor's Mansion Ground", Kabbah may have conflated the Defendant's White Flower residence with the Executive Mansion.<sup>8898</sup> The Trial Chamber does not find Kabbah's testimony on this point to be detrimental to his credibility.

3908. The Defence contends that it was former SLA operators in Buedu, Sierra Leone who sent these "448 messages" to RUF fighters. Prosecution Witnesses TF1-516, Perry Kamara, and Dauda Aruna Fornie, as well as Defence witness Issa Sesay, attested to this. The Trial Chamber notes, however, that the fact that '448 messages' were sent from Buedu does not exclude the possibility that 448 messages were also sent from Liberia. None of the five Prosecution witnesses attesting to the fact that 448 messages were sent from Sierra Leone indicated whether or not messages were also sent from Liberia. Moreover, witnesses Abu Keita and Isaac Mongor both testified that these messages originated in both Sierra Leone and Liberia. The Trial Chamber considers that DCT-008's assertion that he had never heard of 448 messages does not raise doubt as to the overwhelming evidence that these messages existed and recalls its finding that his testimony must be treated with caution and requires corroboration.

3909. The Defence also asserts that Liberian operators could not have transmitted 448 messages because they did not know Morse code, which was the format in which ECOMOG messages were transmitted. Only former SLA operators working with the RUF who were trained in Morse code, Issa Sesay contended, could have monitored and transmitted ECOMOG messages. However, Sesay, who was not a radio operator, did not provide any

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<sup>8893</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16133.

<sup>8894</sup> TF1-371, Transcript 24 January 2008, pp. 2452-2453.

<sup>8895</sup> Issa Sesay, Transcript 29 July 2010, p. 45074.

<sup>8896</sup> TF1-516, Transcript 8 April 2008, pp. 6890-6891.

<sup>8897</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16133.

<sup>8898</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16127.

basis for his assertion that all ECOMOG messages were in Morse code, or that Liberian operators did not know Morse code, which was the context in which he said that Zedman and Deen did not know Morse code. Mongor testified that “most” operators were from the SLA, and TF1-516 testified that “most” ECOMOG messages were in Morse code. In light of this evidence, the Trial Chamber finds that the Defence arguments regarding Morse code do not cast any doubt on the overwhelming evidence that the messages were transmitted by NPFL operators.

3910. Considering all of the above evidence, the Trial Chamber finds that Taylor’s subordinates in Liberia sent 448 messages warning the RUF of ECOMOG attacks on RUF positions in Sierra Leone.

3911. With regard to the Accused, Prosecution Witness Alimamy Bobson Sesay testified that when he was in Koidu in 1998, Denis Mingo (a.k.a Superman) told him that Bockarie had called to warn them that an ECOMOG jet was en route to Koidu and that Bockarie said that he had received this information from President Taylor.<sup>8899</sup> This is the only evidence that specifically mentions the Accused as having sent a warning to Sierra Leone that an ECOMOG jet was en route. It is uncorroborated, and it is hearsay. The Accused denied sending a warning, saying that it would have been impossible for him, as President, to have sent a warning on the radio or by telephone. The sense of the evidence given by Alimamy Bobson Sesay, in the view of the Trial Chamber, was not that the Accused necessarily transmitted a message personally but that he had caused a message to be sent to Bockarie. Nevertheless, it cannot find, on the basis of the evidence, that the Accused personally sent a message to Bockarie warning him that an ECOMOG jet was *en route*.

3912. However, the Trial Chamber considers that Alimamy Bobson Sesay’s evidence linking Taylor to the transmission of 448 messages, corroborates the overwhelming evidence that these 448 messages were regularly and consistently transmitted by his subordinates, which leads the Trial Chamber to find that the Accused must have been aware of the transmission of these warnings.

## Findings

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<sup>8899</sup> Alimamy Bobson Sesay, 18 April 2008, pp. 8018-8019.

3913. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that “448 messages” were sent by subordinates of the Accused in Liberia alerting the RUF when ECOMOG jets left Monrovia to attack AFRC/RUF forces in Sierra Leone. The Trial Chamber further finds that the Accused knew that his subordinates were sending these messages.

## 2. Support and Training

### (a) Alleged Logistical support

3914. The Trial Chamber notes the evidence in the section of the Judgement dealing with the supply or facilitation of the supply of arms and ammunition by the Accused and of logistical support provided by the Accused in the transportation of such materiel. The Trial Chamber found that materiel was regularly escorted across the border by security personnel working for the Accused, including Daniel Tamba (a.k.a. Jungle), Joseph Marzah (a.k.a. Zigzag), and Sampson Weah from 1998 onwards.<sup>8900</sup> These individuals would transport the materiel using trucks ranging from land cruisers and pick up trucks<sup>8901</sup> to ten-tyre,<sup>8902</sup> or eight-tyre trucks.<sup>8903</sup> Although there is no specific evidence to this effect, the Trial Chamber considers it reasonable to infer, given that they were used by the Accused’s subordinates, that the Accused also made available the vehicles in which the materiel was transported. Security personnel also escorted Bockarie and Issa Sesay when they picked up arms and ammunition from Monrovia, and also when they took diamonds to the Accused.<sup>8904</sup> Where

<sup>8900</sup> Arms and Ammunition: Allegations of Direct Supply of Materiel, During Sam Bockarie’s Leadership (February 1998-December 1999).

<sup>8901</sup> TF1-579, Transcript 5 November 2008, pp. 19831-19834 (The witness, accompanied by Jungle and Sampson Weah, took ammunition to Bockarie in Buedu using a Toyota pick-up truck, including grenades, rockets, AK rounds and RPGs); Varmuyan Sherif, Transcript 14 January 2008, pp. 1142-1144 (Sherif met Bockarie in Foya and together they moved to the border where Sherif gave Bockarie the pick-up full of arms comprising AK-47, RPG and other guns. The witness stated that some of the arms were in bags coated with mud).

<sup>8902</sup> TF1-567, Transcript 2 July 2008, p. 12906.

<sup>8903</sup> TF1-338, Transcript 1 September 2008, p. 15136; Transcript 2 September 2008, pp. 15207-15209 (PS).

<sup>8904</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21447 (On a trip from Sierra Leone to Monrovia, Bockarie and his group were met in Voinjama by Jungle, who travelled onward with them to Gbarnga); Samuel Kargbo, Transcript 22 May 2008, pp. 10544, 10546; Transcript 3 June 2008, p. 10797 (Kargbo testified that on his way to Foya with other RUF members, the group encountered a white Land Cruiser, loaded with ammunition, as well as Bockarie, Jungle and other SSS men); Abu Keita, Transcript 23 January 2008, pp. 2031-2032 (In May 2000, Issa Sesay was escorted to Liberia by Marzah and Tamba and brought back a satellite phone as well as fifty boxes of ammunition); TF1-371, Transcript 28 January 2008, p. 2384 (CS) (TF1-371 stated that on trips to Liberia, Bockarie would take diamonds and return with materials including AK rounds, RPG bombs and hand grenades. On returning to Buedu, Bockarie was always escorted by members of Taylor’s SSS).

necessary, these security escorts also facilitated the crossing of border checkpoints into or from Liberia.<sup>8905</sup>

3915. The Trial Chamber has found that occasionally in 1998, and regularly from mid-1999, when insurgents began attacks on Lofa County, ammunition was flown to Foya via helicopter and taken to Buedu by road.<sup>8906</sup> The Trial Chamber has also accepted that from at least 1999, the Liberian government had helicopters which were used by the Accused for the purposes of delivering arms and/or ammunition to the RUF.<sup>8907</sup> The evidence also indicates that the Accused also sent helicopters to transport Bockarie and Issa Sesay to Liberia on their trips to obtain materiel.<sup>8908</sup>

3916. The Trial Chamber is satisfied that during the Indictment period, the Accused provided road and air transportation to the RUF and RUF/AFRC of arms and ammunition into Sierra Leone and security personnel to escort that materiel, as well as facilitated the travel of Bockarie and Issa Sesay to Monrovia for arms and ammunition deals. Having regard to the fact that from August 1997, Sierra Leone was subject to a total arms embargo imposed by ECOWAS,<sup>8909</sup> and from October 1997, by the United Nations Security

<sup>8905</sup> TF1-579, Transcript 5 November 2008, p. 19835 (The witness testified that on his trips escorting materiel from Liberia into Sierra Leone, there was no difficulty passing through the border checkpoints because “all those who were assigned at that checkpoint knew exactly what was going on and they knew the various commanders like Sampson and Jungle”); TF1-567, Transcript 4 July 2008, pp. 12996-13000 (TF1-567 also testified that when delivering arms and ammunition to Sierra Leone during 2000 and 2001, he never faced any problems at checkpoints because he was accompanied by Liberian Secret Service personnel.).

<sup>8906</sup> Arms and Ammunition: Allegations of Direct Supply of Materiel, During Sam Bockarie’s Leadership (February 1998-December 1999).

<sup>8907</sup> Arms and Ammunition: Allegations of Direct Supply of Materiel, During Sam Bockarie’s Leadership (February 1998-December 1999).

<sup>8908</sup> Karmoh Kanneh, Transcript 9 May 2008, pp 9458-9462 (when ULIMO and LURD forces invaded Lofa, the Accused invited Bockarie and the witness to Monrovia. Benjamin Yeaten came to Foya to meet them “in [the] same military helicopter with the combat colour”. On their return to Sierra Leone, ammunition was loaded into a vehicle and driven to the airfield for the helicopter to pick them up and take them to Foya); Augustine Mallah, Transcript 13 November 2008, p. 20209 (During 1998, Bockarie travelled to Monrovia and Gbarnga. Mallah accompanied him to Foya in a vehicle, from where Bockarie was picked up by helicopter and transported to Monrovia); TF1-567, Transcript 4 July 2008, pp. 12982-12983 (following Johnny Paul Koroma’s and Foday Sankoh’s departure for Freetown in October 1999, Bockarie and Benjamin Yeaten went to meet with the Accused. On his return, Bockarie boarded a helicopter at Spriggs Field with Bockarie which was loaded with up to 15 “sardine” tins of AK rounds and an “RPG bomb with the TNT”.); TF1-338, Transcript 2 September 2008, pp. 15165-15166 (in early 2001, Issa Sesay travelled to Monrovia, where he met with the Accused and gave the Accused diamonds. The following day Issa Sesay flew to Foya on a helicopter with arms and ammunitions, food and other materials, including diesel that he eventually transported to Sierra Leone).

<sup>8909</sup> Exhibit D-135, ECOWAS, Report of the Committee of Four on the Situation in Sierra Leone, Abuja, Nigeria, 26 August 1997, p. 3; Exhibit P-078, Sierra Leone 1998, A Year of Atrocities Against Civilians, Amnesty International Report, p. 2; Exhibit D-340, “Official Journal of the Economic Community of West African States (ECOWAS), Vol. 33, August 1997”, p. 6; Exhibit P-034, Profile: Economic Community of West African States (ECOWAS); *Prosecutor v Taylor*, SCSL-03-1-T, Decision on the Prosecution Motion for Judicial

Council,<sup>8910</sup> the Trial Chamber is satisfied that the facilitation of road and air transportation of materiel, as well as security escorts, played an important role in the operations of the RUF and the RUF/AFRC.

### Findings

3917. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that during the Indictment period, the Accused provided much needed road and air transportation to the RUF of arms and ammunition into RUF territory, as well as security personnel to escort materiel across military checkpoints, which played a vital role in the operations of the RUF/AFRC during a period when an international arms embargo was in force.

#### (b) Alleged Financial Support

##### Introduction

3918. The Prosecution alleges that the Accused provided financial assistance to the RUF and later to the AFRC/RUF. In doing so, the Prosecution makes a number of discrete allegations which the Chamber will consider consecutively.

##### (i) Alleged Payment to Foday Sankoh and the External Delegation in Côte d'Ivoire.

##### Submissions of the Parties

3919. The parties do not dispute that Taylor gave 10 million CFA francs to Foday Sankoh and the External Delegation in Côte d'Ivoire. The Prosecution submits that this money from Taylor was used for, among other things, travel to Belgium and France, countries that supported Taylor, which gave the External Delegation the opportunity to advance diamond sales in Europe and to arrange arms shipments on behalf of Taylor and the RUF.<sup>8911</sup> The

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Notice, 7 December 2007, Annex A, Fact AC.

<sup>8910</sup> Exhibit P-069, "United Nations Security Council Resolution 1132, S/RES/1132 (1997), 8 October 1997"; see also Exhibit P-070 "United Nations Security Council Resolution 1171, 5 June 1998"; Exhibit P-311, "United Nations Security Council Resolution 1231, S/RES/1231 (1999), 11 March 1999", paras 1-4, 7-12.

<sup>8911</sup> Prosecution Final Trial Brief, paras 128, 335-336.

Defence, on the other hand, submits that this money was intended to cover the External Delegation's expenses in pursuing the peace process.<sup>8912</sup>

## Evidence

### Defence Witness Fayia Musa

3920. Witness Fayia Musa, a member of the External Delegation,<sup>8913</sup> testified that in December 1996, Taylor was present in Abidjan, Côte d'Ivoire on the same day that the RUF launched "Footpaths to Democracy" at the Ivorian Foreign Ministry.<sup>8914</sup> When they finished the launch Dr Addai Sebo said he was going to inform Taylor that the Delegation was in Abidjan launching the book, and later that day Dr Sebo returned to say that Taylor wanted to see them.<sup>8915</sup>

3921. The witness and Deen Jalloh met Taylor in his room at the Hotel Ivoire, where Taylor was very busy and the room was crowded. Taylor congratulated them on achieving the first leg of the peace process, and said that marketing themselves and making their views and objectives known was an important start to this. Taylor told his bodyguard, General Jackson, to give to Deen Jalloh 10 million CFA francs for their maintenance in Côte d'Ivoire and to support them during the peace process.<sup>8916</sup> Every month Deen Jalloh would take 45,000 francs CFA from this money and give it to the family of each delegate.<sup>8917</sup>

3922. The witness said that the money was also used to buy air tickets for himself and Jonathan Kposowa to go to Belgium and The Netherlands in July 1996. They were given an 'ordre de mission' by Ambassador Traore of Côte d'Ivoire after the witness told him that it was necessary that they get the backing of the European Union for their political activities.<sup>8918</sup> Foday Sankoh instructed them to meet with his friend "Mr Monguya", who lived in Belgium, so that Monguya could arrange meetings with European leaders to

<sup>8912</sup> Defence Final Trial Brief, para. 450.

<sup>8913</sup> Fayia Musa, Transcript 14 April 2010, p. 38949.

<sup>8914</sup> Fayia Musa, Transcript 14 April 2010, pp. 38994-38995, 38999-39000; Transcript 20 April 2010, p. 39439.

<sup>8915</sup> Fayia Musa, Transcript 14 April 2010, p. 39000; Transcript 20 April 2010 p. 39439.

<sup>8916</sup> Fayia Musa, Transcript, 14 April 2010, pp. 39000-39001; Transcript 19 April 2010, p. 39307; Transcript 20 April 2010, pp. 39439-39440. The witness testified that 45,000 CFA was approximately \$100 at this time. Fayia Musa, Transcript 14 April 2010, p. 39001.

<sup>8917</sup> Fayia Musa, Transcript, 29 April 2010, p. 39467.

<sup>8918</sup> Fayia Musa, Transcript, 14 April 2010, pp. 39043-39044; Transcript 19 April 2010, pp. 39306-39307.





establish a diplomatic front in Europe before the peace process. Before they arrived, Monguya contacted businessmen because he assumed the witness and Kposowa would have diamonds, but the businessmen ended up disappointed because they were not carrying diamonds.<sup>8919</sup>

3923. Monguya took them to Ludo Martens, the former President of the Belgian Workers' Party, who in turn introduced them to leaders in the European Parliament.<sup>8920</sup> Martens introduced them to Dr De Belder, the Executive Director of an NGO called Medical Aid for the Third World.<sup>8921</sup> Musa also travelled to France and met the Foreign Minister for African Affairs, to Germany to look at a Mercedes-Benz factory to see if he could acquire buses,<sup>8922</sup> and to Holland to meet with the Foreign Minister in charge of African Affairs, "Mr Schaapveld".<sup>8923</sup> The witness testified that he had asked Foday Sankoh to pay for the trip but Sankoh said that he did not have the money.<sup>8924</sup> The witness stayed in Europe until late September 1996.<sup>8925</sup>

#### Deliberations

3924. The parties do not contest that Taylor gave 10 million CFA francs to the RUF External Delegation when they met in Abidjan, but they disagree as to the purpose of Taylor's gift to the RUF. The Prosecution claims that Taylor provided these funds to the External Delegation for nefarious purposes, contending that the External Delegation used the funds that Taylor provided to travel to Belgium and France, "a country that also provided support for Taylor",<sup>8926</sup> and that "these travels gave the external delegates the opportunity to advance diamond sales in Europe and to arrange arms shipments on behalf of Taylor and the RUF".<sup>8927</sup> However, the Prosecution cites no evidence to support the proposition that the

<sup>8919</sup> Fayia Musa, Transcript, 14 April 2010, pp. 39033, 39046-39047; Transcript 20 April 2010, pp. 39438, 39467.

<sup>8920</sup> Fayia Musa, Transcript, 14 April 2010, pp. 39046-39048; Transcript 20 April 2010, pp. 39468-39470.

<sup>8921</sup> Fayia Musa, Transcript, 14 April 2010, pp. 39047-39048.

<sup>8922</sup> Fayia Musa, Transcript, 14 April 2010, pp. 39048-39049.

<sup>8923</sup> Fayia Musa, Transcript, 14 April 2010, pp. 39044-39045.

<sup>8924</sup> DCT-306, Transcript 20 April 2010, pp. 39467-39468.

<sup>8925</sup> DCT-306, Transcript 20 April 2010, p. 39464.

<sup>8926</sup> See Prosecution Final Trial Brief, para. 128. The Prosecution's Final Trial Brief is unclear as to whether it is Belgium or France that "also provided support to Taylor". See Prosecution Final Trial Brief, para. 128.

<sup>8927</sup> Prosecution Final Trial Brief, para. 335.



delegation's trip to Europe facilitated diamonds or weapons sales.<sup>8928</sup> Conversely, Defence Witness Fayia Musa provided detailed testimony on his journey to Europe and his meetings with officials there.<sup>8929</sup> Moreover, Musa testified that he did not carry diamonds with him, as had been expected by businessmen in Europe.<sup>8930</sup> In the absence of evidence, the Prosecution has not proved that Taylor's provision of these funds to the RUF was used for the facilitation of diamonds and arms sales.

### Findings

3925. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the Accused's provision of 10 million CFA francs to the RUF in Côte d'Ivoire funded an RUF trip to Europe that enabled them to facilitate arms and diamonds deals.

(ii) Allegation that the Accused provided funds to RUF personnel stranded in Côte d'Ivoire after Foday Sankoh was detained in Nigeria

### Submissions of the Parties

3926. The Prosecution alleges that Taylor provided funds to RUF personnel stranded in Côte d'Ivoire after Foday Sankoh was detained in Nigeria.<sup>8931</sup>

3927. The Defence contends that the evidence will show that such incidents involved specific amounts of money provided in discrete payments on a sporadic basis. Many of these transactions simply asserted that money was provided with no explanation as to how it was relevant to the war or the purpose of the gift or exchange. The Defence claims that many of the exchanges were trivial and no context was provided for the purpose of the exchange.<sup>8932</sup>

### Evidence

<sup>8928</sup> In this same paragraph in its Final Trial Brief, the Prosecution details an incident in which Taylor provided funds to Bockarie, but the Trial Chamber notes that Bockarie was not a part of the External Delegation. Prosecution Final Trial Brief, para. 335.

<sup>8929</sup> Fayia Musa, Transcript, 14 April 2010, pp. 39033, 39043-39048; Transcript 19 April 2010, pp. 39306-39307; Transcript, 29 April 2010, pp. 39438, 39467-39470.

<sup>8930</sup> Fayia Musa, Transcript, 14 April 2010, pp. 39033, 39046-39047; Transcript 20 April 2010, pp. 39438, 39467.

<sup>8931</sup> Prosecution Final Trial Brief, para. 335.

<sup>8932</sup> Defence Final Trial Brief, paras 1169-1170.

Prosecution Witness Augustine Mallah

3928. Augustine Mallah, a security officer to Mike Lamin from 1996 to disarmament,<sup>8933</sup> testified that following Foday Sankoh's arrest in early 1997, he travelled from Abidjan to Danané, Côte d'Ivoire and stayed there for about a week.<sup>8934</sup> He stayed at a house just 15 yards from a house where Musa Cissé, a protocol officer for Taylor, and Cissé's radio operator Action Man were staying.<sup>8935</sup> The following night after he arrived, Action Man invited him and CO Brown, a Liberian who was a vanguard for the RUF, to Musa Cissé's house. Musa Cissé was there. Action Man made radio contact with Sam Bockarie (a.k.a. Mosquito) and he heard Sankoh speaking to Bockarie. He heard Sankoh say that even before he was arrested in Nigeria he had spoken to Taylor asking that his Sierra Leonean fighters who had crossed into Liberia with Mike Lamin be given transport back to Sierra Leone to continue the fight. Sankoh told Bockarie that he should therefore take advice from Taylor.<sup>8936</sup> A few days later, CO Brown informed the witness that Musa Cissé had given him some money which Cissé said had been sent by Taylor to sustain those who were in Danané. The witness saw the money. However, shortly afterwards, the witness learned from a lady who was at the house that CO Brown had escaped with the money and gone to Liberia. Action Man confirmed to the witness that the money had been taken.<sup>8937</sup>

The Accused

3929. The Accused denied providing money to RUF members in Côte d'Ivoire through Musa Cissé after the arrest of Foday Sankoh. He testified that he did not know either Augustine Mallah or CO Brown.<sup>8938</sup>

Defence Witness DCT-025

3930. Witness DCT-025, an RUF member<sup>8939</sup> and a Liberian Vanguard, stated that Brown was in Danané from 1996 or 1997 to 2000. He had been ill while in Abidjan and moved to

<sup>8933</sup> Augustine Mallah, Transcript 5 12 November 2008, pp. 20092-200923, 20102-20103; Transcript 13 November 2008, pp. 20209-20210.

<sup>8934</sup> Augustine Mallah, Transcript 12 November 2008, p. 20124.

<sup>8935</sup> Augustine Mallah, Transcript 12 November 2008, p. 20125.

<sup>8936</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20125-20127.

<sup>8937</sup> Augustine Mallah, Transcript 12 November 2008, p. 20128.

<sup>8938</sup> Charles Ghankay Taylor, Transcript 1 October 2009, pp. 30088-30089.

<sup>8939</sup> DCT-025, Transcript 12 March 2010, pp. 37219, 37273 (PS).

Danané. Brown did not know “Action Man” or Augustine Mallah, or Musa Cissé nor did Brown meet any members of the RUF and did not try to find any.<sup>8940</sup> When Augustine Mallah’s evidence was put to DCT-025 on cross-examination, he denied that Brown received any money from Musa Cissé.<sup>8941</sup>

### Deliberations

3931. Augustine Mallah’s evidence was that CO Brown told him that he had been given money by Musa Cissé, Taylor’s protocol officer, who said that the Accused had sent the money for the stranded RUF personnel. Such explanation was plausible in the circumstances described by the witness. Moreover, Mallah testified that he actually saw the money. Clearly, the money did not belong to CO Brown, because Brown stole the money rather than hand it over to the stranded RUF personnel. The money therefore had to have come from Musa Cissé, but had it been his own money, there would have been no motivation for him to tell CO Brown that the money had been sent by Taylor.

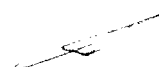
3932. The Trial Chamber recalls its finding that Augustine Mallah is a generally credible witness.<sup>8942</sup> DCT-025 was evasive concerning CO Brown’s stay in Danané, stating several times that Brown was with his church members and had no interest in the RUF or contacting any of his family or of events in Liberia. He stated Brown went to Liberia when there was an elected government there in 2000. Whilst Mallah was cross-examined about his stay and departure from Danané, Defence Counsel did not put to Mallah that CO Brown had not met him or any other RUF members in Danané, or that Brown did not have money intended for the RUF.<sup>8943</sup> The Defence instead challenged Mallah on the basis of a 2003 statement in which he had omitted to mention the incident with CO Brown. The Trial Chamber notes that Mallah was candid about the omission but not given an opportunity by Defence Counsel to provide any explanation.<sup>8944</sup> Moreover when DCT-025 gave evidence for the Defence, Defence Counsel did not ask him any questions during his examination-in-chief regarding Mallah’s testimony and in particular did not ask if Brown had been sent money for those

<sup>8940</sup> DCT-025, Transcript 17 March 2010 pp. 37476-37480; Transcript 18 March 2010, p. 37555

<sup>8941</sup> DCT-025, Transcript 18 March 2010, pp.37523-37525 (PS). See also DCT-025, Transcript 18 March 2010, pp. 37515, 37555.

<sup>8942</sup> Credibility Assessment, Augustine Mallah, Pre-Indictment Period (1988-1996), para. 2522.

<sup>8943</sup> Augustine Mallah, Transcript 14 November 2008, pp. 20335-20337; Transcript 17 November 2008, pp. 20342-20343.





members of the RUF in Danané even though the witness was in a position to know about that matter. In cross-examination DCT-025 denied that CO Brown received money from Cissé. However, the Trial Chamber does not accept his testimony, noting that Mallah saw CO Brown with the money and that another person at the house told him that CO Brown had run away with the money. Although Mallah's evidence as to the provenance of the money is hearsay and must be treated with caution, the Trial Chamber, having considered its context and the circumstances under which it arose, the fact that it emanated from identified sources, CO Brown and Musa Cissé, and Musa Cissé's undisputed connection with the Accused, finds that such evidence is nonetheless credible.

### Findings

3933. The Trial Chamber finds that the Prosecution has proved beyond a reasonable doubt that the Accused provided funds to RUF personnel stranded in Côte d'Ivoire after Sankoh was detained in Nigeria.

(iii) Allegation that the Accused provided funds to the RUF to buy arms and ammunition from ULIMO

### Submissions of the Parties

3934. The Prosecution submits that after he became President, the Accused provided Sam Bockarie with money to purchase materiel from former ULIMO members, and made his subordinate commanders available to assist the AFRC/RUF to obtain the materiel from Lofa County.<sup>8945</sup> The Trial Chamber has considered this allegation in the context of the Prosecution allegation that the Accused facilitated the trade of weapons between the RUF and ULIMO.<sup>8946</sup>

### Deliberations

3935. The Trial Chamber notes its finding that there were several sources for the money used to make the purchases from ULIMO, and that one of these sources was the

<sup>8944</sup> Augustine Mallah, Transcript 17 November 2008, pp. 20342-20343.

<sup>8945</sup> Prosecution Final Trial Brief, paras 7, 236-237.

<sup>8946</sup> Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Supplies from ULIMO.

Accused.<sup>8947</sup> Regarding the sum of money that was allegedly given by Taylor to Sam Bockarie, Dauda Aruna Fornie testified that Taylor “sometimes” gave Bockarie \$USD 10,000 to 20,000. However, he was not sure that Bockarie gave him accurate figures and he did not specify how many times Taylor gave Bockarie these amounts. The Trial Chambers considers that a conservative estimate of the amount would be in the tens of thousands of dollars.

### Findings

3936. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused provided an unspecified amount of funds to the RUF in the tens of thousands of US dollars to buy arms and ammunition from ULIMO.

(iv) Allegation that the Accused instructed Joseph Marzah to take money to Sam Bockarie

### Submissions of the Parties

3937. The Prosecution alleges that before the Freetown Invasion, the Accused gave Joseph Marzah (a.k.a. Zigzag) money to take to Sam Bockarie.<sup>8948</sup>

3938. Although the Defence does not address this allegation specifically, the Defence contends that Marzah’s statements concerning his actions and payments made to him by Taylor are self-serving and unreliable.<sup>8949</sup>

### Evidence

#### Prosecution Witness Varmuyan Sherif

3939. Witness Varmuyan Sherif, a former ULIMO-K fighter who became an officer in the SSS,<sup>8950</sup> testified that from approximately 1998 to 1999,<sup>8951</sup> he was on temporary assignment

<sup>8947</sup> Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Supplies from ULIMO.

<sup>8948</sup> Prosecution Final Trial Brief, para. 337.

<sup>8949</sup> Defence Final Trial Brief, para. 1174.

<sup>8950</sup> Varmuyan Sherif, Transcript, 9 January 2008, pp. 806, 820, 834, 836; 10 January 2008, pp. 940, 986-987.

<sup>8951</sup> When describing this incident, Sherif testified that it occurred while he was on temporary assignment in

in Lofa. During this time, he travelled to Foya and met with Benjamin Yeaten and Sam Bockarie, and on his return met with Joseph Marzah (a.k.a. Zigzag). Marzah told him that he had arms, ammunition and money in his vehicle, all of which Sheriff saw, and which he had been instructed by Taylor to bring to Bockarie.<sup>8952</sup>

### The Accused

3940. The Accused denied giving money, arms or ammunition to Joseph Marzah (a.k.a. Zigzag) in order for him to give these items to Sam Bockarie. The Accused also questioned why Varmuyan Sheriff, the assistant director of the SSS, would have to leave Monrovia in order to meet Benjamin Yeaten in Foya.<sup>8953</sup>

### Deliberations

3941. Prosecution Witness Varmuyan Sheriff is the only witness who testified to the allegation that before the Freetown Invasion, Taylor instructed Joseph Marzah (a.k.a. Zigzag) to bring money to Sam Bockarie. His evidence is not first-hand evidence, but rather second-hand evidence from Marzah. Marzah did not testify to this allegation. The Trial Chamber has found, moreover, that Marzah's evidence must be treated with caution and requires corroboration.<sup>8954</sup> The Trial will not, therefore, rely on hearsay evidence from Marzah, and finds that the Prosecution failed to prove this allegation.

### Findings

3942. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that before the Freetown Invasion, the Accused instructed Joseph Marzah to take money to Bockarie.

#### (v) Allegation that the Accused gave Sam Bockarie \$USD 10,000

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Lofa. Varmuyan Sheriff, Transcript 9 January 2008, pp. 862-863. The witness testified that he began his assignment in Lofa in early 1998, Varmuyan Sheriff, Transcript 9 January 2008, p. 819, and left Lofa in 1999. Varmuyan Sheriff, Transcript 9 January 2008, p. 865.

<sup>8952</sup> Varmuyan Sheriff, Transcript 9 January 2008, pp. 862-865.

<sup>8953</sup> Charles Ghankay Taylor, Transcript 29 October 2009, pp. 30769-30770.

<sup>8954</sup> Credibility Assessment, Joseph Marzah, paras 263-268.

### Submissions of the Parties

3943. The Prosecution alleges that during a trip taken by Sam Bockarie to Monrovia, the Accused provided him with \$USD 10,000.<sup>8955</sup>

3944. The Defence states the gifts alleged by the Prosecution were “trivial”, and that no explanation was given as to how they were relevant to the war or the purpose of the gift or exchange.<sup>8956</sup>

### Evidence

#### Prosecution Witness Karmoh Kanneh

3945. Witness Karmoh Kanneh, an RUF commander,<sup>8957</sup> testified that after ULIMO and LURD forces invaded Lofa, he received instructions from Sam Bockarie to prepare manpower to “clear the enemy from that place”. The mission was successful, and as a result the Accused invited Bockarie, his bodyguard Magazine, and the witness to Monrovia.<sup>8958</sup>

3946. When they arrived in Monrovia, Bockarie went with Benjamin Yeaten to meet with Taylor. The witness did not meet Taylor during this trip but was told by Bockarie when he returned that he had been to the Executive Mansion, and that “Pa” Taylor had told him to wait because he would give them morale boosters and ammunition. The next day, the witness saw ammunition, and Bockarie told him that Taylor had given him \$USD 10,000.<sup>8959</sup>

3947. They returned in the helicopter to Foya, where they met with Issa Sesay and others, and they counted the money. Bockarie then loaded the money and ammunition into the same helicopter, and travelled to Foya, where he held a meeting with Sesay, Morris Kallon and other officers. He explained to them that Taylor had given them ammunition and \$USD

<sup>8955</sup> Prosecution Final Trial Brief, para. 336.

<sup>8956</sup> Defence Final Trial Brief, paras 1169-1170.

<sup>8957</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9390.

<sup>8958</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9458-9462.

<sup>8959</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9462-9465.

10,000. The commanders knew that the money would not be sufficient to distribute amongst all of them, so they decided to use the funds to buy medicine to treat wounded soldiers.<sup>8960</sup>

### The Accused

3948. The Accused denied that he had a meeting with Sam Bockarie after which Bockarie returned from Liberia with \$USD 10,000 and ammunition from him (Taylor).<sup>8961</sup> He conceded, however, that between September 1998 and November 1999 he gave approximately \$USD 4,000 to \$USD 5,000 to Bockarie, which he described as traditional gifts from an African leader.<sup>8962</sup>

### Defence Witness Issa Sesay

3949. Witness Issa Sesay, a senior RUF commander,<sup>8963</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>8964</sup> denied that he had a meeting with Sam Bockarie when Bockarie returned from Monrovia with \$USD 10,000 allegedly given to him by Taylor.<sup>8965</sup>

### Deliberations

3950. Karmoh Kanneh is the only Prosecution witness to testify as to the fact that during a trip taken by Sam Bockarie to Monrovia, the Accused provided Bockarie with \$USD 10,000. The Trial Chamber notes that Kanneh's knowledge that Taylor provided these funds to Bockarie was based upon second-hand knowledge from Bockarie himself, but that Kanneh was with Bockarie when he left with Benjamin Yeaten for the Executive Mansion, and he saw the ammunition that Bockarie told him came from Taylor along with the \$USD 10,000. The Trial Chamber has found, in relation to the ammunition that Taylor provided in this incident, that the Prosecution has proved beyond reasonable doubt that there was a shipment of arms and ammunitions sent by the Accused to the RUF.<sup>8966</sup> Recalling its finding

<sup>8960</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9465-9466.

<sup>8961</sup> Charles Ghankay Taylor, Transcript 28 October 2009, pp. 30605-30606.

<sup>8962</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32568-32572.

<sup>8963</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>8964</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>8965</sup> Issa Sesay, Transcript 28 July 2010, pp. 44892-44895.

<sup>8966</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockarie's Leadership (February 1998-December 1999).



that Karmoh Kanneh is a generally credible witness,<sup>8967</sup> the Trial Chamber accepts his testimony regarding the provision of \$USD 10,000 by Taylor to Bockarie. The Chamber also notes that Taylor conceded to having provided funds to Bockarie between September 1998 and November 1999. For these reasons, the Trial Chamber finds that the Prosecution has proved this allegation beyond reasonable doubt.

### Findings

3951. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that after ULIMO and LURD forces invaded Lofa, Taylor provided Bockarie with \$USD 10,000.

(vi) Allegation that the Accused Provided \$USD 20,000 to Foday Sankoh in Lomé before negotiations began

### Submissions of the Parties

3952. The Prosecution alleges that at an unspecified time during the Lomé Peace negotiations, the Accused sent Memunatu Deen and Ibrahim Bah with \$USD 20,000 for Foday Sankoh's personal use.<sup>8968</sup>

3953. The Defence contends that this alleged transaction falls outside the scope of assistance to facilitate a war.<sup>8969</sup> In addition, Taylor denied sending \$USD 20,000 to Foday Sankoh during the negotiations at Lomé, stating that even if he had, it would have been for non-criminal purposes.<sup>8970</sup>

### Evidence

#### Prosecution Witness TF1-371

<sup>8967</sup> Credibility Assessment, Karmoh Kanneh, The Role of Intermediaries, para. 2704.

<sup>8968</sup> Prosecution Final Trial Brief, paras 194, 335.

<sup>8969</sup> Defence Final Trial Brief, para. 1185. In its Final Trial Brief, the Defence characterises this allegation as a contribution to "a consolidated fund for the peace process as agreed on at Lomé", but this is, in fact, a mischaracterisation of TF1-371's evidence, as he specifically denied that the funds provided by Taylor to Sankoh were in conjunction with the consolidated fund. See TF1-371, Transcript 1 February 2008 p. 2815.

<sup>8970</sup> Taylor previously referred to these leaders as Olusegun Obasanjo, the President of Nigeria and Gnassingbe Eudema, the President of Togo. See Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24340-24341.

3954. Witness TF1-371, an RUF member,<sup>8971</sup> testified that the day after he and other RUF members arrived in Lomé for peace negotiations, they met with Foday Sankoh at his hotel, and Sankoh was briefed on what had occurred while he was detained. At this time, Ibrahim Bah left Lomé for Monrovia with the intention of asking Taylor for money for Sankoh. When Bah returned with Memunatu Deen and Daniel Tamba (a.k.a. Jungle), the witness met him in Sankoh's suite and they presented \$USD 20,000 to Sankoh. TF1-371 testified that Sankoh was unhappy with what he called "peanuts" in the light of the volume of diamonds Sam Bockarie had been taking to Taylor while Sankoh was in prison.<sup>8972</sup> The witness portrayed the gift as an attempt by Taylor to rekindle the relationship between the two men and confirmed that this money was given before and in addition to the 'Consolidated Fund' agreed to at Lomé. Indeed, it was given before negotiations began.<sup>8973</sup>

#### The Accused

3955. The Accused denied sending \$USD 20,000 to Foday Sankoh during the negotiations at Lomé. He said that if he had, it would have been a 'good gesture,' like Presidents Obasanjo and Eyadema<sup>8974</sup> had previously made. In any event, he would have sent the money to Sankoh via the "former Foreign Minister"<sup>8975</sup> who was on the ground in Lomé rather than waiting for Ibrahim Bah to pick it up from him.<sup>8976</sup>

#### Defence Witness Issa Sesay

3956. Witness Issa Sesay, senior RUF commander,<sup>8977</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>8978</sup> testified that while Ibrahim Bah was in Buedu, Sam Bockarie gave Bah money to take to Sankoh in Lomé.<sup>8979</sup>

#### Prosecution Exhibit P-264

<sup>8971</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>8972</sup> TF1-371, Transcript 28 January 2008, pp. 2438-2439 (CS); Transcript 29 January 2008, pp. 2442, 2510 (CS).

<sup>8973</sup> TF1-371, Transcript 29 January 2008, pp. 2509-2510 (CS); Transcript 1 February 2008, p. 2815 (CS).

<sup>8974</sup> Taylor previously referred to these leaders as Olusegun Obasanjo, the President of Nigeria and Gnassingbe Eudema, the President of Togo. See Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24340-24341.

<sup>8975</sup> Taylor refers to this Foreign Minister present at Lomé as "D Musuleng-Cooper". Charles Ghankay Taylor, Transcript 24 September 2009, p. 29615.

<sup>8976</sup> Charles Ghankay Taylor, Transcript 24 September 2009, pp. 29610-29612, 29738-29739.

<sup>8977</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596, and

<sup>8978</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>8979</sup> Issa Sesay, Transcript 13 July 2010, pp. 44360-44362.

3957. Exhibit P-264 documents a radio message dated 17 May 1999 to “Lion” (Foday Sankoh<sup>8980</sup>) from Concord (Sam Bockarie<sup>8981</sup>) reporting that “General Ibrahim” had been dispatched to Lion’s location with \$USD 20,000 for him. The message tells Sankoh that he will send him a “sample of quality” which Issa Sesay testifies is a reference to diamonds.<sup>8982</sup>

### Deliberations

3958. TF1-371 testified that during the Lomé negotiations, Taylor sent Memunatu Deen and Ibrahim Bah to Foday Sankoh with \$USD 20,000, and that the witness was present when Bah, Deen and Daniel Tamba (a.k.a. Jungle) brought back and gave the \$USD 20,000 from the Accused to Sankoh. The Accused denied this allegation, stating also that even if he had provided these funds, it would have been an innocent gesture along the lines of funds provided by other African Heads of State. Defence Witness Issa Sesay testified that Sam Bockarie gave Ibrahim Bah \$USD 20,000 to take to Sankoh during the Lomé negotiations.

3959. Exhibit P-264 is a radio message from Bockarie to Sankoh, reporting that Bah had been sent to Sankoh with \$USD 20,000 for him. The radio message from Bockarie is consistent with Sesay’s testimony that Bockarie sent \$USD 20,000 to Sankoh. Sesay indicated in his testimony that Bah came from Buedu, but TF1-371 testified that Bah went and came back from Monrovia.

3960. The Trial Chamber considers that the evidence that Bockarie sent \$USD 20,000 to Sankoh does not contradict TF1-371’s evidence that Taylor also sent \$USD 20,000 to Sankoh in Lomé, where there was presumably an ongoing need for support during the extended period of the negotiations. While the radio message from Bockarie is dated 17 May 1999, well after the Lomé negotiations had begun, TF1-371 testified that the funds from Taylor were given at the start of the negotiations. The fact that Ibrahim Bah delivered the funds from both Bockarie and Taylor is consistent with the finding of the Trial Chamber that

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<sup>8980</sup> The Trial Chamber has previously found that “The Lion” is a codename for Foday Sankoh. See TF1-274, Transcript 3 December 2008, p. 21619.

<sup>8981</sup> The Trial Chamber has previously found that “Concord” is a codename used for Sam Bockarie.

<sup>8982</sup> Exhibit P-264, “Radio Log Book - 00008636 - 00008726 of communications between Sam Bockarie and Foday Sankoh during the Lomé peace talks (kept by TF1-274 (Dauda Aruna Fornie)”, ERN 339. Issa Sesay, Transcript 13 July 2010, pp. 44361-44362.

Bah frequently served as an intermediary for various individuals, including Sankoh, Bockarie and Taylor.<sup>8983</sup>

3961. The Trial Chamber recalls its finding that TF1-371 is a generally credible witness<sup>8984</sup> and notes that his evidence was based on first-hand knowledge. The Trial Chamber finds the denial of the Accused to be less than credible, and notes that the fact that other Heads of State might have given similar funds at the same time does not negate the fact of or responsibility for his own provision of funds. Furthermore, the Chamber finds unconvincing Taylor's assertion that he would not give Bah funds but would do so through a "Foreign Minister".

3962. For the above reasons, the Trial Chamber finds beyond reasonable doubt that Taylor provided funds to Sankoh during the Lomé peace negotiations. However, the Trial Chamber finds no conclusive evidence of the intended use for these funds. TF1-371 testified that the money was a gift intended to rekindle the relationship between Sankoh and Taylor, without specifying any particular use of the funds.

### Findings

3963. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused sent Foday Sankoh \$USD 20,000 in Lomé before the negotiations began.

(vii) Allegation that in August/September 1999, the Accused gave Sam Bockarie \$USD 15,000 for the RUF commanders

### Submissions of the Parties

3964. The Prosecution alleges that at a meeting in Monrovia in August or September 1999 attended by Taylor, Foday Sankoh and Sam Bockarie, Taylor gave Bockarie \$USD 15,000 for RUF commanders.<sup>8985</sup>

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<sup>8983</sup> The Role of Intermediaries: Ibrahim Bah.

<sup>8984</sup> Credibility Assessment, TF1-371, paras 220-226.

<sup>8985</sup> Prosecution Final Trial Brief, para. 337.

3965. The Defence cites this event as an example of instances in which the Prosecution has simply asserted that money was provided with no explanation as to how it was relevant to war or the purpose of the gift or exchange.<sup>8986</sup>

### Evidence

#### Prosecution Witness TF1-338

3966. Witness TF1-338, an RUF member,<sup>8987</sup> testified that when Foday Sankoh travelled to Monrovia after the Lomé Peace Accords in 1999, Sam Bockarie told the witness that Sankoh wanted him to come to Monrovia to explain the infighting that had occurred in his absence between Denis Mingo (a.k.a. Superman) and Gibril Massaquoi on the one hand, and Bockarie, Issa Sesay, and Boston Flomo on the other.

3967. While in Monrovia the witness and Sankoh met with Bockarie and Taylor on the sixth floor of the Executive Mansion, where Taylor thanked Bockarie for “maintaining the RUF” in Sankoh’s absence, and securing Foya and Voinjama against the LURD rebels. Taylor told them not to encourage in-fighting between factions, and gave Bockarie \$USD 15,000 for the “guys who had come”.<sup>8988</sup>

### The Accused

3968. The Accused accepted that Sam Bockarie was in Liberia with Foday Sankoh in September 1999 but denied that the meeting in September 1999 described by TF1-338 took place and stated that it would in any event be impossible for a person like TF1-338 to be present in a meeting between himself, Bockarie and Sankoh.<sup>8989</sup> He testified that he met with Sankoh about six times during this period but said the Bockarie was not at any of those meetings. He subsequently said that Bockarie was in meetings with Sankoh and other senior people. Further, the office in question was on the fourth, and not the sixth, floor of the

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<sup>8986</sup> Defence Final Trial Brief, paras 1169, 1173.

<sup>8987</sup> TF1-338, Transcript 1 September 2008, pp. 15085-15086 (PS).

<sup>8988</sup> TF1-338, Transcript 1 September 2008, pp. 15116-15118.

<sup>8989</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30860-30861.

Executive Mansion.<sup>8990</sup> The Accused conceded, however, to providing Bockarie with approximately \$USD 4,000 to \$USD 5,000 between 1998 and 1999.<sup>8991</sup>

#### Defence Witness Issa Sesay

3969. Witness Issa Sesay, senior RUF commander,<sup>8992</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>8993</sup> testified that after meeting with Foday Sankoh in Monrovia, Sam Bockarie returned to Sierra Leone to discuss with Sesay what had occurred while he was in Monrovia, and to give Sesay various instructions. Bockarie did not pass on any message from Taylor that the RUF should not fight amongst themselves. Bockarie also did not report that he had met with Taylor in the company of Sankoh, and did not tell Sesay that he was thanked or given \$USD 15,000 by Taylor. Sesay also testified that the RUF did not fight in Foya or Voinjama in 1999, before this incident occurred.<sup>8994</sup>

#### Deliberations

3970. TF1-338 is the only Prosecution witness to testify to this allegation, that Taylor congratulated Sam Bockarie on his achievements within the RUF while Foday Sankoh was detained, and gave Bockarie \$USD 15,000 for those that had come to Monrovia to meet with him. The witness provided first-hand evidence, and the Trial Chamber recalls its finding that TF1-338 is a generally credible witness,<sup>8995</sup> and its findings that he was present when various diamond transactions occurred.<sup>8996</sup> In light of this evidence, the Trial Chamber rejects the blanket denials of the Accused and Issa Sesay. The Trial Chamber notes that the Accused changed his evidence about who was present at meetings between him and Sankoh and that he conceded that he provided Bockarie with between \$USD 4,000 and \$USD 5,000 from September 1998 to November 1999. The Trial Chamber also notes that Sesay is incorrect as to the time period when the RUF was fighting in Foya and Voinjama; the Trial Chamber has confirmed that in April 1999, dissidents known as the LURD attacked Voinjama, Liberia, and following this attack, Bockarie gave orders to the RUF and AFRC

<sup>8990</sup> Charles Ghankay Taylor, Transcript 2 November 2009, p. 30863.

<sup>8991</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32568-32572.

<sup>8992</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>8993</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>8994</sup> Issa Sesay, Transcript 2 August 2010, pp. 45190-45192.

<sup>8995</sup> Credibility Assessment, TF1-338, paras 318-329.

<sup>8996</sup> Diamonds.

forces to support the Liberian government forces in Liberia against the LURD.<sup>8997</sup> As this meeting was said to have occurred after the Lomé Peace Accords, which were signed in July 1999,<sup>8998</sup> the meeting could have taken place after the fighting in Foya and Voinjama. For the above reasons, the Trial Chamber finds that the Prosecution has proved this allegation beyond reasonable doubt.

### Findings

3971. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that following the Lomé Accords, the Accused met with Bockarie, and gave him \$USD 15,000 for those that had met with him.

(viii) Allegation that after the Lomé Accord, the Accused provided \$USD 15,000 to Johnny Paul Koroma.

### Submissions of the Parties

3972. The Prosecution alleges that following the Lomé Agreement, the Accused gave Johnny Paul Koroma \$USD 15,000 for his delegation. The Prosecution alleges one instance of Taylor giving Johnny Paul Koroma \$USD 15,000, supported by the evidence of Alimamy Bobson Sesay, and a second instance of the Accused giving Johnny Paul Koroma \$USD 15,000, supported by the evidence of TF1-567.<sup>8999</sup>

3973. The Defence concedes that the Accused gave some funds to Johnny Paul Koroma for the purchase of clothing. It submits that the provision of these funds was not for a criminal purpose, and that this type of gift was not uncommon from an African leader to visiting delegates.<sup>9000</sup>

### Evidence

<sup>8997</sup> Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Operations Outside Sierra Leone.

<sup>8998</sup> *Prosecutor v Taylor*, SCSL-03-01-T-370, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, Annex A, Fact W; *Prosecutor v Taylor*, SCSL-03-01-PT, Joint Filing by the Prosecution and Defence: Admitted Facts and Law, 26 April 2007, Agreed Fact No. 32.

<sup>8999</sup> Prosecution Final Trial Brief, para. 335; footnote 997 of the Prosecution Final Trial Brief.

<sup>9000</sup> Defence Final Trial Brief, paras 1177, 1185.

Prosecution Witness Alimamy Bobson Sesay

3974. Witness Alimamy Bobson Sesay, an AFRC member<sup>9001</sup> and officer,<sup>9002</sup> testified that he was present at a meeting in early August 1999 in the Accused's office in the Executive Mansion between the Accused, Johnny Paul Koroma, "Junior Lion", Ibrahim 'Bazzy' Kamara and Hassan Papa Bangura (a.k.a. Bomb Blast) after the signing of the Lomé Accord. Taylor gave Johnny Paul Koroma \$USD 15,000 to be distributed between his men "so that [they] could refresh [themselves] and buy things...in Monrovia" such as clothing until Foday Sankoh arrived in Liberia from Lomé. Koroma gave the money to Kamara, who distributed it amongst the eleven persons in the delegation.<sup>9003</sup>

Prosecution Witness TF1-567

3975. Witness TF1-567, an RUF member,<sup>9004</sup> testified that he was in Monrovia when Sam Bockarie was there waiting for Foday Sankoh to return from Lomé. When Johnny Paul Koroma came to Monrovia, he met the witness and Bockarie at the RUF guesthouse. Koroma was subsequently moved to the Hotel Africa because "they" said that "they didn't want them to stay together"<sup>9005</sup> The witness saw Joe Tuah at the RUF guesthouse and give a parcel to Koroma, and Koroma then told the witness that Taylor had sent the parcel to him, and it contained \$USD 15,000 to take care of him and his family.<sup>9006</sup> This evidence was not challenged in cross-examination.

Prosecution Witness Samuel Kargbo

3976. Witness Samuel Kargbo, an AFRC Supreme Council member,<sup>9007</sup> testified that in approximately August 1999 he, Ibrahim Bazzy Kamara, Brima Kamara, Hassan Papa Bangura, Jumu Jalloh and Johnny Paul Koroma were present at a meeting with Taylor at the Executive Mansion in Liberia. Taylor gave Johnny Paul Koroma a brown envelope. The witness did not describe its contents. He stated that Taylor also gave 'Bazzy' a second one

<sup>9001</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7859-7867, 7869; 28 April 2008, pp. 8684, 8689.

<sup>9002</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7865-7866.

<sup>9003</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8503-8508, 8515; Transcript 25 April 2008, pp. 8582-8584.

<sup>9004</sup> TF1-567, Transcript 4 July 2008, pp. 12986-12990 (PS); Transcript 7 July 2008, p. 13097.

<sup>9005</sup> TF1-567, Transcript 4 July 2008, pp. 12978-12980.

<sup>9006</sup> TF1-567, Transcript 4 July 2008, p. 12978.

<sup>9007</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10439, 10448, 10450; Exhibit P-058, "Excerpts from the Sierra Leone Gazette No. 52, 4 September 1997 -- 00007703-00007704", ERN 7703-7704.



containing \$USD 5,000 to be distributed between the group; the witness himself received \$USD 700.<sup>9008</sup>

### The Accused

3977. The Accused testified that in approximately August to October 1999, he met with Johnny Paul Koroma and the West Side Boys in his office in Executive Mansion but he cannot specifically remember the individuals with whom he met. During that meeting he gave them an envelope with between \$USD 5,000 and \$USD 10,000. He thought the men looked dishevelled so gave them the money to get something better to wear. This money was not given to buy arms and ammunition; it was simply an African tradition and any African leader would have done the same. He denied sending Joe Tuah to the RUF guesthouse with \$USD 15,000.<sup>9009</sup>

### Deliberations

3978. The parties do not dispute that when the Accused met with Johnny Paul Koroma in the Executive Mansion following the Lomé Peace Accords, he gave Koroma a certain amount of money so that they could buy clothes and other items in Monrovia. The Prosecution contends that the Accused gave Koroma \$USD 15,000 in two instances, one in a meeting described by Alimamy Bobson Sesay and Samuel Kargbo, and one described by TF1-567, at the RUF guesthouse where he sent Joe Tuah on his behalf.

3979. The Trial Chamber notes that Bobson Sesay first mentioned the \$USD 15,000 gift in an interview with the Prosecution on 6 April 2008. When asked why he had not mentioned this \$USD 15,000 in any of his many prior interviews with the Prosecution, he responded that this was the first time he had been asked about it.<sup>9010</sup> The Trial Chamber accepts this explanation, noting that his testimony of the meeting is corroborated in its key elements by

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<sup>9008</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10577-10581. The witness starts his description of the events in question by stating that they began approximately one month prior to the signing of the Lomé Peace Accord (Samuel Kargbo, Transcript 22 May 2008, pp. 10564-10568), which was signed on 7 July 1999 (Agreed Facts and Law, Fact 32).

<sup>9009</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28756-28757; Transcript 29 September 2009, p. 30025; Transcript 21 January 2010, p. 33884. Taylor begins his description of the incidents in question by stating that Johnny Paul Koroma arrived in Monrovia in August 1999 and left with Sankoh in October 1999. Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28753-28754.

<sup>9010</sup> Alimamy Bobson Sesay, Transcript 25 April 2008, pp. 8592, 8603.

Kargbo, as well as the Accused. While Bobson Sesay mentions the amount given by Taylor to be \$USD 15,000, Kargbo was less clear about the amounts, saying also that there were two envelopes and that some of the money was distributed to the group. The Accused testified that he gave Koroma an envelope with between \$USD 5,000 and \$USD 10,000. The Trial Chamber cannot ascertain with certainty the amount of the funds given to Johnny Paul Koroma at the meeting. However, on the basis of the evidence of Bobson Sesay and Kargbo, as well as the Accused, the Trial Chamber can conclude that Taylor gave funds to Koroma, in the amount of at least \$USD 5,000 to \$USD 10,000.

3980. Regarding the second incident, TF1-567's evidence that the Accused sent \$USD 15,000 to Koroma at the RUF guesthouse is hearsay, based on what Koroma told TF1-567 about the envelope he received from Joe Tuah. While he conceded giving Koroma \$USD 5,000 to \$USD 10,000 at the meeting, the Accused denied sending Joe Tuah to the RUF guesthouse with \$USD 15,000 for Koroma. Although the Trial Chamber has found TF1-567 to be a generally credible witness,<sup>9011</sup> the Trial Chamber cannot in this context make a finding beyond reasonable doubt based on his hearsay evidence.

### Findings

3981. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that following the Lomé Peace Accords the Accused gave Johnny Paul Koroma some funds, in the amount of at least \$USD 5,000 to \$USD 10,000, for clothing and other personal items at a meeting in the Executive Mansion.

3982. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the Accused sent \$USD 15,000 to Johnny Paul Koroma at the RUF guesthouse.

(ix) Allegation that the Accused gave Issa Sesay \$USD 85,000

### Submissions of the Parties

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<sup>9011</sup> Credibility Assessment, TF1-567, paras 313-317.

3983. The Prosecution alleges that between 2000 and 2001, the Accused gave Issa Sesay large amounts of cash, including \$USD 85,000.<sup>9012</sup>

3984. The Accused denied that this incident occurred, contending that he would never have this large amount of money on hand.<sup>9013</sup>

## Evidence

### Prosecution Witness TF1-375

3985. Witness TF1-375, an AFRC fighter,<sup>9014</sup> testified that during the disarmament process and before the 2002 election in Sierra Leone, Benjamin Yeaten called him and Calvin Yeaten (a.k.a. Bus Boy), Yeaten's younger brother, and told them to bring him to White Flower and wait for him. Yeaten entered White Flower and came outside approximately 10 to 15 minutes later with a parcel. Yeaten told the witness and Calvin Yeaten to give the parcel to Issa Sesay at the Royal Hotel. When they reached Sesay's hotel room and gave him the package, he called Francis Oscar Charles (a.k.a. FOC), Eddie Kanneh and one of Sesay's bodyguards and they opened the package and began counting the money that was inside. The total came to \$USD 85,000. Sesay became very angry because he had been expecting \$USD 500,000 in exchange for the diamonds he had brought Taylor. Sesay was going to send the money back, but Charles convinced him to contact Yeaten and complain, and to keep the money.<sup>9015</sup>

### The Accused

3986. The Accused did not deny that Issa Sesay might have visited White Flower, but he denied that this incident concerning the \$USD 85,000 occurred. He stated that he was never in touch with diamond dealers, that he never had more than \$USD 25,000 on hand, and that a sum of money this large would have been accounted for by the Finance Ministry. Taylor also denied knowing Calvin Yeaten.<sup>9016</sup>

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<sup>9012</sup> Prosecution Final Trial Brief, para. 335, footnote 998.

<sup>9013</sup> Charles Ghankay Taylor, 15 September 2009, pp. 28903-28910.

<sup>9014</sup> Dennis Koker, Transcript 15 January 2008, p. 1236.

<sup>9015</sup> TF1-375, Transcript 24 June 2008, pp. 12686-12690.

<sup>9016</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28903-28910.

Defence Witness Issa Sesay

3987. Witness Issa Sesay, senior RUF commander,<sup>9017</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>9018</sup> denied receiving \$USD 85,000 from Taylor through Benjamin Yeaten and ultimately TF1-375, adding that he did not know of a Royal Hotel. Sesay testified that after 2000 he stayed at the RUF guesthouse when he visited Monrovia.<sup>9019</sup> He also testified that he did not know anyone by the name of Busy Boy.<sup>9020</sup>

Deliberations

3988. Prosecution Witness TF1-375 is the only Prosecution witness to testify to this allegation. The Trial Chamber recalls its previous finding that the testimony of TF1-375 must be treated with caution and requires corroboration,<sup>9021</sup> which is lacking with regard to his testimony on this incident. In light of the foregoing, the Trial Chamber finds that the Prosecution has not proved this allegation beyond reasonable doubt.

Findings

3989. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that between 2000 and 2001, the Accused gave \$USD 85,000 to Issa Sesay.

(x) Allegation that the Accused gave Issa Sesay \$USD 15,000

Submissions of the Parties

3990. The Prosecution alleges that during a meeting between Issa Sesay and the Accused, the Accused instructed Sesay to resist disarmament, and told Sesay that if he did so he (Taylor) would continue to assist the RUF as he had done before; he also provided Sesay with \$USD 15,000.<sup>9022</sup>

<sup>9017</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>9018</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>9019</sup> Issa Sesay, Transcript 10 August 2010, pp. 45942-45943; Transcript 11 August 2010, pp. 45945-45946.

<sup>9020</sup> Issa Sesay, Transcript 11 August 2010, p. 45946.

<sup>9021</sup> Credibility Assessment, TF1-375, paras 308-312.

<sup>9022</sup> Prosecution Final Trial Brief, para. 182.





3991. The Defence does not, in its submissions, address this incident directly, but counters the Prosecution's allegation by claiming that the Accused played a significant role in promoting peace in Sierra Leone. The Defence denies that the Accused was promoting peace while at the same time prolonging the conflict by encouraging Sesay to resist disarmament.<sup>9023</sup>

## Evidence

### Prosecution Witness TF1-338

3992. Witness TF1-338, an RUF member,<sup>9024</sup> testified that in July 2000 he was present at a late-night meeting between Taylor and Issa Sesay in Monrovia, during which Taylor urged Sesay not to listen to the Sierra Leonean Government; to agree to the disarmament if asked but not to "do it in reality". For that, Taylor promised the RUF his continuing assistance and gave Sesay \$USD 15,000.<sup>9025</sup> Sesay left Taylor and two days later returned to Sierra Leone. Sesay then convened a meeting in Koindu Town and briefed his colleagues on what Taylor had told him concerning disarmament.<sup>9026</sup>

### The Accused

3993. The Accused conceded that he had spoken to Issa Sesay concerning disarmament, but did not remember who was present when he did so.<sup>9027</sup> He also testified that he had been active in ensuring that disarmament took place.<sup>9028</sup>

### Defence Witness Issa Sesay

3994. Witness Issa Sesay, senior RUF commander,<sup>9029</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>9030</sup> testified that TF1-338's account of a late night meeting with the Accused is false. Benjamin Yeaten never took Sesay at night to see the Accused

<sup>9023</sup> Defence Final Trial Brief, paras 87-102, 967.

<sup>9024</sup> TF1-338, Transcript 1 September 2008, pp. 15085-15086 (PS).

<sup>9025</sup> TF1-338, Transcript 2 September 2008, pp. 15149-15151, 15211 (PS).

<sup>9026</sup> TF1-338, Transcript 2 September 2008, pp. 15150-15151; 15211 (PS).

<sup>9027</sup> Charles Ghankay Taylor, Transcript 24 September 2009, pp. 29636-29637 (PS).

<sup>9028</sup> Charles Ghankay Taylor, Transcript 24 September 2009, pp. 29638-29639 (PS).

<sup>9029</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>9030</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

and the Accused did not tell Sesay in private to agree openly to disarmament with the ECOWAS leaders but not actually to do so, nor did Taylor give him \$USD 15,000.<sup>9031</sup>

### Deliberations

3995. TF1-338 is the only Prosecution witness to testify concerning the allegation that at a late-night meeting in Monrovia, Taylor gave Issa Sesay \$USD 15,000. The Trial Chamber recalls its determination that TF1-338 is a generally credible witness,<sup>9032</sup> and recalls its previous determinations finding that TF1-338 was present during diamond transactions made by Sesay. There is also considerable evidence that Taylor discouraged the RUF/AFRC from disarming, despite public statements to the contrary.<sup>9033</sup> For this reason, the Trial Chamber does not consider his denial credible. Issa Sesay also denied that this meeting occurred and that he received \$USD 15,000. The Trial Chamber recalls its finding that Sesay's evidence must be treated with caution and requires corroboration.<sup>9034</sup>

3996. The Trial Chamber finds TF1-338's statement to be credible, and notes that he was present and witnessed the transaction. For this reason, the Trial Chamber accepts his testimony, and finds that the Prosecution has established, beyond reasonable doubt, that the Accused gave Sesay \$USD 15,000 to support the RUF.

### Findings

3997. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt, that the Accused gave Issa Sesay \$USD 15,000 to support the RUF.

(xi) Allegation that Issa Sesay sent Mike Lamin to Monrovia to collect money from Taylor

### Submissions of the Parties

<sup>9031</sup> Issa Sesay, Transcript 2 August 2010, p. 45261.

<sup>9032</sup> Credibility Assessment, TF1-338, paras 318-329.

<sup>9033</sup> Peace Process: Communications with essay on Disarmament.

<sup>9034</sup> Credibility Assessment, Issa Sesay, paras 359-372.

3998. The Prosecution alleges that in 2002, Issa Sesay sent Mike Lamin to Monrovia to collect money that the Accused had held for Sesay. The Prosecution further submits that this money was not a part of the payment required by the Lomé Agreement.<sup>9035</sup>

3999. The Defence states that the Prosecution's evidence relates only to monetary transactions, but does not discuss the actual provision of arms, and therefore falls outside the scope of assistance to facilitate a war.<sup>9036</sup>

## Evidence

### Prosecution Witness TF1-371

4000. Witness TF1-371, an RUF member,<sup>9037</sup> testified that at some point in 2001, Issa Sesay informed Mike Lamin of an amount of money that he was expecting from Taylor, because he had been depositing diamonds with Taylor while he and Lamin were detained. Lamin accompanied Sesay on a trip to Monrovia to collect these funds. They went on board Taylor's military helicopter from Foya to Monrovia, and Lamin, Sesay and Morris Kallon met with Taylor at midnight at White Flower. Taylor asked Sesay about the disarmament process, to which Sesay responded that approximately 40 percent of the RUF had disarmed.<sup>9038</sup> Taylor asked Sesay whether he trusted the UN disarmament process, and asked Lamin whether he had seen Foday Sankoh while he was detained.<sup>9039</sup>

4001. Sesay then told Taylor that he needed \$USD 100,000 for food and supplies for his men, and Taylor told Yeaten to give Sesay \$USD 50,000.<sup>9040</sup> The next morning, Yeaten gave Sesay the \$USD 50,000, and they were escorted to the airport and returned to Foya in Taylor's helicopter, and on to Sierra Leone. Sesay told Lamin that he was disillusioned with Taylor and that this was the last time he would go to see him.<sup>9041</sup>

4002. In 2002, Sesay told Lamin that the RUF still had funds deposited with Taylor and they needed these funds for the coming election. When Lamin went to Senegal to meet with

<sup>9035</sup> Prosecution Final Trial Brief, para. 337.

<sup>9036</sup> Defence Final Trial Brief, paras 1172, 1185.

<sup>9037</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>9038</sup> TF1-371, Transcript 29 January 2008, pp. 2453-2454 (CS).

<sup>9039</sup> TF1-371, Transcript 29 January 2008, p. 2455 (CS); Transcript 31 January 2008, pp. 2773-2774 (CS).

<sup>9040</sup> TF1-371, Transcript 29 January 2008, p. 2454 (CS).

President Abdulai Wade, he stopped in Monrovia to see Taylor in order to ask him for their remaining \$USD 50,000. When Lamin arrived in Monrovia he went to see Yeaten, and happened to see Francis Oscar Charles (a.k.a. FOC) and so Lamin asked Yeaten why Charles was in Monrovia. Yeaten told Lamin that Charles was there on Sesay's instruction, in order to ask Taylor for funds. Lamin tried to meet with Taylor but he was very busy, and he knew that the RUF delegation was still in Monrovia so he left the next day.<sup>9042</sup>

#### Prosecution Witness TF1-338

4003. Witness TF1-338, an RUF member,<sup>9043</sup> testified that in April 2002 Francis Oscar Charles was instructed by Sesay to take a letter to Taylor. He was not told the purpose of the letter but knew from Sesay's briefing of senior officers that the letter asked for money.<sup>9044</sup>

#### The Accused

4004. The Accused conceded to speaking with Issa Sesay about disarmament, but denied that Mike Lamin was present when he did so. He denied having any knowledge of a meeting at midnight at the Executive Mansion between himself, Lamin and Sesay in which he spoke to Sesay about disarmament. The Accused also denied that Sesay had requested \$USD 100,000 and stated that he never provided these funds. Finally, he contended that he was active in trying to ensure that disarmament took place.<sup>9045</sup>

#### Defence Witness Issa Sesay

4005. Witness Issa Sesay, senior RUF commander<sup>9046</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>9047</sup> denied that Mike Lamin met with him, Morris Kallon and Taylor at White Flower in 2001, because Sesay and Kallon did not travel to Monrovia together in 2001. The last time that Sesay and Kallon went to Monrovia was in October 2000, when Lamin was detained. Sesay also denied having a discussion in Lamin's presence concerning disarmament, and denied asking Taylor for \$USD 100,000 for food for the RUF,

<sup>9041</sup> TF1-371, Transcript 29 January 2008, p. 2457 (CS).

<sup>9042</sup> TF1-371, Transcript 29 January 2008, pp. 2458-2460 (CS); Transcript 31 January 2008, pp. 2773-2774 (CS).

<sup>9043</sup> TF1-338, Transcript 1 September 2008, pp. 15085-15086 (PS).

<sup>9044</sup> TF1-338, Transcript 2 September 2008, p. 15240 (PS).

<sup>9045</sup> Charles Ghankay Taylor, Transcript 24 September 2009, pp. 29636-29639 (PS).

<sup>9046</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596, and

<sup>9047</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.



following which Taylor gave him \$USD 50,000. He also denied sending Francis Oscar Charles to collect \$USD 50,000 from Taylor or to go anywhere.<sup>9048</sup>

4006. Sesay further denied that he instructed Lamin to travel to Monrovia in 2002 to ask Taylor for \$USD 50,000 from Taylor, stating that he was not aware of Lamin going to Monrovia.<sup>9049</sup>

### Deliberations

4007. Witness TF1-371 is the only Prosecution witness proffered to support the allegation that in 2002, Issa Sesay sent Mike Lamin to Monrovia to get money that Taylor had held for Sesay. TF1-371 testified to more than the allegation that Sesay sent Lamin to collect money from Taylor in 2002; TF1-371 also testified that Taylor gave Sesay \$USD 50,000 in 2001, and Lamin was sent back to Liberia to collect another \$USD 50,000 in 2002.

4008. The Trial Chamber recalls its finding that TF1-371 is a generally credible witness.<sup>9050</sup> Although the Accused and Issa Sesay denied that these events occurred, the Trial Chamber finds their denials to be self-serving. In that regard, the Trial Chamber recalls its finding that Issa Sesay's evidence should be considered with caution.<sup>9051</sup> TF1-371 provided detailed and coherent testimony on these events, and the Trial Chamber finds his testimony credible. The Trial Chamber notes that the \$USD 50,000 from Taylor, as described by TF1-371 in his testimony, was money related to diamonds that was held by Taylor for the RUF.

### Findings

4009. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused gave \$USD 50,000 to Issa Sesay in 2001, and that Sesay sent Mike Lamin in 2002 to retrieve a further \$USD 50,000 that Taylor held for the RUF.

(xii) Allegation that Issa Sesay sent a "second delegation" to Monrovia to collect money from Taylor

<sup>9048</sup> Issa Sesay, Transcript 29 July 2010, pp. 45075-45077 (PS); Transcript 30 July 2010, p. 45114 (PS).

<sup>9049</sup> Issa Sesay, Transcript 30 July 2010, pp. 45113-45114 (PS).





### Submissions of the Parties

4010. The Prosecution alleges that Issa Sesay sent a “second delegation” to Monrovia to receive money from the Accused, but they were imprisoned on the Accused’s orders.<sup>9052</sup>

4011. The Defence did not address the allegation that Issa Sesay sent a delegation to Monrovia to receive money from the Accused, but denies that the Accused received money from Sesay for safe keeping.<sup>9053</sup>

### Evidence

#### Prosecution Witness TF1-338

4012. Witness TF1-338 an RUF member,<sup>9054</sup> testified that in 2001, Francis Oscar Charles (a.k.a. FOC) and Issa Sesay travelled from Koindu Town to Foya where they met Benjamin Yeaten, and they all travelled on to Monrovia. Alpha Bravo met them at the RUF guesthouse,<sup>9055</sup> and they handed him a packet of diamonds. In the presence of Charles, Alpha Bravo gave Sesay \$USD 300,000. Sesay divided this amount into two: he gave \$USD 150,000 to Taylor for safe keeping, and he took the remaining \$USD 150,000 back to Sierra Leone.<sup>9056</sup>

4013. In early 2002, Sesay sent Charles and Fatmata Sankoh, one of Sankoh’s wives, to Monrovia to give a letter concerning the collection of this \$USD 150,000 to Taylor.<sup>9057</sup> Charles went first to meet with Yeaten so that he would take him to Taylor, but he was told at White Flower that Yeaten was at the front lines. Sesay then communicated with Dopoe Menkarzon, who took Charles, Rashid Foday and Fatmata Sankoh to Taylor.<sup>9058</sup> While they were waiting to see Taylor at White Flower Yeaten’s bodyguard, Salami, arrested them,

<sup>9050</sup> Credibility Assessment, TF1-371, paras 220-226.

<sup>9051</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>9052</sup> Prosecution Final Trial Brief, para. 337.

<sup>9053</sup> Defence Final Trial Brief, para. 1183.

<sup>9054</sup> TF1-338, Transcript 1 September 2008, pp. 15085-15086 (PS).

<sup>9055</sup> TF1-338 indicates that this guesthouse “belonged to Monie Captan”. Yanks Smythe confirmed that the RUF guesthouse in Monrovia supplied by Taylor was owned by Monie Captan but leased by the Liberian Government. Yanke Smythe, Transcript 25 February 2010, pp. 36004-36005.

<sup>9056</sup> TF1-338, Transcript 2 September 2008, pp. 15171-15172, 15226 (PS).

<sup>9057</sup> TF1-338, Transcript 2 September 2008, pp. 15226-15227 (PS); Transcript 4 September 2008 pp. 15503-15504, 15516 (PS).

<sup>9058</sup> TF1-338, Transcript 2 September 2008, pp. 15227-15231 (PS).

saying that this was done on orders from Yeaten, although Charles did not know why he was arrested. At the police station, Charles said that he worked with Sankoh, and was in Liberia to see Taylor. They spent two nights in detention at Saw Beach, after which a woman working at the Executive Mansion came and took them to White Flower to speak with Taylor.<sup>9059</sup> Salami took his documents and the letter intended for Taylor.<sup>9060</sup>

4014. Charles told Taylor that Sesay had sent him to collect the \$USD 150,000 that Taylor had kept for the RUF, but Taylor responded to Charles that he would help the RUF during elections but he had told Sesay not to disarm and did not have the money for him. Taylor threatened to arrest and execute Sesay if he came to Liberia, and allowed them to leave. Charles spent one more night in Monrovia, after which Yeaten gave him \$USD 200 and told them to return to Sierra Leone.<sup>9061</sup>

#### The Accused

4015. The Accused denied having any knowledge of the \$USD 150,000 that Prosecution Witness TF1-338 testified was left by Sesay with him for safe keeping.<sup>9062</sup>

#### Defence Witness Issa Sesay

4016. Witness Issa Sesay, senior RUF commander,<sup>9063</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>9064</sup> denied selling \$USD 300,000 worth of diamonds to “Alpha Bravo”, and giving \$USD 150,000 to Taylor for safe keeping. Sesay had never heard of Alpha Bravo.<sup>9065</sup> Sesay also denied that he sent Francis Oscar Charles (a.k.a. FOC) to Monrovia, stating that after disarmament in November 2001 Charles remained in Makeni and did not go to Monrovia.<sup>9066</sup>

#### Deliberations

<sup>9059</sup> TF1-338, Transcript 2 September 2008, pp. 15233-15234 (PS); Transcript 4 September 2008 p. 15504-15506, 15508-15511 (PS).

<sup>9060</sup> TF1-338, Transcript 2 September 2008, p. 15236 (PS);

<sup>9061</sup> TF1-338, Transcript 2 September 2008, pp. 15233-15237 (PS); Transcript 4 September 2008 p. 15511-15512 (PS).

<sup>9062</sup> Charles Ghankay Taylor, Transcript 2 November 2008, pp. 30886-30888.

<sup>9063</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>9064</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>9065</sup> Issa Sesay, Transcript 2 August 2010, pp. 45311-45113; Transcript 4 August 2010, p. 45356 (PS).

<sup>9066</sup> Issa Sesay, Transcript 30 July 2010, pp. 45113-45114 (PS).

4017. TF1-338 is the only Prosecution Witness to testify to the details of this allegation, that Issa Sesay sent a “second delegation” to Monrovia, including Francis Oscar Charles, to get money that Taylor had held in safe keeping, but that they were imprisoned on Taylor’s orders. TF1-371 testified that Mike Lamin saw Francis Oscar Charles in Monrovia and was told that he was there to collect funds from Taylor. The Trial Chamber considers that this testimony corroborates the testimony of TF1-338 that Charles travelled to Monrovia to collect funds from Taylor. The Trial Chamber recalls its findings that both TF1-371 and TF1-338 are generally credible witnesses.<sup>9067</sup>

4018. The Defence highlighted in cross-examination several inconsistencies between TF1-338’s prior statements and his testimony. For example, in his previous statement the witness told investigators that Francis Oscar Charles was taken to see the Accused when he first arrived, at which point the Accused arrested him; in his trial testimony, the witness stated that Charles only met Taylor after he was arrested. The witness also in his previous statement did not refer to Sankoh’s wife or Rashid Foday accompanying Charles to meet Taylor, and in a prior statement said that after Charles was released from detention he was brought to the RUF guesthouse, but not back to a jail cell, as TF1-338 testified at trial.<sup>9068</sup> TF1-338 explained these inconsistencies as a misunderstanding of chronology and an administrative error of the Prosecution, respectively.<sup>9069</sup> In his prior statement, TF1-338 also said that Mike Lamin travelled to Monrovia from Senegal and pleaded for Charles’ release, which TF1-338 did not mention in his testimony at trial.<sup>9070</sup> TF1-338 testified at trial, however, that he had said this in his interview with investigators, but they had not written this down.<sup>9071</sup> The Trial Chamber notes that TF1-371 testified that Mike Lamin saw Charles in Monrovia at this time but did not mention Charles’s imprisonment.<sup>9072</sup> The Trial Chamber accepts the explanations of TF1-338 with regard to his prior statement and does not consider his failure to mention Mike Lamin in his testimony to be significant.

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<sup>9067</sup> Credibility Assessment, TF1-371, paras 220-226; Credibility Assessment, TF1-338, paras 318-329.

<sup>9068</sup> TF1-338, Transcript 4 September 2008 pp. 15514-15519.

<sup>9069</sup> TF1-338, Transcript 4 September 2008 pp. 15514-15526.

<sup>9070</sup> TF1-338, Transcript 4 September 2008 pp. 15519-15521.

<sup>9071</sup> TF1-338, Transcript 4 September 2008 p. 15519-15521.

<sup>9072</sup> See TF1-371, Transcript 29 January 2008, pp. 2459-2460.

4019. The Trial Chamber does not accept Issa Sesay's assertion that Charles was based in Makeni, and therefore did not travel to Monrovia; the fact that Charles may have been based in Makeni does not exclude the possibility that he travelled to Monrovia.

4020. In light of the foregoing, the Trial Chamber is satisfied that Sesay sent a "second delegation" to Monrovia to collect money from the Accused. The Trial Chamber notes, however, that the money from the Accused, as described by TF1-338 in his testimony, was money held by the Accused, relating to diamonds. According to the evidence, no funds were given to Francis Oscar Charles, except for \$USD 200 from Yeaten to return to Sierra Leone.

### Findings

4021. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that Issa Sesay sent a "second delegation" to Monrovia to get money from the Accused, and they were imprisoned on his orders, but no funds were given by the Accused to Sesay.

### Conclusion

4022. The Trial Chamber has found that the Prosecution has proved beyond reasonable doubt that Taylor provided financial support to the RUF/AFRC, in the following amounts:

- (i) 10 million CFA francs to the RUF in Côte d'Ivoire; however the Prosecution failed to prove that the funds were used to facilitate arms and diamond deals for the RUF.
- (ii) an unspecified amount of funds to RUF personnel stranded in Côte d'Ivoire ;
- (iii) an unspecified amount of funds to the RUF, in the tens of thousands of dollars, to buy arms and ammunition from ULIMO;
- (iv) \$USD 10,000 to Sam Bockarie after ULIMO and LURD invaded Lofa;
- (v) \$USD 20,000 to Foday Sankoh in Lomé before the negotiations began;
- (vi) \$USD 15,000 to Sam Bockarie following the Lomé Accords.
- (vii) \$USD 5,000 to 10,000 to Johnny Paul Koroma following the Lomé Accords;

(viii) \$USD 15,000 to Issa Sesay to support the RUF; and

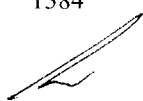
(ix) \$USD 50,000 to Issa Sesay in 2001.

4023. The Trial Chamber notes that the Accused conceded to having provided some of these funds, including the 10 million CFA francs given to the RUF in the Côte d’Ivoire, and the money given to Johnny Paul Koroma following the Lomé Accords. The Accused also testified that he provided \$USD 4,000 to 5,000 to Sam Bockarie between September 1998 to November 1999. The Trial Chamber notes, however, that with the exception of its finding that the Accused provided funds to Bockarie in order to buy arms and ammunition from ULIMO and the 10 million CFA francs given to the RUF in Côte d’Ivoire, the use of these funds was unspecified or for personal use. In several instances, the Prosecution alleges that these funds were used for clothes or travel for RUF members. For example, Taylor provided \$USD 20,000 to Foday Sankoh before the Lomé negotiations began for Sankoh’s “personal use” and he provided \$USD 15,000 to Johnny Paul Koroma for his delegation to buy personal items in Monrovia. The \$USD 15,000 provided to Bockarie by the Accused for commanders who had travelled to Monrovia was for unspecified use. In addition, the unspecified amount of money given to RUF members in Côte d’Ivoire after Sankoh was arrested was to “sustain them” in Danané. Moreover, the Prosecution failed to prove that the 10 million CFA francs given by the Accused to the RUF in Côte d’Ivoire was used to facilitate arms and diamond deals.

4024. The Trial Chamber notes the Defence contention that the RUF received financial support from sources other than Taylor. For example, TF1-168 testified that in February 1996, Sankoh told him that he had received \$USD 50,000 from Nigerian President Sani Abacha, although Sankoh did not tell the witness the purpose of this gift.<sup>9073</sup> TF1-168 and Fayia Musa testified that in May 1996, \$USD 500,000 was provided to Foday Sankoh by Libya, which is corroborated by a contemporaneous document indicating that the funds were specifically for the purchase of arms and ammunition.<sup>9074</sup> Finally, Issa Sesay testified that in November 1998, \$USD 50,000 was provided to Bockarie, Bah, Rogers and Kanneh by

<sup>9073</sup> See Defence Final Trial Brief, para. 449, citing TF1-168, Transcript 22 January 2009, p. 23277 (CS).

<sup>9074</sup> TF1-168, Transcript 22 January 2009, pp. 23283-23284, 23288-23289 (CS); Transcript 23 January 2009, pp. 23454-23458 (CS); Fayia Musa, Transcript 14 April 2010, pp. 39019-39020, 39022-39023; Exhibit D-015, “RUF - Follow up request from Foday Sankoh, Leader, RUF/SL to Brother Mohamed Talibi, Libyan Arab People's Jamahiriyya, Accra, Ghana, 26 June 1996”.



Gaddafi in Libya, which Bockarie used partially to buy ammunition and medicine.<sup>9075</sup> The Trial Chamber considers that there is no evidence that these payments are in any way linked or relevant to the payments by the Accused.

4025. In light of the relatively few and small amounts of funding provided to the RUF or AFRC by the Accused, and considering that most of this funding was for personal or unspecified uses, the Trial Chamber is unable to find that the financial support provided by the Accused, in itself, had a direct impact on the operations of the AFRC/RUF.

(c) Alleged Medical and Other Support

Submissions of the Parties

4026. The Prosecution alleges that throughout the armed conflict in Sierra Leone, the Accused provided medicine, medical treatment, as well as food, military uniforms, fuel, vehicles, and “morale boosters”, such as cigarettes, drugs and alcohol to the RUF, Junta and AFRC/RUF.<sup>9076</sup>

4027. The Defence concedes that there is “a considerable amount of evidence citing Taylor as the provider of a variety of goods and money for the RUF effort” but submits this evidence involves “often low ranking” subordinates who witness events in Sierra Leone, not in Liberia or anywhere in the proximity of the Accused.<sup>9077</sup> The Accused also conceded that he gave some support to the RUF for humanitarian reasons or gifts not related to the war effort.<sup>9078</sup> The Defence denies, however, that the Accused provided a majority of these supplies or services, and contends that transactions involving this support were legal, and occurred on the open market in Liberia.<sup>9079</sup>

Evidence

<sup>9075</sup> See Defence Final Trial Brief, paras 10, 619, 1075, *citing* Issa Sesay, Transcript 9 July 2010, pp. 44125-44129.

<sup>9076</sup> Prosecution Final Trial Brief, paras 338-340.

<sup>9077</sup> Defence Final Trial Brief, para. 1168.

<sup>9078</sup> Defence Final Trial Brief, para. 1177, 1181, 1186.

<sup>9079</sup> Defence Final Trial Brief, para. 1168, 1175-1176, 1178-1179, 1182.

Prosecution Witness Albert Saidu

4028. Witness Albert Saidu, an RUF adjutant from 1991 to 2001,<sup>9080</sup> testified that he saw Daniel Tamba (a.k.a. Jungle) “who we called Colonel Jungle” in RUF territory and that he heard from members of the RUF high command about trips that Tamba would make to RUF territory in 1997. Tamba did not come there in secret, and everyone knew that he travelled frequently between Sam Bockarie and Taylor. Tamba would bring arms, ammunition, food and medicine to Bockarie at headquarters, and the radio operators at headquarters would send messages to the front lines reporting on what Tamba had delivered. Whenever Tamba came, RUF members felt relieved because they believed he was someone who brought materiel for the RUF.<sup>9081</sup>

4029. The first time that Saidu met Tamba in person was in 1998, when Bockarie asked him to deliver a letter to Tamba in Foya Tenga, Liberia stating that the RUF had a shortage of materials. Bockarie told Saidu to take the letter quickly because they needed materials to come quickly. When Saidu arrived, Tamba said he had been expecting someone because he had already spoken to Bockarie. Tamba read Bockarie’s letter and said to Saidu that he would go to Monrovia to meet Taylor, so Saidu returned to Sierra Leone.<sup>9082</sup> A few days after Saidu arrived to Koindu after delivering the letter, the RUF in Koindu received some materials from Buedu “because we had written.... [w]e received materials”.<sup>9083</sup>

4030. When Bockarie was based in Buedu, Saidu would visit as his wife was based there.<sup>9084</sup> In April 1998, Bockarie visited Koindu, where Saidu was based. The senior officers were called and Saidu walked into a room where Bockarie was speaking on his satellite phone. Bockarie’s security guard Mohamed Banya (a.k.a. Sabado) was present. Banya told Saidu that he and Bockarie were on the way to collect arms and ammunition from Taylor, and Bockarie was on the phone asking for clearance from Foday to travel to

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<sup>9080</sup> Albert Saidu, Transcript 4 June 2008, p. 10895.

<sup>9081</sup> Albert Saidu, Transcript 4 June 2008, pp. 11027-11029; Transcript 5 June 2008, pp. 11046-11051.

<sup>9082</sup> Albert Saidu, Transcript 4 June 2008, pp. 11023-11029.

<sup>9083</sup> Albert Saidu, Transcript 4 June 2008, p. 11029.

<sup>9084</sup> Albert Saidu, Transcript 4 June 2008, p. 11019; Transcript 5 June 2008, p. 11069.



Monrovia.<sup>9085</sup> Banya told the witness he had made two trips to Liberia with Bockarie and had brought back ammunition, arms and food.<sup>9086</sup>

Prosecution Witness Perry Kamara

4031. Witness Perry Kamara was a high-level radio officer in the RUF in 1998.<sup>9087</sup> Kamara testified that during the Fitti-Fatta mission, Sam Bockarie and Taylor arranged for wounded RUF fighters to be taken to Monrovia for medical care. Bockarie told Denis Mingo (a.k.a. Superman) to take the wounded to Buedu, where they would be loaded onto helicopters to Foya and then would travel on to Monrovia.<sup>9088</sup>

4032. The witness testified that this was not the first time that this happened, but that “any time” they had wounded fighters they would be taken by helicopter to Monrovia. For example, in 2000, when Mingo had a serious accident during the RUF attack on the UN in Makeni, Taylor requested that he be taken by helicopter to Liberia for treatment.<sup>9089</sup>

4033. Kamara also testified that after the RUF entered Kono district in 1998, Bockarie would send messages to those in Kono frequently “emphasising on mining, mining”, saying that they should be sure to hold “fast” on to Kono, because the mining there was crucial for the RUF to obtain arms, ammunition, food and drugs from Taylor.<sup>9090</sup>

4034. Kamara also stated that from May 2000 to disarmament in 2001, Issa Sesay would bring diamonds to Taylor in Liberia for safe keeping. Sesay would call from Liberia and report on what Taylor had donated to the RUF, and would bring back to Sierra Leone documents which catalogued the number of diamonds that Taylor kept, as well as the diesel, petrol, engine oil and food that Taylor would give the RUF.<sup>9091</sup>

<sup>9085</sup> Albert Saidu, Transcript 4 June 2008, pp. 11008-11016.

<sup>9086</sup> Albert Saidu, Transcript 4 June 2008, pp. 11018-11022.

<sup>9087</sup> Perry Kamara, Transcript 5 February 2008, p. 3089 (Kamara was the overall signal commander in Makeni); Transcript 6 February 2008, p. 3200 (Kamara was the most senior radio officer, besides Alfred Brown, at Rosos).

<sup>9088</sup> TF1-360, Transcript 5 February 2008, p. 3171; Transcript 6 February 2008, pp. 3181-3182.

<sup>9089</sup> TF1-360, Transcript 6 February 2008, pp. 3181-3182.

<sup>9090</sup> Perry Kamara, Transcript 5 February 2008, pp. 3135-3136.

<sup>9091</sup> Perry Kamara, Transcript 6 February 2008, pp. 3267-3269.

Prosecution Witness Varmuyan Sherif

4035. Witness Varmuyan Sherif, a former ULIMO-K fighter who became an officer in the SSS,<sup>9092</sup> testified that while the RUF was fighting in Lofa County in 1999, RUF fighters were taken to a hospital in Monrovia. The press and politicians saw Sierra Leonean citizens in the hospital and stated on the radio that this proved that there was no war in Liberia, but that Taylor was sending Liberians to fight the war in Sierra Leone.<sup>9093</sup>

Prosecution Witness Abu Keita

4036. Witness Abu Keita, a former deputy chief of staff and commander of ULIMO-K who later became commander of the Scorpion Unit,<sup>9094</sup> testified that during the recapture of Kono and Makeni in late 1998, he travelled with Bockarie to Foya, where Joe Tuah came in a helicopter to bring Bockarie to Liberia.<sup>9095</sup> Bockarie did not stay long in Liberia, and when he returned to Foya the witness met him there. Bockarie brought with him a Toyota Land Cruiser pick-up, which he said had been given to him by Taylor. The vehicle also contained jeans, t-shirts, medicine and bandages.<sup>9096</sup>

Prosecution Witness Isaac Mongor

4037. Witness Isaac Mongor, an RUF senior commander,<sup>9097</sup> testified that in November 1998 he received a radio message from Sam Bockarie ordering him to travel to Buedu. When Mongor arrived at Bockarie's house in Buedu, Bockarie was happy and said that he had gone to Liberia and received ammunition, food and medicine from the Pa, Taylor. The ammunition "was packed up to the ceiling" in a store room next to Bockarie's bedroom.<sup>9098</sup>

<sup>9092</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 806, 820, 834, 836; Transcript 10 January 2008, pp. 940, 986-987.

<sup>9093</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 898-900.

<sup>9094</sup> Abu Keita, Transcript 22 January 2008, pp. 1953-1954; Transcript 23 January 2008, pp. 1970, 2000; Transcript 24 January 2008, pp. 2110, 2145.

<sup>9095</sup> Abu Keita, Transcript 23 January 2008, p. 2011.

<sup>9096</sup> Abu Keita, Transcript 23 January 2008, pp. 2011-2013.

<sup>9097</sup> See for example: Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March 2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>9098</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5789-5793.

Prosecution Witness TF1-516

4038. Witness TF1-516, an RUF member,<sup>9099</sup> testified that in 1998 after the ECOMOG Intervention Daniel Tamba (a.k.a. Jungle), Dopoe Menkarzon and Joseph Marzah (a.k.a. Zigzag) “started coming back” bringing materials from Foya. Sam Bockarie told “us” that his chief informed him (Bockarie) via radio message that “certain people” were coming. Bockarie sent coded radio messages requesting materials, ammunition. The witness also testified that in 2000, when Issa Sesay was the RUF commander in Buedu, various persons would collect supplies and take them from Liberia to Sierra Leone, including Bockarie, Tamba, Dopoe, Marzah, Denis Mingo (a.k.a. Superman), Roland Duah (a.k.a. Amphibian Father) and Black Liberian Mosquito. Arms, ammunition, petrol, medicine, food and combat fatigues would arrive in Foya in Liberia, and then be taken to Buedu by vehicle. When fighting was taking place in Foya these materials were flown in. The vehicles were sometimes provided by Bockarie and were sometimes from Liberia and driven by Liberian soldiers. When the supplies reached Buedu, Bockarie would sign documents indicating that he had received the shipments. The flow of materials “was frequent”<sup>9100</sup>

4039. TF1-516 also testified that Colonel Sherrif Parker (not Base Marine, who was also called Sherrif Parker) was flown to Monrovia after being wounded and remained in Monrovia for some months. The witness did not specify when this occurred but noted that Parker died in 2001.<sup>9101</sup>

Prosecution Witness TF1-338

4040. Witness TF1-338, an RUF member,<sup>9102</sup> testified that at the end of 2000, Issa Sesay travelled to Monrovia with diamonds to give Taylor. He was received by Benjamin Yeaten and was taken to the guesthouse and, at night, taken to Taylor. When Sesay saw Taylor at the Executive Mansion, Taylor took the diamonds and said he would help them with whatever they needed for the revolution in Sierra Leone, but would hold the diamonds for “safe keeping” until Foday Sankoh returned. Sesay told Taylor that the RUF lacked materials and their enemies were threatening their positions, and so Taylor said that he

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<sup>9099</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>9100</sup> TF1-516, Transcript 8 April 2008, pp. 6953-6959.

<sup>9101</sup> TF1-516, Transcript 14 April 2008, pp. 7423-7424.

<sup>9102</sup> TF1-338, Transcript 1 September 2008, pp. 15085-15086 (PS).



would talk to Yeaten.<sup>9103</sup> After this meeting, Yeaten took Sesay to the Schefflein Camp, where Sesay collected arms, ammunition, boots and uniforms “in large quantities” and took them back to Koidu.<sup>9104</sup> These materials were stored in Sierra Leone, and then used by the RUF against the Kamajors and UNAMSIL as they pushed towards Makeni.<sup>9105</sup>

4041. In early 2001, Sesay travelled again to Monrovia with diamonds for Taylor, and met Taylor at the Executive Mansion at night. Taylor asked him what he had done regarding UNAMSIL, and Sesay replied that he had managed to get the situation under control, but the Kamajors were still a threat. The following day, Sesay boarded a helicopter for Sierra Leone, taking with him arms, ammunition, bags of rice and diesel. The diesel was for use in the Caterpillar which was mining diamonds and for vehicles.<sup>9106</sup>

4042. In March, April or May 2001, Sesay met Yeaten in Foya and travelled with him in an ATU helicopter to Monrovia to meet Taylor at night. Sesay handed diamonds to Taylor at the Executive Mansion and Taylor told Sesay to stop bringing him diamonds because the international community would link him to the RUF. Taylor told Sesay he would try to find someone who would exchange diamonds for money so that Sesay could purchase supplies for the front line in Sierra Leone. The next day Yeaten introduced Sesay to two white men who were diamond dealers from Belgium. Later, Sesay returned to Sierra Leone with diesel, rice, and medicine.<sup>9107</sup>

4043. Later in 2001, Francis Oscar Charles and Issa Sesay travelled with a packet of diamonds to meet Yeaten in Foya, and they all travelled to Monrovia. Sesay met Alpha Bravo at the RUF guesthouse and handed him the diamonds. Alpha Bravo gave Sesay \$USD 300,000, and Sesay divided this amount into two: he gave \$USD 150,000 to Taylor for safe keeping, and took \$USD 150,000 back to Sierra Leone. Sesay returned to Foya with Yeaten and loaded his vehicle with beer, liquor, shoes, clothing and drugs, which he took to Koidu Town. During 2001 Sesay continued to make trips to Monrovia.<sup>9108</sup>

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<sup>9103</sup> TF1-338, Transcript 2 September 2008, pp. 15156-15157, 15161.

<sup>9104</sup> TF1-338, Transcript 2 September 2008, pp. 15161-15164.

<sup>9105</sup> TF1-338, Transcript 2 September 2008, p. 15164.

<sup>9106</sup> TF1-338, Transcript 2 September 2008, pp. 15164-15166.

<sup>9107</sup> TF1-338, Transcript 2 September 2008, pp. 15167-15171.

<sup>9108</sup> TF1-338, Transcript 2 September 2008, pp. 15171-15173.

Prosecution Witness Augustine Mallah

4044. Witness Augustine Mallah, a security officer to Mike Lamin from 1996 to disarmament,<sup>9109</sup> testified that during the time he was in Buedu in 1998, Sam Bockarie used to go to Monrovia and Gbarnga. The witness accompanied Bockarie on a trip to Foya, where a helicopter took Bockarie to Monrovia. Mallah then returned to Buedu. Bockarie told Mallah that he was going to Monrovia to meet with Taylor to get arms, ammunition and medicine. Bockarie did not tell Mallah how he paid for these items, but the bodyguards with whom Bockarie travelled told Mallah that Bockarie traded diamonds for ammunition and US dollars. Bockarie would send people with this money to buy food and clothing at the Guinean border.<sup>9110</sup>

Prosecution Witness Dauda Aruna Fornie

4045. Witness Dauda Aruna Fornie, an RUF radio operator,<sup>9111</sup> testified that when he was assigned as a radio operator in Buedu from early 1998 until April 1999, the radio station at Sam Bockarie's house had many communications with Base 1, the station in Liberia. Bockarie would tell the radio operators in Buedu to contact Benjamin Yeaten through Sunlight in Liberia and say that they needed ammunition. Yeaten would consult with Taylor, and then tell Bockarie to travel to Liberia or send someone there, and Bockarie would send RUF commanders to Liberia to get ammunition and other materials.<sup>9112</sup> Sometimes Benjamin Yeaten would send Daniel Tamba (a.k.a. Jungle) or Joseph Marzah (a.k.a. Zigzag) or a Liberian called Mosquito. Marzah was one of Yeaten's security men who would travel to Sierra Leone with ammunition, fuel, diesel, and sometimes food. Tamba frequently escorted ammunition to Sierra Leone, there were only a few trips where materials were brought that Tamba was not involved in.<sup>9113</sup>

<sup>9109</sup> Augustine Mallah, Transcript 5 12 November 2008, pp. 20092-200923, 20102-20103; Transcript 13 November 2008, pp. 20209-20210.

<sup>9110</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20209-20212.

<sup>9111</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21395; Transcript 2 December 2008, p. 21418.

<sup>9112</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21488-21492.

<sup>9113</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21491-21492.



Prosecution Witness TF1-371

4046. Witness TF1-371, an RUF member,<sup>9114</sup> testified that in 1998, Sam Bockarie made a series of trips to Monrovia to take diamonds to Taylor. On his second trip to Monrovia the witness saw diamonds brought by CO Med, the RUF mining commander to Bockarie. Bockarie gave these diamonds of various sizes to Taylor. Bockarie called on the radio to Issa Sesay in Sierra Leone saying that he had arrived and was with Benjamin Yeaten, and spent approximately one week in Monrovia. When he returned to Buedu, he was accompanied by Joseph Marzah (a.k.a. Zigzag) and "Sampson", two members of Taylor's security detail, who brought 15-20 boxes of AK47 ammunition, a few RPG bombs, salt, Maggi, rice, and cigarettes.<sup>9115</sup>

Prosecution Witness Mohamed Kabbah

4047. Witness Mohamed Kabbah, an RUF radio operator,<sup>9116</sup> testified that when he was assigned as a radio operator in Buedu from early 1998 until late 1999,<sup>9117</sup> Sam Bockarie made frequent trips to Monrovia, "he was welcome there" and did not need a passport.<sup>9118</sup> When the RUF needed ammunition, Bockarie would give the radio operators a message, and they would communicate with Sunlight in Liberia in order to tell this to Taylor. Bockarie would go to Monrovia and return to Sierra Leone with ammunition, food, used clothing and other items. In one instance, Bockarie brought diamonds from Kono to Monrovia, and returned with a large ten tyre truck filled with ammunition, "rubbers", wine, rice, Maggi, salt and other condiments. Jungle too used to bring ammunition. At times if Bockarie did not go to Liberia Jungle would come.<sup>9119</sup>

Prosecution Witness TF1-585

4048. Witness TF1-585, an RUF radio operator,<sup>9120</sup> testified that while she was stationed in Buedu, there was frequent communication between the radios in Buedu and Base 1 in

<sup>9114</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>9115</sup> TF1-371, Transcript 28 January 2008, pp. 2375-2380 (CS).

<sup>9116</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>9117</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16126; Transcript 17 September 2008, p. 16413 (witness moved to Buedu approximately three weeks after killings in Kailahun that he states occurred in February or March 1998, and left in late 1999).

<sup>9118</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16136-16137.

<sup>9119</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16138-16140.

<sup>9120</sup> TF1-585, Transcript 5 September 2008, pp. 15589-15592 (PS).

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Monrovia.<sup>9121</sup> This communication occurred during 1998 and later. If something was important Benjamin Yeaten would speak to Sam Bockarie on Bockarie's satellite phone. After these conversations, the witness would hear Bockarie speak openly to other officers about what was discussed, mainly Bockarie's trips to Monrovia, or Daniel Tamba's (a.k.a. Jungle) trips to Buedu. Bockarie was not a man who kept secrets.<sup>9122</sup>

4049. Tamba would bring supplies such as arms, ammunition, food, clothing, shoes and many things to Buedu any time the RUF was in need.<sup>9123</sup> Materials were stored in two warehouses, one of which was next to Bockarie's house. Tamba's driver, "Alpha Jalloh", told the witness that they would pick up the supplies from White Flower, Taylor's home in Monrovia, at night and bring them to Yeaten's house. They then loaded them onto a truck for Buedu and would return to Sierra Leone at night.<sup>9124</sup>

Prosecution Witness TF1-567

4050. Witness TF1-567, an RUF member,<sup>9125</sup> testified that at the time he was based in Balahun, from February 1998 to September 1998, he would travel to Buedu frequently. The witness was told that Daniel Tamba (a.k.a. Jungle) and Sampson would come to Buedu with arms, ammunition, food and other supplies. Tamba and others said that it was Taylor who would provide these arms and ammunition.<sup>9126</sup>

4051. TF1-567 also testified that "while [he was] in Monrovia",<sup>9127</sup> he would buy medicine and send it to Sierra Leone. In order to get rice to send to Sierra Leone, Benjamin Yeaten would give him instructions from Taylor to go to "Freeport K&K", where a Lebanese man

<sup>9121</sup> TF1-585, Transcript 8 September 2008, pp. 15650-15651.

<sup>9122</sup> TF1-585, Transcript 8 September 2008, pp. 15651-15653.

<sup>9123</sup> TF1-585, Transcript 8 September 2008, pp. 15650-15654.

<sup>9124</sup> TF1-585, Transcript 8 September 2008, pp. 15657-15663.

<sup>9125</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS); Transcript 4 July 2008, pp. 12986-12988 (PS).

<sup>9126</sup> TF1-567, Transcript 2 July 2008, pp. 12905-12906.

<sup>9127</sup> TF1-567, Transcript 2 July 2008, pp. 12893-12895 (witness was in Balahun from Operation Pay Yourself until September 1998). The witness only stated that this occurred "while he was in Monrovia", and did not specify to what years he was referring, but his testimony indicates that he was assigned to work at the RUF guesthouse from 1999-2001, for Eddie Kanneh in 2001, and then for Benjamin Yeaten until 2003, all in Monrovia. TF1-567, Transcript 4 July 2008, pp. 12988-12990, 13003-13004 (PS); Transcript 8 July 2008, pp. 13175-13176.





named K&K owned a store where he would collect the rice. Taylor would buy the rice that he sent to Sierra Leone.<sup>9128</sup>

Prosecution Witness Jabaty Jaward

4052. Witness Jabaty Jaward was a store keeper for the RUF between early 1998 and late 1999.<sup>9129</sup> He testified that while he was in Buedu in mid-1998, Sam Bockarie travelled to Liberia and said he was going to see “the old man”, whom the witness testified was Taylor. When he returned, Bockarie told the witness that they should be expecting supplies to arrive, and Bockarie’s bodyguard “Foday”, told the witness that they went to Monrovia to see Taylor. They then received a large consignment of food, fuel, gasoline, engine oil and other supplies the soldiers needed.<sup>9130</sup>

The Accused

4053. The Accused testified that “during the very tough period” he permitted RUF members who were injured to get treatment in Liberia, but stated that this was humanitarian assistance and there was nothing wrong with him doing so.<sup>9131</sup>

4054. The Accused denied that he provided the RUF with food, and more specifically with rice. He contended that Foday Sankoh bought rice when he came to Liberia, and Bockarie “did a lot of shopping” and would also buy things such as food, clothes, shoes and medicine in Liberia and carry them to Sierra Leone. Further, he stated that in the time that he was mediating the conflict on behalf of ECOWAS it would have been within his rights to provide the RUF with rice, and that would have been a good thing to do.<sup>9132</sup> Finally, the Accused conceded that two drums of fuel may have passed from Liberia to Sierra Leone during Issa Sesay’s regime, but insisted that the RUF bought this fuel, and that it was only for use in hospitals.<sup>9133</sup>

4055. The Accused also denied that, as Abu Keita testified, he provided Bockarie with a Toyota Land Cruiser that contained clothes and medicine. Taylor noted that the witness

<sup>9128</sup> TF1-567, Transcript 8 July 2008, pp. 13175-13176.

<sup>9129</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13306, 13332; Transcript 10 July 2008, p. 13383.

<sup>9130</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13412-13415.

<sup>9131</sup> Charles Ghankay Taylor, Transcript 16 September 2009, p. 29013.

<sup>9132</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29012-29014.

<sup>9133</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29041-29043.







testified the incident happened just before Christmas, but Bockarie was not in Liberia at any time before Christmas, except when he passed through in early December.<sup>9134</sup>

#### Defence Witness Issa Sesay

4056. Witness Issa Sesay, a senior RUF commander,<sup>9135</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>9136</sup> testified that Daniel Tamba (a.k.a. Jungle) moved to Côte d'Ivoire in 1996, and stayed there until 1998. He then left the RUF with Bockarie in 1999. In approximately 1998, Tamba was used as a buying officer for the RUF, and would travel to Liberia to buy whatever they needed, such as petroleum, food, medicine and other supplies.<sup>9137</sup> Bockarie would send Tamba to Monrovia to buy medicine and provisions from Lebanese businessmen named "Mohammed" and "Fayard". Tamba was a runner for Bockarie and not for Taylor, so he did not run between Bockarie and Taylor.<sup>9138</sup>

4057. Sesay also testified that the money that was looted from the bank in Koidu town in April 1998 was used to buy ammunition from ULIMO, and also food and medicine for RUF combatants.<sup>9139</sup>

#### Deliberations

4058. The Prosecution alleges that the Accused contributed to the RUF and the war in Sierra Leone by providing medical and other assistance to the RUF during the Indictment period.<sup>9140</sup> The Defence concedes that the Accused gave some support to the RUF for humanitarian reasons, but contends that most support was procured by the RUF through legal means, on the open market in Liberia.<sup>9141</sup>

4059. The Trial Chamber notes that the evidence includes references to deliveries of arms to the RUF and diamonds to the Accused. These aspects of the evidence are addressed

<sup>9134</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29398-29401.

<sup>9135</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>9136</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>9137</sup> Issa Sesay, Transcript 27 August 2010, pp. 47388-47391.

<sup>9138</sup> Issa Sesay, Transcript 6 July 2010, pp. 43803-43805; Transcript 29 July 2010, pp. 45072-45074 (PS); Transcript 4 August 2010, p. 45405.

<sup>9139</sup> Issa Sesay, Transcript 29 July 2010, pp. 45026-45027 (PS).

<sup>9140</sup> Prosecution Final Trial Brief, paras 338-340.

<sup>9141</sup> Defence Final Trial Brief, paras 1168, 1175-1179, 1181-1182, 1186.

elsewhere in the context of the Trial Chamber's consideration of arms and diamond deliveries.<sup>9142</sup>

4060. The Prosecution has presented a considerable amount of evidence that the Accused provided the RUF with various goods and services that benefited the RUF war effort. Concerning the provision of medical care, the Accused does not necessarily deny that he did so, stating that during "the very rough period", he permitted RUF injured fighters to get treatment in Liberia.<sup>9143</sup> The Accused does not, however, specify in which periods in the conflict he provided this care.

4061. Perry Kamara testified that "any time" there were wounded fighters, including during the Fitti-Fatta mission, Taylor arranged for them to be taken to Monrovia for medical care.<sup>9144</sup> When asked by the Prosecution how he knew that RUF fighters were treated in Monrovia, Kamara gave the example of Denis Mingo being taken by helicopter for treatment from Makeni in 2000.<sup>9145</sup> Moreover, his testimony is corroborated in general terms by the evidence of Varmuyan Sherif, who testified that Taylor provided medical treatment for RUF fighters when the RUF was engaged in combat in Lofa County. Sherif stated that the press and politicians noted on the radio that Sierra Leonean fighters were treated in Liberian hospitals, although no further evidence has been adduced by the Prosecution relating to this claim. The Trial Chamber recalls its findings that both Kamara and Sherif are generally credible witnesses.<sup>9146</sup>

4062. Although the evidence of the two Prosecution witnesses is not very specific, the Trial Chamber notes that the Accused has conceded to providing some medical treatment for RUF fighters. In light of the evidence, the Trial Chamber finds that the Accused provided medical treatment to RUF fighters at some point in the Indictment period. It is not clear, however, how continuous or substantial the provision of medical care was throughout the Indictment period.

<sup>9142</sup> Arms and Ammunition; Diamonds.

<sup>9143</sup> Charles Ghankay Taylor, Transcript 16 September 2009, p. 29013.

<sup>9144</sup> TF1-360, Transcript 5 February 2008, p. 3171; Transcript 6 February 2008, pp. 3181-3182.

<sup>9145</sup> TF1-360, Transcript 6 February 2008, pp. 3181-3182.

<sup>9146</sup> Credibility Assessment, Perry Kamara, paras 227-236; Credibility Assessment, Varmuyan Sherif, Arms and Ammunition, para. 5324.

4063. Several Prosecution Witnesses testified to the Accused's involvement in providing goods such as food, clothing, cigarettes, alcohol and other supplies to the RUF. Prosecution Witnesses TF1-338 and TF1-567 testified to having first-hand knowledge of the Accused providing these supplies, TF1-338 when the Accused told Sesay that he would talk to Yeaten regarding the RUF's lack of materials and when Yeaten then provided these materials for Sesay in "large quantities".<sup>9147</sup> TF1-567 stated that when he lived in Liberia he would buy rice on behalf of the Accused and send it to the RUF in Sierra Leone.<sup>9148</sup>

4064. Eight Prosecution Witnesses testified to hearing that the Accused provided supplies to the RUF. Perry Kamara, Abu Keita, Isaac Mongor, Augustine Mallah and Jabaty Jaward heard directly from Bockarie that the Accused gave supplies to the RUF.<sup>9149</sup> Witness TF1-567 heard from Daniel Tamba (a.k.a. Jungle) and others that the Accused provided supplies for the RUF.<sup>9150</sup> Albert Saidu stated that "everyone knew" that Tamba brought supplies to the RUF.<sup>9151</sup> Saidu also delivered a letter concerning the RUF's shortage of materials to Tamba, at which point Tamba said he would meet with the Accused. Three days later, supplies arrived in Sierra Leone.<sup>9152</sup> Finally, Witness TF1-585 heard from Tamba's driver who accompanied Tamba to Liberia that he received supplies from White Flower, the Accused's home in Monrovia, and then loaded the supplies onto trucks that travelled to Sierra Leone.<sup>9153</sup>

4065. The Defence concedes that the Accused may have provided a limited amount of supplies for humanitarian reasons.<sup>9154</sup> The Defence also contends, however, that the majority of the Prosecution's evidence is given by individuals who assume that assistance came from the Accused because it arrived from Liberia. There is some Prosecution evidence which falls into this category. Prosecution Witnesses TF1-516, TF1-338, TF1-371, Mohamed

<sup>9147</sup> TF1-338, Transcript 2 September 2008, pp. 15156-15157, 15161-15164.

<sup>9148</sup> TF1-567, Transcript 4 July 2008, pp. 12988-12990, 12893-12895, 13003-13004 (PS); Transcript 8 July 2008, pp. 13175-13176.

<sup>9149</sup> Perry Kamara, Transcript 5 February 2008, pp. 3135-3136; Transcript 6 February 2008, pp. 3267-3269; Abu Keita, Transcript 23 January 2008, pp. 2011-2013; Isaac Mongor, Transcript 11 March 2008, pp. 5789-5793; Augustine Mallah, Transcript 13 November 2008, pp. 20209-20212; Jabaty Jaward, Transcript 10 July 2008, pp. 13412-13415.

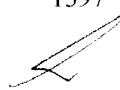
<sup>9150</sup> TF1-567, Transcript 2 July 2008, pp. 12905-12906.

<sup>9151</sup> Albert Saidu, Transcript 4 June 2008, pp. 110273-11029; Transcript 5 June 2008, pp. 11046-11051.

<sup>9152</sup> Albert Saidu, Transcript 4 June 2008, pp. 11023-11029.

<sup>9153</sup> TF1-585, Transcript 8 September 2008, pp. 15657-15663.

<sup>9154</sup> Defence Final Trial Brief, paras 1177, 1181, 1186. See *also* Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29012-29014 (stating that at the time Taylor was mediating the conflict on behalf of





Kabbah, and Albert Saidu all testified that RUF members came from Liberia with supplies, but offered no evidence that these supplies were provided by the Accused.<sup>9155</sup> The Accused testified that Sankoh and Bockarie would buy these supplies when they came to Liberia.<sup>9156</sup> Defence Witnesses Issa Sesay confirmed that Tamba bought supplies in Liberia to bring back to Sierra Leone, and claimed that these transactions had no connection to the Accused.<sup>9157</sup> TF1-338 testified that after the Accused asked Sesay to stop bringing him diamonds because of international pressure, he found Belgian men who would trade diamonds for cash, and Sesay bought supplies with these funds.<sup>9158</sup> In addition, Augustine Mallah testified that Bockarie's bodyguards told him that Bockarie would trade diamonds for cash in Liberia, and buy supplies with this cash.<sup>9159</sup> This supports the Defence contention that RUF members bought supplies with cash.

4066. The Trial Chamber notes, however, the substantial evidence that the Accused himself provided supplies to the RUF, and is of the view that the Accused's provision of supplies did not preclude others from also buying supplies on the open market in Liberia. For this reason, the Trial Chamber does not consider the evidence of independent cash transactions not attributed to the Accused inconsistent with the evidence of transactions in which the Accused was involved. These are not alleged to be the same transactions. Having considered all the evidence, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused provided supplies to the RUF during the Indictment period, although the evidence is insufficient to enable the Trial Chamber to judge the quantity of supplies provided.

### Findings

4067. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused provided medical care to RUF/AFRC members. However, it is not clear

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ECOWAS, it would have been proper for him to provide the RUF with rice).

<sup>9155</sup> TF1-516, Transcript 8 April 2008, pp. 6957-6959; TF1-338, Transcript 2 September 2008, pp. 15164-15166; TF1-371, Transcript 28 January 2008, pp. 2375-2380 (CS); Mohamed Kabbah, Transcript 12 September 2008, pp. 16138-16140.

<sup>9156</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29012-29014.

<sup>9157</sup> Issa Sesay, Transcript 6 July 2010, pp. 43803-43805; Transcript 29 July 2010, pp. 45072-45074 (PS); Transcript 4 August 2010, p. 45405; Transcript 27 August 2010, pp. 47388-47391.

<sup>9158</sup> TF1-338, Transcript 2 September 2008, pp. 15167-15171.

<sup>9159</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20209-20212.

how continuous or substantial the provision of medical care was throughout the Indictment period. The Prosecution has also proved beyond reasonable doubt that the Accused provided medicine, food, clothing, cigarettes, alcohol and other supplies to the RUF during the indictment period. However, the evidence is insufficient to enable the Trial Chamber to judge the quantity of supplies provided. Moreover, other supplies for the RUF came from Liberia through other channels unrelated to the Accused.

(d) Alleged Provision of Herbalists

Submissions of the Parties

4068. The Prosecution alleges that the Accused sent herbalists who put “protection marks” on fighters in order to bolster their courage for the mission to recapture Kono, also called Operation Fitti-Fatta.<sup>9160</sup>

4069. The Defence concedes that there is evidence that herbalists came from Liberia to prepare fighters for the Fitti-Fatta mission.<sup>9161</sup> However, it characterises the inculpatory accounts of the Accused’s involvement as entirely hearsay and highlights evidence that the RUF used herbalists and juju men before the Accused allegedly sent the herbalists from Liberia which, the Defence submits, means that there would have been no need for the Accused’s involvement.<sup>9162</sup> The Defence also cites evidence from the Accused that he did not believe in juju in any event.<sup>9163</sup>

Evidence

Prosecution Witness Alice Pyne

4070. Witness Alice Pyne, an RUF radio operator,<sup>9164</sup> testified that she encountered herbalists in the zoebush in Buedu, when she was there with Superman for the meeting at which the Fitti-Fatta mission was planned.<sup>9165</sup> Pyne testified that when she arrived in Buedu Sebato, Sam Bockarie’s radio operator, came and told her that Bockarie was going to Foya

<sup>9160</sup> Prosecution Final Trial Brief, paras 157, 254, 283, 306.

<sup>9161</sup> Defence Final Trial Brief, para. 924.

<sup>9162</sup> Defence Final Trial Brief, paras 1193-1194.

<sup>9163</sup> Defence Final Trial Brief, para. 1194.

<sup>9164</sup> Alice Pyne, Transcript 17 June 2008, p. 12074.

<sup>9165</sup> Alice Pyne, Transcript 19 June 2008, pp. 12233-12234, 12236, 12239-12240.

in Liberia. Following this, the witness saw Bockarie and his bodyguards leave in their vehicles from her house, which was not far from Bockarie's. Later the same afternoon, Bockarie returned.<sup>9166</sup>

4071. Bockarie took Pyne, Superman and other RUF fighters into the zoebush outside Buedu where there were up to seven herbalists leading other herbalists and juju men. They used juju practice and marked the RUF fighters to make them bulletproof at the "war front"<sup>9167</sup> so bullets would not pierce their bodies.<sup>9168</sup> Pyne testified that she also saw Colonel Jungle in the zoebush at this time.<sup>9169</sup> Pyne explained that she knew the herbalists were from Liberia, both from the language they spoke and because that was what Bockarie told Superman when he was handing the herbalists over to him. Pyne also testified that an elderly Gbandi woman had told her that the herbalists' boss was a Loma tribesman and they had been sent to Bockarie by Taylor to help protect the RUF fighters, particularly those who would go to recapture Koidu Town from ECOMOG.<sup>9170</sup> Bockarie told Superman that these people were "his strangers" and Superman should take them to his base so that other commanders from Yomandu, Gandohun, Tombudu and Tefeya in Kono could bring their men to be marked in preparation for the Fitti-Fatta mission. They then travelled back to Kono together with the herbalists. Pyne stayed in Buedu for three days and thereafter, about 200-300 people including herself, Superman, armed men and the herbalists travelled to Superman Ground. They brought arms and ammunitions to Superman Ground.<sup>9171</sup>

4072. The next morning, as instructed by Superman, Pyne sent a radio coded message to Komba, Bai Bureh, Rambo and Rocky CO requesting them to send manpower that was supposed to participate in the Fitti-Fatta operation to go to Superman Ground and have their bodies marked by the herbalists.<sup>9172</sup> Pyne estimated that 500 men arrived at Superman Ground and the next morning, the herbalists created a special place with a circle in which the fighters could enter and have their bodies marked. Pyne spoke Gbandi and for that reason, she interpreted as the herbalists were marking the fighters.<sup>9173</sup> Pyne stated that the

<sup>9166</sup> Alice Pyne, Transcript 19 June 2008, pp. 12236-12237.

<sup>9167</sup> Alice Pyne, Transcript 19 June 2008, pp. 12236-12238.

<sup>9168</sup> Alice Pyne, Transcript 19 June 2008, p. 12237.

<sup>9169</sup> Alice Pyne, Transcript 19 June 2008, pp. 12236, 12310-12313.

<sup>9170</sup> Alice Pyne, Transcript 19 April 2008, p. 12238.

<sup>9171</sup> Alice Pyne, Transcript 19 June 2008, p. 12240.

<sup>9172</sup> Alice Pyne, Transcript 19 June 2008, pp. 12241-12242.

<sup>9173</sup> Alice Pyne, Transcript 19 June 2008, pp. 12242-12243.

herbalists used a blade to put 168 markings on each of their bodies and imposed “laws” forbidding sex, bathing and eating slimy food for seven days.<sup>9174</sup> After they completed the markings, Komba and Bai Bureh returned to their locations with their men.

Prosecution Witness Perry Kamara

4073. Witness Perry Kamara, an RUF radio operator,<sup>9175</sup> testified that around April or May 1998 at the commanders’ meeting in Buedu at which Bockarie ordered the Fitti-Fatta attack, Bockarie introduced one herbalist saying that he had been sent by the Accused. Kamara said that the herbalist was meant to “inspire” them so that they would have no fear about attacking Kono and “the various areas [Kamara had] named”.<sup>9176</sup> Bockarie said that Taylor had told him that herbalists had been helping him in Liberia so he was sending them to Sierra Leone to come and work for the rebels there. The herbalist carved and rubbed ‘concoctions’ on the bodies of the fighters, including the witness, so that they would not fear guns. Kamara was marked by piercing with a razor blade 21 times on his left and right arms and 21 times on each side of his back, then “something black” was rubbed in. If anyone refused to be carved, Bockarie ordered them to be killed. Kamara explained that those who were in Buedu were dealt with there and that “they” (the herbalists) were then sent to Superman Ground in Kono where fighters there were carved, and more fighters were then called in turn from their bases to be marked: “nobody escaped the markings”.<sup>9177</sup> Kamara testified that the reason so many of the fighters died or were wounded during Fitti-Fatta was “because they met the man Sam Bockarie said Taylor sent” and they believed that the medicines would work the way the herbalists told them they would.<sup>9178</sup>

Prosecution Witness TF1-375

4074. Witness TF1-375, an RUF fighter,<sup>9179</sup> testified that about three weeks after they retreated from Koidu Town, Sam Bockarie contacted Superman via radio to advise that he

<sup>9174</sup> Alice Pyne, Transcript 19 June 2008, p. 12244. Witness stated that a total of 168 markings were made on her body.

<sup>9175</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>9176</sup> It was Kamara’s testimony that the Accused and Bockarie planned attacks on not only Kono but also the entire campaign to Freetown at this meeting. See Military Operations: Operation Fitti-Fatta. Kamara also testified that “we received plenty ammunition, food, drugs” and “morale boosters”, drink for the fighters, Perry Kamara, Transcript 5 February 2008, p. 3169.

<sup>9177</sup> Perry Kamara, Transcript 5 February 2008, pp. 3160-3161, 3164-3166.

<sup>9178</sup> Perry Kamara, Transcript 5 February 2008, p. 3171.

<sup>9179</sup> TF1-375, Transcript 23 June 2008, p. 12485.

was sending “guests” from Liberia. Superman sent people to receive them at the Moa River, and they returned accompanied by up to eight Liberians. The men had Liberian accents and brought arms and ammunition, as well as two medicine men who marked the fighters to protect them. At an open forum for senior officers the Liberians told Superman and the officers that they wanted the officers to retake Kono. Superman forced all the fighters to “take the mark”, despite the witness not believing “in that”. The medicine men told the fighters that they had done the same to fighters during “the NPFL time under Taylor”. The herbalist made “a total of 168 marks” on the back, arms and chest of the witness by piercing with “one razor blade”. More than 200 – 300 fighters were marked in this way.<sup>9180</sup> TF1-375 testified that one of the Liberians was an SSS officer named Osebo Demy (a.k.a. 59), whom he came to know subsequently in Liberia as one of Yeaten’s subordinates in the SSS.<sup>9181</sup>

4075. After the markings, the fighters were ordered to re-attack Kono and, among the RUF, the witness had never seen such numbers die.<sup>9182</sup>

#### Prosecution Witness Samuel Kargbo

4076. Witness Samuel Kargbo, an AFRC Supreme Council member,<sup>9183</sup> testified that while in Buedu<sup>9184</sup> he underwent marking by Liberian<sup>9185</sup> priests, (also referred to as herbalists<sup>9186</sup>) called Zopopeh in Liberian dialect, for the purpose of warding off bullets. The Zopopeh then went to do the same to fighters in Kono. Kargbo told the court that Bockarie left one evening to travel towards the Liberian border area and returned with the men the following evening, “within 48 hours”. Kargbo was marked on his shoulders, both sides of his chest and the back by cutting with a razor blade, then a medicine, “a black thing”, was rubbed into the cuts. The Zopopeh also imposed “laws” on those marked that they must not have sex or eat certain

<sup>9180</sup> TF1-375, Transcript 23 June 2008, pp. 12523-12529.

<sup>9181</sup> TF1-375, Transcript 23 June 2008, pp. 12527-12530.

<sup>9182</sup> TF1-375, Transcript 23 June 2008, p. 12527.

<sup>9183</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10439, 10448, 10450; Exhibit P-58, “Excerpts from the Sierra Leone Gazette No. 52, 4 September 1997 – 00007703-00007704”, ERN 7703-7704.

<sup>9184</sup> The Trial Chamber considers from Kargbo’s testimony that this occurred some weeks after the dispute with Koroma over diamonds and that he was therefore referring to the marking ceremonies prior to Fitti-Fatta. See Sam Kargbo, Transcript 22 May 2008, p. 10558, where the witness explained that this happened some weeks “after they had taken our diamonds from us”.

<sup>9185</sup> The witness stated that the men were speaking with Liberian dialects but that he did not “get too much conversation with them”.

<sup>9186</sup> Sam Kargbo, Transcript 3 June 2008, pp. 10819-10820.



foods for seven days.<sup>9187</sup> He testified that after the herbalists had performed their rites, bullets were fired at the fighters but did not touch them and the weapon was damaged.<sup>9188</sup> The herbalists then went to Kono and did the same there.<sup>9189</sup>

#### Prosecution Witness Komba Sumana

4077. Witness Komba Sumana, a former RUF child soldier,<sup>9190</sup> testified to seeing a traditional priest, otherwise called a medicine man or juju man, called Pa Demba, a member of the RUF, in Magburaka during the infighting between Issa Sesay and Superman after the Freetown Invasion. Demba had been brought to mediate between Superman and Sesay and “they came together again”.<sup>9191</sup> He had also seen a medicine man previously in Kono. The men used to mark people by making cuts on their upper arms, chests and backs to protect them against bullets. Sumana refused to undergo the cutting because he saw blood oozing on those who had been cut and was afraid.<sup>9192</sup>

#### Prosecution Witness Alimamy Bobson Sesay

4078. Witness Alimamy Bobson Sesay testified that during an attack on a village in Koinadugu District in June or July or July to August 1998, they captured a juju man called Tamba Sewa who promised to help the troops by making charms that “will disable the enemy from attacking us” if Gullit did not kill him. He prepared charms for the troops to wrap around their arms.<sup>9193</sup>

#### The Accused

4079. The Accused denied sending herbalists “any place to go and do anything”. He testified that he did not believe in juju, nor was he exploiting existing superstitions in Sierra Leone by sending herbalists to protect fighters. If he had, he stated, he would have used herbalists on his own men during the NPFL days, which he did not. He confirmed that, to his knowledge, the Gbandis, Kissis, Lomas, Mendes and Temnes were superstitious and

<sup>9187</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10557-10561; Transcript 3 June 2008, p. 10820.

<sup>9188</sup> Sam Kargbo, Transcript 22 May 2008, p. 10561; Transcript 3 June 2008, pp. 10819-10820.

<sup>9189</sup> Sam Kargbo, Transcript 22 May 2008, p. 10561.

<sup>9190</sup> Komba Sumana, Transcript 6 October 2008, p. 17192.

<sup>9191</sup> Komba Sumana, Transcript 6 October 2008, p. 17981.

<sup>9192</sup> Komba Sumana, Transcript 6 October 2008, pp. 17981-17983.

<sup>9193</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8075-8076.

used herbalists, suggesting that someone may have brought someone. Furthermore, he expressed doubt regarding Alice Pyne's testimony on the basis that women were not typically allowed to attend ceremonies in the zoebush.<sup>9194</sup>

Defence Witness John Vincent

4080. Witness John Vincent, an RUF member,<sup>9195</sup> testified that he was based in Kono at the time Superman led an unsuccessful attack there.<sup>9196</sup> When Alice Pyne's testimony was put to Vincent, he confirmed that the RUF used herbalists at times during the conflict, but he said he had never heard of Taylor sending herbalists to the RUF to protect their fighters. He could not, however, speak of the particular group of herbalists from Liberia described by Pyne, except to say that he did not know about them and had not heard about them.<sup>9197</sup> On cross-examination, the witness described the testimonies of Alice Pyne, Perry Kamara, Komba Sumana and Charles Ngebeh about Liberian herbalists and/or juju men marking fighters before the attack on Kono as "lies" and stated that he did not see a medicine man or a juju man sent by Taylor.<sup>9198</sup>

Defence Witness Issa Sesay

4081. Witness Issa Sesay, a senior RUF commander,<sup>9199</sup> denied that Taylor sent herbalists to Sierra Leone before the Fitti-Fatta mission. The herbalists (two men and a woman) who marked the fighters' bodies and rubbed in a "poultice" for the Fitti-Fatta mission came to Buedu at Sam Bockarie's request with a Liberian ULIMO man from Loma named Titus, a friend of Bockarie's and a relation of Augustine Mulbah, one of the vanguards. When they had protected the people in Buedu, Bockarie sent them with Superman to go to the attack in

<sup>9194</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29027-29028; Transcript 30 September 2009, pp. 29979, 29982-29984.

<sup>9195</sup> John Vincent, Transcript 26 March 2010, pp. 38107, 38114-38116, 38118, 38137, 38145; 30 March 2010, pp. 38226, 38239; 31 March 2010, p. 38390, 38408, 38460, 38461.

<sup>9196</sup> John Vincent, Transcript 31 March 2010, p. 38383. Although the witness testified that, since Fitti-Fatta meant "we would have taken...got everything at our disposal" he did think this was the "Fitti-Fatta" mission, the Trial Chamber is satisfied that the event he describes, an unsuccessful attack on Kono in 1998 before Superman moved to Kabala, is the same event that other witnesses have described as "Fitti-Fatta".

<sup>9197</sup> John Vincent, Transcript 30 March 2010, pp. 38227-38231; Transcript 31 March 2010, pp. 38340-38346.

<sup>9198</sup> John Vincent, Transcript 31 March 2010, pp. 38340-38346. The Trial Chamber notes, however, that the witness also testified that by 'lies' he meant "I don't know about it". John Vincent, Transcript 31 March 2010, pp. 38340, 38346. The Trial Chamber notes that Vincent became agitated and vehement during this part of his testimony.

<sup>9199</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

Kono.<sup>9200</sup> Sesay acknowledged that the RUF had never experienced the “kind” of casualties that they suffered in the Fitti-Fatta mission but attributed this to the fact that there was not sufficient ammunition for the attack, it was not organised properly.<sup>9201</sup>

#### Defence Witness Charles Ngebeh

4082. Witness Charles Ngebeh, an RUF armourer,<sup>9202</sup> testified that in the initial stages of the war, for example in Baiima, Kailahun in 1991, family members used to protect fighters against bullets by marking the body or embalming or “smoking”. Furthermore, he stated that in 1998, another group was brought by Sam Bockarie “from Liberia, from the ULIMO side” to protect the troops against bullets. They marked the witness on his chest, arms and back using a razor blade, making many marks. Ngebeh called this process “embalming”. The witness explained that some fighters believed in the protection, although he personally did not. Moreover, he said he saw bullets fired at those who had been “embalmed” but they were not protected.<sup>9203</sup>

#### Deliberations

4083. It is undisputed by the parties<sup>9204</sup> that in preparation for the Fitti-Fatta mission in mid-1998, ‘herbalists’ marked fighters in Buedu and then Kono in order to ‘protect’ them against bullets, to which most of the Prosecution and Defence witnesses cited above testified. Although Witnesses Komba Sumana and Charles Ngebeh testified to the presence of herbalists in 1998, the Trial Chamber did not find their testimonies detailed enough to determine conclusively that they were referring to the herbalists sent before the Fitti-Fatta mission. Although Defence Witness John Vincent testified that the RUF used herbalists at times during the conflict, he said he had not heard about the particular group of herbalists from Liberia who came to mark the fighters prior to Fitti-Fatta.<sup>9205</sup> On cross-examination, Vincent described the testimony of the Prosecution witnesses about these herbalists as “lies”,<sup>9206</sup> but the Trial Chamber notes that his evidence is contradicted by the testimony of

<sup>9200</sup> Issa Sesay, Transcript 8 July 2010, pp. 44065-44067; Transcript 11 August 2010, p. 46059; Transcript 12 August 2010, pp. 46118-46120.

<sup>9201</sup> Issa Sesay, Transcript 8 July 2010, pp. 44065-44067.

<sup>9202</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37847.

<sup>9203</sup> Charles Ngebeh, Transcript 22 March 2010, pp. 37766-37770.

<sup>9204</sup> Prosecution Final Trial Brief, paras 157, 254, 283, 306; Defence Final Trial Brief, para. 924.

<sup>9205</sup> John Vincent, Transcript 30 March 2010, p. 38231.

<sup>9206</sup> John Vincent, Transcript 31 March 2010, pp. 38340-38346.

Defence Witness Issa Sesay who testified that herbalists came from Liberia to mark the Fitti-Fatta fighters.<sup>9207</sup> The Trial Chamber considers that Vincent's demeanour while giving this evidence undermined his credibility on that issue. Moreover, the Trial Chamber recalls its finding that the testimony of John Vincent must be treated with caution and corroborated.<sup>9208</sup> The Trial Chamber finds that the herbalists came from Liberia and marked the fighters to protect them in Operation Fitti-Fatta. At issue is what, if any, involvement the Accused had in the provision of these herbalists.

4084. The Defence highlights the predominance of hearsay evidence supporting the Prosecution's allegation that the herbalists were sent by the Accused. The Trial Chamber recognises that the evidence relied on by the Prosecution is hearsay but considers that this is explicable by the fact that the witnesses who testified were members of the RUF/AFRC present in Buedu and/or Kono when the herbalists arrived. They would not conceivably have been present when the Accused would allegedly have made the requisite arrangements. The Trial Chamber considers the lack of direct evidence to be a natural consequence of these circumstances and does not preclude a finding on the basis of hearsay evidence that is substantially corroborated. The Trial Chamber places weight on the fact that each of the witnesses who testified was told about the Accused's involvement from different sources.

4085. Two witnesses relied on by the Prosecution, Alice Pyne and Perry Kamara, testified that they had heard from Sam Bockarie (in Kamara's case) or from a Liberian woman who accompanied the herbalists (in Pyne's case) that herbalist(s) used in Buedu and Superman Ground in Kono had been sent by the Accused. The Trial Chamber recalls its findings that Perry Kamara<sup>9209</sup> and Alice Pyne<sup>9210</sup> are generally credible witnesses. Prosecution Witnesses Samuel Kargbo and TF1-375 did not confirm or deny any association of the Accused with the herbalists, although aspects of their testimony corroborate the testimony of the other Prosecution witnesses on the time, place, and procedures adopted by the herbalists. TF1-375 testified that the herbalists said that they had done the same during "the NPFL time under

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<sup>9207</sup> Issa Sesay, Transcript 8 July 2010, pp. 44065-44067; Transcript 11 August 2010, p. 46059; Transcript 12 August 2010, pp. 46118-46120.

<sup>9208</sup> Credibility Assessment, John Vincent, Provision of Military Personnel, paras 4463-4464.

<sup>9209</sup> Credibility Assessment, Perry Kamara, paras 227-236.

<sup>9210</sup> Credibility Assessment, Alice Pyne, paras 304-307.

Taylor”,<sup>9211</sup> and that the witness subsequently came to know one of the eight men as one of Yeaten’s SSS subordinates,<sup>9212</sup> therefore someone who worked for the Accused.

4086. The Defence challenges Alice Pyne’s testimony on the basis that in her prior statements she had not mentioned the Accused as having sent the herbalists to Bockarie, saying they had been hired by Bockarie.<sup>9213</sup> The Trial Chamber has reviewed Pyne’s testimony and notes that she told the Prosecution in her fourth interview, which was three months, not 10 days as alleged by the Defence, before her testimony that the Accused had sent the herbalists.<sup>9214</sup> In her first interview, she stated that “the traditional herbalists were hired by Sam Bockarie”.<sup>9215</sup> Pyne testified that “hired” was the investigator’s wording and that she had only told him that Bockarie had introduced the herbalists to Superman.<sup>9216</sup> The Trial Chamber accepts Pyne’s explanation that she omitted to mention the Accused in the absence of any direct questions from investigators as to who sent the herbalists<sup>9217</sup> and is of the view that in the absence of any mention of the Accused on Pyne’s part at her first interview, it is reasonable that the investigator misconstrued her statement..

4087. The Defence relies on the evidence of Issa Sesay and John Vincent to rebut the testimony of the Prosecution witnesses.<sup>9218</sup> In view of John Vincent’s denial of any knowledge that Liberian herbalists were present in Kono before the Fitti-Fatta mission, the Trial Chamber considers his denial of the Accused’s involvement to be of little value. Moreover, his evidence that he never heard about the Accused providing herbalists is not in itself dispositive or preclusive of such involvement. The clear agitation shown by the witness during his cross-examination on the subject also undermined his credibility on this issue. Moreover, the Trial Chamber recalls its finding that Vincent’s evidence must be considered with caution.<sup>9219</sup> Issa Sesay denied that the Accused sent the herbalists, saying that Bockarie hired the herbalists through a friend named Titus, who was also a relative of

<sup>9211</sup> TF1-375, Transcript 23 June 2008, p. 12528.

<sup>9212</sup> TF1-375, Transcript 23 June 2008, pp. 12526-12527.

<sup>9213</sup> Defence Final Trial Brief, para. 1193.

<sup>9214</sup> Alice Pyne, Transcript 19 April 2008, pp. 12313-12315.

<sup>9215</sup> Alice Pyne, Transcript 19 April 2008, p. 12315.

<sup>9216</sup> Alice Pyne, Transcript 19 April 2008, p. 12316.

<sup>9217</sup> Alice Pyne, Transcript 19 April 2008, p. 12316.

<sup>9218</sup> Defence Final Trial Brief, para. 1194.

<sup>9219</sup> Credibility Assessment, John Vincent, Provision of Military Personnel, paras 4463-4464.





one of the RUF vanguards, Major Augustine Mulbah.<sup>9220</sup> In view of its earlier finding that Sesay's evidence should be treated with caution, the Trial Chamber does not accept this uncorroborated testimony.<sup>9221</sup>

4088. The Accused denied sending herbalists "any place to go and do anything",<sup>9222</sup> citing the prevalence of such superstitions in a number of areas of Liberia, presumably suggesting that Liberian herbalists were widely available and need not therefore have been provided by him. The Trial Chamber notes that his evidence of the prevalence of people practised in such rites does not impact upon whether he made the alleged arrangements. The Accused challenged Pyne's evidence through his assertion that women were not allowed at ceremonies in the zoebush. The Trial Chamber notes, however, that Defence witness Issa Sesay testified that one of the three herbalists who came to mark the fighters in Buedu was a woman.<sup>9223</sup> Sesay also testified that women, such as fighters' wives, would indeed be found in the zoebush region.<sup>9224</sup> The Trial Chamber therefore finds the Accused's challenge to Pyne's evidence to be without foundation.

4089. The Trial Chamber does not find the Accused's disbelief in the powers of herbalists and juju men to be relevant in determining whether he sent these herbalists to perform rites on fighters in preparation for the attack. Several witnesses have testified that the RUF used such individuals throughout the conflict<sup>9225</sup> on the basis that the fighters believed in their powers.<sup>9226</sup> The Accused need not have believed in the effectiveness or otherwise of the herbalists' rites to exploit beliefs held by the fighters.

4090. The Defence also submits that the fact that the RUF used herbalists and juju men before the Accused allegedly sent the herbalists from Liberia means that there would have been no need for the Accused's involvement.<sup>9227</sup> As referred to in the preceding paragraph, the Trial Chamber recognises that the RUF had used herbalists and juju men to 'protect' or

<sup>9220</sup> Issa Sesay, Transcript 8 July 2010, pp. 44065-44067; Transcript 11 August 2010, p. 46059; Transcript 12 August 2010, pp. 46118-46120.

<sup>9221</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>9222</sup> Charles Ghankay Taylor, Transcript 30 September 2009, p. 29984.

<sup>9223</sup> Issa Sesay, Transcript 8 July 2010, p. 44066; Transcript 12 August 2010, p. 46119.

<sup>9224</sup> Issa Sesay, Transcript 26 August 2010, pp. 47247-47249.

<sup>9225</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8075-8076; TF1-263, Transcript 6 October 2008, pp. 17982-17983; Charles Ngebeh, Transcript 22 March 2010, pp. 37766-37770.

<sup>9226</sup> See Charles Ngebeh, Transcript 22 March 2010, p. 37770; Samuel Kargbo, Transcript 22 May 2008, p. 10561; Transcript 3 June 2008, pp. 10819-10820.

at least encourage fighters before their alleged use in the Fitti-Fatta operation. The Trial Chamber considers, however, that such prior use does not preclude and is not inconsistent with assistance by the Accused in the provision of this support.

4091. With regard to the impact of the rites performed by the herbalists, the Prosecution does not assert that the markings provided real protection against bullets during the Fitti-Fatta attack but that it was intended to “bolster the courage of AFRC/RUF fighters before the Fitti-Fatta mission”.<sup>9228</sup> The Trial Chamber has heard evidence from Perry Kamara and Charles Ngebeh that some fighters believed in the herbalists’ powers<sup>9229</sup> and Samuel Kargbo himself testified that he saw their protective effects at first hand.<sup>9230</sup> While it is difficult to measure the impact of these rituals on the fighters whom they were intended to support, this evidence does establish, in the view of the Trial Chamber, that the provision of the herbalists and the rites they performed did bolster some fighters’ confidence, as intended. Prosecution Witness Kamara and Defence Witness Sesay both testified to the heavy losses that the RUF incurred in the Fitti-Fatta operation and the belief of many fighters that they were invincible.

4092. The Accused testified that he was aware of the existence of such rituals and practices and of the widely held belief that herbalists or juju men had power to render people immune from danger. Whilst there may have been herbalists and juju men coming to the RUF from time to time, the Trial Chamber accepts the evidence of the Prosecution witnesses that the herbalists who came to Buedu and Kono before Operation Fitti-Fatta were sent by the Accused.

### Findings

4093. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused sent ‘herbalists’ who marked fighters in Buedu and in Kono in preparation for the Fitti-Fatta mission in mid-1998, to bolster their confidence for the mission to recapture Kono.

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<sup>9227</sup> Defence Final Trial Brief, para. 1194.

<sup>9228</sup> Prosecution Final Trial Brief, para. 306.

<sup>9229</sup> Charles Ngebeh, Transcript 22 March 2010, p. 37770; Perry Kamara, Transcript 5 February 2008, p. 3171.

<sup>9230</sup> Samuel Kargbo, Transcript 3 June 2008, p. 10820.

(e) Bunumbu Training CampSubmissions of the Parties

4094. The Prosecution alleges that in mid-1998, the Accused instructed Bockarie to open a training base called “Camp Lion” in Bunumbu, Kailahun District and instructed that 62 former SLA soldiers were to be trained there. In support of this allegation, the Prosecution relies on the evidence of TF1-362.<sup>9231</sup>

4095. The Defence challenges the credibility of Witness TF1-362 and submits that her account defies logic. The Defence maintains that the Accused had no involvement in the creation of the RUF base. The Defence also points out contradictions between Witness TF1-362’s hearsay evidence and the testimonies of TF1-516 and Issa Sesay.<sup>9232</sup>

EvidenceProsecution Witness TF1-362

4096. Witness TF1-362, an RUF member,<sup>9233</sup> testified that after the attack on Freetown in 1998, Monica Pearson was instructed by Issa Sesay to report to Sam Bockarie who was based in Buedu. There, Bockarie informed Pearson, in the presence of the witness, that Taylor had instructed the RUF to set up a training base at Bunumbu, in Kailahun district. Following these instructions, the training base at Bunumbu was opened. This base was also named Camp Lion.<sup>9234</sup>

4097. Witness TF1-362 testified that military training was provided at the base to between 100 and 200 civilians captured on the way from Freetown.<sup>9235</sup> The “recruits” were divided into five platoons: SBU, SGU, adult, old age, and WACs. Women were forced to undergo military training and were subsequently sent to the front lines to provide sexual services to

<sup>9231</sup> Prosecution Final Trial Brief, paras 250, 326-327, 879, 916, 979-983.

<sup>9232</sup> Defence Final Trial Brief, paras 1100, 1286-1289.

<sup>9233</sup> TF1-362, Transcript 27 February 2008, pp. 4826-4827 (CS).

<sup>9234</sup> TF1-362, Transcript 27 February 2008, pp. 4866-4868.

<sup>9235</sup> TF1-362, Transcript 27 February 2008, pp. 4895-4899.







the men.<sup>9236</sup> Military training of civilian captives would last from two to three weeks up to six months after which they were sent to the front line.<sup>9237</sup>

4098. Witness TF1-362 stated that, in addition to civilians, Monica Pearson was instructed by Issa Sesay to train 62 SLAs. Sesay said that Sam Bockarie had told him that Taylor requested the RUF to train the SLAs in order to open a road to the border between Sierra Leone and Gbarnga. At the time, only helicopters could reach Sierra Leone from Liberia. Witness TF1-362 said the SLAs were trained for one to two weeks after which Issa Sesay arrived at Bunumbu with a group of Liberian ATU bodyguards, a special unit allegedly under Taylor, which brought rice and cooking equipment for the RUF troops. Sesay also gave Monica Pearson some rice and ammunition and informed her that Taylor had thanked her for her work.<sup>9238</sup>

4099. Witness TF1-362 described the command structure in Bunumbu as essentially the same as it had been at Matru Jong.<sup>9239</sup> David Kanneh was the Blackguard assigned by Sam Bockarie to Bunumbu base. Bockarie also appointed the training instructors.<sup>9240</sup> The Blackguard at Bunumbu reported directly to Sam Bockarie while Monica Pearson reported to Issa Sesay.<sup>9241</sup>

4100. While the witness was based at Bunumbu, they received weapons and ammunition from an ammunition dump that was located at Sam Bockarie's house in Buedu. Bockarie told her that he received these arms and ammunition from Taylor.<sup>9242</sup>

#### Prosecution Witness TF1-516

4101. Witness TF1-516, an RUF radio operator,<sup>9243</sup> testified that after the Freetown attack, when the AFRC/RUF retreated from Freetown in 1999, many of AFRC/RUF fighters crossed the border to take refuge in Liberia, creating a shortage of manpower for the RUF. Bockarie travelled to Liberia and discussed with Benjamin Yeaten the possibility of

<sup>9236</sup> TF1-362, Transcript 27 February 2008, pp. 4899-4901.

<sup>9237</sup> TF1-362, Transcript 27 February 2008, p. 4911.

<sup>9238</sup> TF1-362, Transcript 27 February 2008, pp. 4895-4897.

<sup>9239</sup> TF1-362, Transcript 27 February 2008, pp. 4869-48723.

<sup>9240</sup> TF1-362, Transcript 27 February 2008, pp. 4873-4874, 4878.

<sup>9241</sup> TF1-362, Transcript 27 February 2008, p. 4894.

<sup>9242</sup> TF1-362, Transcript 27 February 2008, p. 4909.

<sup>9243</sup> TF1-516, Transcript 8 April 2008, p. 6845.

tightening up the borders to prevent armed AFRC/RUF men from entering Liberia. Yeaten commanded Bockarie to open a training base to recruits civilians. Following this request, Bockarie set up a training base at Bunumbu.<sup>9244</sup>

#### Defence Witness Issa Sesay

4102. Witness Issa Sesay, a senior RUF commander,<sup>9245</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>9246</sup> testified that in March 1998, Bockarie called Monica Pearson to Kailahun and he appointed her deputy training commandant at the training base called Camp Lion in Bunumbu under the command of Jah Glory. In April 1998, Jah Glory was shot dead and Pearson was appointed as training commandant of the base until February 1999 when the base was transferred to Kono.<sup>9247</sup> As such, Pearson was reporting directly to Sam Bockarie.<sup>9248</sup>

4103. According to Issa Sesay, Witness TF1-362 lied when she said that Taylor ordered the opening of Bunumbu. Bockarie instructed him to send 15 to 20 SLAs, who had fled to Liberia after the ECOMOG attack on Daru, to Bunumbu training base in order to be trained for two weeks. These SLAs soldiers had not been engaged in combat for a long time and Bockarie wanted them to be trained again before being sent to the front line.<sup>9249</sup>

#### Deliberations

4104. It is undisputed that in 1998 an RUF training base called “Camp Lion” was set up in Bunumbu.<sup>9250</sup> The Prosecution, relying on the testimony of Witness TF1-362, alleges that the Accused instructed Sam Bockarie to open the training base Camp Lion in Bunumbu and instructed him to train 62 former SLA soldiers there.<sup>9251</sup> The Defence contends that the Accused had no involvement in the creation of the RUF base and submits that Witness TF1-362’s testimony lacks credibility.<sup>9252</sup>

<sup>9244</sup> TF1-516, Transcript 8 April 2008, pp. 6941-6942.

<sup>9245</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>9246</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>9247</sup> Issa Sesay, Transcript 28 July 2010, pp. 44911-44912; Transcript 30 July 2010, pp. 45164, 45168 (PS).

<sup>9248</sup> Issa Sesay, Transcript 30 July 2010, pp. 45167-45169 (PS).

<sup>9249</sup> Issa Sesay, Transcript 30 July 2010, pp. 45170-45173 (PS).

<sup>9250</sup> See *also* TF1-371, Transcript 4 February 2008, pp. 2949-2950 (CS).

<sup>9251</sup> Prosecution Final Trial Brief, paras 326-327.

<sup>9252</sup> Defence Final Trial Brief, paras 1100, 1286-1289.

4105. Witness TF1-362 is the sole witness who testified regarding the Accused's direct involvement in the creation of the Bunumbu training camp in 1998 and the training of 62 SLAs, and her testimony is hearsay, based on Bockarie's statement that the Accused asked the RUF to train the SLAs and based on a message of thanks to Monica Pearson from the Accused, transmitted by Issa Sesay. The Trial Chamber recalls its previous finding that TF1-362 is a generally credible witness.<sup>9253</sup> Sesay denied that the Accused ordered the opening of the training camp, and the Defence also cites the evidence of Witness TF1-516 as "directly contradict[ing]" the evidence of TF1-362.

4106. The Trial Chamber notes that Witness TF1-516 testified that Bockarie was commanded to open the base in Bunumbu by Yeaten in order to tighten up the borders to prevent armed AFRC/RUF men from entering Liberia. This evidence is not very detailed and erroneously places the opening of the Bunumbu base in 1999. Nevertheless, the Trial Chamber considers that TF1-516's testimony of Yeaten's command corroborates the testimony of TF1-362 with regard to the involvement of the Accused. Yeaten was Director of the SSS, working for the Accused, transmitting and carrying out orders on his behalf. Rather than contradicting the evidence of TF1-362, the Trial Chamber finds that this evidence is consistent with the evidence of TF1-362 that the training camp was opened on the order of the Accused.

4107. The Trial Chamber recalls its finding that the testimony of Issa Sesay must be treated with caution and corroborated.<sup>9254</sup> His denial of the involvement of the Accused is not corroborated by other evidence, and the Trial Chamber does not accept it as credible.

### Findings

4108. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused instructed Sam Bockarie to open a training base in Bunumbu, Kailahun District.

### (f) Alleged Training in the Use of Missile Gun

### Submissions of the Parties

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<sup>9253</sup> Credibility Assessment, TF1-362, paras 244-253.

<sup>9254</sup> Credibility Assessment, Issa Sesay, paras 359-372.



4109. The Prosecution alleges that at the end of December 1998, at Sam Bockarie's request, Taylor sent Martina Johnson, a former NPFL artillery commander, to Buedu to conduct training to use a 40-barrel missile captured by Issa Sesay.<sup>9255</sup>

4110. The Defence submits that assistance in using a weapon in attacks against a lawful army cannot be considered as a crime.<sup>9256</sup>

## Evidence

### Prosecution Witness TF1-371

4111. Witness TF1-371, an RUF officer, testified that in December 1998, Taylor's former NPFL artillery commander, Martina Johnson, came to Buedu at Sam Bockarie's request to train the RUF fighters in the use of a 40-barrel missile gun which had been captured by Issa Sesay in Kono District. According to Witness TF1-371, the RUF never used the gun because it was technically very difficult to operate.<sup>9257</sup>

### Prosecution Witness Albert Saidu

4112. Witness Albert Saidu, an RUF adjutant from 1991 to 2001,<sup>9258</sup> testified that Gibril Massaquoi and others captured a 40 barrel missile gun from Guinean troops along the Kambia border in late 1996 or early 1997, prior to the AFRC coup. The RUF concealed the missile gun in a truck in the jungle alongside the river bank at Manowa crossing point until after the Intervention.<sup>9259</sup>

4113. After the Intervention in 1998, several engineers came from Liberia to repair the missile gun so that it could be utilised by the RUF. Saidu was told by the RUF artillery unit that the RUF was planning to use the missile against the government of Sierra Leone but that none of the RUF fighters was trained in order to use of using the missile. The unit explained that a woman named Martina, from Taylor's government, would come to use the weapon once it was repaired.<sup>9260</sup>

<sup>9255</sup> Prosecution Final Trial Brief, para. 328.

<sup>9256</sup> Defence Final Trial Brief, para. 1188.

<sup>9257</sup> TF1-371, Transcript 4 February 2008, p. 2950 (CS).

<sup>9258</sup> Albert Saidu, Transcript 4 June 2008, p. 10895.

<sup>9259</sup> Albert Saidu, Transcript 4 June 2008, pp. 10988-10990; Transcript 9 June 2008, pp. 11308-11309.

<sup>9260</sup> Albert Saidu, Transcript 4 June 2008, pp. 10990-10994; Transcript 5 June 2008, pp. 11031-11032; Transcript

4114. Saidu stated that before the repairs were completed, a helicopter gunship came from the government and bombarded the area. The missile gun was seriously damaged and the weapon repair was abandoned. Saidu observed the damaged missile when passing by the riverbank after the helicopter attack.<sup>9261</sup>

Prosecution Witness Moses Blah

4115. Witness Moses Blah, Inspector General of the NPFL from 1990 to 1997,<sup>9262</sup> Liberian Ambassador of Libya and Tunisia following Taylor's election to 2000,<sup>9263</sup> and Vice-President of Liberia from 2000 to 2003,<sup>9264</sup> testified that Martina Johnson was an NPFL commander of the artillery unit who was heading the missiles group.<sup>9265</sup>

Prosecution Witness Varmuyan Sherif

4116. Witness Varmuyan Sherif, a former ULIMO-K fighter who became an officer in the SSS,<sup>9266</sup> testified that Martina Johnson, a junior commando of the NPFL, was a terrorist who headed the artillery unit.<sup>9267</sup>

Defence Witness Charles Ngebeh

4117. Witness Charles Ngebeh, an RUF armourer,<sup>9268</sup> testified that the RUF captured a 40-barrel missile gun from Guinean troops around Waterloo in January 1999. Sam Bockarie ordered that the gun be brought to him in Kailahun. Ngebeh was able to bring the missile gun as far as the Manowa Ferry, but the ferry was in such poor condition that the gun could not be moved across the river. Eventually, an ECOMOG jet bombed the gun and destroyed its barrels, and the Guineans returned to take the gun away.<sup>9269</sup>

Defence Witness Issa Sesay

9 June 2008, p. 11309.

<sup>9261</sup> Albert Saidu, Transcript 4 June 2008, pp. 10991-10992; Transcript 9 June 2008, p. 11309.

<sup>9262</sup> Moses Blah, Transcript 15 May 2008, pp. 9943-9945.

<sup>9263</sup> Moses Blah, Transcript 14 May 2008, pp. 9882-9884.

<sup>9264</sup> Moses Blah, Transcript 14 May 2008, pp. 9882-9884; Blah became President of Liberia for 60 days from 11 August to 11 October 2003; Moses Blah, Transcript 16 May 2008, p. 10065.

<sup>9265</sup> Moses Blah, Transcript 15 May 2008, p. 9906.

<sup>9266</sup> Varmuyan Sherif, Transcript, 9 January 2008, pp. 806, 820, 834, 836; 10 January 2008, pp. 940, 986-987.

<sup>9267</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 866-869.

<sup>9268</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37847.

<sup>9269</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37929.

4118. Witness Issa Sesay, a senior RUF commander<sup>9270</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>9271</sup> testified that in 1998 the Guineans crossed over into Yenga and Mofindor in the Kailahun District and they crossed into Kono at Kombeyendeh, but the RUF repelled them. During these attacks, Rambo managed to go into Guinea and captured a 40-barrel missile gun. However, in late 2000, early 2001 the Guineans began shelling at the border and attacking RUF positions.<sup>9272</sup>

#### Exhibit D-084

4119. Exhibit D-084 is a salute report from Issa Sesay, dated 27 September 1999. In this report, Sesay explained that his bodyguard commander led a squad of men in an ambush against the Guinean troops. During this ambush, the squad captured a 40-barrel missile that Sankoh escorted to the RUF rear.<sup>9273</sup>

#### Exhibit P-379

4120. Exhibit P-379 is a report on the visit of Foday Sankoh to Makeni in November 1999. The report mentions the disarmament on 18 November 1999 of a 40 barrel missile gun which was captured by the RUF from the Guinean ECOMOG around the Kambia Axis.<sup>9274</sup>

#### Deliberations

4121. The evidence clearly establishes that around 1998 or 1999, the RUF captured a 40-barrel missile gun from the Guinean ECOMOG troops along the Kambia border.<sup>9275</sup>

<sup>9270</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>9271</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>9272</sup> Issa Sesay, Transcript 6 August 2010, p. 45602; Transcript 25 August 2010, p. 47095.

<sup>9273</sup> Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999 - 00007756 - 00007768", pp. 9-10.

<sup>9274</sup> Exhibit P-379, "Sierra Leone People's Army, Army Headquarters, Makeni, Northern Region, Makeni, Visitation Of the Leader Cpl. Foday Sankoh, Representative of the International Communities and ECOMOG Securities, From the O/All I.D.U Commander. 22 November 1999", p. 4.

<sup>9275</sup> TF1-371, Transcript 4 February 2008, p. 2950 (CS); Albert Saidu, Transcript 4 June 2008, pp. 10988-10990; Transcript 9 June 2008, pp. 11308-11309; Charles Ngebeh, Transcript 23 March 2010, p. 37929; Issa Sesay, Transcript 6 August 2010, p. 45602. See *also* Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999 - 00007756 - 00007768", pp. 9-10; Exhibit P-379, "Sierra Leone People's Army, Army Headquarters, Makeni, Northern Region, Makeni, Visitation Of the Leader Cpl. Foday Sankoh, Representative of the International Communities and ECOMOG Securities, From the O/All I.D.U Commander. 22 November 1999", p. 4.

4122. Prosecution Witness TF1-371 testified that at the end of December 1998, at Sam Bockarie's request, the Accused sent Martina Johnson to conduct training to use a 40-barrel missile captured by Issa Sesay.<sup>9276</sup> Albert Saidu also heard that a woman named Martina, from Taylor's government, would come to use the weapon once it was repaired but testified that the missile was never repaired because a bombardment seriously damaged the missile.<sup>9277</sup> Charles Ngebeh also testified that an ECOMOG jet bombed the gun and destroyed its barrels.<sup>9278</sup> Several witnesses testified as to Martina Johnson's role in the NPFL but made no reference to the allegation that she came to train the RUF to use a 40-barrel missile.

4123. Witness TF1-371's evidence about the training was brief, totalling ten lines of transcript within eight days of testimony. Furthermore, while he testified that Taylor sent Martina Johnson, it is not clear from his evidence what the source of his information was. His testimony is inconsistent with the testimony of Saidu that a woman named Martina was to come when the missile was repaired but that the missile was never repaired. Saidu testified that several engineers came from Liberia to repair the missile, which TF1-371 did not mention in his testimony.

4124. In light of these inconsistencies, the Trial Chamber finds the evidence insufficient to support a finding beyond reasonable doubt that, at the end of December 1998, at Bockarie's request, the Accused sent Martina Johnson in order to conduct training to use a 40-barrel missile gun captured by Issa Sesay.

### Findings

4125. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that at the end of December 1998, the Accused sent Martina Johnson, a former NPFL artillery commander, to Buedu to train RUF fighters to use a 40-barrel missile gun.

### (g) Alleged Order to Build an Airfield in Buedu

### Submissions of the Parties

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<sup>9276</sup> Prosecution Final Trial Brief, para. 328; see TF1-371, Transcript 4 February 2008, p. 2950 (CS).

<sup>9277</sup> Albert Saidu, Transcript 4 June 2008, pp. 10990-10994; Transcript 5 June 2008, pp. 11031-11032; Transcript 9 June 2008, p. 11309.

<sup>9278</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37929.

4126. The Prosecution alleges that in 1996, before signing of the Abidjan Peace Accord, the Accused sent a message to Foday Sankoh telling him to choose a particular area where they should construct an airstrip. After Sankoh received that message, he appointed Peter B. Vandi to be in charge of constructing the airfield in a village close to Buedu. He told Vandi to use civilians and to work day and night to complete the construction. Civilians did work there day and night.<sup>9279</sup>

4127. The Prosecution alleges that after the Intervention, the Accused reiterated to Sam Bockarie the need for a functional airstrip in AFRC/RUF territory. At a meeting convened by Bockarie, Daniel Tamba (a.k.a. Jungle) and General Ibrahim Bah spoke on behalf of the Accused. Jungle said that the AFRC/RUF should try to construct the airstrip at Buedu as fast as possible. Bockarie then transmitted a message that the Accused said the AFRC/RUF should try and reorganize and re-prepare the airfield at Buedu.<sup>9280</sup>

4128. The Defence submits that the Prosecution allegation is confused. Furthermore, it challenges Perry Kamara's credibility and submits that his uncorroborated testimony is discredited by another Prosecution witness. The Defence maintains that the Accused was not involved in the construction of the airstrip in any way.<sup>9281</sup>

4129. The Trial Chamber finds that the Prosecution's allegation regarding the construction of an airfield in Buedu in 1996 is confused with its allegation regarding the construction of an airfield in Buedu in 1998. The Prosecution cites the testimony of Abu Keita, Isaac Mongor and Witnesses TF1-585 and TF1-371 in support of its 1996 allegation.<sup>9282</sup> Similarly, the Defence submits in its closing brief that the evidence of Mohamed Kabbah discredits the Prosecution allegation.<sup>9283</sup> However, a careful reading of their evidence indicates that these five witnesses were testifying about the re-construction of the Buedu airfield in late 1998<sup>9284</sup> and not about the initial building of the airfield around 1996.<sup>9285</sup>

<sup>9279</sup> Prosecution Final Trial Brief, para. 134.

<sup>9280</sup> Prosecution Final Trial Brief, para. 149.

<sup>9281</sup> Defence Final Trial Brief, para. 825; Defence Response to the Prosecution Final Trial Brief, paras 15-17.

<sup>9282</sup> Prosecution Final Trial Brief, para. 134, footnote 452.

<sup>9283</sup> Defence Response to the Prosecution Final Trial Brief, para. 16: "The allegation in paragraph 134 of the PFB is discredited by another Prosecution witness. TF1-568 provided evidence to the extent that Bockarie had told Mohamed Kabbah that the airfield at Buedu was created in order to import arms directly from Libya. Thus, Taylor was not involved in the construction of the airstrip in any way".

<sup>9284</sup> Abu Keita, Transcript 23 January 2008, pp. 1987-1988; Transcript 24 January 2008, p. 2099 (Keita saw the airstrip in construction after September 1998); TF1-371, Transcript 29 January 2008, pp. 2504-2506 (CS) (TF1-



EvidenceProsecution Witness Perry Kamara

4130. Witness Perry Kamara, an RUF radio operator,<sup>9286</sup> testified that following the capture of Sierra Rutile, Foday Sankoh received a written message from Taylor saying that the RUF should make arrangements to construct an airfield where planes could land. Sankoh sent the message to Kailahun and appointed Peter B. Vandi to work with civilians day and night in order to construct the airfield at a village close to Buedu.<sup>9287</sup>

4131. Kamara later testified that after the attack on Koidu Town, following the Intervention, Sam Bockarie transmitted a message. According to the witness, "He said Mr Taylor has told him that they should try and reorganise and re-prepare the airfield at Buedu, so in there they would need civilians to do the work on the field". The RUF then sent over 200 to 300 civilians to do forced labour, to work on the field day and night with security escorts.<sup>9288</sup>

Prosecution Witness TF1-168

4132. Witness TF1-168, an RUF member,<sup>9289</sup> testified that, around November 1996 while he was visiting Côte d'Ivoire, Sankoh wrote a letter in which he ordered Sam Bockarie to prepare an airstrip in Buedu for delivery of goods. Witness TF1-168 testified that he personally saw the airstrip constructed.<sup>9290</sup>

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371 saw the civilians working on the airport of Buedu while he was there, between March 1998 and April 1999); TF1-585, Transcript 8 September 2008, p. 15662; Transcript 16 September 2008, pp. 16293-16294 (TF1-585 testified that he saw the airstrip being constructed around 1998-1999); Isaac Mongor, Transcript 31 March 2008, pp. 6203-6204 (it is clear that Mongor's testimony is about the period while he was Commander in Buedu in 1998).

<sup>9285</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37856-37857 (the airfield was built in 1996). See also Exhibit P-018, "Report of the Panel of Experts established by Resolution 1306, S/2000/1195, adopted on 20 December 2000" ("Most Sierra Leonean landing strips in the areas under RUF control were destroyed or have not been maintained because of the war. The landing strip at Yengema is probably not operational, and although the airstrip at Magburaka was rebuilt during the AFRC period in 1997 and is now in rebel territory, there are few reports of fixed-wing aircraft landing there or elsewhere in RUF-held territory"). *But* see Issa Sesay, Transcript 7 July 2010, pp. 43905-43906 (the construction of the airstrip in Buedu was not completed in 1996). See generally Prosecution Final Trial Brief, paras 134, 149.

<sup>9286</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>9287</sup> Perry Kamara, Transcript 4 February 2008, pp. 3058-3059.

<sup>9288</sup> Perry Kamara, Transcript 5 February 2008, p. 3105.

<sup>9289</sup> TF1-168, Transcript 22 January 2009, pp. 23275-23282 (CS).

<sup>9290</sup> TF1-168, Transcript 26 January 2009, pp. 23467-23470 (CS).





Prosecution Witness TF1-371

4133. Witness TF1-371, an RUF member,<sup>9291</sup> was in Buedu, Kailahun District from March 1998 until April 1999. He testified that civilians there were harassed by RUF soldiers, were forced to work for the RUF and were used to carry food, arms and ammunition for RUF combatants. Witness TF1-371 also testified that civilians were used to construct an airfield in Buedu.<sup>9292</sup>

Prosecution Witness Albert Saidu

4134. Witness Albert Saidu, an RUF adjutant from 1991 to 2001,<sup>9293</sup> testified that in late 1998<sup>9294</sup> he attended a secret meeting convened by Sam Bockarie, which took place between Buedu and Dawa. CO Jungle and General Ibrahim, two representatives of Taylor's Government participated in the meeting. Superman, CO Augustine Gbao and Issa Sesay also attended the meeting. Saidu testified that the agenda of the meeting was to address the pressure of ECOMOG and CDF on the AFRC/RUF forces, and the loss by Sesay of the diamonds that Bockarie gave him for Taylor and the consequences of his loss on the RUF's ability to purchase arms and ammunition.<sup>9295</sup> After Bockarie's introduction, CO Jungle took the floor explaining that Taylor recognized the RUF/AFRC relationship and supported it. Jungle also said he encouraged the RUF to recapture Kono, the diamond mining area, to exchange diamonds for weapons. Finally, they discussed the maintenance of an airstrip they were trying to construct behind Buedu. Jungle said they should try to construct the airstrip as soon as possible for emergency landing of aircraft to deliver the materials.<sup>9296</sup>

Prosecution Witness TF1-585

4135. Witness TF1-585, an RUF radio operator,<sup>9297</sup> testified that while Bockarie was absent from Buedu, Bockarie's wife told TF1-585 that he was at Taylor's farm to discuss the

<sup>9291</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>9292</sup> TF1-371, Transcript 29 January 2008, pp. 2504-2505 (CS).

<sup>9293</sup> Albert Saidu, Transcript 4 June 2008, p. 10895.

<sup>9294</sup> Albert Saidu, Transcript 5 June 2008, p. 11066 ("by that time we were approaching the end of 1998 [...] October/November, around November, early November"). *But* see Transcript 9 June 2008, p. 11353 ("the meeting took place after my birthday [...] in April 1998").

<sup>9295</sup> Albert Saidu, Transcript 5 June 2008, pp. 11054-11056.

<sup>9296</sup> Albert Saidu, Transcript 5 June 2008, pp. 11056-11057.

<sup>9297</sup> TF1-585, Transcript 5 September 2008, pp.15589-15592 (PS).

construction of an airfield, because the transportation of arms and ammunition through Monrovia and overland to Buedu was time-consuming.<sup>9298</sup>

Prosecution Witness Abu Keita

4136. Witness Abu Keita, a former deputy chief of staff and commander of ULIMO-K who later became commander of the Scorpion Unit,<sup>9299</sup> testified that after his arrest and his detention around September 1998,<sup>9300</sup> he was released and sent by Benjamin Yeaten to Sierra Leone.<sup>9301</sup> There, Keita travelled to Foya, where he met with Issa Sesay. Keita subsequently moved to Buedu together with Sesay.<sup>9302</sup> While in Buedu, Sesay showed the witness a site where the RUF was constructing an airstrip in order to receive supplies by air.<sup>9303</sup> Keita testified that because jets used to bomb the site during the day, the RUF had to construct the strip at night. The RUF used unpaid civilian workers to build the airstrip.<sup>9304</sup>

Prosecution Witness Mohamed Kabbah

4137. Witness Mohamed Kabbah, an RUF officer,<sup>9305</sup> testified that about a month after he arrived in Buedu, he attended a meeting at which Sam Bockarie discussed the construction of an airstrip near Buedu.<sup>9306</sup> The meeting was attended by hundreds of people including Issa Sesay, Denis Mingo, Eagle, King Perry, Zedman and AFRC members. During the meeting Bockarie emphasized the importance of building the airstrip close to Buedu in order to allow the RUF to receive its ammunition directly from Libya, rather than it being landed in Monrovia and brought overland to Buedu, as was the case. Kabbah stated that the airstrip was constructed by civilians but never used by any plane.<sup>9307</sup>

<sup>9298</sup> TF1-585, Transcript 8 September 2008, p. 15662.

<sup>9299</sup> Abu Keita, Transcript 22 January 2008, pp. 1953-1954; 23 January 2008, pp. 1970, 2000; 24 January 2008, pp. 2110, 2145.

<sup>9300</sup> Abu Keita, Transcript 24 January 2008, p. 2099.

<sup>9301</sup> Abu Keita, Transcript 23 January 2008, pp. 1967-1969.

<sup>9302</sup> Abu Keita, Transcript 23 January 2008, pp. 1985-1986.

<sup>9303</sup> Abu Keita, Transcript 23 January 2008, pp. 1987-1988.

<sup>9304</sup> Abu Keita, Transcript 23 January 2008, pp. 1987-1988.

<sup>9305</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>9306</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16147-16148.

<sup>9307</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16147-16148; Transcript 16 September 2008, p. 16294.

Prosecution Witness Isaac Mongor

4138. Witness Isaac Mongor, an RUF front line commander,<sup>9308</sup> testified that the RUF used civilians to work in mines, in farms or to carry ammunitions. They were forced to work and were not paid in exchange. Isaac Mongor himself used these civilians to build him a hut. Isaac Mongor further testified that Sam Bockarie used these civilians in order to prepare an airfield in Buedu. The civilians working there did not receive any payment.<sup>9309</sup>

The Accused

4139. The Accused testified that he had no contacts with Foday Sankoh after Operation Top Final in around May 1992.<sup>9310</sup> He denied having given any advice to Sankoh. More specifically, the Accused denied having advised Sankoh to construct any airfield arguing that since he had no planes in Liberia he had absolutely no reason to advise Sankoh to do so.<sup>9311</sup>

4140. The Accused denied having sent Daniel Tamba (a.k.a. Jungle) or General Ibrahim Bah to the RUF, and denied advising the RUF to build an airstrip.<sup>9312</sup>

Defence Witness Issa Sesay

4141. Witness Issa Sesay, an RUF commander,<sup>9313</sup> testified that he was in Zogoda when he heard from the RUF Commander in Buedu, Big Daddy, and from Peter Vandí, that in May 1996, while in Burkina Faso, Foday Sankoh sent Peter Vandí back to Buedu in order to start the construction of an airstrip. Sesay further heard that around June or July 1996, Sankoh sent two Belgian nationals with Steve Kamanda, a radio operator, to inspect the airfield. However, the airstrip was not completed since they told Vandí to stop the construction.<sup>9314</sup>

<sup>9308</sup> See for example: Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March 2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>9309</sup> TF1-532, Transcript 31 March 2008, pp. 6203-6204.

<sup>9310</sup> Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24824-24825; Transcript 28 July 2009, p. 25460; Transcript 10 September 2009, pp. 28669-28670; Transcript 14 September 2009, pp. 28710-28711.

<sup>9311</sup> Charles Ghankay Taylor, Transcript 16 September 2009 p. 29001.

<sup>9312</sup> Charles Ghankay Taylor, Transcript 26 October 2009, pp. 30233-30235.

<sup>9313</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>9314</sup> Issa Sesay, Transcript 7 July 2010, pp. 43905-43909.

Defence Witness Charles Ngebeh

4142. Witness Charles Ngebeh, an RUF recruit,<sup>9315</sup> testified that at Buedu there was an airstrip. The airstrip had been constructed between 1995 and 1996 at the request of Sam Bockarie, who announced that he had a contract to receive arms and ammunition from Libya. The airstrip was never used to bring in any materials from Libya.<sup>9316</sup>

Deliberations

4143. It is undisputed that an airfield was constructed in Buedu, and both Prosecution and Defence witnesses testified that it was never used. The testimony falls into two time periods, 1996 and 1998.

4144. With regard to events in 1996, the Trial Chamber notes that Perry Kamara is the only witness who testified that the Accused told Foday Sankoh to construct an airfield. His testimony about the Accused's message was brief and unclear. Kamara did not indicate how he knew about the written message or whether or not he saw it. Witness TF1-168, an RUF officer who visited Côte d'Ivoire at the time, testified that Sankoh was in Abidjan when he ordered Sam Bockarie to build the airstrip in Buedu.<sup>9317</sup> Issa Sesay also heard that Sankoh was with the External Delegation when he ordered Vandi to build the airstrip.<sup>9318</sup> The Trial Chamber considers it is therefore very unlikely that Kamara, who was not in Côte d'Ivoire with Sankoh, was present when Sankoh would have received this written message and unlikely for the same reason that Kamara himself saw the message. Witness TF1-168, who was in Côte d'Ivoire with Sankoh,<sup>9319</sup> did not mention the Accused's involvement when he testified about the construction of this airstrip.

4145. Without knowing the basis for Kamara's statement that Sankoh received a written message from the Accused, and the likelihood based on the circumstances that Kamara would not have seen this written message, while the evidence indicates that Sankoh ordered the building of the airstrip, the Trial Chamber is unable to conclude that the Accused told him to do so.

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<sup>9315</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37847.

<sup>9316</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37856-37857.

<sup>9317</sup> TF1-168, Transcript 26 January 2009, pp. 23467-23470 (CS).

<sup>9318</sup> Issa Sesay, Transcript 7 July 2010, pp. 43905-43906.

<sup>9319</sup> TF1-168, Transcript 22 January 2009 pp. 23274-23275 (CS).

4146. The Prosecution also cites the testimony of Abu Keita, Isaac Mongor and Witnesses TF1-585 and TF1-371 in support of this 1996 allegation.<sup>9320</sup> Similarly, the Defence submits in its closing brief that the evidence of Mohamed Kabbah discredited this Prosecution allegation.<sup>9321</sup> However, a careful reading of their evidence indicates that these five witnesses were testifying about the re-construction of the Buedu airfield in late 1998<sup>9322</sup> and not about the initial building of the airfield around 1996.<sup>9323</sup> The Trial Chamber has therefore considered this evidence in the context of the allegations made in relation to 1998, for which the witnesses are again cited by the Prosecution.<sup>9324</sup> The Trial Chamber notes the evidence of Issa Sesay that the airfield was not completed in 1996.<sup>9325</sup>

4147. With regard to the allegation that after the Intervention in 1998, the Accused reiterated to Bockarie the need for a functional airstrip in AFRC/RUF territory, the Prosecution relies on the evidence of Albert Saidu, Perry Kamara and TF1-585. Saidu testified that at a meeting convened by Bockarie, Daniel Tamba (a.k.a. Jungle) spoke on behalf of Taylor and said that the AFRC/RUF should try to construct the airstrip at Buedu as fast as possible to be able to deliver arms and ammunition for the RUF.<sup>9326</sup> Kamara testified that Bockarie transmitted a message that Taylor had told him they should try to reorganize

<sup>9320</sup> Prosecution Final Trial Brief, para. 134, footnote 452.

<sup>9321</sup> Defence Response to the Prosecution Final Trial Brief, para. 16: “The allegation in paragraph 134 of the PFB is discredited by another Prosecution witness. TF1-568 provided evidence to the extent that Bockarie had told Mohamed Kabbah that the airfield at Buedu was created in order to import arms directly from Libya. Thus, Taylor was not involved in the construction of the airstrip in any way”.

<sup>9322</sup> Abu Keita, Transcript 23 January 2008, pp. 1987-1988; Transcript 24 January 2008, p. 2099 (Keita saw the airstrip in construction after September 1998); TF1-371, Transcript 29 January 2008, pp. 2504-2506 (CS) (TF1-371 saw the civilians working on the airport of Buedu while he was there, between March 1998 and April 1999); TF1-585, Transcript 8 September 2008, p. 15662; Transcript 16 September 2008, pp. 16293-16294 (TF1-585 testified that he saw the airstrip being constructed around 1998-1999); Isaac Mongor, Transcript 31 March 2008, pp. 6203-6204 (it is clear that Mongor’s testimony is about the period while he was Commander in Buedu in 1998).

<sup>9323</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37856-37857 (the airfield was built in 1996). See also Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000” (“Most Sierra Leonean landing strips in the areas under RUF control were destroyed or have not been maintained because of the war. The landing strip at Yengema is probably not operational, and although the airstrip at Magburaka was rebuilt during the AFRC period in 1997 and is now in rebel territory, there are few reports of fixed-wing aircraft landing there or elsewhere in RUF-held territory”). *But* see Issa Sesay, Transcript 7 July 2010, pp. 43905-43906 (the construction of the airstrip in Buedu was not completed in 1996). See generally Prosecution Final Trial Brief, paras 134, 149.

<sup>9324</sup> Prosecution Final Trial Brief, para. 149, footnotes 484- 485.

<sup>9325</sup> Issa Sesay, Transcript 7 July 2010, pp. 43905-43909.

<sup>9326</sup> Albert Saidu, Transcript 5 June 2008, pp. 11056-11057.

and re-prepare the airfield at Buedu.<sup>9327</sup> TF1-585 testified that Bockarie's wife told her that Bockarie was at Taylor's farm to discuss the construction of an airfield.<sup>9328</sup>

4148. Based on the testimony of these three Prosecution witnesses, all of whom the Trial Chamber has found to be generally credible<sup>9329</sup>, the Trial Chamber finds the denial of the Accused lacking in credibility. The testimony of the other Defence witnesses is not inconsistent with the evidence of the three Prosecution witnesses. The Defence contends that the evidence of Mohamed Kabbah discredits the evidence of the Prosecution witnesses. Kabbah cited Bockarie as saying the the airstrip would allow the RUF to receive ammunition directly from Libya. The Trial Chamber also notes the testimony of Charles Ngebeh that an airfield was constructed between 1995 and 1996 at the request of Bockarie, who said he had a contract to receive arms and ammunition from Libya. Based on this evidence, there may have been an intent to use the airfield for arms and ammunition to come directly from Libya, but in the view of the Trial Chamber an anticipated use of the airfield to receive arms and ammunition from Libya is not inconsistent with a need perceived by the Accused for an airfield to receive arms and ammunition from Liberia.

4149. Both Saidu and Kamara testified that the Accused told Bockarie that the RUF should try to build an airfield. Kamara testified that he transmitted Bockarie's message in which Taylor told Bockarie that they should try to reorganise and re-prepare the airfield at Buedu, but it is unclear from his evidence whether it was Taylor or Bockarie who said that civilians would be needed to work on the field.<sup>9330</sup> In his account of the meeting, Saidu made no reference in Jungle's message on behalf of the Accused to the use of civilians for forced labour to construct the airfield.<sup>9331</sup> Moreover, in Kamara's testimony on the 1996 allegation, it is clear that the order to use civilians was not mentioned by Taylor but came from Sankoh. For these reasons, while finding that the Accused told Bockarie that the RUF should

<sup>9327</sup> Prosecution Final Trial Brief, para. 149.

<sup>9328</sup> TF1-585, Transcript 8 September 2008, p. 15662.

<sup>9329</sup> Credibility Assessment, Perry Kamara, paras 227-236; Credibility Assessment, TF1-585, paras 330-333. Credibility Assessment, Albert Saidu, see Pre-Indictment period (1988-1996), para. 2384.

<sup>9330</sup> Perry Kamara, Transcript 5 February 2008, p. 3105 ("He said Mr Taylor has told him that they should try and reorganise and re-prepare the airfield at Buedu, so in there they would need civilians to do the work on the field").

<sup>9331</sup> Albert Saidu, Transcript 5 June 2008, p. 11056 ("Then he also discussed the maintenance of an airstrip. There was an airstrip that we were trying to construct behind Buedu and he said we should also try, as fast as possible, to construct that airstrip, because in case of any emergency landing of materials, the aircraft will have to land there").

construct an airfield, the Trial Chamber is not satisfied that the Accused told Bockarie to use forced labour for this construction.

### Findings

4150. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that in 1996 the Accused sent a message to Sankoh telling him to make arrangements to choose a place to construct an airfield.

4151. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in 1998 the Accused told Bockarie that the RUF should construct or re-prepare the airfield in Buedu.

### 3. Alleged Provision of Safe Haven

#### (a) Retreat from Zogoda

#### Submissions of the Parties

4152. The Prosecution alleges that the Accused nurtured, directed and protected the RUF in a myriad of vital ways including by providing safe haven to RUF/AFRC members. More specifically, after the RUF retreat from Zogoda, RUF fighters were forced to cross into Liberia. The Accused then ensured that Mike Lamin obtained Liberian travel documents and money to facilitate Lamin's travel across Liberia to the Côte d'Ivoire to be reunited with Sankoh.<sup>9332</sup>

4153. The Defence submits that the evidence cited by the Prosecution alleging that after the retreat from Zogoda, when RUF fighters and Mike Lamin were pushed into Liberia, the Accused ensured the provision of Lamin's travel documents in Monrovia is not credible.<sup>9333</sup>

### Evidence

#### Prosecution Witness TF1-371

<sup>9332</sup> Prosecution Final Trial Brief, paras 115, 330.

<sup>9333</sup> Defence Final Trial Brief, paras 975-976, 1007-1009; Defence Response to Prosecution Final Trial Brief, para. 65.



4154. Witness TF1-371, an RUF member,<sup>9334</sup> testified that when the Sierra Leonean Government forces attacked Zogoda, while peace talks were ongoing in approximately November or December 1996, Foday Sankoh sent a message by satellite phone to Mohamed Tarawalli telling him to retreat from Zogoda.<sup>9335</sup> Tarawalli was to take the fighters to Kailahun District to meet up with Sam Bockarie, and Mike Lamin was to take the rest of the fighters, approximately 2,000 of them, to Pujehun District. When Lamin arrived in Pujehun District, around Zimmi, he met with Michael Rogers, the commander of Pujehun, who told him that Pujehun was also under attack, that they were having problems getting ammunition, and that they were exhausted.<sup>9336</sup>

4155. Mike Lamin called Sankoh on the radio, who said to tell the commanders there to be patient because he had sent his adjutant Kposowa and Alfred Brown with \$USD 42,000 to meet with Mr Taylor to see how the NPFL, then a political entity, could help with arms and ammunition. The group waited, but nothing was forthcoming. There was a large attack and they could not resist because they had run out of ammunition. Their only option, the witness testified, was to cross over into Liberia, and approximately 2,000 combatants and thousands of civilians crossed the border in the area near Kongo.<sup>9337</sup>

4156. After the combatants crossed over, the ULIMO rebel faction that was occupying the area was instructed by their commander to ensure that the RUF disarmed, and so they collected all of the RUF combatants' arms. The combatants were then moved to Bopolu and the witness stayed there for some time.<sup>9338</sup>

4157. In Bopolu, Mike Lamin met Abu Keita, the ULIMO commander in charge, who allowed him to use his radio to speak to Sankoh, who was in Abidjan.<sup>9339</sup> Lamin told Sankoh that he and the combatants were forced to cross into Liberia because they had no ammunition and none had arrived, and they were now disarmed and receiving assistance

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<sup>9334</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>9335</sup> TF1-371, Transcript 25 January 2008, pp. 2268-2269, 2276 (CS).

<sup>9336</sup> TF1-371, Transcript 25 January 2008, pp. 2276-2277 (CS).

<sup>9337</sup> TF1-371, Transcript 25 January 2008, pp. 2276-2278 (CS); Transcript 29 January 2008, p. 2462-2463 (CS).

<sup>9338</sup> TF1-371, Transcript 25 January 2008, pp. 2277-2279 (CS).

<sup>9339</sup> TF1-371, Transcript 25 January 2008 pp. 2279-2280 (CS).



from the International Committee for the Red Cross. Sankoh instructed Lamin to try and meet him (Sankoh) in Abidjan.<sup>9340</sup>

Prosecution Witness TF1-362

4158. Witness TF1-362, an RUF member,<sup>9341</sup> testified that she was in Kenema District, reporting to Mohamed Tarawalli. After Foday Sankoh left for Abidjan, the Kamajors attacked. The witness was present when Sankoh sent an order by radio saying that “his brother”, whom the witness testified was Taylor, said they should go to Liberia, “where they have the force for the people”. Mohamed Tarawalli fled to the western jungle, and Mike Lamin went to the Pujehun area. When the witness, along with more than a thousand combatants, passed through the Liberian border, they arrived in the buffer zone, which was “not particular” to any fighting faction and was empty. ULIMO disarmed the combatants, and ECOMOG were within the area.<sup>9342</sup> The witness could not recall the names of all of the areas they passed through.<sup>9343</sup> She stated that she was pregnant at the time and exhausted.<sup>9344</sup>

Prosecution Witness Augustine Mallah

4159. Witness Augustine Mallah, a security officer to Mike Lamin from 1996 to disarmament,<sup>9345</sup> testified that after Zogoda was overrun by the Sierra Leonean Government forces and the Kamajors, the RUF did not have enough ammunition to fight. CO Mohamed Zino contacted Foday Sankoh on the radio, and he ordered that the combatants in Zogoda be divided into two. CO Mohamed would take one group to Kailahun District, and the other group would be taken to Pujehun District. Mallah was with the group of approximately 800-900 combatants sent to Pujehun District with Mike Lamin.<sup>9346</sup>

4160. When they arrived in Pujehun, they met with the RUF soldiers stationed there under the command of Michael Rogers (a.k.a. Captain Bonday), who had also come under attack

<sup>9340</sup> TF1-371, Transcript 25 January 2008 pp. 2280-2281 (CS).

<sup>9341</sup> TF1-362, Transcript 27 February 2008, pp. 4826-4827 (CS).

<sup>9342</sup> TF1-362, Transcript 27 February 2008, pp. 4855-4858 (CS); Transcript 3 March 2008, pp. 5080-5089, 5096 (CS). See *also* TF1-362, Transcript 27 February 2008, pp. 4853-4854 (CS) (Camp Lion was located in Kenema District).

<sup>9343</sup> TF1-362, Transcript 27 February 2008, p. 5108 (CS).

<sup>9344</sup> TF1-362, Transcript 27 February 2008, p. 5118 (CS).

<sup>9345</sup> Augustine Mallah, Transcript, 12 November 2008, pp. 20092-200923, 20102-20103; Transcript 13 November 2008, pp. 20209-20210.

<sup>9346</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20111-20112.

by the Kamajors and the Sierra Leonean Government forces. Mallah stated that he was standing next to Mike Lamin as he was talking on his radio to Sankoh, who was in Côte d'Ivoire. Sankoh told Lamin that he had sent Major Kpowosa to Taylor in Gbarnga to ask if he could provide ammunition.<sup>9347</sup> They did not receive this ammunition and were continually attacked, and the only thing they could do was go to the border with Liberia and contact ULIMO.<sup>9348</sup>

4161. Lamin told Mallah and another commander to go to the border and contact the ULIMO commander so that the combatants, and the civilians with them, could cross into Liberia. He wanted ULIMO to rescue them, so that they could find a way to return.<sup>9349</sup> ULIMO disarmed all of the RUF fighters and civilians and took them to Bopolu, in Liberia, to stay there.<sup>9350</sup>

4162. Once they got to Bopulo, the ULIMO commander, General Charles Julu, gave Lamin access to his radio so that he could speak to Sankoh in Côte d'Ivoire.<sup>9351</sup> Lamin brought Mallah and a radio operator into the ULIMO communications room, where Sankoh told Lamin to find a way to get to Monrovia so that he could meet him in Côte d'Ivoire. Lamin asked Mallah to accompany him to Monrovia.<sup>9352</sup>

4163. When they arrived at Dualla, Lamin told Mallah he was going to Congo Town to meet Taylor, because they did not have anywhere to get money and Taylor knew him. They drove to Taylor's office in Congo Town. Mallah stayed on the veranda with the security guards while Lamin entered the office. Approximately one hour later Lamin emerged with \$USD 100 dollars, and said that he had spoken to Taylor. Lamin said that Taylor's Special Forces had given them a place to stay, at Jacob Tarawulu's (a.k.a. Pa Jacob) home, where they stayed for two days.<sup>9353</sup>

<sup>9347</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20110-20113; Transcript 14 November 2008, p. 20294.

<sup>9348</sup> Augustine Mallah, Transcript 12 November 2008, p. 20114.

<sup>9349</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20114-20115.

<sup>9350</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20115-20116.

<sup>9351</sup> Augustine Mallah, Transcript 12 November 2008, p. 20116.

<sup>9352</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20117-20118.

<sup>9353</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20118-20119; Transcript 14 November 2008, pp. 20321-20322.

4164. Jacob Tarawulu was the Deputy Education Minister in the interim government, and the next day Lamin, his wife Jessica Robertson, and Mallah went to his office at the Education Ministry, and then to the Foreign Ministry. The three of them took photos, and returned to Tarawulu's home. The next day, they received Liberian laissez-passer. The day after this, Lamin hired a car to drive them from Monrovia to the Côte d'Ivoire border, at Loguatu, and the three of them then went on to Danané and then Abidjan. They met with Sankoh for one week in Abidjan.<sup>9354</sup>

### The Accused

4165. The Accused denied being in contact with Sankoh after the RUF retreated from Zogoda and denied using Musa Cissé as a conduit to keep in touch with Sankoh in Côte d'Ivoire.<sup>9355</sup> He conceded, however, that in 1996 Mike Lamin and the RUF ended up in Liberia and that the RUF was disarmed by ECOMOG and turned over to the International Committee for the Red Cross.<sup>9356</sup> The Accused also noted that at this time, he did not live in Congo Town but opposite the United States Embassy in Monrovia at Mamba Point.<sup>9357</sup> When the testimony of Augustine Mallah was put to him, he did not comment on the evidence relating to the crossing into Liberia after the fall of Zagoda and was not specifically questioned on Mallah's account of these events.<sup>9358</sup>

### Deliberations

4166. The Defence concedes that after the retreat from Zogoda, RUF fighters and Mike Lamin crossed into Liberia. Prosecution Witness TF1-362 testified that she was present when Foday Sankoh sent an order through the radio that Taylor said the combatants should go to Liberia.<sup>9359</sup> TF1-362 is the only witness who testified that this order to retreat to

<sup>9354</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20120-20122; Transcript 14 November 2008, pp. 20321-20323.

<sup>9355</sup> Charles Ghankay Taylor, Transcript 1 October 2009, pp. 30059-30061, 30066, 30072.

<sup>9356</sup> Charles Ghankay Taylor, Transcript 1 October 2009, pp. 30060-30061, 30086.

<sup>9357</sup> Charles Ghankay Taylor, Transcript 1 October 2009, p. 30078 (PS).

<sup>9358</sup> Charles Ghankay Taylor, Transcript 1 October 2009, pp. 30080-30081, 30086.

<sup>9359</sup> TF1-362, Transcript 27 February 2008, pp. 4855-4858 (CS); Transcript 3 March 2008, pp. 5080-5086, 5096 (CS). See also TF1-362, Transcript 27 February 2008, pp. 4853-4854 (CS) (Camp Lion was located in Kenema District).

Liberia was given by the Accused. The Trial Chamber recalls that it had no general reservations concerning the credibility of TF1-362.<sup>9360</sup>

4167. TF1-362's testimony on this point, however, was inconsistent. The witness first testified that the retreat occurred when Sankoh went to the Abidjan Peace Accords "in 1994".<sup>9361</sup> When confronted with the judicially noted fact that Sankoh participated in the Abidjan Accords in 1996, not 1994, the witness stated that she could not be sure of the facts because it had "been a very long time now". She then said that Mohamed Tarawalli told her that Sankoh went to a peace accord, but she could not recall a year.<sup>9362</sup> The witness also stated that the International Committee for the Red Cross was not present when the RUF crossed into Liberia or could not recall them,<sup>9363</sup> in contrast to TF1-371 and the Accused, who testified that they were present.<sup>9364</sup> The Trial Chamber notes that TF1-362 was "exhausted" during this time and accepts that she may not have taken note of events clearly as a result.

4168. In addition, TF1-362's testimony is unclear as to whether the Accused actually directed the RUF to retreat to Liberia or simply suggested this or allowed the RUF to cross the Liberian border. The witness first testified that Sankoh told her that Taylor said the RUF "should go to Liberia".<sup>9365</sup> When asked upon cross-examination whether the RUF retreated because of an order from Taylor the witness first responded "Yes", and then stated that it was "not directly because of [Taylor's] order", but because they were under attack and had no place to remain, and thus "the Pa allowed us to go through Liberia".<sup>9366</sup> The witness then reiterated that Sankoh said that because there was nowhere for the RUF to base, "My brother has *allowed you* to go to Liberia and base there until the area is cleared up".<sup>9367</sup>

<sup>9360</sup> Credibility Assessment, TF1-362, paras 244-253.

<sup>9361</sup> TF1-362, Transcript 27 February 2008, pp. 4855-4858 (CS); Transcript 3 March 2008 pp. 5080-5086, 5096 (CS). See also TF1-362, Transcript 27 February 2008, pp. 4853-4854 (CS) (Camp Lion was located in Kenema District).

<sup>9362</sup> TF1-362, Transcript 3 March 2008, pp. 5081-5084 (CS).

<sup>9363</sup> TF1-362, Transcript 3 March 2008, pp. 5099-5100 (CS).

<sup>9364</sup> Charles Ghankay Taylor, Transcript 1 October 2009, pp. 30060-30061, 30086; TF1-371, Transcript 25 January 2008, pp. 2280-2281 (CS).

<sup>9365</sup> TF1-362, Transcript 27 February 2008, pp. 4855-4858 (CS).

<sup>9366</sup> TF1-362, Transcript 3 March 2008, pp. 5084-5085 (CS).

<sup>9367</sup> TF1-362, Transcript 3 March 2008, p. 5086 (CS) (emphasis added).

4169. Witness TF1-371 testified that Mike Lamin told Sankoh that he and the combatants retreated to Liberia only after they had crossed the border.<sup>9368</sup> TF1-371 testified that the RUF crossed into Liberia not on Taylor's orders, but only after they had no other choice.<sup>9369</sup> The Trial Chamber recalls that TF1-371 is a generally credible witness.<sup>9370</sup>

4170. In light of the evidence of Witness TF1-371, which is inconsistent with the vague and unclear evidence of Witness TF1-362, the Trial Chamber cannot say that the Prosecution has proved beyond reasonable doubt that the Accused ordered the RUF to retreat to Liberia, although it is clear that he did provide them safe haven by allowing them into Liberia. The Trial Chamber notes that Taylor has conceded, and several witnesses confirmed, that once the RUF combatants crossed into Liberia they were disarmed by ULIMO, and subsequently serviced by the International Committee for the Red Cross.<sup>9371</sup>

4171. With regard to the allegation that the Accused facilitated the provision of Mike Lamin's travel documents in Monrovia, Prosecution Witness Augustine Mallah is the only witness whose testimony supports this allegation. Mallah testified that when he and Lamin arrived in Monrovia, Lamin told Mallah that he was going to meet Taylor because they did not have money. Mallah stated that they visited Taylor's office in Congo Town, although he did not go in with Lamin and he did not see Taylor himself.<sup>9372</sup> In a prior statement Mallah said that he saw Taylor from the veranda as he waited for Lamin.<sup>9373</sup> When confronted with this statement on cross-examination, Mallah conceded that the statement was inconsistent with his testimony and suggested that this was an interpreter's mistake. He also said that in 2003 his questioning was focused on the AFRC and RUF trials, and not on Taylor.<sup>9374</sup> The Trial Chamber accepts Mallah's affirmation of his testimony and the possibility that there was a mistake in interpretation, and finds that his prior statement does not undermine the credibility of his testimony.

<sup>9368</sup> TF1-371, Transcript 25 January 2008, pp. 2280-2281 (CS).

<sup>9369</sup> TF1-371, Transcript 25 January 2008, pp. 2276-2278 (CS); Transcript 29 January 2008 pp. 2462-2463 (CS); Augustine Mallah, Transcript 12 November 2008, p. 20114.

<sup>9370</sup> Credibility Assessment, TF1-371, paras 220-226.

<sup>9371</sup> Charles Ghankay Taylor, Transcript 1 October 2009, pp. 30060-30061, 30086; TF1-371, Transcript 25 January 2008, pp. 2280-2281 (CS); TF1-362, Transcript 27 February 2008, pp. 4855-4858 (CS); Transcript 3 March 2008, pp. 5080-5086, 5096 (CS); Augustine Mallah, Transcript 12 November 2008, pp. 20115-20116.

<sup>9372</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20118-20119; Transcript 14 November 2008, p. 20321-20322.

<sup>9373</sup> Augustine Mallah, Transcript 14 November 2008, pp. 20323-2025.

<sup>9374</sup> Augustine Mallah, Transcript 14 November 2008, pp. 20324-20325.



4172. Mallah testified that Lamin exited Taylor's office with \$USD 100. He could not confirm first-hand that it was Taylor who provided these funds, but he said that Lamin told him he had spoken to Taylor and he clearly inferred that the funds came from Taylor.<sup>9375</sup> The Trial Chamber finds this to be a reasonable inference. Mallah also stated that Taylor's Special Forces provided him and Lamin with a place to stay,<sup>9376</sup> which the Trial Chamber considers can also be attributed to the Accused's facilitation. The Trial Chamber notes the Accused's testimony that at this time his residence was not in Congo Town, but finds this fact is not dispositive because Mallah testified that they went to Taylor's office in Congo Town, not Taylor's residence.<sup>9377</sup>

4173. Finally, Mallah stated that he and Lamin visited the Liberian Education and Foreign Ministries and Lamin later received a laissez-passer, but he did not clearly state Taylor's involvement in securing this documentation.<sup>9378</sup> Upon cross-examination, Mallah conceded that Taylor was not yet the President of Liberia at the time he visited Monrovia with Lamin.<sup>9379</sup> The Prosecution has not provided evidence linking the laissez-passer for Mike Lamin, which he got from the Foreign Ministry, to the Accused, who had not yet assumed office and was therefore not in control of this or any government ministry. In light of these circumstances, the Trial Chamber finds that the Prosecution has failed to establish that the Accused facilitated Lamin's travel to the Côte d'Ivoire to meet with Sankoh.

### Findings

4174. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused provided safe haven to RUF combatants who fled to Liberia from Zogoda. However, the Prosecution has failed to prove beyond reasonable doubt that the Accused ordered the RUF combatants to cross into Liberia.

4175. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused provided \$USD 100 to Mike Lamin, but failed to prove beyond reasonable

<sup>9375</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20118-20119; Transcript 14 November 2008, pp. 20321-20322.

<sup>9376</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20118-20119; Transcript 14 November 2008, pp. 20321-20322.

<sup>9377</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20118-20119; Transcript 14 November 2008, pp. 20321-20322.

<sup>9378</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20120-20122; Transcript 14 November 2008, pp. 20321-20322.

doubt that the Accused facilitated the provision of Liberian travel documents to Mike Lamin, so that Lamin could visit Sankoh in Côte d'Ivoire.

(b) Retreat of Junta Personnel to Monrovia

Submissions of the Parties

4176. The Prosecution alleges that in mid-February 1998, a group of AFRC officials fled from Freetown to Monrovia, knowing that the Accused would give them safe haven. This retreat to the Accused, whose country did not extradite individuals to Sierra Leone, was with the Accused's knowledge and consent. Having these experienced aviators and fighters and their aircraft would benefit the Accused in Liberia as well as give him the option of later returning them to action with the AFRC/RUF in Sierra Leone. The Accused attempted to give them safe haven but "(his) men were intercepted by ECOMOG and thus unable to receive the fleeing Junta personnel".<sup>9380</sup> The Accused then attempted to get the men and helicopter(s) turned over to him, trying unsuccessfully to personally intervene. The arrested personnel were taken to Nigeria despite the Accused's protests. The Prosecution claims that, contrary to the Accused's testimony, the Nigerians, not the Accused, later handed those arrested over to the government of Sierra Leone.<sup>9381</sup>

4177. The Defence submits that this incident is improperly characterized by the Prosecution as an example of the Accused providing safe haven to the Junta. The Accused sought assurance that the officials would be given a fair trial if they returned to Sierra Leone to prevent them from being summarily executed by the Sierra Leonean Government. He denies that in doing so he was guilty of aiding and abetting the Junta in the commission of crimes.<sup>9382</sup>

Evidence

Prosecution Witness Varmuyan Sherif

<sup>9379</sup> Augustine Mallah, Transcript 14 November 2008, p. 20321.

<sup>9380</sup> Prosecution Final Trial Brief, para. 331.

<sup>9381</sup> Prosecution Final Trial Brief, para. 331.

<sup>9382</sup> Defence Final Trial Brief, para. 502; Defence Response to the Prosecution Final Trial Brief, para. 66. See also Charles Ghankay Taylor, Transcript 29 July 2009 pp. 22597-22598, 25574-25577, 25589-25590; Transcript 5 August 2009 pp. 26051-26054; Transcript 20 January 2010 pp. 33718-33723.







4178. Witness Varmuyan Sherif testified that during the time when ECOMOG was fighting against the AFRC in Freetown, in late 1998 or early 1999, Taylor called Sherif and told him that an AFRC delegation was travelling by helicopter from Freetown to Monrovia. Taylor instructed Sherif to receive the delegation at the airfield in Monrovia and take them to Taylor's office.<sup>9383</sup> When Sherif arrived to meet them at the airport, ECOMOG surrounded the area and would not allow Sherif to receive or go close to the delegation. Sherif called the SSS director who told Sherif to leave.<sup>9384</sup> Two days later, Taylor announced that ECOMOG must leave Liberia, because Liberia was "a government of [its] own".<sup>9385</sup>

#### Prosecution Witness TF1-371

4179. Witness TF1-371, an RUF member,<sup>9386</sup> testified that when the AFRC was pushed out of Freetown by ECOMOG, Victor King, commander of the air wing of the Sierra Leonean Army, took a military helicopter with other senior officers and businessmen and travelled to Monrovia without the knowledge of Johnny Paul Koroma. The witness was told about this incident when, while meeting with Johnny Paul Koroma, Koroma complained about King evacuating persons from Freetown to Liberia without telling him and leaving him (Koroma) there with his family. The witness heard that King and the others were arrested by ECOMOG in Monrovia and turned over to the Sierra Leonean government, and were later executed by firing squad in October 1998.<sup>9387</sup>

#### The Accused

4180. The Accused testified that when ECOMOG forces took control over Freetown during the Intervention, two military helicopters landed at Spriggs Payne Airport in Monrovia, and Victor King, a member of the AFRC Junta, was one of the passengers. ECOMOG was there and seized "the plane" and the occupants. He called the ECOMOG force commander, who reported to him on the situation and occupants of the helicopter. The Accused responded that he would send his Defence Minister to meet with the force commander so that Liberia could take charge of the occupants until the matter was resolved, and the force commander stated that he would inform his superiors and "let (Taylor) know". Later on, the Accused was

<sup>9383</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 825; Transcript 10 January 2008, p. 889.

<sup>9384</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 826; Transcript 10 January 2008, p. 889.

<sup>9385</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 826, 828.

<sup>9386</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

informed that the force commander would keep control over the helicopter and the occupants, and so he (the Accused) called President Abacha and stated that he would “not stand for [this]” and that the sovereignty of Liberia was at issue. A compromise “was worked out” and the Accused returned the planes and the people after a couple of weeks but after a “long discussion”.

4181. The Accused contended that he had “raised the issue” of having the passengers stay in Liberia, and told President Kabbah that he would only allow them to be taken back to Sierra Leone “on the assurance that nothing would happen to them” and, if they were charged or tried, that their rights would be protected. The Accused contended that he was worried that the occupants would be summarily executed, similar to what occurred several years before, when General Lansana, one of the leaders of an attempted coup in Sierra Leone, was returned to Sierra Leone from Liberia with promises he would not be executed. The Accused did not know that, in fact, the delegation had been taken to Nigeria until he read this in Prosecution documents. President Abacha told the Accused that they would be kept in custody in Nigeria because Liberia did not have a place to hold them, but that they would not be sent back to Sierra Leone without his consent. ECOMOG and President Kabbah were pressing for them to be extradited to Sierra Leone, and had assured him that they would not be executed. After approximately two months, the Accused agreed they could be returned to Sierra Leone. The passengers were later taken to Sierra Leone and executed after which, the Accused testified, he expressed his outrage to President Kabbah.<sup>9388</sup> The Accused denied that he had any contact with AFRC officials during this time.<sup>9389</sup>

#### Prosecution Exhibit P-132

4182. Prosecution Exhibit P-132 consists of an Integrated Regional Information Network (IRIN) news update dated 16 February 1998, produced by the United Nations Office for the Coordination of Humanitarian Affairs. The update states that Taylor demanded that ECOMOG hand over AFRC officials who were arrested when two helicopters they were using to escape from Freetown were forced to land in Monrovia by an ECOMOG jet. In a

<sup>9387</sup> TF1-371, Transcript 28 January 2008, p. 2328 (CS).

<sup>9388</sup> Charles Ghankay Taylor, Transcript 29 July 2009, pp. 25574-25577, 25589-25590; Transcript 5 August 2009, pp. 26051-26054; Transcript 20 January 2010, pp. 33718-33723; Transcript 29 September 2009, pp. 29754-29755.

radio broadcast Taylor stated that Liberia was a sovereign state, and should take charge of the AFRC officials.<sup>9390</sup>

4183. An ECOMOG force commander, however, stated that he had arrested the AFRC officials for breaking a UN ban on travel by AFRC members, and that they did not need permission from the Government of Liberia to enforce this embargo.<sup>9391</sup>

Defence Exhibit D-141

4184. Defence Exhibit D-141 is a collection of Taylor's speeches and statements published by the Department of Public Affairs and Press Secretary to President Taylor.<sup>9392</sup> The Defence points specifically to a nation-wide address concerning "the crisis between ECOMOG and the Government of Liberia over the helicopter gun-ship incident", delivered by Taylor on 14 February 1998.

4185. In this speech, Taylor states that when two helicopters landed at Spriggs Payne Airport in Monrovia on 13 February 1998, Taylor's security services attempted to intervene but armed ECOMOG personnel carriers arrived and told them to leave. Taylor instructed the Minister of National Defence to request that the individuals in the helicopters be turned over to the Liberian Government, and he received a letter from the ECOMOG Force Commander stating that upon completion of an investigation this would be done. After some time, Taylor he realized that ECOMOG would "do it their way", and so attempted "diplomatic manoeuvres" and "expressions of the [sic] grave concern". After all else failed, he states, they "decided to take it a little further".

4186. The primary issue, Taylor claims, was whether Liberia had the right to safeguard its territorial integrity, contending that ECOWAS, the OAU, the UN and the international community agree that any aircraft that lands on the territory of Liberia becomes the responsibility of its government. Finally, Taylor states that he was demanding that the aircraft be turned over to the Government, and that he had already spoken with UN

<sup>9389</sup> Charles Ghankay Taylor, Transcript 29 July 2009, pp. 25530-25531.

<sup>9390</sup> Exhibit P-132, "IRIN - West Africa Update 146, 98.2.16, University of Pennsylvania - African Studies Center, 14 - 16 February 1998 - 00100146 - 00100148", ERN 00100147.

<sup>9391</sup> Exhibit P-132, "IRIN - West Africa Update 146, 98.2.16, University of Pennsylvania - African Studies Center, 14 - 16 February 1998 - 00100146 - 00100148", ERN 00100147.

<sup>9392</sup> The Trial Chamber notes that the publication date for this collection is unknown.

Secretary-General Kofi Annan and had lodged formal complaints with ECOWAS, OAU and the UN.<sup>9393</sup>

### Deliberations

4187. The parties agree that the Accused attempted to provide a safe haven in Monrovia for AFRC officials following their flight from Freetown in February 1998. The Prosecution seeks to impute a nefarious meaning to this incident, claiming that the Accused wanted the option of returning the aviators and fighters to action with the AFRC/RUF in Sierra Leone.<sup>9394</sup> The Defence, however, offers an alternative explanation to this incident, stating that the Accused offered to host the AFRC officials because he feared they would be summarily executed without trial.<sup>9395</sup>

4188. The Prosecution relies exclusively on the testimony of Varmuyan Sherif and one piece of documentary evidence to support this allegation.<sup>9396</sup> Sherif's testimony gives some indication that the Accused knew that the AFRC delegation was arriving in Monrovia before they landed there, with Sherif stating that Taylor called and told him to meet the group at the airport and bring them to his office.<sup>9397</sup> Sherif offered no testimony, however, concerning the Accused's motivations for his instructions to Sherif, or the Accused's reasons for providing safe haven to the AFRC members. The Trial Chamber also notes that Sherif was unsure as to the date this incident occurred, and admitted that it happened a long time ago and certain things "move off my head".<sup>9398</sup>

4189. The documentary evidence cited by the Prosecution does not offer any further proof of the Accused's motive: this contemporaneous IRIN news update describes the incident and

<sup>9393</sup> Exhibit D-141 Presidential Papers, Policies, Speeches, Statements and Record of Activities of the Chief Executive of Liberia, 2 August 1997 – 31 December 1998 pp. 238-441 ERN 539.

<sup>9394</sup> Prosecution Final Trial Brief, para. 331.

<sup>9395</sup> Defence Final Trial Brief, para. 502; Defence Response to the Prosecution Final Trial Brief, para. 66.

<sup>9396</sup> The Trial Chamber notes that in their Final Trial Brief the Prosecution also cites to TF1-597, but his testimony only corroborates Varmuyan Sherif's testimony that the helicopter's flight from Freetown to Liberia occurred, a fact that is not in dispute. See Prosecution Final Trial Brief, para. 331, *citing* TF1-597, Transcript 21 May 2008, pp. 10489-10490.

<sup>9397</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 825-827; Transcript 10 January 2008, p. 889.

<sup>9398</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 826.

the Accused's demand to take charge of the AFRC officials, facts which are not contested by the parties.<sup>9399</sup>

4190. The Accused testified that he was worried the occupants would be summarily executed, as was another attempted coup leader who had been returned to Sierra Leone. Indeed, Prosecution and Defence witnesses, including the Accused, concur that Victor King was executed following his return to Sierra Leone.<sup>9400</sup> The documentary evidence provided by the Accused, namely the transcript of a contemporaneous speech by the Accused, though undated and unattributed, corroborates much of the Accused's in-court testimony.<sup>9401</sup> In addition, the Accused denied that he had any contact with AFRC officials during this time.<sup>9402</sup>

4191. It is clear, even from the Accused's own evidence, that he attempted to provide safe haven for the AFRC officials who arrived in Liberia. However, he was unable to provide a safe haven, and the evidence is insufficient to establish his motive for trying to do so.

#### Findings

4192. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused attempted to provide a safe haven in Liberia for AFRC officials who fled Freetown in mid-February 1998. However, he was unable to provide a safe haven, and the evidence is insufficient to establish his motive for trying to do so.

<sup>9399</sup> Prosecution Exhibit P-132, IRIN - West Africa Update 146, 98.2.16, University Of Pennsylvania, African Studies Center, 14-16 February 1998, p. 100147 ERN 181.

<sup>9400</sup> TF1-371, Transcript 28 January 2008, p. 2328 (CS); Charles Ghankay Taylor, Transcript 29 July 2009, pp. 22597-22598, 25574-25577, 25589-25590; Transcript 5 August 2009, pp. 26051-26054; Transcript 20 January 2010, pp. 33718-33723. See also Issa Sesay, Transcript 19 August 2010, p. 46682; Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8829-8830, 8834 (testifying that Victor King was executed by the Sierra Leonean Government).

<sup>9401</sup> Defence Exhibit D-141 Presidential Papers, Policies, Speeches, Statements and Record of Activities of the Chief Executive of Liberia, 2 August 1997 – 31 December 1998 pp. 238-441 ERN 539.

<sup>9402</sup> Charles Ghankay Taylor, Transcript 29 July 2009, pp. 22597-22598.

#### 4. Provision of RUF Guesthouse in Monrovia

##### Submissions of the Parties

4193. It is undisputed that in approximately 1998, the Accused provided a guesthouse to the RUF in Monrovia.<sup>9403</sup> Several other facts regarding this guesthouse are also uncontested. For example, the Accused provided long-range radio equipment and telephone capability, and RUF radio operators including Osman Tolo and Memunatu Deen were stationed there.<sup>9404</sup> The guesthouse was protected by the SSS, which was headed by Benjamin Yeaten, and the Accused provided other personnel such as cooks, security guards and a caretaker.<sup>9405</sup> The parties agree that the guesthouse was closed in early 2001.<sup>9406</sup>

4194. The Prosecution alleges that the provision of this guesthouse “facilitated Taylor’s criminal participation, involvement, and concerted action with the AFRC/RUF” from 1998 to 2002. In particular, the Prosecution alleges that the guesthouse was established to facilitate the movement of diamonds to the Accused and of arms, ammunition and other supplies to the RUF in Sierra Leone.<sup>9407</sup>

4195. The Defence submits that the Accused provided the guesthouse as part of his efforts to facilitate peace negotiations with the RUF in the lead up to the Lomé Peace Accords in 1999. The Accused’s actions were “at all times genuine and aboveboard” and the UN, ECOWAS and President Kabbah were aware of the provision of this guesthouse.<sup>9408</sup>

<sup>9403</sup>Prosecution Final Trial Brief, paras 17, 333, 1249; Defence Final Trial Brief, paras 99, 543-545; Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26005, 26012-26013; Transcript 11 November 2009, pp. 31606-31607; Transcript 18 August 2009, p. 26530.

<sup>9404</sup>Prosecution Final Trial Brief, para. 333; Defence Final Trial Brief, paras 544, 935, 1013, 1025.

<sup>9405</sup>Prosecution Final Trial Brief, para. 333; Defence Final Trial Brief, paras 94, 544, 1013, 1020.

<sup>9406</sup>Prosecution Final Trial Brief, para. 333; Defence Final Trial Brief, para. 1028. Taylor first denied that the guesthouse was closed in early 2001 and suggested that it was closed down around early 2002, Charles Ghankay Taylor, Transcript 14 September 2009, p. 28808, but then later testified that the guesthouse was closed between 2000 and 2001. Charles Ghankay Taylor, Transcript 27 January 2010, pp. 34288-34289. The Defence Final Trial Brief, however, states it was closed in 2001.

<sup>9407</sup>Prosecution Final Trial Brief, para. 333.

<sup>9408</sup>Defence Final Trial Brief, paras 94, 448, 543-545, 652, 1010-1029.

EvidenceProsecution Witness TF1-567

4196. Witness TF1-567,<sup>9409</sup> an RUF member, testified that in 1999, he was present when Foday Sankoh called Sam Bockarie over the radio and asked him to organise approximately 15 to 17 people to meet him in Lomé, including the witness.<sup>9410</sup> The delegation travelled from Buedu and stopped in the RUF guesthouse in Monrovia for one meal en route to Lomé.<sup>9411</sup>

4197. After two weeks in Lomé, Sankoh told the witness and others to go back to Sierra Leone to brief Bockarie on the peace process.<sup>9412</sup> The witness and others, including a “Dr Williams”, whom the witness identified as “medical personnel for the RUF”, flew to Monrovia on the way to Buedu, and stayed at the guesthouse. At the guesthouse, the witness saw Benjamin Yeaten give a parcel to Dr Williams that he said was from Taylor, but he did not know what was in the parcel. Yeaten said Taylor knew that they had arrived. Later, Dr Williams gave the witness \$USD 200, which he said was from Taylor, to “buy some items”. The witness then flew to Buedu and reported to Bockarie on Lomé.<sup>9413</sup>

4198. After approximately one month, Bockarie summoned the witness to Buedu and told him to accompany him to Lomé. Bockarie, the witness and others travelled to Monrovia first, and were taken to the same guesthouse.<sup>9414</sup> Bockarie then told the witness that he had decided not to travel to Lomé because he knew the UN was going to arrest him, and so the delegation did not go. They decided to wait in Monrovia at the guesthouse until Sankoh’s arrival after the Lomé negotiations.<sup>9415</sup>

4199. While in Monrovia waiting for Sankoh to arrive, Sankoh told Bockarie to send a message to Johnny Paul Koroma to meet him in Monrovia. Koroma arrived in Monrovia and

<sup>9409</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS); Transcript 4 July 2008, pp. 12986-12988 (PS).

<sup>9410</sup> Witness TF1-567, Transcript 2 July 2008, pp. 12929-12930. See also TF1-567, Transcript 8 July 2008, pp. 13193 (delegation went to Lomé in the rainy season of 1999, but witness does not remember what month).

<sup>9411</sup> TF1-567, Transcript 4 July 2008, pp. 12966-12967.

<sup>9412</sup> TF1-567, Transcript 4 July 2008, p. 12972.

<sup>9413</sup> TF1-567, Transcript 4 July 2008, pp. 12972-12973.

<sup>9414</sup> TF1-567, Transcript 4 July 2008, pp. 12974-12975; Transcript 8 July 2008, pp. 13142-13144.

<sup>9415</sup> TF1-567, Transcript 4 July 2008, pp. 12975-12976.

met Bockarie's delegation at the guesthouse.<sup>9416</sup> The witness saw Joe Tuah give a parcel to Koroma which Koroma said contained \$USD 15,000 and was sent by Taylor to take care of Koroma and his family.<sup>9417</sup>

4200. After the Lomé Peace Accord was signed, Sankoh came to Monrovia to meet Koroma and stayed at the guesthouse, and Koroma was taken from the guesthouse to Hotel Africa.<sup>9418</sup> The witness said he was present when Sankoh and Koroma met Taylor at the Executive Mansion, and Sankoh told him that they discussed how Koroma and Sankoh were to work together and with others.<sup>9419</sup> During Sankoh's stay at the guesthouse, Sankoh's friends, with whom he and Taylor had trained in Libya, visited. The witness saw Yeaten, Francis Mewon (an NPFL Special Forces Commander) and "someone like Joe Tuah" visit Sankoh at the guesthouse.<sup>9420</sup>

4201. The witness met with Sankoh and Yeaten before Sankoh left for Freetown, and Sankoh informed the witness that he would be assigning a caretaker to work at the guesthouse. Sankoh told the witness that Taylor said the guesthouse was a place for the RUF to use if they came to meet with him in Monrovia and that Sankoh should leave an honest person at the guesthouse. Sankoh appointed a caretaker and told him that Yeaten would act as the "mediator" between the RUF and Taylor, but would not have any direct contact with Taylor, as Taylor was too busy. Sankoh told the caretaker that Yeaten was to be his immediate boss, and instructed him to keep records of everything that was going on.<sup>9421</sup>

4202. Yeaten later gave the guesthouse caretaker a strict warning that he was not to keep documents pertaining to any transactions taking place between Taylor and the RUF. In approximately 2000, Yeaten discovered that the caretaker had been keeping records of the happenings at the guesthouse, such as arms and ammunition that were taken, and he removed the caretaker from the guesthouse and sent him to the front lines, but later brought him back to the guesthouse to work. Cooks and SS security were assigned to the guesthouse.

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<sup>9416</sup> TF1-567, Transcript 4 July 2008, pp. 12978-12980.

<sup>9417</sup> TF1-567, Transcript 4 July 2008, pp. 12978-12979.

<sup>9418</sup> TF1-567, Transcript 4 July 2008, pp. 12978-12980.

<sup>9419</sup> TF1-567, Transcript 4 July 2008, p. 12980.

<sup>9420</sup> TF1-567, Transcript 2 July 2008, pp. 12826-12837; Transcript 4 July 2008, pp. 12972-12974, 12981-12983.

<sup>9421</sup> TF1-567, Transcript 4 July 2008, pp. 12986-12990 (PS), 13008 (PS); Transcript 7 July 2008, p. 13097.





Benjamin Yeaten assigned a radio to it which was installed by Sunlight and operated by Memunatu Deen.<sup>9422</sup>

4203. In 2000, Sankoh came to Monrovia again and stayed at the RUF guesthouse. While in Monrovia, Sankoh told the witness that he wanted to give some diamonds to Taylor, one of which was 45 carats and three of which were 25 carats. Later, Yeaten came to the guesthouse to pick up Sankoh and took him, as well as the caretaker, to White Flower, where Sankoh gave Taylor diamonds.<sup>9423</sup>

4204. In 2000, after Issa Sesay became head of the RUF, TF1-567 received a message from Sesay for Yeaten about Sesay's trips to Liberia, to be passed on to Taylor.<sup>9424</sup> In addition, if Sesay needed arms and ammunition he would send a coded message to the guesthouse and the radio operators would translate this into English for the caretaker to understand. The witness would then take these messages from the caretaker at the guesthouse to Yeaten, who would later say that he sent them to his "dad", meaning Taylor. Yeaten would later tell the witness that Taylor said he would "solve the problem" and Yeaten would give the materials.<sup>9425</sup> In some instances Sesay himself would come for the ammunition, and "many times" the witness would collect the ammunition for Sesay and give it to him.<sup>9426</sup>

4205. From 1999 to 2001, Gibril Massaquoi, Abdul Razak, Jemba Ngobeh, Kenneth Macauley and Superman visited the guesthouse. Sesay came many times when Taylor wanted him, from the time he became leader of the RUF up until 2001.<sup>9427</sup>

4206. Also after Sesay took over as leader of the RUF, Eddie Kanneh went twice to the guesthouse and brought diamonds, and Gibril Massaquoi was there once with diamonds.<sup>9428</sup> Any time Kanneh brought diamonds they would meet Ibrahim Bah at the Hotel Boulevard, and Bah and Kanneh would then take the diamonds to Taylor.<sup>9429</sup>

<sup>9422</sup> TF1-567, Transcript 4 July 2008, pp. 12986-12990 (PS); Transcript 7 July 2008, p. 13097.

<sup>9423</sup> TF1-567, Transcript 7 July 2008, pp. 13012-13014 (PS).

<sup>9424</sup> TF1-567, Transcript 4 July 2008, p. 12991(PS).

<sup>9425</sup> TF1-567, Transcript 4 July 2008, pp. 12991-12992 (PS).

<sup>9426</sup> TF1-567, Transcript 4 July 2008, pp. 12992-12999, 13004 (PS).

<sup>9427</sup> TF1-567, Transcript 4 July 2008, pp. 13001-13002 (PS).

<sup>9428</sup> TF1-567, Transcript 4 July 2008, pp. 13002-13003 (PS).

<sup>9429</sup> TF1-567, Transcript 4 July 2008, pp. 13005-13007 (PS).

4207. In 2001, the witness and Sesay took diamonds from the guesthouse to Ibrahim Bah at the Hotel Boulevard and Sesay told Bah that he wanted to sell the diamonds to Taylor so that they could purchase “other items” they needed. Sesay and Bah met with Yeaten, who took them to Taylor. Sesay told the witness after this meeting that they took out the diamonds in front of Taylor, who told them he would keep them safe. Bah then told Sesay that he would contact his business partners to try and get satellite phones and computers for the RUF. Bah later came to the guesthouse with a satellite phone, computers and money amounting to \$USD 50,000.<sup>9430</sup>

4208. The witness saw Massaquoi came at the guesthouse in late 2000 and Massaquoi told him that Issa Sesay had sent him to Monrovia to handle diplomatic issues pertaining to the RUF.<sup>9431</sup>

4209. The witness said the caretaker remained working at the guesthouse until early 2001, when Momoh Gibba said that the whole world was blaming Taylor for supporting the RUF, and it had become too big of a concern, and so Taylor ordered that the caretaker be removed from there.<sup>9432</sup>

#### Prosecution Witness TF1-338

4210. Witness TF1-338, an RUF member,<sup>9433</sup> testified that in 2000 Issa Sesay made five trips to the guesthouse in Monrovia. In May 2000, when he was based on Koindu, Sesay told the witness that Taylor had called and asked him to find a person who had been present in Freetown when Sankoh was arrested and bring him to Monrovia.<sup>9434</sup> When the delegation arrived in Monrovia, they were taken to the RUF guesthouse.<sup>9435</sup>

4211. At around 10.00 to 11.00pm, Benjamin Yeaten drove Sesay and the delegation from the guesthouse to the Executive Mansion Ground to meet Taylor. Taylor asked why “his brother that was” Sankoh had been arrested. One of the delegation members explained that

<sup>9430</sup> TF1-567, Transcript 4 July 2008, pp. 13004-13006 (PS).

<sup>9431</sup> TF1-567, Transcript 4 July 2008, p. 13001 (PS).

<sup>9432</sup> TF1-567, Transcript 4 July 2008, p. 13003 (PS).

<sup>9433</sup> TF1-338, Transcript 1 September 2008, pp. 15085-15086 (PS).

<sup>9434</sup> TF1-338, Transcript 1 September 2008, pp. 15128-15129. See also TF1-338, Transcript 2 September 2008 p. 15141 (trip occurred in May).

<sup>9435</sup> TF1-338, Transcript 1 September 2008, p. 15129.

Sankoh was arrested because of the capture of the UN peacekeepers.<sup>9436</sup> Taylor then spoke of a British military adviser that had been captured and released and said that the RUF had made a big mistake in not using him as “a bargaining chip”, collateral, to negotiate for the release of Sankoh.<sup>9437</sup>

4212. Sesay told Taylor that pro-government forces were still attacking the RUF and they had no materiel, and so Taylor told Sesay to appoint one person to go with Joe Tuah to Belle Fassama forest to get materiel for the RUF.<sup>9438</sup> This was complied with and materiel was collected. Once they returned to Monrovia with the materiel, the person whom Sesay appointed to accompany Tuah was left at the guesthouse while Tuah drove to the Executive Mansion Ground with the truck carrying the materiel.<sup>9439</sup>

4213. At the end of May 2000, Sesay travelled to Monrovia for the second time that year. Sesay told the witness that Taylor invited him to discuss the release of UN peacekeepers. Upon Sesay’s arrival in Monrovia, Yeaten picked him up and took him to the guesthouse. From there, at around 10.00 to 11.00pm, Yeaten took Sesay to meet Taylor at the Executive Mansion. Taylor told Sesay that the United Nations was after him concerning the peacekeepers and that he would “help [him] in the struggle with anything that he asked for” if Sesay released the UN peacekeepers. After the meeting, Sesay returned back to the guesthouse and used the radio there to contact “the base”.<sup>9440</sup>

4214. On 26 July 2000, Sesay travelled to Monrovia for the third time with a delegation on Taylor’s invitation and were taken to the sixth floor of the Executive Mansion.<sup>9441</sup> Taylor introduced the delegation to four heads of state who, the witness testified, spoke to the RUF delegation. The witness testified that President Obasanjo, of Nigeria, told them that they should continue their good relationship with Taylor because he was a “good leader”,<sup>9442</sup> and Yayha Jammeh, the President of the The Gambia, encouraged the RUF to appoint new leadership so that they could carry on the peace process. Finally Taylor spoke, saying that a

<sup>9436</sup> TF1-338, Transcript 1 September 2008, pp. 15130-15131.

<sup>9437</sup> TF1-338, Transcript 1 September 2008, pp. 15131-15132.

<sup>9438</sup> TF1-338, Transcript 1 September 2008, pp. 15132-15134. See also TF1-338, Transcript 2 September 2008 p. 15140.

<sup>9439</sup> TF1-338, Transcript 1 September 2008, pp. 15135-15136.

<sup>9440</sup> TF1-338, Transcript 2 September 2008, pp. 15141-15144.

<sup>9441</sup> TF1-338, Transcript 2 September 2008, pp. 15145-15146.

<sup>9442</sup> TF1-338, Transcript 2 September 2008, pp. 15146-15147.

change in leadership was necessary because Sankoh was too old, stubborn and lazy, was “always being arrested”.<sup>9443</sup>

4215. The delegation returned to the RUF guesthouse where, at approximately 11.00 or 12.00pm, Yeaten took Sesay, Augustine Gbao and Francis Oscar Charles from the guesthouse to a meeting with Taylor at the Executive Mansion. Taylor told Sesay that he (Sesay) should remember that the presidents he met were British elected presidents and he should not listen to the Sierra Leone Government. He gave Sesay \$USD 15,000, promised them further assistance and requested that Sesay disobey the Sierra Leonean Government’s request to disarm. Sesay and the witness spent the night at the guesthouse and Sesay flew back to Foya the next day.<sup>9444</sup>

4216. Two or three days later, Sesay returned to Monrovia, where he met at Roberts International Airport with Taylor, and Presidents Obasanjo and Konaré. President Obasanjo gave Taylor a letter that he had brought from Sankoh in Sierra Leone, telling him that he had appointed Sesay as the new leader of the RUF, and that he should take all instructions from Taylor. After the meeting, Sesay went to the guesthouse in Yeaten’s vehicle and passed the night there.<sup>9445</sup>

4217. At the end of 2000, Sesay and the witness travelled to the RUF guesthouse in Monrovia carrying diamonds for Taylor. When Sesay arrived in Monrovia, he was received by Yeaten and taken to the guesthouse. That night, they were taken to see Taylor at the Executive Mansion Ground where the witness was present when Sesay presented Taylor with “many diamonds”. Sesay stated that they lacked materiel and enemies were threatening their positions, after which Taylor replied that he would talk to Yeaten. After the meeting, Sesay drove back to the guesthouse. From the guesthouse, Sesay and the witness travelled with Yeaten and obtained large quantities of boots and uniforms, as well as arms and ammunition.<sup>9446</sup>

4218. TF1-338 also testified that in 2001, Issa Sesay and Francis Oscar Charles travelled from Koidu Town to Foya with a packet of diamonds and met Benjamin Yeaten, and then

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<sup>9443</sup> TF1-338, Transcript 2 September 2008, pp. 15146-15148.

<sup>9444</sup> TF1-338, Transcript 2 September 2008, pp. 15148-15151, 15211 (PS).

<sup>9445</sup> TF1-338, Transcript 2 September 2008, pp. 15152-15154.

<sup>9446</sup> TF1-338, Transcript 2 September 2008, pp. 15156-15164 (Open Session), 15213 (PS).

they travelled on to Monrovia. Sesay and Yeaten were taken to the RUF guesthouse, where Alpha Bravo came to meet them. They weighed the diamonds that Sesay and brought and Alpha Bravo gave Sesay approximately \$USD 300,000. Sesay divided the money into two parts: he took \$USD 150,000 to Taylor for “safe keeping”, and took the second \$USD 150,000 back to Sierra Leone.<sup>9447</sup>

Prosecution Witness TF1-371

4219. Witness TF1-371 an RUF member,<sup>9448</sup> testified that the RUF had a radio base in a guesthouse on 16th Street in Monrovia, and that from late 1998 to early 1999 communications were sent there from Buedu on a daily basis.<sup>9449</sup> The witness disagreed that the guesthouse was established to facilitate the involvement of RUF members in the peace process, as it had been set up before that period. The witness agreed, however, that they were able to use the facility as part of their involvement in the peace process.<sup>9450</sup>

4220. In April 1999 the witness and an RUF delegation travelled to Lomé through Liberia. After landing in Monrovia, a car belonging to Taylor’s security took the witness and others to the guesthouse. Memunatu Deen, Osman Tolo and two securities were there and he also met a Gambian security commander at the guesthouse.<sup>9451</sup> Yeaten met the witness at the guesthouse and gave each of the delegates \$USD 300, telling the witness that the money was from Taylor. The witness spent two days at the guesthouse before being transported to Lomé.<sup>9452</sup> The witness also met Denis Mingo (a.k.a. Superman) at the guesthouse when Mingo was leaving for Lomé to meet Sankoh.<sup>9453</sup>

4221. Afterwards, when the witness came back from Lomé, he met Bockarie at the guesthouse. Bockarie told the witness that he was against disarmament and tried to persuade the witness to boycott the peace process. The witness testified that he tried to reason with

<sup>9447</sup> TF1-338, Transcript 2 September 2008, pp. 15171-15172. In speaking of this incident, TF1-338 indicates that this “guesthouse” “belonged to Monie Captan”. Yanks Smythe confirmed that the RUF guesthouse in Monrovia supplied by Taylor was owned by Monie Captan but leased by the Liberian Government. Yanks Smythe, Transcript 25 February 2010 pp. 36004-36005.

<sup>9448</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>9449</sup> TF1-371, Transcript 28 January 2008, pp. 2382-2383 (PS).

<sup>9450</sup> TF1-371, Transcript 1 February 2008, pp. 2796- 2798 (PS).

<sup>9451</sup> TF1-371, Transcript 28 January 2008, pp. 2434-2436 (PS).

<sup>9452</sup> TF1-371, Transcript 28 January 2008, pp. 2434-2436 (PS).

<sup>9453</sup> TF1-371, Transcript 4 February 2008, p. 2976 (PS).

Bockarie, telling him that the UN and others had spent enormous resources on the peace process and it could not be undermined by Bockarie, but Bockarie was not convinced.<sup>9454</sup>

Prosecution Witness Foday Lansana

4222. Witness Foday Lansana, (a.k.a. Co Nya) an RUF radio operator,<sup>9455</sup> testified that on 22 December 1999 he travelled to Monrovia to see his family, and to meet with Taylor concerning the conflict between Sam Bockarie and Denis Mingo (a.k.a. Superman). Lansana arrived in Monrovia and was taken to a house in Congo Town where Memunatu Deen and other RUF personnel were based. He met Ibrahim Bah for the first time at the Hotel Boulevard in Monrovia and then later at the RUF guesthouse, where Bah gave Lansana \$USD 500 “for shopping”. Bah told Lansana that Sankoh had given him instructions to give the money to Lansana.<sup>9456</sup> Also on this trip, Foday Sankoh, who was in Monrovia at this time, introduced Lansana to Benjamin Yeaten so that he could meet Taylor. Lansana did not, however, meet Taylor on this trip.<sup>9457</sup> Lansana testified that he was in Liberia for four months, from December to April of 2000, including one month in Monrovia and that Yeaten would meet him at the guesthouse frequently to discuss the conflict between Bockarie and Mingo.<sup>9458</sup>

Prosecution Witness Dauda Aruna Fornie

4223. Witness Dauda Aruna Fornie, an RUF radio operator,<sup>9459</sup> testified that en route to the Lomé Peace Accords, he and the other delegates stayed at the RUF guesthouse in Monrovia for a few hours, and then went on to Lomé. Further, in late October or early November 1999, Foday Sankoh, Ibrahim Bah and the witness stayed at the RUF guesthouse in

<sup>9454</sup> TF1-371, Transcript 29 January 2008, pp. 2448-2450 (PS).

<sup>9455</sup> Foday Lansana, T. 20 February 2008, pp. 4361-4362.

<sup>9456</sup> TF1-275, Transcript 21 February 2008, pp. 4472-4474; Transcript 25 February 2008, 4718-4720.

<sup>9457</sup> Foday Lansana, Transcript 25 February 2008, pp. 4719-4723. The Defence noted upon cross-examination that in a previous statement made on 1 February 2007, Lansana did not inform Prosecutors that Sankoh introduced him to Yeaten. Foday Lansana, Transcript 25 February 2008, pp. 4722-4727. Lansana agreed that this was not consistent with his trial testimony. Foday Lansana, Transcript 25 February 2008, pp. 4722-4723. On re-examination, the Prosecution noted that Lansana had said in another previous statement on 15 February 2007 that Sankoh introduced him to Yeaten. Foday Lansana, Transcript 26 February 2008, pp. 4768-4769. The Trial Chamber thus finds that Lansana’s clearly gave this information to the Prosecution and the date when he gave it does not undermine his credibility.

<sup>9458</sup> Foday Lansana, Transcript 25 February 2008, pp. 4724. See also Foday Lansana, Transcript 22 February 2008 pp. 4571-4574 (concerning Lansana’s meetings with Yeaten).

<sup>9459</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21395; Transcript 2 December 2008, p. 21418.

Monrovia for a number of days on their return from Lomé to Sierra Leone after the signing of the Accords.<sup>9460</sup>

### The Accused

4224. The Accused testified that the RUF guesthouse was established in early October 1998 as a place for RUF members to stay when they came to Monrovia to meet him for official purposes.<sup>9461</sup> The guesthouse was opened with the knowledge and consent of ECOWAS members, including the Committee of Five.<sup>9462</sup> Members of the ECOWAS diplomatic delegation visited Bockarie at the guesthouse, and President Kabbah knew of its existence.<sup>9463</sup>

4225. In establishing the guesthouse, the Accused testified, he wanted to centralise all RUF activity in Liberia by providing, as had been done for the RUF previously in the Côte d'Ivoire, a building in which RUF members could eat, sleep, and maintain communication with the RUF in Sierra Leone.<sup>9464</sup> In 1998, there was a radio placed at the guesthouse so that the RUF could communicate with stations in Sierra Leone.<sup>9465</sup>

4226. The Accused described how the guesthouse was used by the RUF at several points in his testimony. For example, he testified that Bockarie stayed at the guesthouse in October 1998, on his second visit to Liberia,<sup>9466</sup> and that RUF representatives bound for Lomé were lodged at the guesthouse,<sup>9467</sup> and that Foday Sankoh stayed at the guesthouse after the signing of the Lomé Accords.<sup>9468</sup> Further, when Sankoh arrived in Monrovia on 28 September 1999 in order to speak with Johnny Paul Koroma, Sankoh stayed at the

<sup>9460</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21624-21625.

<sup>9461</sup> Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26005-26010; Transcript 13 Aug. 2009, pp. 26796-26797; Transcript 14 September 2009, pp. 28772-28773; Transcript 11 November 2009, pp. 31606-31607.

<sup>9462</sup> Charles Ghankay Taylor, Transcript 5 August 2009, pp. 2009, 26006-26007.

<sup>9463</sup> Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26006-26007, 26036; Transcript 14 September 2009, p. 28772.

<sup>9464</sup> Charles Ghankay Taylor, Transcript 5 August 2009, p. 26006, 26009-26011. See *also* Charles Ghankay Taylor, Transcript 25 November 2009 pp. 32480.

<sup>9465</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28780-28781.

<sup>9466</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29336-29338; Transcript 11 November 2009, pp. 31606-31607.

<sup>9467</sup> Charles Ghankay Taylor, Transcript 24 September 2009, p. 29605.

<sup>9468</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28760.

guesthouse.<sup>9469</sup> He also said that Issa Sesay stayed at the guesthouse in August 2000, at the time he was appointed leader of the RUF.<sup>9470</sup>

4227. The Accused testified that he never visited the guesthouse himself, nor did any of the staff at the guesthouse contact Taylor.<sup>9471</sup> When he wanted Bockarie to come to him, he would send for him. He believed that Yeaten visited the guesthouse and that Yeaten and Bockarie developed a close relationship.<sup>9472</sup>

4228. The Accused affirmed that from around July 2000, Gibril Massaquoi was posted at the guesthouse as the RUF spokesman, and made public statements on the RUF's behalf.<sup>9473</sup> He denied, however, that he stationed Massaquoi at the guesthouse to act as his conduit to Sesay in order to facilitate the diamond trade.<sup>9474</sup> He also denied that the guesthouse itself was used to cover business activities related to diamonds, stating that had he known this, he would have closed it down.<sup>9475</sup>

4229. The Accused denied that the guesthouse was closed in early 2001 and suggested that it was closed down around early 2002.<sup>9476</sup> Subsequently, Taylor testified that the guesthouse was closed down between 2000 and 2001.<sup>9477</sup>

#### Defence Witness Issa Sesay

4230. Witness Issa Sesay, an RUF commander,<sup>9478</sup> confirmed that he met with ECOWAS leaders in Monrovia in July 2000, but denied that he and the RUF delegation met with Taylor privately at night, and denied that Taylor encouraged them not to disarm.<sup>9479</sup>

<sup>9469</sup> Charles Ghankay Taylor, Transcript 13 August 2009, pp. 26795-26797 (The purpose of the visit was to conclude outstanding matters on what to do with the SLA under Johnny Paul Koroma and to solve internal matters before returning to Freetown); Exhibit D-217, Itinerary for the Visit of Hon. Foday Sankoh and Delegation Visit to Liberia, 8 September 1999, 301999 p. 1 ERN 615.

<sup>9470</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28804 (PS).

<sup>9471</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32481-32482.

<sup>9472</sup> Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26011-26012.

<sup>9473</sup> Charles Ghankay Taylor, Transcript 20 August 2009, pp. 27307-27309; Transcript 25 August 2009, pp. 27658-27659; 27 January 2010, pp. 34288-34289.

<sup>9474</sup> Charles Ghankay Taylor, Transcript 28 January 2010, pp. 34310-34314.

<sup>9475</sup> Charles Ghankay Taylor, Transcript 25 August 2009, pp. 27565-27566.

<sup>9476</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28808 (PS).

<sup>9477</sup> Charles Ghankay Taylor, Transcript 27 January 2010, pp. 34288-34289.

<sup>9478</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>9479</sup> Issa Sesay, Transcript 2 August 2010, pp. 45258-45262.



4231. Sesay also testified that in 2000, Bockarie visited him and Augustine Gbao at the guesthouse.<sup>9480</sup> They discussed the problems between them over Bockarie's unwillingness to disarm. It was the first time Sesay had seen him since December 1999.<sup>9481</sup>

4232. Sesay denied receiving materials from Taylor, and stated that he made only one trip to Monrovia in May 2000. After having a meeting with Taylor at the Executive Mansion, where Taylor gave Sesay \$USD 5,000 for fuel, Sesay was sent back to the guesthouse to prepare for travel the next day in order to release the UNAMSIL personnel in Kono.<sup>9482</sup>

4233. Around July 2000, acting on behalf of ECOWAS, Taylor sent Tuah to Deen at the guesthouse, to send a message to Sesay asking him to travel to Monrovia for a meeting with ECOWAS leaders. The RUF delegation to Monrovia spent the night at the RUF guesthouse.<sup>9483</sup> After that meeting Sesay returned to Sierra Leone. From Kono, after consulting with RUF commanders regarding the change of leadership, Sesay travelled back to Monrovia and stayed at the guesthouse. Memunatu Deen, Osman Tolo and others were permanently at the guesthouse during this time.<sup>9484</sup>

#### Defence Witness DCT-008

4234. Witness DCT-008, a Liberian radio operator,<sup>9485</sup> testified that he first went to the RUF guesthouse which was located along Tubman Boulevard in Monrovia, in 1999. The witness had not heard of the RUF guesthouse prior to 1999, but Yeaten's guards spoke freely of it, suggesting that it was not a secret.<sup>9486</sup> The witness visited Sankoh at the guesthouse about a week after the RUF peace talks in Lomé.<sup>9487</sup> During this second visit, Dauda Aruna Fornie, Bockarie and Pa Rogers were at the guesthouse. The witness believes that Eddie Kanneh was there as well.<sup>9488</sup> The witness did not meet Sesay at the guesthouse.<sup>9489</sup>

<sup>9480</sup> Issa Sesay, Transcript 29 July 2010, pp. 45070-45071.

<sup>9481</sup> Issa Sesay, Transcript 2 August 2010, pp. 45261-45262; 45257.

<sup>9482</sup> Issa Sesay, Transcript 2 August 2010, pp. 45232-45234; Transcript 14 July 2010, pp. 44515-44522.

<sup>9483</sup> Issa Sesay, Transcript 26 July, p. 44600; Transcript 26 July 2010, pp. 44548-44552.

<sup>9484</sup> Issa Sesay, Transcript 26 July 2010, pp. 44553-44556.

<sup>9485</sup> DCT-008, Transcript 24 August 2010, pp. 46948-46951 (PS).

<sup>9486</sup> DCT-008, Transcript 30 August 2010, pp. 47477-47480.

<sup>9487</sup> DCT-008, Transcript 30 August 2010, p. 47483.

<sup>9488</sup> DCT-008, Transcript 30 August 2010, pp. 47481-47482.

<sup>9489</sup> DCT-008, Transcript 6 September 2010, p. 48019.



4235. DCT-008 testified that Sunlight had learned that the Government of Liberia gave the VHF radio at the guesthouse.<sup>9490</sup> The radio operators at Base 1 were “very mindful” of communicating with the radio at the RUF guesthouse because they believed the RUF radio was being monitored by the Government of Liberia. These communications between the guesthouse and Base 1 were secret, and so operators were warned by Benjamin Yeaten not to do anything to expose the connection. The witness himself monitored communications from the guesthouse radio.<sup>9491</sup>

#### Defence Witness Yanks Smythe

4236. Witness Yanks Smythe, (a.k.a. Yankuba Samateh or Butterfly B), Assistant Director of Operations for the SSS,<sup>9492</sup> testified that in 1999 he met the RUF delegation travelling to Lomé when they passed through Monrovia and stayed at the RUF guesthouse. Yanks Smythe designated persons to provide security for the delegation in Monrovia.<sup>9493</sup>

#### Deliberations

4237. It is undisputed that in approximately 1998, the Accused provided a guesthouse to the RUF in Monrovia which housed a long-range radio and telephone, radio operators Osman Tolo and Memunatu Deen, SSS security supervised by Benjamin Yeaten, cooks and a caretaker. The guesthouse was closed in 2001.<sup>9494</sup> The issue before the Trial Chamber is the purpose and use of the guesthouse.

4238. At the outset, the Trial Chamber notes that the guesthouse was established in October 1998, prior to the Lomé Peace Accords,<sup>9495</sup> and that in October 1998 a radio was placed at the guesthouse by the Government of Liberia. It was used by the RUF to communicate with stations in Sierra Leone and to facilitate communication with Bockarie in

<sup>9490</sup> DCT-008, Transcript 30 August 2010, pp. 47483-47484.

<sup>9491</sup> DCT-008, Transcript 30 August 2010, pp. 47483-47487.

<sup>9492</sup> Yanks Smythe, Transcript 23 February 2010, pp. 35730, 35747; 24 February 2010, pp. 35866-35869; 25 February 2010, pp. 36003, 36014, 36019, 36023, 36031; 26 February 2010, pp. 36199, 36202, 36206, 36208.

<sup>9493</sup> Yanks Smythe, Transcript 25 February 2010, pp. 36005-36006.

<sup>9494</sup> Prosecution Final Trial Brief, paras 17, 272, 333, 1249; Defence Final Trial Brief, paras 94, 99, 544, 550, 935, 1013, 1025, 1028; Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26005, 26012-26013; Transcript 11 November 2009, pp. 31606-31607; Transcript 18 August 2009, p. 26530.

<sup>9495</sup> Prosecution Final Trial Brief, para. 333; Defence Final Trial Brief, para. 543 (Bockarie stayed at the guesthouse when he met with Taylor in October 1998), para. 935 (from October 1998, there was a radio at the guesthouse used to communicate with Bockarie).

Sierra Leone.<sup>9496</sup> However, the Trial Chamber concurs with the Defence observation that “there is little evidence about how the guesthouse was used by the RUF prior to the signing of the Lomé Peace Accord”.<sup>9497</sup> The evidence adduced by the Prosecution on the use of the guesthouse pertains to events in the period after January 1999.<sup>9498</sup>

4239. Several Prosecution and Defence witnesses testified to the guesthouse being used by RUF members going to and from peace negotiations, or for conversations with the Accused concerning the peace process. For example TF1-567, TF1-371, Dauda Aruna Fornie and the Accused testified that the RUF delegation stayed in the guesthouse on the way to the Lomé peace negotiations.<sup>9499</sup> TF1-567 also testified that Sankoh stayed at the guesthouse after the Lomé accords, when he met with Johnny Paul Koroma at the Executive Mansion with Taylor.<sup>9500</sup> TF1-567 also met Gibril Massaquoi at the guesthouse in late 2000, who told the witness that Sankoh had sent him to Monrovia in order to handle diplomatic issues pertaining to the RUF.<sup>9501</sup> The Accused confirmed that Massaquoi was posted at the guesthouse to make public statements on the RUF’s behalf.<sup>9502</sup> Issa Sesay testified that he stayed at the guesthouse when called to Monrovia by Taylor for a meeting with ECOWAS leaders.<sup>9503</sup> Finally the Accused testified that Sam Bockarie stayed at the guesthouse on his way to Burkina Faso to meet with the Chairman of the OAU.<sup>9504</sup>

4240. The Prosecution, however, has presented substantial evidence that the RUF guesthouse was also used from 1999 for purposes other than to promote peace. In some cases the use of the guesthouse was related to peace, and yet the message from the Accused to the RUF was not in support of the peace process. For example, Issa Sesay stayed at the guesthouse in May 2000, when Taylor called him to Monrovia to discuss the release of the

<sup>9496</sup> Defence Final Trial Brief, para. 935. See also Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28780-28781 (PS); DCT-008, Transcript 30 August 2010, pp. 47483-47484.

<sup>9497</sup> Defence Final Trial Brief, para. 1017.

<sup>9498</sup> See Prosecution evidence from TF1-567, TF1-338, TF1-371, Foday Lansana, and Dauda Aruna Fornie; See also Prosecution Final Trial Brief, para. 333.

<sup>9499</sup> TF1-567, Transcript 4 July 2008, pp. 12966-12967, 12974-12975; Transcript 8 July 2008, pp. 13142-13144. Bockarie ultimately decided against attending the Lomé peace negotiations. TF1-567, Transcript 4 July 2008, pp. 12975-12976; TF1-371, Transcript 28 January 2008, pp. 2434-2436; Dauda Aruna Fornie, Transcript 3 December 2008, p. 21624-21625; Charles Ghankay Taylor, Transcript 24 September 2009, p. 29605.

<sup>9500</sup> TF1-567, Transcript 4 July 2008, p. 12980.

<sup>9501</sup> TF1-567, Transcript 4 July 2008, p. 13001.

<sup>9502</sup> Charles Ghankay Taylor, Transcript 20 August 2009, pp. 27307-27309; Transcript 25 August 2009, pp. 27658-27659; Transcript 27 January 2010, pp. 34288-34289.

<sup>9503</sup> Issa Sesay, Transcript 26 July, p. 44600; Transcript 26 July 2010, pp. 44548-44552.

<sup>9504</sup> Charles Ghankay Taylor, Transcript 10 September 2009, pp. 28660-28662.

UNAMSIL Peacekeepers.<sup>9505</sup> In his meeting with Sesay, however, Taylor told those present that the RUF had made a big mistake in not using the peacekeepers as collateral for Sankoh's release.<sup>9506</sup> Further, in July 2000 an RUF delegation stayed at the guesthouse in order to meet with Taylor, and Taylor requested that Sesay disobey the government's order to disarm.<sup>9507</sup>

4241. Several witnesses testified to the guesthouse being used to facilitate the transfer of arms and funds for the RUF, and the delivery of diamonds to the Accused. For example, Witness TF1-567 testified that the caretaker of the guesthouse received messages from Sesay to Yeaten requesting arms and ammunition, which were to be passed on to Taylor, and he received ammunition from Yeaten for the RUF many times. The caretaker attempted to keep records of these transactions but Yeaten discovered this and removed him from the guesthouse.<sup>9508</sup> TF1-338 testified that the guesthouse was used to house an RUF member in transit when Sesay received arms and materiel from Belle Fassama forest.<sup>9509</sup>

4242. TF1-567 testified that Foday Sankoh, Issa Sesay, and Eddie Kanneh stayed at the guesthouse on their way to give diamonds to Taylor.<sup>9510</sup> Sesay was at the guesthouse, twice when delivering diamonds to Taylor.<sup>9511</sup> TF1-567 testified that \$USD 15,000 was sent by Taylor to the guesthouse for Koroma and \$USD 50,000 was sent by Taylor to the guesthouse for Issa Sesay.<sup>9512</sup>

4243. The Defence contends that nothing secret could have transpired at the guesthouse because the international community was aware of the Accused's dealings with the RUF in furtherance of the peace process,<sup>9513</sup> and cites the Accused's testimony and some

<sup>9505</sup> TF1-338, Transcript 1 September 2008, p. 15143; TF1-567, Transcript 7 July 2008, p. 13039; Charles Ghankay Taylor, Transcript 18 August 2009, p. 27044; Issa Sesay, Transcript 14 July 2010, pp. 44519-44522; Peace Process: Release of UNAMSIL Peacekeepers (2000).

<sup>9506</sup> TF1-338, Transcript 1 September 2008, pp. 15131-15132. Peace Process: Release of UNAMSIL Peacekeepers (2000).

<sup>9507</sup> TF1-338, Transcript 2 September 2008, pp. 15148-15151, 15211. Peace Process: Communications with Sesay on Disarmament.

<sup>9508</sup> TF1-567, Transcript 4 July 2008, pp. 12986-12996; Transcript 7 July 2008, p. 13097.

<sup>9509</sup> TF1-338, Transcript 1 September 2008, pp. 15135-15136. Arms and Ammunition: Allegations of Direct Supply by the Accused, During Issa Sesay's Leadership (December 1999-January 2002).

<sup>9510</sup> TF1-567, Transcript 7 July 2008, pp. 13012-13014 (PS) (Sankoh); TF1-567, Transcript 4 July 2008, pp. 13004-13006 (PS) (Sesay); TF1-567, Transcript 4 July 2008, p. 13007 (PS) (Kanneh). Diamonds.

<sup>9511</sup> TF1-338, Transcript 2 September 2008, pp. 15156-15164, 15213; Transcript 2 September 2008 p. 15171-15172. Diamonds.

<sup>9512</sup> TF1-567, Transcript 4 July 2008, pp. 12978-12979, 13004 (PS).

<sup>9513</sup> Charles Ghankay Taylor, Transcript 5 August 2009, p. 26036; Transcript 5 August 2009, pp. 26006-26007;

documentary evidence to support this contention.<sup>9514</sup> Only two of the exhibits cited, however, in any way mention the RUF guesthouse: one UN code cable referring to the delegates' lunch at a Government of Liberia "safe guest house",<sup>9515</sup> and one itinerary, authorship unknown, for the RUF delegation's trip to Liberia on the way to Lomé, indicating their stay at the "Official Guest House" in Monrovia.<sup>9516</sup> The Trial Chamber finds this evidence inadequate to support the Defence proposition that the guesthouse was used only in furtherance of peace. The Trial Chamber accepts the Defence evidence that the existence of the guesthouse was, as DCT-008 testified, "not a secret".<sup>9517</sup> The Trial Chamber notes, however, that public recognition of the guesthouse in the international community does not preclude the possibility of clandestine activities occurring there.

4244. The Trial Chamber notes that even though the Accused testified to being entirely unaware of matters that occurred at the guesthouse,<sup>9518</sup> most of the evidence relating to the transfer of arms and ammunition, the provision of funds, and the delivery of diamonds directly involved the Accused, with witnesses testifying as to meetings with him at the Executive Mansion, or at White Flower.<sup>9519</sup> RUF members who stayed at the guesthouse went to deliver diamonds directly to Taylor.<sup>9520</sup>

4245. Having considered all the evidence, the Trial Chamber finds that while the guesthouse was used to house RUF delegates taking part in and travelling to and from activities related to the peace process, it was also used as a layover point for individuals carrying diamonds to the Accused and for individuals who came to arrange and receive arms, ammunition and other supplies on behalf of the RUF from the Accused.

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Transcript 24 September 2009, p. 29605.

<sup>9514</sup> Defence Final Trial Brief para. 94.

<sup>9515</sup> Exhibit D-193 (J), Outgoing Code Cable, To Pendergast/Miyet/fall UNations. NY, From Downes-Thomas, Rsg, UNOL RUF: Flight Clearance and Related Border Activities, 24 April 1999, ERN 591 J. The Trial Chamber notes that Exhibits D-193 (A-I) and (K) and Exhibits D-355 (B) and (C), which the Defence cites in support of this proposition, do not indicate any official knowledge of the RUF guesthouse.

<sup>9516</sup> Exhibit D-217, Itinerary for the Visit of Hon. Foday Sankoh and Delegation Visit to Liberia, 8-30 September 1999, ERN 615.

<sup>9517</sup> DCT-008, Transcript 30 August 2010, pp. 47477-47480.

<sup>9518</sup> Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26009-26015; Transcript 5 August 2009, p. 26036; Transcript 24 September 2009, pp. 29605-29606.

<sup>9519</sup> TF1-567, Transcript 4 July 2008, pp. 12972-12973, 12978-12979; Transcript 7 July 2008, pp. 13012-13014 (PS), 13097-13098; TF1-338, Transcript 2 September 2008, pp. 15156-15164, 15171-15172, 15213.

<sup>9520</sup> TF1-567, Transcript 4 July 2008, p. 13004-13007; Transcript 7 July 2008, pp. 13012-13014; TF1-338, Transcript 2 September 2008, pp. 15156-15164, 15213.

Findings

4246. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused provided the RUF with a guesthouse in Monrovia, equipped with a long-range radio and telephone, RUF radio operators, SSS security supervised by Benjamin Yeaten, cooks and a caretaker. Although the guesthouse was used by RUF members partly for matters relevant to the peace process or for diplomatic purposes, it was also used to facilitate the transfer of arms, ammunition and funds directly from the Accused to the RUF, and the delivery of diamonds from the RUF directly to the Accused, thus providing a base for the RUF in Monrovia. These transactions between the RUF and the Accused played a vital role in the military operations of the RUF in which crimes were committed.

Summary of the Findings

4247. The Trial Chamber has found that:

- (i) The Prosecution has proved beyond reasonable doubt that the NPFL provided radio operators, including Foday Lansana, and equipment to the RUF, to train RUF fighters in radio communication. Lansana stayed in Sierra Leone following the break with the NPFL in Operation Top Final, and the RUF continued to benefit from the training and equipment provided by the NPFL throughout the conflict in Sierra Leone and during the indictment period.
- (ii) The Prosecution has proved beyond reasonable doubt that Taylor knew that the NPFL provided these operators and equipment to the RUF.
- (iii) The Prosecution has proved beyond reasonable doubt that the Accused and Sam Bockarie communicated by satellite phone in furtherance of the Freetown Invasion and other RUF/AFRC military activities, during which crimes were committed.
- (iv) The Prosecution has proved beyond reasonable doubt that the satellite phones the Accused provided to Sam Bockarie and Issa Sesay, and the “top up cards”, which the Trial Chamber finds were provided to Bockarie by Benjamin Yeaten for phone credit, enhanced the communications capability

of both Bockarie and Sesay, which they used in furtherance of RUF and RUF/AFRC military activities.

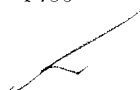
- (v) The Prosecution failed to prove beyond reasonable doubt that the Accused provided Foday Sankoh with a satellite phone.
- (vi) The Prosecution has proved beyond reasonable doubt that RUF radio codes were shared with the NPFL and that the RUF and NPFL were able to communicate via radio.
- (vii) The Prosecution has proved beyond reasonable doubt that Base 1 existed and was in operation at the time of the Intervention.
- (viii) The Prosecution has proved beyond reasonable doubt that while in detention in Nigeria, Sankoh used the NPFL communications network to communicate to the RUF, and sent messages to Bockarie via the Accused.
- (ix) The Prosecution has proved beyond reasonable doubt that Dauda Aruna Fornie, a radio operator for Sam Bockarie, communicated by radio with Memunatu Deen, an RUF radio operator based in Liberia, regarding a shipment of ammunition that the Accused sent to Bockarie.
- (x) The Prosecution has proved beyond reasonable doubt that radio communications were sent back and forth from Bockarie to Base 1 or Base 020 in Monrovia, and later from Issa Sesay, to report the movements of Eddie Kanneh between Liberia and Sierra Leone with diamonds, and information on diamond mining in Sierra Leone.
- (xi) The Prosecution has proved beyond reasonable doubt that on one of Sam Bockarie's first trips to Monrovia after the Intervention, radio operator Dauda Aruna Fornie, who accompanied Bockarie on this trip, kept Bockarie apprised of events in Sierra Leone by using Base 1, a radio station at Benjamin Yeaten's home in Monrovia.
- (xii) The Prosecution failed to prove beyond reasonable doubt that the Accused and Benjamin Yeaten received updates from an RUF operator stationed in Liberia during the Freetown Invasion.

- (xiii) The Prosecution has proved beyond reasonable doubt that around the time of the Mosquito Spray incident in 1999, the RUF sent a radio operator to Liberia who worked directly with Benjamin Yeaten, in order to coordinate communications between Yeaten and the RUF.
- (xiv) The Prosecution has proved beyond reasonable doubt that a Liberian radio was provided to Johnny Paul Koroma. However, this radio was provided specifically for the purpose of enabling Koroma to communicate with the West Side Boys about the UN peacekeepers that they had taken hostage.
- (xv) The Prosecution has proved beyond reasonable doubt that “448 messages” were sent by subordinates of the Accused in Liberia alerting the RUF when ECOMOG jets left Monrovia to attack AFRC/RUF forces in Sierra Leone. The Trial Chamber further finds that the Accused knew that his subordinates were sending these messages.
- (xvi) The Prosecution has proved beyond reasonable doubt that during the Indictment period, the Accused provided much needed road and air transportation to the RUF of arms and ammunition into RUF territory, as well as security personnel to escort materiel across military checkpoints, which played a vital role in the operations of the RUF/AFRC during a period when an international arms embargo was in force.
- (xvii) The Prosecution failed to prove beyond reasonable doubt that the Accused’s provision of 10 million CFA francs to the RUF in Côte d’Ivoire funded an RUF trip to Europe that enabled them to facilitate arms and diamonds deals.
- (xviii) The Prosecution has proved beyond a reasonable doubt that the Accused provided funds to RUF personnel stranded in Côte d’Ivoire after Sankoh was detained in Nigeria.
- (xix) The Prosecution has proved beyond reasonable doubt that the Accused provided an unspecified amount of funds to the RUF in the tens of thousands of US dollars to buy arms and ammunition from ULIMO.



- (xx) The Prosecution failed to prove beyond reasonable doubt that before the Freetown Invasion, the Accused instructed Joseph Marzah to take money to Bockarie.
- (xxi) The Prosecution has proved beyond reasonable doubt that after ULIMO and LURD forces invaded Lofa, Taylor provided Bockarie with \$USD 10,000.
- (xxii) The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused sent Foday Sankoh \$USD 20,000 in Lomé before the negotiations began.
- (xxiii) The Prosecution has proved beyond reasonable doubt that following the Lomé Accords, the Accused met with Bockarie, and gave him \$USD 15,000 for those that had met with him.
- (xxiv) The Prosecution has proved beyond reasonable doubt that following the Lomé Peace Accords the Accused gave Johnny Paul Koroma some funds, in the amount of at least \$USD 5,000 to \$USD 10,000, for clothing and other personal items at a meeting in the Executive Mansion.
- (xxv) The Prosecution failed to prove beyond reasonable doubt that the Accused sent \$USD 15,000 to Johnny Paul Koroma at the RUF guesthouse.
- (xxvi) The Prosecution failed to prove beyond reasonable doubt that between 2000 and 2001, the Accused gave \$USD 85,000 to Issa Sesay.
- (xxvii) The Prosecution has proved beyond reasonable doubt, that the Accused gave Issa Sesay \$USD 15,000 to support the RUF.
- (xxviii) The Prosecution has proved beyond reasonable doubt that the Accused gave \$USD 50,000 to Issa Sesay in 2001, and that Sesay sent Mike Lamin in 2002 to retrieve a further \$USD 50,000 that Taylor held for the RUF.
- (xxix) The Prosecution has proved beyond reasonable doubt that Issa Sesay sent a “second delegation” to Monrovia to get money from the Accused, and they were imprisoned on his orders, but no funds were given by the Accused to Sesay.

- (xxx) In light of the relatively few and small amounts of funding provided to the RUF or AFRC by the Accused, and considering that most of this funding was for personal or unspecified uses, the Trial Chamber has found that the financial support provided by the Accused cannot be said, in itself, to have had a direct impact on the commission of any crimes.
- (xxxi) The Prosecution has proved beyond reasonable doubt that the Accused provided medical care to RUF/AFRC members. However, it is not clear how continuous or substantial the provision of medical care was throughout the Indictment period. The Prosecution has also proved beyond reasonable doubt that the Accused provided medicine, food, clothing, cigarettes, alcohol and other supplies to the RUF during the indictment period. However, the evidence is insufficient to enable the Trial Chamber to judge the quantity of supplies provided. Moreover, other supplies for the RUF came from Liberia through other channels unrelated to the Accused.
- (xxxii) The Prosecution has proved beyond reasonable doubt that the Accused sent 'herbalists' who marked fighters in Buedu and in Kono in preparation for the Fitti-Fatta mission in mid-1998, to bolster their confidence for the mission to recapture Kono.
- (xxxiii) The Prosecution has proved beyond reasonable doubt that the Accused instructed Sam Bockarie to open a training base in Bunumbu, Kailahun District.
- (xxxiv) The Prosecution failed to prove beyond reasonable doubt that at the end of December 1998, the Accused sent Martina Johnson, a former NPFL artillery commander, to Buedu to train RUF fighters to use a 40-barrel missile gun.
- (xxxv) The Prosecution failed to prove beyond reasonable doubt that in 1996 the Accused sent a message to Sankoh telling him to make arrangements to choose a place to construct an airfield.
- (xxxvi) The Prosecution has proved beyond reasonable doubt that in 1998 the Accused told Bockarie that the RUF should construct or re-prepare the airfield in Buedu.



- (xxxvii) The Prosecution has proved beyond reasonable doubt that the Accused provided safe haven to RUF combatants who fled to Liberia from Zogoda. However, the Prosecution has failed to prove beyond reasonable doubt that the Accused ordered the RUF combatants to cross into Liberia.
- (xxxviii) The Prosecution has proved beyond reasonable doubt that the Accused provided \$USD 100 to Mike Lamin, but failed to prove beyond reasonable doubt that the Accused facilitated the provision of Liberian travel documents to Mike Lamin, so that Lamin could visit Sankoh in Côte d'Ivoire.
- (xxxix) The Prosecution has proved beyond reasonable doubt that the Accused attempted to provide a safe haven in Liberia for AFRC officials who fled Freetown in mid-February 1998. However, he was unable to provide a safe haven, and the evidence is insufficient to establish his motive for trying to do so.
- (xl) The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused provided the RUF with a guesthouse in Monrovia, equipped with a long-range radio and telephone, RUF radio operators, SSS security supervised by Benjamin Yeaten, cooks and a caretaker. Although the guesthouse was used by RUF members partly for matters relevant to the peace process or for diplomatic purposes, it was also used to facilitate the transfer of arms, ammunition and funds directly from the Accused to the RUF, and the delivery of diamonds from the RUF directly to the Accused, thus providing a base for the RUF in Monrovia. These transactions between the RUF and the Accused played a vital role in the military operations of the RUF in which crimes were committed.

### Conclusion

4248. The Accused provided to the RUF, RUF/AFRC alliance communications support, logistical support, financial support, technical support and other operational support.

4249. Concerning communications assistance, following the invasion of Sierra Leone in 1991, the NPFL provided radio equipment and operators to Sierra Leone with the

knowledge of the Accused. NPFL radio operators, including Foday Lansana, were sent to Sierra Leone and trained RUF fighters in radio communication. Foday Lansana stayed in Sierra Leone following the break with the NPFL in Operation Top Final, and the RUF continued to benefit from the training provided by the NPFL throughout the conflict in Sierra Leone and during the Indictment period.

4250. Among the RUF operators trained by Foday Lansana were Perry Kamara, Mohamed Kabbah, Alice Pyne, Witness TF1-516, and Witness TF1-585. In addition, RUF operator Dauda Aruna Fornie was trained by the NPFL signal unit in Liberia. The Accused acknowledged that he provided radio equipment to the RUF during the period prior to Operation Top Final, and Lansana himself brought a radio set to Sierra Leone. This equipment remained in Sierra Leone and was used by the RUF for communications from which it continued to benefit during the Indictment period. The NPFL provided these radio operators and equipment to the RUF with the knowledge of the Accused.

4251. It is not disputed that the Accused gave Sam Bockarie a satellite phone in October 1998. The Trial Chamber has found that Bockarie used a satellite phone to speak with the Accused and his subordinates to give them updates regarding the attack on Freetown and to request ammunition from them. The Defence contention that the satellite phone given to Bockarie by the Accused was for the purpose of facilitating negotiations during the peace process was not supported by the evidence. While Bockarie had at least two satellite phones, the phone from the Accused enhanced Bockarie's communications capability, as did the "top up cards" for phone credit that he received from Benjamin Yeaten, Director of Special Security Services for the Accused, and this enhanced capability was used in furtherance of RUF/AFRC military activities. The Accused also gave a satellite phone to Issa Sesay in 2000, albeit with the full knowledge of the ECOWAS leaders. Nevertheless, this satellite phone enhanced Sesay's communications capability and thereby his capacity to further RUF/AFRC military activities. For example, Sesay used a satellite phone to report to Bockarie that Kono was under RUF control. Sesay had another satellite phone he had gotten from Foday Sankoh, but he was unable to use it as it had no credit. While Foday Sankoh was also given a satellite phone, the Prosecution failed to prove that the phone came from the Accused.

4252. The Trial Chamber has found the Defence contention that the Accused and the RUF/AFRC were not able to communicate because of differences in codes and frequencies



to be without merit. Although the RUF and the NPFL or Liberian Government's radio networks used different frequencies, RUF frequencies were accessible to operators in Liberia, and vice-versa. Codes and private frequencies were used by both Liberian and RUF/AFRC officials in order to secure radio communications. Following the invasion of Sierra Leone, when the RUF did not have their own code, they used the code given to them by the NPFL. Subsequently, the RUF code changed, and the two code systems were different. RUF codes were changed intermittently throughout the conflict to guard the confidentiality of messages. The RUF and NPFL radio networks used different frequencies, but these frequencies were accessible to all. The RUF codes, which were used to encrypt messages and to identify private frequencies, were shared with subordinates of the Accused. However, these codes were not required for the relay of messages; they simply offered greater security. There were some restrictions on communications between Liberian and Sierra Leonean radio stations, but this was a matter of protocol rather than a technical barrier.

4253. In addition to providing communications training and equipment to the RUF, the Accused and his subordinates facilitated communications for the RUF through their own communications network. The RUF/AFRC was provided access to radio communications equipment in Liberia by the Accused or his subordinates. This equipment was used by RUF radio operators to communicate with the RUF, in one instance concerning supplies of military equipment, in another to update Bockarie on events in Sierra Leone when he was in Liberia, and in others to report on the movement of Eddie Kanneh between Liberia and Sierra Leone with diamonds and information on diamond mining in Sierra Leone. A radio was provided by the Accused to Johnny Paul Koroma. However, this radio was used specifically for the purpose of enabling Koroma to communicate with the West Side Boys about the UN peacekeepers that they had taken hostage. The evidence did not establish that the Accused and Yeaten received updates during the Freetown Invasion from an RUF operator stationed in Liberia.

4254. NPFL operators in Liberia also transmitted "448 messages" alerting the RUF to imminent ECOMOG jet attacks. The Trial Chamber has found that the Accused knew that his subordinates were sending these messages.

4255. The Accused provided much needed road and air transportation to the RUF of arms and ammunition into RUF territory. Materiel was also escorted across military checkpoints

by security personnel working for the Accused, including Daniel Tamba (a.k.a. Jungle), Joseph Marzah (a.k.a. Zigzag), and Sampson Weah. This facilitation of road and air transportation of materiel, as well as security escorts, played a vital role in the operations of the RUF/AFRC during a period when an international arms embargo was in force.

4256. The Accused also provided financial support to the RUF/AFRC, some of which he acknowledged. In most instances, however, the funds given by the Accused to various individuals was for unspecified or personal use. For example, he provided \$USD 20,000 to Foday Sankoh before the Lomé negotiations began for Sankoh's "personal use", \$USD 15,000 to Johnny Paul Koroma for his delegation to buy personal items in Monrovia, and \$USD 15,000 to Bockarie for commanders who had travelled to Monrovia, without any use of these funds specified. The Prosecution failed to prove that the 10 million CFA francs given by the Accused to the RUF in Côte d'Ivoire, or the \$USD 15,000 given by him to Sesay to support the RUF, were used to facilitate arms and diamond deals. The Accused did give funds to Bockarie, in the tens of thousands of US dollars, to buy arms and ammunition from ULIMO. The RUF received financial support for arms and ammunition from other sources than the Accused as well.

4257. The Accused provided other forms of support to the RUF, including medical support, and he acknowledged that he permitted injured RUF fighters to get treatment in Liberia. It is not clear, however, how continuous or substantial the provision of medical care was throughout the Indictment period. In preparation for the Fitti-Fatta mission in mid-1998, the Accused sent 'herbalists' who marked fighters in Buedu and in Kono in order to bolster their confidence for the mission to recapture Kono. Other support included the provision of goods such as food, clothing, cigarettes, alcohol and other supplies to the RUF by the Accused. However, the evidence is insufficient to enable the Trial Chamber to judge the quantity of supplies provided. Other supplies for the RUF came from Liberia through other channels unrelated to the Accused.

4258. With regard to military training and technical support, the Accused instructed Bockarie in 1998 to open a training base in Bunumbu, Kailahun District, and told him also in 1998 that the RUF should construct or re-prepare an airfield in Buedu. However, the Prosecution failed to prove that the Accused sent Martina Johnson, a former NPFL artillery commander, to Buedu to train RUF fighters to use a 40-barrel missile gun.

4259. The Accused provided safe haven to RUF fighters, and Mike Lamin, when they crossed into Liberia after the retreat from Zogoda in 1996, but the Accused was not found to have ordered the RUF combatants to cross into Liberia. He facilitated arrangements to provide Lamin with a place to stay, and gave him \$USD 100. He had not yet taken office as President, however, and the Prosecution failed to prove that he facilitated documentation to enable Lamin to travel to Côte d'Ivoire. In February 1998, the Accused attempted to provide a safe haven in Monrovia for AFRC officials following their flight from Freetown. However, his efforts were unsuccessful, and the evidence is insufficient to establish his motive for trying to do so.

4260. From 1998 to 2001 the Accused provided a guesthouse to the RUF in Monrovia, which housed a long-range radio and telephone, RUF radio operators, SSS security supervised by Benjamin Yeaten, cooks and a caretaker. The guesthouse was used by RUF members going to and from peace negotiations, and for conversations with the Accused concerning the peace process. The RUF delegation stayed in the guesthouse on the way to the Lomé peace negotiations, and Foday Sankoh stayed at the guesthouse after the Lomé accord was signed. In late 2000 Gibril Massaquoi was posted by Sankoh to the guesthouse to handle diplomatic issues pertaining to the RUF and to make public statements on the RUF's behalf. Issa Sesay stayed at the guesthouse when called to Monrovia by Taylor for a meeting with ECOWAS leaders and Bockarie stayed at the guesthouse on his way to Burkina Faso to meet with the Chairman of the OAU. However, the RUF guesthouse in Monrovia was also used for purposes other than to promote peace. It was used to facilitate the transfer of arms and funds directly from the Accused to the RUF, and the delivery of diamonds from the RUF directly to the Accused, belying his testimony that he was entirely unaware of what occurred at the guesthouse. The RUF guesthouse provided a base for the RUF in Monrovia, which facilitated the regular transfers of arms and ammunition from the Accused to the RUF, as well as diamonds from the RUF to the Accused, transactions which played a vital role in the military operations of the RUF/AFRC in Sierra Leone in which crimes were committed.

4261. Of these various modes of operational support, in particular, the support provided by the Accused to the RUF in the context of communications and logistics was sustained and significant. Although the establishment of the infrastructure and the training of RUF radio operators occurred prior to the Indictment period, the benefits of this support continued into

the Indictment period. Moreover, the Accused and his subordinates provided ongoing support to the RUF during the Indictment period through the provision of satellite phones, the use of the NPFL communications infrastructure, and the transmission of “448” messages alerting the RUF to imminent ECOMOG attack, which enhanced the communications capacity of the RUF, and its capacity to carry out military operations in which crimes were committed. As noted above, logistical support played a vital role in the operations of the RUF/AFRC by facilitating the transport of arms and ammunition to Sierra Leone. Similarly, the RUF guesthouse provided a base for the RUF in Monrovia, which was used, in addition to the activities for which it was purportedly established, to relay arms and ammunitions from the Accused to the RUF, as well as diamonds from the RUF to the Accused, providing sustained and significant support. These transactions played a vital role in the military operations of the RUF in which crimes were committed.





## **E. Provision of Military Personnel**

### General Submissions

4262. The Prosecution submits that the Accused provided personnel to the AFRC/RUF during the Indictment period from the NPFL, other organized groups in Liberia, Sierra Leonean refugees and civilians living in Liberia, and after he became President from the AFL, SSS, ATU and LNP.<sup>9521</sup> According to the Prosecution, the Accused smoothed the flow of personnel across the Sierra Leone-Liberian border in early 1998, when he ordered Varmuyan Sherif to open a corridor in Lofa County so that fighters on either side could cross over to buy or sell arms or join the AFRC/RUF cause. As a result of Sherif's actions both sides of the border were filled with current and former fighters from both countries as well as Liberian Security personnel, and all of them operated openly and without restriction.<sup>9522</sup>

4263. The Prosecution also made submissions with regard to the role of liaisons and facilitators.<sup>9523</sup> The Trial Chamber has dealt with these allegations in other sections of the Judgement.

4264. The Defence disputes the notion that the Accused sent manpower to the RUF or to the AFRC/RUF during the Indictment period, with the intention that they contribute in a substantial way to the commission of crimes. The Defence submits that throughout this section the Prosecution essentially begs the Trial Chamber to infer that if an action was taken by Liberian security personnel or Liberian forces along the Sierra Leonean border, and resulted in the supply of manpower during the Indictment period, it was done with the Accused's knowledge and that he had intended those actions to be taken, while such "grand inferences" are not supported by the facts.<sup>9524</sup>

### **1. Allegations Related to the Red Lion Battalion**

#### Submissions of the Parties

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<sup>9521</sup> Prosecution Final Trial Brief, para. 282.

<sup>9522</sup> Prosecution Final Trial Brief, para. 284.

<sup>9523</sup> Prosecution Final Trial Brief, paras 283, 300-305.

<sup>9524</sup> Defence Response to Prosecution Final Trial Brief, para. 48.

4265. The Prosecution submits that after the Fitti-Fatta attack on Koidu Town, Bockarie sent Senegalese with a group of Liberian fighters to reinforce Superman's forces who had joined up with SAJ Musa in Koinadugu. The combined force, including Taylor's Liberian reinforcements, attacked ECOMOG in Mongor Bendugu and Kabala.<sup>9525</sup> These Liberian reinforcements, along with AFRC, RUF and STF personnel, were formed into a unit called the Red Lion Battalion. The Prosecution alleges that along the way from Koinadugu to Colonel Eddie Town, the Red Lion Battalion participated in attacks against civilians in Kukuna and Mange Bureh, as well as in the campaign towards Freetown, committing atrocities against civilians in Koinadugu, Bombali and Port Loko Districts.<sup>9526</sup> Once inside Freetown, the Red Lion Battalion was part of the group which opened Pademba Road Prison and participated in the attack on Kingtom, killing civilians and burning houses with people alive inside. During the withdrawal from Freetown, the Red Lion Battalion burned houses and killed civilians in Fourah Bay and Upgun.<sup>9527</sup> The Prosecution relies on the testimonies of Alice Pyne, TF1-375, Alimamy Bobson Sesay, Perry Kamara, Foday Lansana, TF1-585, TF1-143 and TF1-028.

4266. The Defence submits that after AFRC, RUF and STF forces under the command of Superman and SAJ Musa attacked Mongor Bendugu and Kabala and captured ammunition from Kabala. Musa and Superman refused to hand over this ammunition to Bockarie, so Bockarie sent Senegalese to recover it, but Superman still refused to hand it over. After July or August 1998, SAJ Musa informed Alex Tamba Brima (a.k.a. Gullit) that his forces had been joined by Superman, and that in about September/October 1998, when Gullit's forces were stationed in Colonel Eddie Town, SAJ Musa informed Gullit that he had sent a group led by O-Five to reinforce them in preparation for the advance towards Freetown. The Defence submits that the group led by O-Five was composed of AFRC, RUF and STF fighters, and had Liberians among its numbers.<sup>9528</sup> According to the Defence, the STF, Special Task Force, was formed in 1995 to fight alongside soldiers of the Sierra Leonean government against the RUF, and was comprised of Liberians, almost entirely former members of ULIMO. The Defence contends that these Liberian fighters were part of the armed forces of Sierra Leone who joined the AFRC when it attacked Freetown, and that it is

<sup>9525</sup> Prosecution Final Trial Brief, para. 294.

<sup>9526</sup> Prosecution Final Trial Brief, paras 295-296.

<sup>9527</sup> Prosecution Final Trial Brief, paras 297, 497, 535-536.

<sup>9528</sup> Defence Final Trial Brief, paras 610-612, 897, 1102, 1495; Defence Response to Prosecution Final Trial

therefore possible that witnesses who referred to hearing Liberian accents or English being spoken may have been referring to STF members.<sup>9529</sup> The Defence challenges Alice Pyne's evidence that Senegalese told her that he had been sent by Taylor to Bockarie. The Defence contends that as a member of the STF, Senegalese would have been in Sierra Leone for a long time and therefore the Accused could not have sent him to Sierra Leone.<sup>9530</sup> The Defence also challenges the testimonies of Alimamy Bobson Sesay<sup>9531</sup> and Perry Kamara.<sup>9532</sup>

## Evidence

### Prosecution Witness Alice Pyne

4267. Witness Alice Pyne, one of Superman's radio operators,<sup>9533</sup> testified that following the Fitti-Fatta attack<sup>9534</sup> she was told by Superman that Sam Bockarie ordered him to attack SAJ Musa's forces in Kurubonla. The witness heard Bockarie inquiring over the radio whether Superman had left. Three days after Superman's departure from Superman Ground, Superman told the witness and his bodyguards to join him at Yomandu.<sup>9535</sup> Upon her arrival in Yomandu, the witness communicated with Superman, as he had already left Yomandu for Kurubonla. Superman told the witness that Short Bai Bureh should send some of his men, along with the convoy who came from Superman Ground, to Kurubonla.<sup>9536</sup>

4268. In Yomandu, the witness met a man named Senegalese<sup>9537</sup> who told her that he had come from Liberia and was sent by Charles Taylor "with others" to Bockarie, and that

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Brief, paras 137-138, 147.

<sup>9529</sup> Defence Final Trial Brief, paras 439-442.

<sup>9530</sup> Defence Final Trial Brief, para. 1495.

<sup>9531</sup> Defence Final Trial Brief, para. 916; Defence Response to Prosecution Final Trial Brief, para. 54.

<sup>9532</sup> Defence Response to Prosecution Final Trial Brief, paras 147-150.

<sup>9533</sup> Alice Pyne, Transcript 17 June 2008, p. 12074.

<sup>9534</sup> Alice Pyne, Transcript 19 June 2008, pp. 12247-12248. The witness describes the unsuccessful night operation in which Superman's forces attacked Koidu Town. The witness stated that the mission was less than two weeks before Sani Abacha's death (Alice Pyne, Transcript 19 June 2008, p. 12246).

<sup>9535</sup> Alice Pyne, Transcript 19 June 2008, pp. 12248-12251.

<sup>9536</sup> Alice Pyne, Transcript 19 June 2008, pp. 12249, 12251-12252, 12254 (Superman did not carry out Bockarie's order to attack SAJ Musa's troops, but rather decided to join SAJ Musa instead).

<sup>9537</sup> The witness did not know Senegalese's real name. See Alice Pyne, Transcript 20 June 2008, p. 12382.

Bockarie had sent him to join Superman with reinforcement of 30 men to launch an attack which Bockarie had sent Superman to carry out.<sup>9538</sup>

4269. On the other hand, the witness knew that Senegalese was Liberian, as he spoke only Liberian English and could not speak “a single” Krio at all. The witness knew the STF to be a force which fought along with the Sierra Leonean Army and was comprised of ex-ULIMO fighters. At this point, in 1998, the STF was still in existence and was commanded by General Bropleh.<sup>9539</sup> The 30 men accompanying Senegalese told the witness that they belonged to the STF but she did not believe this because they did not speak Krio but “pure Liberian tongue”.<sup>9540</sup> The witness said that these 30 men were all armed and were all Liberians. They did not speak Krio and their commander, Senegalese, told the witness that they had all come from Liberia. These men spoke a dialect which the witness did not recognise as coming from Sierra Leonea, but she did recognize that some of the Liberians spoke Kpelle when they were talking to STF members and Liberians who were in the RUF.<sup>9541</sup>

4270. The witness left Yomandu with Senegalese, Superman’s bodyguards and Short Bai Bureh’s men for Kurubonla, and proceeded to Koinadugu. About two miles from Koinadugu they met General Bropleh with STF forces and other men who had come to escort the convoy and together they entered Koinadugu in August 1998, approximately one week after the witness left Superman Ground.<sup>9542</sup> The forces in Koinadugu included SLA fighters headed by SAJ Musa, STF and RUF fighters, as well as “fighting groups”, the Strike Force and the Red Lion battalion, which was headed by SLA Rambo Red Goat, and was comprised mainly of SLAs.<sup>9543</sup>

<sup>9538</sup> Alice Pyne, Transcript 19 June 2008, pp. 12250, 12252-12253, 12258-12259 (the witness did not know from where in Liberia Senegalese had come from); Transcript 20 June 2008, pp. 12287-12289 (Senegalese passed through Superman Ground and since Superman was not there he proceeded to Yomandu, where the witness first met him). The witness had stated in a prior statement to the Prosecution that the Liberian fighters were part of Charles Taylor’s forces that were sent by Charles Taylor (Alice Pyne, Transcript 20 June 2008, p. 12388).

<sup>9539</sup> Alice Pyne, Transcript 19 June 2008, pp. 12249-12254; Transcript 20 June 2008, pp. 12382-12384 (while the witness agreed that ULIMO was fighting against the NPFL in Liberia in 1993, she stated that she does not know whether the members of the STF were the same ULIMO members who fought against the NPFL, although she reiterated that STF comprised of former ULIMO members).

<sup>9540</sup> Alice Pyne, Transcript 20 June 2008, pp. 12382-12385.

<sup>9541</sup> Alice Pyne, Transcript 19 June 2008, pp. 12253-12254.

<sup>9542</sup> Alice Pyne, Transcript 19 June 2008, pp. 12254-12255, 12259.

<sup>9543</sup> Alice Pyne, Transcript 19 June 2008, pp. 12256, 12259-12260; Transcript 20 June 2008, pp. 12385-12387, 12389-12391, 12394-12398 (the witness first heard the name Red Lion Battalion in Koinadugu. She stated that

4271. The day after the witness arrived in Koinadugu, the “new” Red Lion Battalion was formed by Superman to go and join the SLA forces that had been cut off at Rosos.<sup>9544</sup> The Red Lion Battalion was commanded by Colonel O-Five and Major CY who was Superman’s bodyguard. It comprised 300 men and included Superman’s forces, Komba Gbundema’s bodyguards, STF, AFRC and RUF members.<sup>9545</sup> Komba Gbundema’s unit was commanded by Striker, and Superman’s unit, which was also named the Cobra Unit, was a unit within the Red Lion Battalion.<sup>9546</sup> The Red Lion Battalion radio operators included King Perry, Alfred Brown and Elongima.<sup>9547</sup> After the Red Lion battalion left Koinadugu it remained loyal to Superman.<sup>9548</sup> On the Red Lion Battalion’s arrival in Rosos, O-Five communicated to Superman by radio.<sup>9549</sup>

4272. On 7 January Pyne heard on the BBC news that rebels who had come from Rosos had entered Freetown and had captured the State House. Pyne then switched on the radio set and heard radio operators who were in Freetown communicating with Bockarie over the radio. These operators were with the group which left Rosos and entered Freetown, which included the Red Lion Battalion which left from Koinadugu, the men they had met in Rosos, and SAJ Musa’s men.<sup>9550</sup> Over the radio, Pyne heard Gullit speaking with Bockarie and with the radio operators who were in Freetown including King Perry, while O-Five spoke with Superman. The information they gave was that they had captured the State House and had freed prisoners who were held at Pademba Road, including Gibril and other AFRC men. O-Five also informed Superman that they had lost SAJ Musa on their way to Freetown.<sup>9551</sup>

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while the old Red Lion Battalion was comprised of mainly SLAs, she did not know whether they were solely SAJ Musa’s bodyguards, but they were not Superman’s bodyguards).

<sup>9544</sup> Alice Pyne, Transcript 19 June 2008, p. 12261; Transcript 20 June 2008, p. 12391.

<sup>9545</sup> Alice Pyne, Transcript 19 June 2008, pp. 12259-12260; Transcript 20 June 2008, pp. 12391-12392, 12398.

<sup>9546</sup> Alice Pyne, Transcript 20 June 2008, pp. 12403, 12406.

<sup>9547</sup> Alice Pyne, Transcript 19 June 2008, p. 12261.

<sup>9548</sup> Alice Pyne, Transcript 23 June 2008, pp. 12434-12435.

<sup>9549</sup> Alice Pyne, Transcript 19 June 2008, pp. 12261-12262.

<sup>9550</sup> Alice Pyne, Transcript 19 June 2008, p. 12274.

<sup>9551</sup> Alice Pyne, Transcript 19 June 2008, pp. 12275-12277 (O-Five also informed Superman about the capture of the State House and the release of the prisoners through a letter. In that letter he also informed Superman about the death of SAJ Musa).

4273. On cross-examination the witness stated that she did not know whether Senegalese was in Freetown, but that she did see him in Pumpkin Ground where she was with Superman's forces.<sup>9552</sup>

4274. On re-examination the witness stated that she heard from King Perry and Superman's bodyguards that the Red Lion battalion killed civilians, burnt houses, and looted civilian property in Freetown.<sup>9553</sup>

Prosecution Witness TF1-375

4275. Prosecution witness TF1-375, one of Superman's bodyguards,<sup>9554</sup> testified that two days after the Fitti-Fatta mission he and others were ordered by Superman join Komba Gbundema's forces in Wordu in Kono District, to hand over ammunition to join Gbundema and to then proceed with Gbundema to Kurubonla in Koinadugu District to meet SAJ Musa and "work with him" to attack Mongor Bendugu. The witness then carried out these orders and arrived in Kurubonla.<sup>9555</sup> In Kurubonla a commanders' forum was convened which was attended by SAJ Musa, Komba Gbundema, Brigadier Mani, General Bropleh, other senior RUF officials and the witness as Superman's "eye".<sup>9556</sup> General Bropleh, a Liberian, was the head of ULIMO, also called STF, at the time. The witness believed that Bropleh was a former army commander in Liberia.<sup>9557</sup>

4276. Following the attack on Mongor Bendugu, Superman arrived in Kurubonla and a commanders' forum was convened, which the witness attended. In the meeting, Superman explained to SAJ Musa that Bockarie had told him to join forces with the AFRC so that they could get back to Freetown. An offensive was planned to attack Kabala, then advance to Makeni and from there to Freetown.<sup>9558</sup>

<sup>9552</sup> Alice Pyne, Transcript 20 June 2008, p. 12387.

<sup>9553</sup> Alice Pyne, Transcript 23 June 2008, pp. 12457-12458.

<sup>9554</sup> TF1-375, Transcript 23 June 2008, p. 12485.

<sup>9555</sup> TF1-375, Transcript 23 June 2008, pp. 12543-12544.

<sup>9556</sup> TF1-375, Transcript 23 June 2008, pp. 12546-12547.

<sup>9557</sup> TF1-375, Transcript 23 June 2008, p. 12547.

<sup>9558</sup> TF1-375, Transcript 24 June 2008, pp. 12556-12557 (during the meeting they discussed the plan to attack Kabala, from there proceed to Makeni and from Makeni to Freetown).



4277. After an unsuccessful attack on Kabala the forces retreated to Koinadugu Town.<sup>9559</sup> Bockarie then spoke with SAJ Musa and Superman by radio communication and asked that the ammunition captured at Kabala be sent to him. Following discussions, SAJ Musa and Superman contacted Bockarie and told him that they would like to keep the ammunition to attack Makeni. Bockarie protested and said that he would send “some people” to collect the ammunition.<sup>9560</sup>

4278. The group of men sent by Bockarie arrived in Koinadugu Town about three weeks after this communication, about a month after the attack on Kabala, and during the rainy season in 1998.<sup>9561</sup> The group was headed by Senegalese and included about 60 men, mainly Liberians and a few Sierra Leoneans.<sup>9562</sup> Senegalese was a Liberian whom the witness first met in Kenema with Jungle “when we were in Freetown” (the witness is referring to the Junta period here).<sup>9563</sup> This Senegalese was in President Taylor’s Special Forces in Liberia.<sup>9564</sup> Most of the Liberians who came with Senegalese said they were former NPFL fighters.<sup>9565</sup> Among the Liberians was CO Vensen, (a.k.a. Vensy),<sup>9566</sup> who at that time was in the SSS in Liberia.<sup>9567</sup>

4279. A forum was convened by Superman and SAJ Musa for all senior officers including Senegalese and CO Vensen, which the witness attended. Superman welcomed the group and said that although the group had come to recover the arms and ammunition and take them to Kailahun, at present they, SAJ Musa and Superman, were unable to hand over the materiel. Superman said that they would call Bockarie and ask that the group be used to work with them to move to Freetown.<sup>9568</sup>

4280. Subsequently, Superman suggested forming a battalion in order to find Gullit’s forces as Gullit was in the jungle and no one knew his whereabouts.<sup>9569</sup> Each commander

<sup>9559</sup> TF1-375, Transcript 24 June 2008, p. 12563.

<sup>9560</sup> TF1-375, Transcript 24 June 2008, pp. 12563-12566.

<sup>9561</sup> TF1-375, Transcript 24 June 2008, p. 12566.

<sup>9562</sup> TF1-375, Transcript 24 June 2008, pp. 12566-12567.

<sup>9563</sup> TF1-375, Transcript 24 June 2008, pp. 12567-12568.

<sup>9564</sup> TF1-375, Transcript 24 June 2008, p. 12568.

<sup>9565</sup> TF1-375, Transcript 24 June 2008, p. 12572.

<sup>9566</sup> TF1-375, Transcript 24 June 2008, pp. 12570-12571.

<sup>9567</sup> TF1-375, Transcript 24 June 2008, p. 12572.

<sup>9568</sup> TF1-375, Transcript 24 June 2008, p. 12568.

<sup>9569</sup> TF1-375, Transcript 24 June 2008, p. 12569.

was then tasked with allocating men in order to form the battalion.<sup>9570</sup> The Red Lion Battalion was formed, and O-Five from the AFRC was appointed as its commander.<sup>9571</sup> The witness did not know the number of men in the battalion, but stated that a battalion usually comprised of 62 men but could go up to 200 members.<sup>9572</sup>

4281. The Red Lion Battalion comprised RUF members, 10 STF members and SLA members, though the witness could not recall their number. The RUF group included 60 members and comprised bodyguards to SAJ Musa, Superman and Komba Gbundema, and 30 of the Liberians who came with Senegalese, including CO Vensen but not including Senegalese himself. The witness stated that Superman had the highest number of bodyguards in the battalion, five to seven, who were mainly Liberians who were present in Koinadugu before the arrival of Senegalese. The remaining 10 Liberians who came with Senegalese stayed with Superman in Koinadugu.<sup>9573</sup> The Red Lion Battalion was then sent to search for Gullit.<sup>9574</sup>

4282. After the battalion found Gullit and joined them, Alfred Brown, a Liberian and former NPFL fighter who was incorporated into the RUF and was working as a radio operator, contacted Superman and SAJ Musa in Koinadugu to inform them of the battalion's safe arrival. Superman then informed Bockarie of the battalion's safe arrival and that they were now with Gullit's forces.<sup>9575</sup>

4283. In Koinadugu, Senegalese was assigned to head the training base in Koinadugu Town in which adults, children and females who were abducted in Kabala and its surroundings were trained.<sup>9576</sup> Fighting broke out between SAJ Musa and Superman over a dispute whether to court-martial Senegalese, who had beaten a trainee to death; Superman refused to do so without the permission of Bockarie, given that Senegalese was in the SSS, while SAJ Musa wanted to court-martial him and refused to take orders from Bockarie.<sup>9577</sup>

<sup>9570</sup> TF1-375, Transcript 24 June 2008, pp. 12572-12573.

<sup>9571</sup> TF1-375, Transcript 24 June 2008, p. 12573.

<sup>9572</sup> TF1-375, Transcript 24 June 2008, p. 12573; Transcript 27 June 2008, p. 14783 (the total that the witness gave was 60 RUF fighters and 10 men from the STF).

<sup>9573</sup> TF1-375, Transcript 24 June 2008, pp. 12573-12575; Transcript 27 August 2008, pp. 14780-14781.

<sup>9574</sup> TF1-375, Transcript 24 June 2008, p. 12574; Transcript 27 August 2008, pp. 14781-14784.

<sup>9575</sup> TF1-375, Transcript 24 June 2008, pp. 12574-12575.

<sup>9576</sup> TF1-375, Transcript 24 June 2008, pp. 12569-12570.

<sup>9577</sup> TF1-375, Transcript 24 June 2008, pp. 12578-12580 (On Superman's side were the RUF, the STF led by



Prosecution Witness TF1-585

4284. Witness TF1-585, an RUF member,<sup>9578</sup> testified that she had seen Senegalese in Kenema with Jungle before they retreated to Buedu.<sup>9579</sup> In Buedu around November 1998, she saw him and 40 to 50 Liberian soldiers. The witness identified the men as Liberian soldiers although they wore civilian clothes since they were under the command of Abu Keita and had crossed over from Liberia, they were well armed. They spoke Liberian English and most of them spoke Mandingo. During the time they were in Buedu, the men answered to Abu Keita as well as Sam Bockarie.<sup>9580</sup>

4285. At a meeting in Bockarie's house, in which a move towards Freetown was discussed between Bockarie and Eddie Kanneh, attendees included CO Isaac, Morris Kallon, Issa Sesay, Abu Keita, and the Liberian soldier named Senegalese.<sup>9581</sup> After the meeting Bockarie called a formation and addressed the Liberian soldiers in Liberian English as well as Krio. Bockarie supplied the men with arms and ammunition and said they were to go to Kono to join Superman to attack Koindu and from there proceed to a combined mission in Kabala and from there to Freetown.<sup>9582</sup>

4286. A convoy including Issa, Rambo and the 40 to 50 fighters who were led by Senegalese left for Kono.<sup>9583</sup> They joined Superman and succeeded in capturing Kono. The witness then stated that Superman said that his forces did not succeed in capturing Kono but succeeded in capturing arms and ammunition from Kono. They then proceeded with others to Waterloo.<sup>9584</sup> Alice Pyne told the witness that Superman's group, including the 40 to 50 men, reached Waterloo, but the witness did not know whether they entered Freetown.<sup>9585</sup>

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General Bropleh, and former SLA soldiers Brigadier Mani and Colonel T. On SAJ Musa's side were the AFRC and former SLA soldiers).

<sup>9578</sup> TF1-585, Transcript 5 September 2008, pp.15589-15592 (PS).

<sup>9579</sup> TF1-585, Transcript 8 September 2008, pp. 15700-15703.

<sup>9580</sup> TF1-585, Transcript 8 September 2008, pp. 15703-15706; Transcript 11 September 2008, p. 15982. On cross examination the witness stated that there are Mandingos in Sierra Leone and that she did not know whether the 40 to 50 men lived in Sierra Leone prior to the meeting in Buedu (TF1-585, Transcript 11 September 2008, pp. 15982-15984).

<sup>9581</sup> TF1-585, Transcript 8 September 2008, pp. 15700-15703, 15707; Transcript 11 September 2008, p. 15974 (the witness did not know which faction Senegalese fought with in Liberia).

<sup>9582</sup> TF1-585, Transcript 8 September 2008, p. 15706; Transcript 11 September 2008, pp. 15982-15983 (the 40 to 50 men could understand some Krio).

<sup>9583</sup> TF1-585, Transcript 8 September 2008, pp. 15706, 15712.

<sup>9584</sup> TF1-585, Transcript 8 September 2008, pp. 15706-15707.

<sup>9585</sup> TF1-585, Transcript 11 September 2008, pp. 15993-15994.

4287. On cross-examination the witness could not recall which of the three meetings she had described was attended by Keita and Senegalese, although she remembered that they did attend the last meeting. She subsequently recalled that the invasion of Freetown was discussed during the last meeting but said that she could not recall whether this meeting was attended by both Keita and Senegalese.<sup>9586</sup>

Prosecution Witness Alimamy Bobson Sesay

4288. Witness Alimamy Bobson Sesay, an AFRC member,<sup>9587</sup> testified that when he was in Rosos with Gullit, he was present when Gullit informed SAJ Musa in around July/August 1998 of the operation he had led “now that he had based in Rosos”.<sup>9588</sup> Two weeks later, Musa told Gullit that Superman’s troops and Komba Gbundema’s troops had joined him in Koinadugu. Musa stated that Superman had come from Kailahun to reinforce him, and that they had carried out a joint attack, along with Komba Gbundema’s troops, in which they succeeded in capturing Mongor Bendugu and were then heading towards Kabala. During this conversation, Superman confirmed the information provided by Musa.<sup>9589</sup>

4289. While Gullit’s forces were in Rosos, they attacked and captured the town of Gbinti. During the attack they looted and burned houses, and on houses they did not burn they wrote “Five-Five heading for Freetown”, “RUF, SLA, NPFL heading for Freetown” in order to instil fear in the population and ECOMOG that these forces, including the NPFL, were preparing to go to Freetown, although at this point in time there were no NPFL troops with them “until later we got reinforcements from Koinadugu”.<sup>9590</sup> Following ECOMOG attacks, the troops retreated from Rosos, in around September/October 1998.<sup>9591</sup> The troops then based in a location between Tonko Limba Chiefdom and Sanda Magbolontor in Kambia District, naming it first Major Eddie Town, and then Colonel Eddie Town, as Eddie was promoted.<sup>9592</sup>

<sup>9586</sup> TF1-585, Transcript 11 September 2008, pp. 15980-15982.

<sup>9587</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7859-7867, 7869; Transcript 28 April 2008, pp. 8684, 8689.

<sup>9588</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8141-8142, 8146-8147.

<sup>9589</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8151-8153.

<sup>9590</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8156-8159 (the reason they used the NPFL name was because people, including ECOMOG, were afraid of the NPFL and the RUF due to their conduct in 1991-1992).

<sup>9591</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8162-8163.

<sup>9592</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8163-8165 (the witness, Bazy, Junior Lion, Hassan Papa Bangura stayed in Rosos to ensure all the troops had left, then set Rosos on fire and joined the rest of the

4290. While in Colonel Eddie Town, the witness listened to radio communication between Gullit and SAJ Musa, during which Musa told Gullit that a group of men led by O-Five, an SLA, will be sent from Koinadugu to them as reinforcement for the Freetown Invasion and that the group included “some SLA mixed force”.<sup>9593</sup> Given that it was a radio conversation, Musa did not disclose everything, but said that they should be ready for O-Five’s group which included Liberians, and that O-Five would muster his men and provide a report to the commander once he arrived in Colonel Eddie Town.<sup>9594</sup> Later on, they received a communication from SAJ Musa and Superman that O-Five and his men were preparing to leave. Gullit responded that he would send troops to receive O-Five and named Gbndembu as a meeting point.<sup>9595</sup> The witness and a group led by Major King left for Gbndembu. Along the way to Gbndembu they heard Eldred Collins announcing Operation Spare No Soul over the international media.<sup>9596</sup>

4291. When they met O-Five and his group in Gbndembu, O-Five had a large group with him, including some SBUs. O-Five told them that his troops had attacked Kamalo, that they had captured civilians and children, burned houses and vehicles and killed people, in accordance with Operation Spare No Soul. Bobson Sesay saw and spoke to the civilians who were captured from Kamalo and who were carrying looted items that the forces brought from Kamalo.<sup>9597</sup>

4292. O-Five’s group comprised 200 fighters apart from civilians. After the troops arrived, O-Five orchestrated a muster parade in which he introduced the troops within his force to Gullit. O-Five introduced SLA, 30 RUF members and 50 Liberians - 30 STF members and 20 former NPFL fighters who were integrated into the AFL. O-Five confirmed the rumours that Superman went to Kailahun to get reinforcements in order to form a brigade that would advance towards Freetown, and that Bockarie provided Superman with Liberians who came from Liberia in order to reinforce the troops in Koinadugu and attack Mongor Bendugu and Kabala, and to prepare a brigade for the advance towards Freetown. O-Five stated that these

troops in Colonel Eddie Town).

<sup>9593</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8165-8166.

<sup>9594</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8166-8167; Transcript 22 April 2008, pp. 8198-8199.

<sup>9595</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, p. 8170.

<sup>9596</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8171-8172, 8175-8176 (they heard a second announcement on the international media in which the government confirmed that people in Kamalo in Bombali District were attacked and killed, houses were burnt and some vehicles were destroyed by AFRC/RUF forces. According to the report, all the civilians ran away from the Kamalo and Kamakwie area).

troops participated in the attacks on Mongor Bendugu and Kabala, proved “well”, and were therefore sent to reinforce the troops that prepared for the Freetown Invasion.<sup>9598</sup> O-Five’s group included Captain Stagger from the RUF and others from the RUF the witness could not recall, Foyoh, Bobby Sherrif, King Perry, Med Bajehjeh, who was an SLA, and STF Liberian fighters named Washington and Dukulay.<sup>9599</sup> Bobson Sesay could not name members of the former NPFL fighters, stating that he was not too familiar with them.<sup>9600</sup>

4293. The STF, Special Task Force, was headed by Liberian General Bropleh and was comprised of Liberians who were part of ULIMO-K. During the early 1990s these Liberians, a small number, were integrated into the Sierra Leonean Army, and worked against the RUF. Following the AFRC coup, the STF joined the RUF and the AFRC, and General Bropleh became “part and parcel” of the AFRC government under Johnny Paul Koroma. These STF fighters later joined the SLAs in “the bush”. The STF group was different from the group of former NPFL fighters who had integrated into the AFL.<sup>9601</sup>

4294. Within O-Five’s group there was a unit called the Red Lion which comprised of 50 men – 20 former NPFL fighters and 30 STF members. Immediately after the muster parade, Gullit took men from the Red Lion group and established a battalion, naming it the Red Lion Battalion. The Red Lion Battalion included 200 men and was headed by SLA’s Med Bajehjeh. The Red Lion Battalion included 70 SLA members, 20 to 30 RUF members, 30 STF members and 20 former NPFL fighters, and the rest were SBUs. While Gullit distributed the RUF and SLA members from O-Five’s group into different battalions, the STF and former NPFL fighters were not divided and were appointed to the Red Lion Battalion.<sup>9602</sup> The ex-NPFL fighters and the STF members referred to themselves as RUF since they came to reinforce the forces in Kailahun.<sup>9603</sup>

<sup>9597</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8174, 8176-8177.

<sup>9598</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8193-8198, 8200-8201; Transcript 28 April 2008, pp. 8674, 8747, 8769-8771.

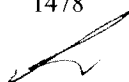
<sup>9599</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8178-8180; Transcript 22 April 2008, pp. 8193, 8201-8202.

<sup>9600</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8201.

<sup>9601</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8177-8178; Transcript 22 April 2008, pp. 8199-8200; Transcript 28 April 2008, pp. 8748-8750, 8754, 8756-8757.

<sup>9602</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8202-8203; Transcript 23 April 2008, pp. 8315-8318; Transcript 28 April 2008, pp. 8758-8765.

<sup>9603</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8918-8919.



4295. While in Colonel Eddie Town, forces commanded by Bazzy, which included Five-Five, Bomb-Blast, O-Five and the Red Lion Battalion, attacked Kukuna in October/November 1998. After succeeding in pushing some of the ECOMOG forces from Kukuna, Bazzy's forces set the town on fire, killed civilians and looted civilian property.<sup>9604</sup>

4296. Following the attack on Kukuna, Gullit organized a team headed by Ibrahim Bioh Sesay, O-Five, Abdul Sesay and some other commanders. This force, which included a small number of members of the Red Lion Battalion, among whom were SLA members, a few from the STF and NPFL/AFL fighters, launched an attack on Mange Bureh in Port Loko District. The witness participated in the attack in which they fought against a mixed force of Guineans and Nigerians, burnt houses and looted anything of value. They then returned to the camp.<sup>9605</sup> Thereafter, Gullit contacted Bockarie and informed him about the operations in Kukuna and Mange Bureh.<sup>9606</sup>

4297. Bobson Sesay also testified that SAJ Musa contacted Gullit to inform him that he was heading to Colonel Eddie Town due to a falling out he had with Superman.<sup>9607</sup> When Musa arrived, he briefed the men on his fight with Superman, and explained that despite what happened between Superman and himself, they were brothers and it should not interfere with the operation.<sup>9608</sup> He told the troops to prepare to go to Freetown, and explained to them that they should strictly obey the humanitarian laws that governed them.<sup>9609</sup>

4298. Around mid-December 1998, after SAJ Musa arrived, about 1,000 fighters<sup>9610</sup> left Colonel Eddie Town and crossed the river towards Mange Bureh. At that point in time, the 5<sup>th</sup> battalion, headed by Saidu Kambolai (a.k.a. Basky), the RDF battalion, headed by Terminator, and the Red Lion Battalion headed by Med Bajehjeh, were ahead in the advance towards Mange Bureh.<sup>9611</sup> At the point in which the troops left Colonel Eddie Town, there

<sup>9604</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8205-8207.

<sup>9605</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8208-8210.

<sup>9606</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8217.

<sup>9607</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8217.

<sup>9608</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8222.

<sup>9609</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8222-8223.

<sup>9610</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8251-8252.

<sup>9611</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8224-8226.

were the 1<sup>st</sup> battalion, 2<sup>nd</sup> battalion, 3<sup>rd</sup> battalion, 4<sup>th</sup> battalion, 5<sup>th</sup> battalion, the RDF battalion, and the Red Lion battalion.<sup>9612</sup>

4299. After they attacked Mange Bureh they continued on to Maraykula in the Port Loko area, where upon Five-Five's order they set houses on fire.<sup>9613</sup> From Maraykula the troops moved to Mamusa where they established a temporary base. Upon SAJ Musa's instructions, a force headed by CO Terminator attacked ECOMOG forces in Lunsar, during which they captured ammunition from the ECOMOG forces and returned to Mamusa.<sup>9614</sup> From Mamusa the troops moved towards Gberi Junction, between Bombali and Port Loko Districts. From there the troops moved to Gberi bridge<sup>9615</sup> and towards the Masiaka, Masumana axis. A force headed by Papa 17 attacked Masiaka and burned the town.<sup>9616</sup> Upon SAJ Musa's order, men headed by Colonel Terminator then attacked and burnt two ECOMOG vehicles and returned to Mansumana.<sup>9617</sup> Troops headed by Terminator then attacked ECOMOG troops who were based in Mile 38, also known as Magbuntoso, in early December 1998. After Terminator was injured, the troops retreated to the temporary base. From there the whole brigade moved to Mamamah in Koya rural district in the Western Area.<sup>9618</sup> From Mamamah the troops moved to and captured Newton in the Koyal rural district, close to Waterloo. Before heading towards Waterloo, SAJ Musa declared Operation Born Naked in which the troops removed their uniform shirts and tied them around their waists in order to identify themselves.<sup>9619</sup> The troops, including the Red Lion Battalion, then moved and captured Waterloo on 23 December 1998. In Waterloo they engaged in looting food and other products from civilians.<sup>9620</sup> SAJ Musa then instructed Foday Bai Marah to form a force that would attack Benguema. The force, including the witness, encountered heavy firing from ECOMOG. They therefore asked SAJ Musa for reinforcements. SAJ Musa arrived and

<sup>9612</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8225, 8227 (before they attacked Mange Bureh, the witness was demoted by SAJ Musa along with other second lieutenants to the rank of sergeant).

<sup>9613</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8226.

<sup>9614</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8226-8227.

<sup>9615</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8227-8228, 8233.

<sup>9616</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8233-8236.

<sup>9617</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8236-8237.

<sup>9618</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8237-8239.

<sup>9619</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8241-8242.

<sup>9620</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8242-8244.

they succeeded in capturing Benguema, where they engaged in looting and capturing ammunition.<sup>9621</sup> On 24 December, SAJ Musa was killed when a bomb exploded.<sup>9622</sup>

4300. Following the death of SAJ Musa, Gullit took command of the troops and made promotions and appointments. The battalions remained the same, and within them the SBUs remained as they were, including in the Red Lion Battalion.<sup>9623</sup> The troops moved to Hasting Hills, around the Freetown Highway, and from there went for a food finding mission in Waterloo, where they looted food from civilians.<sup>9624</sup> After they returned to Hastings Hills, fighters including from the Red Lion Battalion participated in an attack on ECOMOG forces in Hastings on 3 January 1999. During the attack the forces executed three ECOMOG soldiers they had captured and burnt Hastings airfield and aircrafts.<sup>9625</sup> After capturing Hastings and Jui, the entire brigade, including the Red Lion Battalion, based in Allen Town on 4 January 1999.<sup>9626</sup> At this point the troops did not move as battalions but were rather mixed in the brigade led by Gullit, including men from the Red Lion Battalion.<sup>9627</sup>

4301. On the night of 5 January Gullit convened a commanders' meeting in which he ordered that once the troops entered Freetown they should burn police stations and free prisoners, kill those who opposed the AFRC/RUF, loot from civilians and kill those who refuse to hand over their property. Gullit also said that they should capture civilians in order to "gain recognition".<sup>9628</sup> In Freetown they were to attack ECOMOG, government forces, Kamajors, and SLA members who fought with the government.<sup>9629</sup> At this point the troops included over 1,000 men.<sup>9630</sup>

4302. Four battalions, including the Red Lion battalion, moved from Allen Town to Calaba Town and Brewery. From there the troops entered Freetown from two locations; one force went through the new Freetown-Wellington Road, while the other force, including the Red

<sup>9621</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8243-8244.

<sup>9622</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8244-8248.

<sup>9623</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8248-8250.

<sup>9624</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8246-8257.

<sup>9625</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8261-8265, 8267-8268.

<sup>9626</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8265-8267.

<sup>9627</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8268-8269.

<sup>9628</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8268-8271.

<sup>9629</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8271-8272.

<sup>9630</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8272.

Lion Battalion and the witness, entered Freetown through Wellington Old Road.<sup>9631</sup> The troops who went through the old road captured the police station in Kissy Mes Mes in the eastern part of Freetown. They then captured Shell Old Road and moved to Saroulla.<sup>9632</sup> The troops then captured Fisher Lane where they burnt 50 vehicles of civilians.<sup>9633</sup> On their advance on 6 January 1999, the troops reached the Eastern Police, where Junior Lion executed two police officers whom they had captured.<sup>9634</sup>

4303. In the morning of 6 January 1999 the troops captured State House, the President's residence. Some members of the Red Lion Battalion stayed there, while other Red Lion Battalion members, including the former NPFL fighters, and other troops moved to Pademba Road Prison in order to release the prisoners. Along the way, they burnt the Criminal Investigation Department headquarters. They reached Pademba Road and released 3,500 prisoners, many of whom were AFRC members and some of whom were RUF members. There were also prominent lawyers and criminals.<sup>9635</sup> Troops including the "mixed STF" force burned down the Central Police Station.<sup>9636</sup>

4304. In the second week of January, 150 fighters went to attack ECOMOG forces in Kingtom, where they killed civilians and burned houses with people inside. These forces included the former NPFL fighters who were wearing red headbands with 'NPFL' and 'RUF' written on them. Others in the Red Lion Battalion wore white headbands and wrote 'RUF' on them.<sup>9637</sup>

4305. In the third week of January, as the rebels withdrew from the ECOMOG attack on the State House,<sup>9638</sup> Gullit, Five-Five and Bazzy met with the witness's group at Savage Square. They informed the fighters that one SLA soldier had been killed in Fourah Bay, and that the civilians were challenging the rebels. Thus, Gullit said that they should go down to Fourah Bay.<sup>9639</sup> Subsequently, a group comprised of RUF, SLA, STF, RDF and Red Lion Battalion members in addition to Gullit, Five-Five, Bazzy and the witness attacked Fourah

<sup>9631</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8272-8274.

<sup>9632</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8274-8275.

<sup>9633</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8275-8276; Transcript 23 April 2008, pp. 8314-8315.

<sup>9634</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8279.

<sup>9635</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8280-8283.

<sup>9636</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8293-8294.

<sup>9637</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8294-8296, 8298.

<sup>9638</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8328, 8331.



Bay. The group forced civilians out of their houses and killed them. Some civilians stayed inside their homes and died as the houses burned down.<sup>9640</sup>

4306. Following the operation in Fourah Bay, the fighting force, which included Med Bajehjeh, withdrew to Upgun where they mounted a defensive.<sup>9641</sup> Upon Five-Five's instruction, Five-Five, Kabila and Major Mines amputated civilians. Five-Five first gave a demonstration by amputating the arms of three captured civilians. After that, Major Mines and Kabila started capturing people and amputating their arms.<sup>9642</sup>

4307. The Red Lion Battalion performed very well during its attacks; when they burned they did it "to extremes". Troops were happy when the Red Lion Battalion arrived, saying "danger is here", "danger men have come", as its members were "fierce" and dangerous to ECOMOG and civilians. Most of them didn't have family members in Freetown, and as the witness observed, they were dangerous to anyone they saw, not like the other fighters who were careful of whom they attacked.<sup>9643</sup>

4308. Bobson Sesay also testified that after the invasion of Freetown as they retreated they created a blocking force at Newton, where an RUF commander named Senegalese and other RUF commanders were.<sup>9644</sup>

4309. On cross-examination the witness stated that he knew that Foday Lansana and Superman were Liberians.<sup>9645</sup>

4310. On re-examination the witness was shown Exhibit P-111, a BBC report which quotes Bockarie as saying that his troops numbered 5,000.<sup>9646</sup> Bobson Sesay said that was Bockarie was referring to the joint forces of AFRC and RUF who took over Freetown under the command of Gullit.<sup>9647</sup>

<sup>9639</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8332-8333.

<sup>9640</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8332-8334.

<sup>9641</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8334-8335.

<sup>9642</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8337-8339.

<sup>9643</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8319-8321.

<sup>9644</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8399.

<sup>9645</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, p. 8794.

<sup>9646</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8915-8916.

<sup>9647</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, p. 8917.

4311. On re-examination, the witness was presented with Exhibit D-028, a Sierra Leone News Archive dated December 1998 in which President Charles Taylor is recorded as denying any Liberian government involvement in the Sierra Leone conflict but acknowledging that there were Liberian mercenaries involved; he is quoted as stating "But they are there on their own". Bobson Sesay testified that he disagreed with part of Taylor's statement that Liberian mercenaries in Sierra Leone were there on their own since men such as Isaac Mongor, Denis Superman and Foday Lansana (a.k.a. Nya) had confirmed that they were sent to Sierra Leone by Charles Taylor.<sup>9648</sup>

Prosecution Witness Perry Kamara

4312. Witness Perry Kamara (a.k.a. King Perry), an RUF radio operator,<sup>9649</sup> testified that following the Fitti-Fatta operation, at the end of May, Superman prepared himself and a large group of fighters to join SAJ Musa in Koinadugu.<sup>9650</sup> Approximately two months afterwards the witness left Superman Ground upon Morris Kallon's instructions. Kamara left with a convoy which included Alfred Brown, another radio operator under the command of Foday Lansana (a.k.a. CO Nya) and others who included the wives of Gullit and Five-Five. Kamara and Alfred Brown were to collect equipment from SAJ Musa in Koinadugu to prepare for going to go to Rosos (Colonel Eddie Town) to help set up effective radio communication there.<sup>9651</sup>

4313. During Kamara's stay in Koinadugu for less than a week, they were provided with arms and ammunition, fighters and a commander who led them to Colonel Eddie Town.<sup>9652</sup> While in Koinadugu, the witness observed that the relationship between SAJ Musa and Denis Superman was cordial.<sup>9653</sup>

4314. The group of men sent from Koinadugu to Rosos was commanded by AFRC's O-Five of the AFRC and was comprised of 60 RUF, 250 AFRC, and a number of STF members. The STF members were Liberian ULIMO fighters. The number of the group increased as they were joined by others along the way. The group included a

<sup>9648</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8930-8932.

<sup>9649</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>9650</sup> Perry Kamara, Transcript 5 February 2008, p. 3172.

<sup>9651</sup> Perry Kamara, Transcript 5 February 2008, pp. 3175-3176; Transcript 6 February 2008, pp. 3183-3185 (the witness stated that his move to Koinadugu was part of the plan discussed in Buedu).

<sup>9652</sup> Perry Kamara, Transcript 6 February 2008, p. 3185.

communications unit, a medical unit, and groups who were responsible for taking care of the arms and ammunition. The RUF group comprised two units: the Cobra Unit, which was a small group composed of Superman's bodyguards, and the Red Lion Battalion, which dominated the RUF group and comprised Komba Gbundema's bodyguards.<sup>9654</sup> The Red Lion Battalion was commanded by Striker.<sup>9655</sup>

4315. Before they left Koinadugu, Superman and SAJ Musa ordered O-Five to make the area "fearful", to capture civilians, take the civilians to them or kill them, amputate hands and burn all the villages they passed through,<sup>9656</sup> saying the order had come from Bockarie.<sup>9657</sup>

4316. In September 1998, the group left Koinadugu for Rosos, and they arrived in Rosos before 28 September 1998, a date on which the witness was injured. On their way to Rosos they passed through Karina, Gbendembu, Mateboi, and other towns.<sup>9658</sup> During their journey, Kamara witnessed killings, burnings, capture of civilians to carry loads, killing of those who were tired and could not carry loads, capture of children into SBUs and SGUs, capture of women and looting.<sup>9659</sup>

4317. While in Rosos, the troops went on a food finding mission in Kukuna on 28 September. In Kukuna, the troops captured civilians to carry loads, killed most of the civilians they encountered along the way and burnt down part of the town.<sup>9660</sup>

4318. Subsequently, SAJ Musa arrived in Rosos with over 1,000 men from Koinadugu. Musa announced their mission to go to Freetown, stating that they no longer belonged to the RUF or the AFRC.<sup>9661</sup> In early December, the troops moved to Freetown. Along the way they crossed Little Scarcies River, attacked villages around Madina and Kambia, and attacked Lunsar and Masiaka. From Masiaka they covered villages along the Masiaka-

<sup>9653</sup> Perry Kamara, Transcript 6 February 2008, p. 3186.

<sup>9654</sup> Perry Kamara, Transcript 6 February 2008, pp. 3185-3188, 3233.

<sup>9655</sup> Perry Kamara, Transcript 6 February 2008, p. 3239.

<sup>9656</sup> Perry Kamara, Transcript 6 February 2008, p. 3190.

<sup>9657</sup> Perry Kamara, Transcript 6 February 2008, p. 3191.

<sup>9658</sup> Perry Kamara, Transcript 6 February 2008, pp. 3188-3190.

<sup>9659</sup> Perry Kamara, Transcript 6 February 2008, pp. 3190-3194 (in one of the villages, several civilians had been assembled by Father Mario who was caring for them. They were all, including pregnant women, executed upon O-Five's order. Father Mario was captured by SAJ Musa and was not there at the time).

<sup>9660</sup> Perry Kamara, Transcript 6 February 2008, pp. 3200-3202.

<sup>9661</sup> Perry Kamara, Transcript 6 February 2008, pp. 3211-3212.





Freetown highway, while moving to and from the main highway and into “the bush” in order to confuse the enemy. They did so until they arrived in Four Mile, Six Mile, Lumpa, Waterloo and Benguema, in late December.<sup>9662</sup> En route from Rosos to Freetown, Kamara witnessed the troops committing numerous atrocities; they attacked Government troops and ECOMOG positions, killed civilians, burnt houses, amputated civilians, and abducted civilians who were then forced to carry loads for the troops.<sup>9663</sup>

4319. Once in Freetown, Kamara was part of the group which entered Pademba Road Prison, while another group went to State House, and a different group went to the National Stadium. The rest stayed in Ferry Junction.<sup>9664</sup> In Pademba Road they attacked and drove away all the security personnel and forced the Prison Officers to open the gates. Those Prison Officers who delayed were beaten. This group thus succeeded in their mission to release the prisoners who were accused of collaborating with the Junta. Among the released prisoners were former President JS Momoh, a journalist named Hilton Fyle, businessman Steve Bio, and the former RUF spokesman, Gibril Massaquoi.<sup>9665</sup> The prisoners were then taken to State House.<sup>9666</sup> The forces occupied State House for about one to two days before they began to retreat, fearing ECOMOG attacks due to the killing on Bockarie’s orders of ECOMOG troops at Cotton Tree.<sup>9667</sup>

4320. The thousands of AFRC, RUF and STF fighters who entered Freetown treated civilians “pathetically;” civilians suffered rape, hard labour, executions, amputations, burning of property and looting. These acts were carried out in almost all of the areas, which they occupied from the day they entered until the day they left Freetown, although the worst situation occurred in eastern Freetown. The RUF group that participated in the attack on Freetown included the Cobra Unit, comprised of Superman’s bodyguards including CY, and the Red Lion Battalion headed by Striker. While in Freetown, CY communicated with

<sup>9662</sup> Perry Kamara, Transcript 6 February 2008, pp. 3212-3214.

<sup>9663</sup> Perry Kamara, Transcript 6 February 2008, pp. 3213-3214 (the forces, including the Red Lion Battalion, agreed to “move like guerillas [sic]” leaving Rosos for Freetown in early December, attacking along the way from Madina to Benguema, burning down houses, abducting civilians to carry loads, and cutting hands).

<sup>9664</sup> Perry Kamara, Transcript 6 February 2008, pp. 3224-3225.

<sup>9665</sup> Perry Kamara, Transcript 6 February 2008, pp. 3225-3227.

<sup>9666</sup> Perry Kamara, Transcript 6 February 2008, p. 3230.

<sup>9667</sup> Perry Kamara, Transcript 6 February 2008, pp. 3230-3231.





Superman and informed him about the military situation in Freetown and the casualties their unit incurred.<sup>9668</sup>

4321. Forces which included the witness and O-Five retreated from Freetown to Waterloo, while the Red Lion Battalion under the command of Striker stayed in Freetown with Rambo Red Goat.<sup>9669</sup> Kamara saw smoke coming from Freetown while he was in Waterloo, and received information from the media in Freetown that the rebels in Freetown were amputating civilians, raping, burning houses, killing, abducting civilians and forming roadblocks.<sup>9670</sup> On the radio, the witness heard that the forces that stayed in Freetown, headed by Rambo Red Goat and Striker, eventually left Freetown and joined the forces on the main highway towards Waterloo to Masiaka, but the witness did not see them again.<sup>9671</sup>

Prosecution Witness Foday Lansana

4322. Witness Foday Lansana, an RUF radio operator,<sup>9672</sup> testified that he arrived with Superman in Koinadugu. Upon their arrival, Gullit requested reinforcements, a strong battalion, for fighting which took place at Camp Rosos. Upon this request, Superman, SAJ Musa, Brigader Mani, who was the most senior SLA in Koinadugu at the time, General Bropleh and Colonel Tamba Yamba formed a battalion and provided it with ammunition. The witness was present during the preparations to send the battalion to Rosos and saw the battalion being assembled in Koinadugu prior to its departure.<sup>9673</sup> The battalion included 1,000 men and its overall commander was O-Five. Members of the battalion's signal unit were Alfred Brown and King Perry Kamara.<sup>9674</sup> The battalion included the Red Lion Battalion. The Red Lion Battalion was "strictly under the command/control and was considered as the bodyguard unit of Superman and SAJ Musa". CY and Jumbo Blah were members of the Red Lion Battalion.<sup>9675</sup>

4323. During the Freetown invasion and following the death of SAJ Musa, while Superman was in Lunsar, he was in constant communication with CY and Jumbo Blah. CY told

<sup>9668</sup> Perry Kamara, Transcript 6 February 2008, pp. 3231-3233, 3258-3261.

<sup>9669</sup> Perry Kamara, Transcript 6 February 2008, pp. 3242-3244.

<sup>9670</sup> Perry Kamara, Transcript 6 February 2008, pp. 3243-3244, 3251.

<sup>9671</sup> Perry Kamara, Transcript 6 February 2008, pp. 3251-3252.

<sup>9672</sup> Foday Lansana, Transcript 20 February 2008, pp. 4361-4362.

<sup>9673</sup> Foday Lansana, Transcript 22 February 2008, pp. 4526-4528.

<sup>9674</sup> Foday Lansana, Transcript 22 February 2008, p. 4529.

<sup>9675</sup> Foday Lansana, Transcript 22 February 2008, pp. 4528-4529.





Superman that they did not communicate with him beforehand because Musa had banned them from doing so.<sup>9676</sup> They contacted Superman prior to their departure from Benguema and informed him of O-Five's instruction to spare no civilians on the way from Benguema to Freetown. During their operation in Freetown, O-Five, Jumbo Blah and CY constantly communicated with Superman and confirmed to him reports which were transmitted by Gullit and other commanders about their offensive and the areas that they had captured. CY stated that he was part of the group which was assigned to State House in Freetown.<sup>9677</sup>

4324. Lansana also stated that following the departure of the 1,000 men from Koinadugu, a "serious misunderstanding erupted" when Bockarie accused Superman of failing to carry out his mission to kill SAJ Musa.<sup>9678</sup>

#### Prosecution Witness TF1-143

4325. Witness TF1-143 was abducted at the age of 12 around September 1998 from Konkoba in Koindugu District, after hearing that rebels were pushed out of Kabala. After his capture, the witness was assigned to a man named Kabila,<sup>9679</sup> an RUF member.<sup>9680</sup> The group went to Koinadugu Town where O-Five, Five-Five, Komba and others introduced all the boys who were captured to their boss, SAJ Musa.<sup>9681</sup> Kabila told the witness that there were two groups in Koinadugu Town: Superman's group and SAJ Musa's group, to which the witness belonged. SAJ Musa's group was comprised of RUF and AFRC members.<sup>9682</sup>

4326. The witness was told by Kabila that they were to be in the advance team to Freetown.<sup>9683</sup> The advance team consisted of about 200 men, among them were Five-Five, O-Five, Mohamed, Kabila and other fighters. The group was comprised of predominantly AFRC members but was mixed with RUF members. Some wore black and some wore red headbands.<sup>9684</sup>

<sup>9676</sup> Foday Lansana, Transcript 22 February 2008, p. 4530.

<sup>9677</sup> Foday Lansana, Transcript 22 February 2008, pp. 4565-4567.

<sup>9678</sup> Foday Lansana, Transcript 22 February 2008, p. 4530.

<sup>9679</sup> TF1-143, Transcript 5 May 2008, pp. 8970-8972, 8979.

<sup>9680</sup> TF1-143, Transcript 5 May 2008, p. 8993.

<sup>9681</sup> TF1-143, Transcript 5 May 2008, pp. 8982-8983.

<sup>9682</sup> TF1-143, Transcript 5 May 2008, p. 8985.

<sup>9683</sup> TF1-143, Transcript 5 May 2008, p. 8986.

<sup>9684</sup> TF1-143, Transcript 5 May 2008, pp. 8988-8989.

4327. The group left Koinadugu and was headed by Five-Five and O-Five. On their way, the witness observed O-Five severing a man's head with a power saw. The troops entered Karina while the boys, girls and women amongst them, and those carrying ammunition, followed them into the town. In Karina, the witness saw three corpses of civilians, some soldiers who had been shot and houses on fire.<sup>9685</sup>

4328. From Karina the troops continued to a village where they trained captured boys. Afterwards, the witness swallowed two blue tablets given to him by Kabila which made him feel bold and made his eyes red.<sup>9686</sup> Before they left that town they met Komba and a large group which included armed men and civilians. Komba was one of the leaders of the group which captured the witness in Konkoba, and according to Kabila was from the RUF group who had mixed with the AFRC. Kabila told the witness that the armed men were Liberian soldiers Komba had brought as reinforcements to go to Freetown.<sup>9687</sup> Komba's bodyguards included John, Ballah, Bajehjeh and Bahzoh.<sup>9688</sup>

4329. The troops then moved to another town in which Five-Five ordered them to loot, kill and burn. In that town, upon Kabila's order the witness killed a man, a woman and her two children, and burnt the family's house.<sup>9689</sup> From there the troops went to Kamalo and proceeded to Kukuna where there was heavy firing and the troops captured a white priest. Upon Kabila's orders, the witness hid in the bush while carrying Kabila's ammunition. From Kukuna, the troops proceeded on the way to Colonel Eddie Town.<sup>9690</sup> Along the way they stopped, upon Komba's orders. Bajehjeh and Bahzoh captured a small girl at gunpoint and took her to a house where Komba raped her.<sup>9691</sup>

4330. When the forces arrived in Colonel Eddie Town they met SAJ Musa, Junior Lion, whose boss was Gullit, one of Gullit's boys called Foday Pump Lock, Alhaji and other fighters.<sup>9692</sup> Junior Lion, Gullit and Foday Pump Lock were in a group called Red Lion.<sup>9693</sup>

<sup>9685</sup> TF1-143, Transcript 5 May 2008, pp. 8989-8991.

<sup>9686</sup> TF1-143, Transcript 5 May 2008, pp. 8991-8992.

<sup>9687</sup> TF1-143, Transcript 5 May 2008, pp. 8992-8995, 8997.

<sup>9688</sup> TF1-143, Transcript 5 May 2008, p. 8994.

<sup>9689</sup> TF1-143, Transcript 5 May 2008, pp. 8997-9000.

<sup>9690</sup> TF1-143, Transcript 5 May 2008, pp. 9000-9005 (the witness arrived in Kukuna after the advance team had been there).

<sup>9691</sup> TF1-143, Transcript 5 May 2008, pp. 9008-9011.

<sup>9692</sup> TF1-143, Transcript 5 May 2008, pp. 9007, 9009.

<sup>9693</sup> TF1-143, Transcript 5 May 2008, pp. 9048-9049.

The Red Lion group was an RUF group whose members had red headbands. Most of its members did not speak Krio, and Kabila told the witness that those who did not speak Krio were Liberians.<sup>9694</sup>

4331. In Colonel Eddie Town, Kabila told the witness that SAJ Musa, their boss, gave them an order to go to Freetown to overthrow the government and told them that they should not kill civilians, not burn houses, not loot and not amputate. Kabila dismissed this order saying that they will continue with O-Five's order with which they came to Colonel Eddie Town- the order for Operation Spare No Soul, which meant that humans, ants, goats – all should be killed.<sup>9695</sup>

4332. Subsequently, a group including SAJ Musa, O-Five, Junior Lion, Gullit and others left Colonel Eddie Town.<sup>9696</sup> At that point in time, there was a group called the Red Lion group, which Junior Lion and others were in. The witness himself was in SAJ Musa's group which was mixed with both RUF and AFRC members.<sup>9697</sup>

4333. The troops passed through a village where there were no people and burned it down on SAJ Musa's order.<sup>9698</sup> They continued to Benguema,<sup>9699</sup> where SAJ Musa's group and the Red Lion group, the advance team which included O-Five, Five-Five, Komba, Med and other fighters, entered the military barracks and looted ammunition. The witness, together with the women, small boys and girls, and the group following behind, stayed outside because advance team had set fire to the remaining ammunition and there were explosions in the barracks.<sup>9700</sup> After the death of SAJ Musa, Gullit and O-Five took control of the group.<sup>9701</sup> According to Kabila, Gullit and O-Five ordered that a sacrifice of a fair-complexioned lady be made so that their mission to attack Freetown would be successful, so they tied a woman's legs up and buried her alive alongside SAJ Musa's corpse.<sup>9702</sup>

<sup>9694</sup> TF1-143, Transcript 5 May 2008, pp. 9053-9054.

<sup>9695</sup> TF1-143, Transcript 5 May 2008, pp. 9013-9018.

<sup>9696</sup> TF1-143, Transcript 5 May 2008, p. 9019.

<sup>9697</sup> TF1-143, Transcript 5 May 2008, pp. 9019-9021.

<sup>9698</sup> TF1-143, Transcript 5 May 2008, pp. 9018-9021.

<sup>9699</sup> TF1-143, Transcript 5 May 2008, pp. 9021-9022.

<sup>9700</sup> TF1-143, Transcript 5 May 2008, pp. 9022-9023.

<sup>9701</sup> TF1-143, Transcript 5 May 2008, p. 9026.

<sup>9702</sup> TF1-143, Transcript 5 May 2008, p. 9025.



4334. The witness stated that after SAJ Musa had been buried, the group, led by Gullit and O-Five, headed for Freetown, burning houses and looting shops along the way. The group that entered Freetown included the Red Lion group, which included Gullit, Junior Lion, Foday Pump Lock and others.<sup>9703</sup> The Liberian soldiers who came for reinforcement were part of the RUF group.<sup>9704</sup>

4335. On cross-examination, the witness stated that he had only been asked about the group he was attached to and the names of commanders. He had not been asked the names of other groups and he forgot to mention the existence of the Red Lion group in his prior statements. He recalled some but not all of the things that had happened to him long ago.<sup>9705</sup> The witness knew about the Red Lion group because a boy whose boss was Junior Lion told him that the group he was in was called Red Lion.<sup>9706</sup>

Prosecution Witness TF1-028

4336. Witness TF1-028 testified that she was captured in Karina by a group headed by Five-Five, which included SLA members and Liberians.<sup>9707</sup> She was with the group that moved from Rosos to Colonel Eddie Town, which used to be called "Tufayim".<sup>9708</sup> While in Colonel Eddie Town two "junta boys"<sup>9709</sup> who had a communication set and could hear communications between commanders told her that Superman was sending reinforcements from Kurubonla. The news that Superman was sending reinforcements and ammunition brought jubilation among the forces, who said that they would then go to Freetown.<sup>9710</sup> A group of fighters headed by Ahchebe left Colonel Eddie Town to meet the RUF

<sup>9703</sup> TF1-143, Transcript 5 May 2008, pp. 9026-9027.

<sup>9704</sup> TF1-143, Transcript 5 May 2008, p. 9027.

<sup>9705</sup> TF1-143, Transcript 5 May 2008, pp. 9049-9051, 9055-9057.

<sup>9706</sup> TF1-143, Transcript 5 May 2008, pp. 9051, 9053, 9056.

<sup>9707</sup> TF1-028, Transcript 7 May 2008, pp. 9235-9236, 9255-9256; Transcript 8 May 2008, pp. 9307-9308.

<sup>9708</sup> TF1-028, Transcript 8 May 2008, p. 9260.

<sup>9709</sup> TF1-028, Transcript 7 May 2008, pp. 9234-9235, 9242 (the witness refers to the group which captured her as "juntas", which comprised of former SLA soldiers and a few RUF members).

<sup>9710</sup> TF1-028, Transcript 7 May 2008, pp. 9205-9207, 9213-9214 (other groups in Colonel Eddie Town included Tito's group who were "the juntas", Alabama's junta, and RUF Mohamed, "that was the third group for Superman". The commanders in Colonel Eddie Town were Colonel Eddie, Five-Five, Gullit, Woyoh, FAT, Leather Boot. The witness knew their names since they were in the same group and the man she was with showed her who were the commanders).

reinforcements in Gbendembu and came back.<sup>9711</sup> The forces were happy with the arrival of the reinforcements, saying that they now had enough ammunition to go to Freetown.<sup>9712</sup>

4337. The group of reinforcements was called “Red Lion” and was commanded by Mohamed Bajehjeh. The group included more than 100 men, both Sierra Leonean “Mendes” and Liberians, all wearing red headbands.<sup>9713</sup> Among the RUF group who arrived in Colonel Eddie Town were 70 Liberian fighters and 30 Sierra Leoneans, mainly Mendes, some of whom were fighters and some were civilians.<sup>9714</sup>

4338. A week after the Red Lion group arrived in Colonel Eddie Town the forces, including the witness, left for Freetown.<sup>9715</sup> The forces included the Red Lion group headed by Med Bajehjeh, the SLA group under SAJ Musa, Tito’s group, and Five-Five’s group, which had captured the witness in Karina, and which was different from SAJ Musa’s group.<sup>9716</sup>

4339. The forces passed through Port Loko road together with the civilians. The troops, including the Red Lion group, arrived in Waterloo where they burned houses and killed. The witness saw corpses of men, women and children in civilian clothes.<sup>9717</sup> From Waterloo the forces continued to Benguema, where SAJ Musa died.<sup>9718</sup> In Benguema, the witness saw three Nigerian soldiers who were captured by AFRC men being beaten.<sup>9719</sup> From Benguema, the troops which included the RUF and the AFRC, together with the civilians, went to Tombo, Grafton and reached Calaba Town in Freetown. From there the group entered Freetown on 16 January.<sup>9720</sup> The witness stopped at Ferry Junction in Freetown while the

<sup>9711</sup> TF1-028, Transcript 7 May 2008, pp. 9207-9209, 9212-9214, 9254-9255 (the witness heard the names being called during a meeting held at a house close to hers).

<sup>9712</sup> TF1-028, Transcript 7 May 2008, pp. 9209-9210, 9218.

<sup>9713</sup> TF1-028, Transcript 7 May 2008, pp. 9210, 9215-9218, 9220 (the witness was familiar with the Liberian language since her sister’s “co-wife” was Liberian who spoke the Liberian language during the 6 years before the witness was captured).

<sup>9714</sup> TF1-028, Transcript 7 May 2008, pp. 9239-9240; Transcript 8 May 2008, pp. 9304-9307, 9262-9264.

<sup>9715</sup> TF1-028, Transcript 7 May 2008, p. 9220.

<sup>9716</sup> TF1-028, Transcript 7 May 2008, pp. 9235-9236, 9255-9256.

<sup>9717</sup> TF1-028, Transcript 7 May 2008, pp. 9223-9224.

<sup>9718</sup> TF1-028, Transcript 7 May 2008, pp. 9224-9225.

<sup>9719</sup> TF1-028, Transcript 7 May 2008, p. 9225 (the witness was distraught by seeing the men being beaten and ran up the hill).

<sup>9720</sup> TF1-028, Transcript 7 May 2008, pp. 9225-9226.

RUF group and the “juntas” proceeded. From that point, the witness did not know where the Red Lion group went since “they were scattered all over the town”.<sup>9721</sup>

4340. On cross-examination the witness confirmed that from Colonel Eddie Town the forces went to Port Loko Highway, close to Mange Bureh, and proceeded to a village called Four Mile.<sup>9722</sup> The forces were also in Mamusa in the vicinity of Lunsar, and on their way to Freetown passed through Mile 38 and Mamamah.<sup>9723</sup>

4341. Also on cross-examination, the witness stated that she knew Superman was Liberian,<sup>9724</sup> and that she was familiar with the STF because during the attack on Karina in which the witness was abducted, she heard the forces saying “STF advance”.<sup>9725</sup> She also heard “SLA-NPFLA advance, advance”.<sup>9726</sup>

#### Prosecution Witness Komba Sumana

4342. Witness Komba Sumana, a child soldier under Superman’s command, who was abducted in around April/May 1998,<sup>9727</sup> testified that he was captured by three former ULIMO-K fighters who were incorporated into the STF and joined the Sierra Leonean military.<sup>9728</sup> After he was captured, Sumana was taken to Kissi Town to the “boss” of those who captured him, named Major Wallace. Wallace was a former ULIMO Liberian fighter under Alhaji Kromah.<sup>9729</sup> Wallace told the witness that Senegalese was once a member of ULIMO with Wallace, before fighting erupted and they went their separate ways.<sup>9730</sup> There were more than 100 former ULIMO fighters under the command of Superman.<sup>9731</sup>

4343. Sumana also testified that following a second attack on Kabala, civilians captured in Kabala were taken to Koinadugu and trained by a rebel called Alabama. At one point,

<sup>9721</sup> TF1-028, Transcript 8 May 2008, pp. 9226-9228, 9268-9269.

<sup>9722</sup> TF1-028, Transcript 8 May 2008, pp. 9277-9278.

<sup>9723</sup> TF1-028, Transcript 8 May 2008, pp. 9278-9280.

<sup>9724</sup> TF1-028, Transcript 7 May 2008, p. 9248.

<sup>9725</sup> TF1-028, Transcript 7 May 2008, pp. 9249-9250.

<sup>9726</sup> TF1-028, Transcript 7 May 2008, pp. 9253-9254. In re-examination the witness stated that she did not know what the “NPFLA” was (TF1-028, Transcript 8 May 2008, p. 9307).

<sup>9727</sup> Factual and Legal Findings on Alleged Crimes, Count 9 (Child Soldiers), Conscription and Use of Child Soldiers in Kailahun District.

<sup>9728</sup> Komba Sumana, Transcript 7 October 2008, pp. 18078-18080.

<sup>9729</sup> Komba Sumana, Transcript 6 October 2008, pp. 17910-17912.

<sup>9730</sup> Komba Sumana, Transcript 7 October 2008, pp. 18080-18081.

<sup>9731</sup> Komba Sumana, Transcript 7 October 2008, p. 18080.

“Superman’s boy” shot a man at the military training barracks. SAJ Musa then went to the military barracks and also killed a man. The witness was at his house when he heard gunshots and infighting between Superman and SAJ Musa. A week later, SAJ Musa announced that he was going to Freetown. The commanders who remained in Koinadugu after SAJ Musa left were Superman and Bropleh.<sup>9732</sup>

Prosecution Witness TF1-516

4344. Witness TF1-516, an RUF radio operator,<sup>9733</sup> testified that Senegalese was once a member of ULIMO. According to a report gathered when the RUF had joined forces with the AFRC, Senegalese was one of the soldiers who were fighting alongside the government forces, the “SLAs”. After the ECOMOG Intervention, Senegalese retreated to Buedu and became an RUF member. Bockarie then commanded Senegalese to move to Kono for an assignment. The witness believes he met Senegalese in Sengema on his way on to Kono.<sup>9734</sup>

Prosecution Witness Augustine Mallah

4345. Witness Augustine Mallah testified that in 1997, during the Junta period, Senegalese spent a night in Kenema. Senegalese was a former ULIMO fighter who came to Sierra Leone because of Mike Lamin, and was not too familiar with Sam Bockarie.<sup>9735</sup> The reason they named him Senegalese was because he was tall.<sup>9736</sup>

Prosecution Witness TF1-367

4346. Witness TF1-367, an RUF member,<sup>9737</sup> testified that Senegalese was in Buedu with Bockarie in 1997, Senegalese was a soldier coming from Liberia, “a tall guy” but the witness did not know whether he was from ULIMO or the NPFL.<sup>9738</sup>

Prosecution Witness Samuel Kargbo

<sup>9732</sup> Komba Sumana, Transcript 6 October 2008, pp. 17966-17968.

<sup>9733</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>9734</sup> TF1-516, Transcript 10 April 2008, p. 7185.

<sup>9735</sup> Augustine Mallah, Transcript 17 November 2008, pp. 20452-20453.

<sup>9736</sup> Augustine Mallah, Transcript 18 November 2008, p. 20555.

<sup>9737</sup> TF1-367, Transcript 20 August 2008, p. 14158.

<sup>9738</sup> TF1-367, Transcript 29 August 2008, p. 14976.

4347. Witness Samuel Kargbo testified that CO Senegalese was an RUF high commander who was involved in the Magburaka shipment.<sup>9739</sup> Senegalese was a Liberian who was present in Freetown during the Junta period and stayed with the RUF high command leaders, such as Issa Sesay.<sup>9740</sup>

Prosecution Witness Isaac Mongor

4348. Witness Isaac Mongor testified that following Superman's departure to Koinadugu, Superman and SAJ Musa had a falling out which involved armed attacks between their forces and led to the separation between the men. Bockarie then sent CO Rocky and Senegalese with ammunition to kill Superman, but instead of killing Superman Rocky joined him.<sup>9741</sup>

Prosecution Witness Jabaty Jaward

4349. Witness Jabaty Jaward testified that he knew Senegalese to be a Liberian who worked for President Taylor, in SOD uniform, the Special Operational Division, which was one of President Taylor's security groups. Senegalese had been an escort with those who brought supplies to Buedu such as Jungle and Sampson. The witness estimated that these trips occurred after February/March 1998.<sup>9742</sup>

Prosecution Witness Varmuyan Sherif

4350. Witness Varmuyan Sherif testified that "Senegalese was a trustworthy bodyguard to Mr Taylor at last".<sup>9743</sup>

Prosecution Witness Abu Keita

4351. Witness Abu Keita testified that a couple of weeks after he arrived in Buedu, in December 1998,<sup>9744</sup> he travelled with Issa Sesay to Foya to meet Bockarie, who was on his way back to Sierra Leone.<sup>9745</sup> In Foya, they met Bockarie who came with two trucks the

<sup>9739</sup> Samuel Kargbo, Transcript 2 June 2008, p. 10712.

<sup>9740</sup> Samuel Kargbo, Transcript 2 June 2008, p. 10746.

<sup>9741</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5767-5768.

<sup>9742</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13386-13388.

<sup>9743</sup> Varmuyan Sherif, Transcript 10 January 2008, p. 920.

<sup>9744</sup> Abu Keita, Transcript 24 January 2008, pp. 2130-2131.

<sup>9745</sup> Abu Keita, Transcript 23 January 2008, pp. 1988, 1993.

Libyan government gave Taylor and one “pick-up”. Bockarie came with 300 boxes of ammunition,<sup>9746</sup> and 150 men, both Sierra Leoneans and Liberians, whom Keita was told were taken from Camp Naama. The convoy also included a Liberian police driver nicknamed Senegalese and Keita’s wife.<sup>9747</sup>

Prosecution Witness Mohamed Kabbah

4352. Witness Mohamed Kabbah testified that when Bockarie returned to Buedu from Monrovia with a large consignment of ammunition, Zigzag Marzah, Liberian Mosquito, Sheku, Senegalese, a Guinean man named Sidibay, Jungle and Abu Keita all came to Buedu with him.<sup>9748</sup>

Prosecution Witness TF1-150

4353. Witness TF1-150 testified on cross-examination that he heard Eldred Collins, an RUF commander, announcing the launching of Operation Spare No Soul on the BBC radio in August 1998.<sup>9749</sup>

The Accused

4354. The Accused said that he did know anyone by the name of Senegalese, nor did he not knowingly send any Liberian combatants to Sierra Leone after May 1992, nor did he send a man named Senegalese to Bockarie in Sierra Leone. He suggested that Senegalese was probably a former ULIMO-K member.<sup>9750</sup>

Defence Witness Issa Sesay

4355. Witness Issa Sesay, senior RUF commander,<sup>9751</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>9752</sup> testified that Senegalese was not sent by Taylor to command a Liberian troop to assist the RUF in the attack on Kono. Sesay stated that Senegalese was a former ULIMO-K fighter who came to Sierra Leone with Mike Lamin in

<sup>9746</sup> Abu Keita, Transcript 23 January 2008, pp. 1993-1994.

<sup>9747</sup> Abu Keita, Transcript 23 January 2008, pp. 1994-1996.

<sup>9748</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16142, 16155-16156.

<sup>9749</sup> TF1-150, Transcript 18 February 2008, pp. 4037-4038 (CS); Exhibit P-077 (confidential), para. 31.

<sup>9750</sup> Charles Ghankay Taylor, Transcript 15 September 2009, p. 28853; Transcript 30 September 2009, pp. 29984-29985, 29999; Transcript 1 October 2009, pp. 30146-30147.

<sup>9751</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

1997, along with two other former ULIMO fighters, ULIMO Jungle (not Daniel Tamba) and Colonel Musa. Senegalese stayed in Kenema with Bockarie during the Junta period, and retreated from Kenema with Bockarie to Kailahun following the Intervention. Sesay stated that Senegalese was among the group sent by Bockarie to Superman to retrieve ammunition captured during the Fitti-Fatta attack, and Superman did not allow them to return.<sup>9753</sup>

Prosecution Exhibit P-306

4356. Exhibit P-306 is a report of the Secretary-General of the United Nations to the Security Council on the United Nations Observer Mission in Sierra Leone, dated 16 October 1998. According to the report, on 17 August 1998 the RUF announced a terror campaign against civilians, CDF and ECOMOG.<sup>9754</sup>

Prosecution Exhibit P-602

4357. Exhibit P-602 is a summary of a meeting held in the RUF headquarters in Buedu on 17 August 1998 “to discuss issues concerning our movement at the moment”. The meeting was attended by “senior authorities” but “became more or less an open and general meeting” and focused on the release of Foday Sankoh. In the meeting, a Public Relations Organ headed by Eldred Collins was created.<sup>9755</sup>

Defence Exhibit D-028

4358. Exhibit D-028 is a news article from December 1998, which states that Liberian President Charles Taylor denied any Liberian government involvement in the Sierra Leone conflict. Taylor is quoted as saying that “it is very clear and factual that there are Liberians in Sierra Leone fighting”, “Liberians have been used as mercenaries in Sierra Leone for a long time by all governments of Sierra Leone”, “they have always been there – about 3,000 of them. But they are there on their own”.<sup>9756</sup>

<sup>9752</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>9753</sup> Issa Sesay, Transcript 9 July 2010, pp. 44166-44167; Transcript 6 August 2010, p. 45576; Transcript 11 August 2010, pp. 45953-45954; Transcript 18 August 2010, pp. 46632-46633.

<sup>9754</sup> Exhibit P-306, “UN Security Council, Second Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/960, 16 October 1998”, para. 4.

<sup>9755</sup> Exhibit P-602, “Revolutionary United Front of Sierra Leone Brigade Headquarters – Buedu, Meeting/Forum held in Buedu to Discuss Issues Concerning Our Movement at the Moment”, August 17 1998.

<sup>9756</sup> Exhibit D-028, “Sierra Leone News Archives, 31 December 1998, Sierra Leone Web”, pp. 2-3.





Defence Exhibit D-026

4359. Exhibit D-026 is the testimony of President Tejan Kabbah in the Sierra Leonean Truth and Reconciliation Commission. In his statement, Kabbah says that he first learned about the existence of the Special Task Force, STF, in 1997 when the STF joined forces with the AFRC after the coup. Kabbah said that the army used the STF regularly and depended on it considerably. The STF was a group of Liberians from Samuel Doe's Armed Forces of Liberia (AFL) who fled from Liberia to Sierra Leone with the common objective to regroup and return to Liberia and continue their resistance against Charles Taylor's NPFL. They were eventually named ULIMO. After fighting broke out between the Khrans and the Mandingos ULIMO split into ULIMO-J headed by Roosevelt Johnson and ULIMO-K headed by Alhaji Kromah.<sup>9757</sup> According to Kabbah, the Sierra Leonean NPRC government dropped the "J" and "K" from the names of the two factions and collectively renamed them "Special Task Force" (STF). The STF was then almost incorporated into the Sierra Leone Army, and they received salaries, allowances and their supplies were regularly replenished.<sup>9758</sup> Kabbah stated that on the day of the AFRC coup, 25 May 1997, he heard the then Chief of Defence Staff of the Sierra Leone military ordering the Special Task Force to fight against the disloyal troops and foil the incipient coup. Instead of doing so, the STF, headed by General Bropleh, joined forces with the AFRC Junta. Kabbah added that General Bropleh and his STF followers fled together with AFRC personnel following the ECOMOG Intervention in February 1998 and fought in places such as Koidu, Makeni, Kamakwie and Lunsar, and supported the 6 January 1999 invasion of Freetown.<sup>9759</sup>

Defence Exhibit D-454

4360. Exhibit D-454 is a list of 29 STF members, Liberians, who had been dropped from the Sierra Leone Army since 12 November 2000. The list includes the surnames, initials, ranks and army numbers of the 29 members.<sup>9760</sup>

<sup>9757</sup> Exhibit D-026, "Appendix 2, Submissions to the Sierra Leone Truth and Reconciliation Commission (TRC), Statement: His Excellency the President Alhaji Dr Ahmad Tejan Kabbah, 5 August 2003", paras 52-56.

<sup>9758</sup> Exhibit D-026, "Appendix 2, Submissions to the Sierra Leone Truth and Reconciliation Commission (TRC), Statement: His Excellency the President Alhaji Dr Ahmad Tejan Kabbah, 5 August 2003", paras 57-58.

<sup>9759</sup> Exhibit D-026, "Appendix 2, Submissions to the Sierra Leone Truth and Reconciliation Commission (TRC), Statement: His Excellency the President Alhaji Dr Ahmad Tejan Kabbah, 5 August 2003", paras 61-62.

<sup>9760</sup> Exhibit D-454, "Comprehensive Nominal Roll of STF (Liberian) Dropped from the Sierra Leone Army Since 12 November 2000 and due for One-Off Ex-Gratia Cash Payment", ERN 30079.







Defence Confidential Exhibit D-455

4361. Confidential Exhibit D-455 shows that David Livingstone Mah Bropleh was in Sierra Leone in 1997. It also indicates that Bropleh, a Liberian, was a founding member of ULIMO and within ULIMO fulfilled high ranking roles from 1991 until 1994. Bropleh was also the commanding general of the Special Task Force Armed Forces of the Republic of Sierra Leone (AFRSL) from 1995 to 2000.<sup>9761</sup>

Defence Exhibit D-465

4362. Exhibit D-465 is a letter to the National Provisional Ruling Council signed and approved by Major General David L. Bropleh, "Ex-ULIMO Combatants Leader". The letter congratulates the addressee for the third anniversary of the NPRC.<sup>9762</sup>

Defence Exhibit D-469

4363. Exhibit D-469 is a request from Brigadier General David LM Bropleh, for redress on 26 Liberians who were rejected at "BTC BSTTT 4 Training Programme" on constitutional grounds. The letter was sent from the Special Task Force HQ in Freetown, and is dated 30 November 2000. In the letter, Bropleh states that in April 1995 he was charged with the responsibility to mobilize these men and served as the forerunner of the negotiations between the men and the government. He stated that before the men were originally recruited there were seven conditions set by the government of Sierra Leone, which included denouncing ULIMO, and being prepared to be absorbed into the Sierra Leonean Army under a special unit. In the letter, Bropleh mentions past activities in the various battles "especially when the RUF was about to launch a final attack on Freetown in 1995 after capturing Lumpa, the opening of Masika-Bo Highway after three months of closure and the repelling of RUF attack on the city of Bo on the election day".<sup>9763</sup>

Deliberations

<sup>9761</sup> Exhibit D-455 (confidential).

<sup>9762</sup> Exhibit D-465, "Third Page of a Letter to the National Provisional Ruling Council, Signed by Major General David L Bropleh, Ex-ULIMO Combatants Leader".

<sup>9763</sup> Exhibit D-469, "Letter from Brigadier General, David L M Bropleh, to Acting CDS, DHQ, Request for Redress on the Twenty-Six (26) Liberians Rejected at BTC BSTTT 4 Training Programme on Constitutional Grounds, November 30 2000", pp. 1-3, ERN 30225-30227.





4364. It is undisputed that a group called the Red Lion Battalion participated in the attack on Freetown and included Liberian fighters among its members.<sup>9764</sup> What is disputed is whether those Liberian fighters within the Red Lion Battalion were sent to Sierra Leone by the Accused. In support of its allegation that Liberian fighters sent by the Accused were incorporated in the Red Lion Battalion, the Prosecution relies primarily on the evidence of Alice Pyne, who testified that she was told by a Liberian fighter that he was sent by the Accused, and on the evidence of Alimamy Bobson Sesay that the Red Lion Battalion included former NPFL fighters who were incorporated into the AFL. The Trial Chamber recalls its findings that Alice Pyne<sup>9765</sup> and Alimamy Bobson Sesay are generally credible witnesses.<sup>9766</sup>

4365. The Trial Chamber has considered the evidence of many witnesses who testified about a complex sequence of events and the composition of merging and separating forces, in the context of a military operation. In order to determine whether or not the Accused sent the Liberian fighters who participated in the Red Lion Battalion, the Trial Chamber must first determine who was in the Red Lion Battalion that participated in the Freetown Invasion, and who led the Red Lion Battalion.

4366. The Prosecution submits that the group headed by O-Five and sent by SAJ Musa and Denis Mingo (a.k.a. Superman) to join Alex Tamba Brima (a.k.a. Gullit) in Rosos was called the Red Lion Battalion, and it included AFRC, RUF and STF members, as well as Liberian reinforcements sent by the Accused. The Defence acknowledges that there were Liberians in the group headed by O-Five but denies that they were sent by the Accused. The Defence submits that the Liberians in this group were STF fighters who had already been in Sierra Leone and that Prosecution witnesses, when referring to Liberian fighters, were referring to these STF fighters.

4367. The Trial Chamber notes that the STF was formed in Sierra Leone and comprised of Liberians who were former ULIMO fighters. The STF initially fought alongside the Sierra Leonean government against the RUF, but some of its members joined the Junta forces

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<sup>9764</sup> Prosecution Final Trial Brief, paras 294-297; Defence Response to Prosecution Final Trial Brief, paras 54, 147.

<sup>9765</sup> Credibility Assessment, Alice Pyne, paras 304-307.

<sup>9766</sup> Credibility Assessment, Alimamy Bobson Sesay, paras 285-289.

following the AFRC coup in May 1997 and were integrated into the AFRC/RUF forces subsequently.<sup>9767</sup>

4368. TF1-375 testified that among the Liberian fighters who arrived in Koinadugu with Senegalese were former NPFL fighters, 30 of whom were then incorporated into the Red Lion Battalion headed by O-Five.<sup>9768</sup> The witness not only distinguished Liberian STF fighters, but also distinguished Mingo's Liberian bodyguards from the Liberians who came with Senegalese, whom he identified as former NPFL fighters. He said he knew that they were former NPFL fighters because they had told him so. The Trial Chamber recalls its finding that TF1-375's evidence should be treated with caution and requires corroboration.<sup>9769</sup> The Trial Chamber finds that his testimony is corroborated by Alimamy Bobson Sesay, who testified that O-Five arrived in Colonel Eddie Town with about 20 former NPFL fighters who had been integrated into the Armed Forces of Liberia (AFL) and came from Liberia to Bockarie.<sup>9770</sup>

4369. The Defence submits that Bobson Sesay's evidence is unreliable and unclear, arguing that his testimony was not consistent with some of his prior statements. Moreover, the Defence says that while Bobson Sesay claimed that the Red Lion Battalion was formed in Colonel Eddie Town, he later conceded that it was a bodyguard unit of Superman, and was therefore in existence before Colonel Eddie Town.<sup>9771</sup> However, Bobson Sesay did not concede in his testimony that the Red Lion Battalion was a bodyguard unit. On the contrary, he was consistent during his testimony that with O-Five's group were former NPFL fighters,

<sup>9767</sup> Alice Pyne, Transcript 19 June 2008, pp. 12249-12250, 12252; Transcript 20 June 2008, pp. 12382-12384; Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8177-8178; Transcript 22 April 2008, pp. 8199-8200; Transcript 28 April 2008, pp. 8748-8750, 8754, 8756-8757; Transcript 29 April 2008, pp. 8788, 8820; TF1-375, Transcript 23 June 2008, p. 12547; Komba Sumana, Transcript 6 October 2008, pp. 17910-17912; Transcript 7 October 2008, pp. 18078-18081; Exhibit D-028, "Sierra Leone News Archives, 31 December 1998, Sierra Leone Web", pp. 2-3; Exhibit D-026, "Appendix 2, Submissions to the Sierra Leone Truth and Reconciliation Commission (TRC), Statement: His Excellency the President Alhaji Dr Ahmad Tejan Kabbah, 5 August 2003", paras 52-58, 61-62; Exhibit D-454, "Comprehensive Nominal Roll of STF (Liberian) Dropped from the Sierra Leone Army Since 12 November 2000 and due for One-Off Ex-Gratia Cash Payment", ERN 30079; Exhibit D-455 (confidential); Exhibit D-465, "Third Page of a Letter to the National Provisional Ruling Council, Signed by Major General David L Bropleh, Ex-ULIMO Combatants Leader;" Exhibit D-469, "Letter from Brigadier General, David L M Bropleh, to Acting CDS, DHQ, Request for Redress on the Twenty-Six (26) Liberians Rejected at BTC BSTTT 4 Training Programme on Constitutional Grounds, November 30 2000", pp. 1-3, ERN 30225-30227.

<sup>9768</sup> TF1-375, Transcript 24 June 2008, pp. 12566-12567, 12569, 12572-12573; Transcript 27 August 2008, pp. 14780-14781.

<sup>9769</sup> Credibility Assessment, TF1-375, paras 308-312.

<sup>9770</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8193-8198, 8200-8201; Transcript 28 April 2008, pp. 8674, 8747, 8769-8771.

as O-Five introduced the Liberian fighters - 30 STF fighters and 20 former NPFL fighters who had been integrated into the AFL - during a muster parade in Colonel Eddie Town.<sup>9772</sup> The Trial Chamber notes that Bobson Sesay could not recall the names of the former NPFL fighters, although he did recall names of STF, former ULIMO, fighters.<sup>9773</sup> When confronted on cross-examination with a prior statement in which he only mentioned STF fighters and not former NPFL fighters among O-Five's group, Bobson Sesay explained that the Liberian fighters were not divided into sub-groups and were all referred to as STF. He stated "the thing was broad, ...this was the name they mostly used" and O-Five had introduced some of the STF members as former NPFL fighters.<sup>9774</sup> The Trial Chamber finds that this is consistent with Bobson Sesay's prior statement that the STF included former NPFL fighters.<sup>9775</sup> He believed that the STF included former NPFL fighters because O-Five introduced them as being in the same group. When confronted with the statement made by the Accused, and quoted in Exhibit D-028, that "Liberians have been used as mercenaries in Sierra Leone for a long time by all governments of Sierra Leone", "they have always been there - about 3,000 of them. But they are there on their own",<sup>9776</sup> Bobson Sesay said he disagreed with the statement, although he did not specifically mention these NPFL fighters.<sup>9777</sup> Recalling its finding that Bobson Sesay is generally credible,<sup>9778</sup> the Trial Chamber finds his testimony in this regard to be consistent and reliable.

4370. The Prosecution relies on the testimony of Alimamy Bobson Sesay and TF1-028 to prove that along the way troops called "SLA-NPFLA advance" and wrote "NPFL" on houses during their advance. However, Bobson Sesay testified that they wrote NPFL on houses when NPFL fighters were not among his troops, and before Gullit's forces arrived in Colonel Eddie Town. He explained that they used "NPFL" in order to instil fear in the population since the population was afraid by the NPFL and RUF due to the attacks in the

<sup>9771</sup> Defence Final Trial Brief, para. 916; Defence Response to Prosecution Final Trial Brief, para. 54.

<sup>9772</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8178-8280; Transcript 22 April 2008, pp. 8193-8196, 8201; Transcript 28 April 2008, pp. 8747, 8772-8774, 8779-8781; Transcript 29 April 2008, pp. 8785-8790, 8793-8794.

<sup>9773</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8178-8180; Transcript 22 April 2008, p. 8193, 8201; Transcript 29 April 2008, pp. 8801-8802.

<sup>9774</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, p. 8781; Transcript 29 April 2008, pp. 8785-8790.

<sup>9775</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8776-8778; Transcript 29 April 2008, p. 8788.

<sup>9776</sup> Exhibit D-028, "Sierra Leone News Archives, 31 December 1998, Sierra Leone Web", pp. 2-3.

<sup>9777</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8930-8932.

<sup>9778</sup> Credibility Assessment, Alimamy Bobson Sesay, paras 285-289.





early 1990's.<sup>9779</sup> With regard to TF1-028, the Trial Chamber notes that her testimony also refers to a time before the reinforcements were sent by Superman to Colonel Eddie Town.<sup>9780</sup> Moreover, the Trial Chamber finds that her credibility was tainted by her consistent denial of parts of her testimony in the RUF trial, especially in relation to the Liberian fighters.<sup>9781</sup> For these reasons, the Trial Chamber has not considered this testimony in support of the allegation that the group sent by Superman from Koinadugu included former NPFL fighters.

4371. The Trial Chamber notes that Perry Kamara, who was in O-Five's group,<sup>9782</sup> and Foday Lansana, who was in Koinadugu when O-Five's group was formed,<sup>9783</sup> did not mention in their testimony that former NPFL fighters were among O-Five's group. However, Kamara stated that the STF were part of the group<sup>9784</sup> and the Trial Chamber notes Bobson Sesay's evidence that the term "STF" was used broadly to refer to the Liberian group. The Trial Chamber finds that their failure to mention the NPFL fighters does not negate the evidence of their presence in O-Five's group. Moreover, the Trial Chamber notes that both Kamara and Lansana were radio operators, not fighters, and would therefore have been dealing more with commanders than the soldiers on the battlefield. In contrast, Bobson Sesay was a fighter and would have been in the midst of the fighting forces.

4372. The Trial Chamber finds Bobson Sesay's evidence to be credible and accepts the explanation he gave for the omission in his prior statement. His evidence corroborates the evidence of TF1-375, and they mention roughly the same number of men – 20 and 30 men, respectively – as comprising the group of former NPFL fighters from Liberia. In light of the foregoing, the Trial Chamber finds that there were NPFL fighters from Liberia in the group led by O-Five, together with RUF, AFRC and STF forces.

4373. The Trial Chamber notes that Prosecution witnesses gave different accounts as to who formed the Red Lion Battalion and where it was formed. Alice Pyne and TF1-375, who were in Koinadugu when O-Five's group was formed, identified that group, which left

<sup>9779</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8156-8159.

<sup>9780</sup> TF1-028, Transcript 8 May 2008, pp. 9307-9308.

<sup>9781</sup> TF1-028, Transcript 7 May 2008, pp. 9237-9239, 9250-9252, 9266-9271; Transcript 8 May 2008, pp. 9282-9284, 9308-9309.

<sup>9782</sup> Alice Pyne, Transcript 19 June 2008, p. 12261.

<sup>9783</sup> Foday Lansana, Transcript 22 February 2008, pp. 4526-4529.

<sup>9784</sup> Perry Kamara, Transcript 6 February 2008, p. 3185.





Koinadugu and was headed by O-Five, as the Red Lion Battalion stating that it was formed in Koinadugu by Superman.<sup>9785</sup> Two radio operators, Perry Kamara, who was in O-Five's group,<sup>9786</sup> and Foday Lansana, who was in Koinadugu when O-Five's group was formed,<sup>9787</sup> identified the Red Lion Battalion as a unit within O-Five's group. Kamara testified that the unit was comprised of the bodyguards of Komba Gbundema, while Lansana called it a bodyguard unit that was under the command and control of Superman and SAJ Musa.<sup>9788</sup> As both witnesses testified that the unit was within O-Five's group, the Trial Chamber considers that their evidence is consistent and that Lansana was referring to the overall command, as O-Five served under Superman and SAJ Musa.

4374. Alimamy Bobson Sesay, who was in Colonel Eddie Town, the destination of the group led by O-Five from Koinadugu, testified that within O-Five's group there was a group called Red Lion which included 30 STF and 20 former NPFL fighters,<sup>9789</sup> and that after they arrived in Colonel Eddie Town, Gullit formed the Red Lion Battalion and appointed AFRC's Med Bajehjeh as its commander.<sup>9790</sup> TF1-028, who was also in Colonel Eddie Town, testified that the group of reinforcements sent by Superman was called "Red Lion" and was commanded by Med Bajehjeh.<sup>9791</sup>

4375. The Trial Chamber notes that some of the witnesses were in Koinadugu, where the group headed by O-Five was formed, while others were in Colonel Eddie Town, which is where it was sent to from Koinadugu. All of the witnesses testified that this group was led by O-Five. Several of them testified that there was a unit within the group and it was that unit that was the Red Lion Battalion, although Lansana and Kamara identified this group as a group of bodyguards, while Bobson Sesay, who also said that the Red Lion group was a sub-group within the larger group under O-Five, said this subgroup included the former

<sup>9785</sup> Alice Pyne, Transcript 19 June 2008, pp. 12259-12261; Transcript 20 June 2008, pp. 12385-12386, 12389-12391.

<sup>9786</sup> Foday Lansana, Transcript 22 February 2008, p. 4529; Alice Pyne, Transcript 19 June 2008, p. 12261; Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8201-8202.

<sup>9787</sup> Foday Lansana, Transcript 22 February 2008, pp. 4526-4528; Alice Pyne, Transcript 19 June 2008, pp. 12255-12256.

<sup>9788</sup> Foday Lansana, Transcript 22 February 2008, pp. 4528-4529; Perry Kamara, Transcript 6 February 2008, pp. 3185-3188.

<sup>9789</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8316-8317.

<sup>9790</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8758-8760.

<sup>9791</sup> TF1-028, Transcript 7 May 2008, pp. 9205-9216, 9220.

NPFL fighters. Both Pyne and TF1-375 testified that the entire group was called the Red Lion Battalion.

4376. The Trial Chamber notes that, regardless of the name of the group or sub-group led by O-Five, in Colonel Eddie Town, changes were made to the composition of the group, according to Bobson Sesay's testimony, which is supported by the testimony of TF1-028, who was also in Colonel Eddie Town. With the exception of Perry Kamara, none of the other witnesses who testified about the formation of the group in Koinadugu, were in Colonel Eddie Town when these changes would have been made, or in Freetown when the Red Lion Battalion arrived there. For this reason, the Trial Chamber considers that their testimony on this point is not reliable.

4377. Kamara did not mention in his testimony any changes to the Red Lion Battalion in Colonel Eddie Town. Bobson Sesay testified that in Colonel Eddie Town Gullit reassigned members of the group led by O-Five, sending the RUF members and AFRC members to different battalions and units. He said the STF "mixed group", referring to the STF and the former NPFL forces who had been integrated into the AFL, kept the name Red Lion Battalion, which was put under the command of Med Bajehjeh, from the AFRC. Perry Kamara, the other witness in Colonel Eddie Town at this time, had identified Striker as the commander of the bodyguard unit he labelled the Red Lion Battalion in his testimony. Kamara maintained that this unit remained under Striker's command and went with other forces to Freetown. The Trial Chamber considers that Bobson Sesay, as noted, fought alongside the Red Lion Battalion. His account, which is different from Kamara's account, is corroborated by TF1-028. The Trial Chamber recalls its finding that Perry Kamara is generally credible.<sup>9792</sup> However, in light of the evidence, the Trial Chamber accepts Bobson Sesay's testimony that the Red Lion Battalion which entered Freetown included the former NPFL forces who had been integrated into the AFL and was commanded by Med Bajehjeh.

4378. Having found that the Red Lion Battalion included AFL members, the Trial Chamber will address the question of whether these AFL members were sent by the Accused to Sierra Leone as alleged by the Prosecution. The Prosecution relies on the testimony of Alice Pyne to support this allegation. The Trial Chamber recalls its finding that Alice Pyne

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<sup>9792</sup> Credibility Assessment, Perry Kamara, paras 227-236.

is generally credible.<sup>9793</sup> Pyne testified that a group of 30 Liberian men arrived in Koinadugu in August 1998.<sup>9794</sup> These men were headed by Senegalese who told the witness that he and “others” had been sent to Bockarie by the Accused.<sup>9795</sup> Although in a prior statement Pyne identified Senegalese as an STF fighter,<sup>9796</sup> she had subsequently corrected her statement to say that the Liberian fighters she met were “Charles Taylor’s forces” who had been sent from Liberia to Bockarie.<sup>9797</sup> Pyne’s testimony as to a group of Liberian men arriving in Koinadugu after the Fitti-Fatta attack with Senegalese is corroborated by TF1-375.<sup>9798</sup>

4379. The Trial Chamber accepts Pyne’s explanation that she did not believe Bai Bureh, who had told her that Senegalese was from the STF because the STF members she knew spoke Krio fluently while Senegalese only spoke Liberian English<sup>9799</sup> and Bobson Sesay’s explanation that STF was used as a generic term for the Liberian group.<sup>9800</sup> However, evidence on the role of Senegalese is unclear, although all witnesses identified him as Liberian. Some witnesses testified that Senegalese was working in Charles Taylor’s Special Forces in Liberia,<sup>9801</sup> while several other witnesses testified that Senegalese was a former ULIMO fighter who had been in Sierra Leone since 1997 and was incorporated into the RUF.<sup>9802</sup>

4380. The Trial Chamber notes that even if Senegalese did come from Liberia, rather than having been already in Sierra Leone, Prosecution witnesses differed significantly on the

<sup>9793</sup> Credibility Assessment, Alice Pyne, paras 304-307.

<sup>9794</sup> Alice Pyne, Transcript 19 June 2008, p. 12259.

<sup>9795</sup> Alice Pyne, Transcript 19 June 2008, pp. 12258-12259.

<sup>9796</sup> Alice Pyne, Transcript 20 June 2008, pp. 12286-12287.

<sup>9797</sup> Alice Pyne, Transcript 20 June 2008, pp. 12287-12289.

<sup>9798</sup> TF1-375, Transcript 24 June 2008, pp. 12563-12567.

<sup>9799</sup> Alice Pyne, Transcript 19 June 2008, pp. 12250, 12253-12254; Transcript 20 June 2008, p. 12384.

<sup>9800</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, p. 8781.

<sup>9801</sup> TF1-375, Transcript 24 June 2008, pp. 12567-12568; Varmuyan Sherif, Transcript 10 January 2008, p. 920; Jabaty Jaward, Transcript 10 July 2008, pp. 13386-13388.

<sup>9802</sup> TF1-516, Transcript 10 April 2008, p. 7185 (Senegalese was once a member who used to fight alongside the SLA and retreated with Bockarie to Buedu following the ECOMOG Intervention); Samuel Kargbo, Transcript 2 June 2008, pp. 10712, 10746 (Senegalese was an RUF commander who was in Freetown during the Junta period); TF1-367, Transcript 29 August 2008, p. 14976 (Senegalese was in Buedu with Bockarie in 1997 but he did not know whether he was a former ULIMO or NPFL fighter); Komba Sumana, Transcript 7 October 2008, pp. 18080-18081 (Wallace, a former ULIMO-K fighter in Superman’s group told the witness that Senegalese was once a member of ULIMO before fighting erupted and they parted ways); Augustine Mallah, Transcript 17 November 2008, pp. 20452-20453; Transcript 18 November 2008 p. 20555 (Senegalese was a former ULIMO fighter who came to Sierra Leone with Mike Lamin); Issa Sesay, Transcript 9 July 2010, pp. 44166-44167; Transcript 6 August 2010, p. 45576; Transcript 11 August 2010, pp. 45953-45954 (Senegalese was a former ULIMO fighter who came to Sierra Leone with Mike Lamin in 1997 and stayed in Kenema with Bockarie during the Junta period and withdrew with Bockarie to Kailahun following the ECOMOG Intervention).



timing of his arrival in Sierra Leone. Some Prosecution witnesses testified that Senegalese came with the contingent of men allegedly under Abu Keita's command and was in Buedu in November 1998.<sup>9803</sup> However, according to Alice Pyne, Senegalese was already in Sierra Leone in August 1998.<sup>9804</sup> Witnesses Jabaty Jaward, and TF1-585 confirm that Senegalese came with Jungle bringing supplies to Buedu at various unspecified times. The Trial Chamber accepts that evidence of the occasions of Senegalese's presence in Sierra Leone has been conflated but in relation to his role with bringing Liberian men from Buedu to Koinadugu it is clear that he was in Sierra Leone.

4381. The evidence shows that following the Fitti-Fatta operation, which occurred in mid-June 1998,<sup>9805</sup> Superman moved to Koinadugu and joined forces with SAJ Musa.<sup>9806</sup> The contingent of men headed by O-Five then left Koinadugu and headed to Colonel Eddie Town where they joined forces with Gullit.<sup>9807</sup> Alice Pyne testified that the battalion headed by O-Five was formed a day after she arrived in Koinadugu in August 1998.<sup>9808</sup> Perry Kamara, who was in the group led by O-Five which left Koinadugu,<sup>9809</sup> said that the group left Koinadugu in September 1998 and arrived in Rosos before 28 September 1998.<sup>9810</sup> The Trial Chamber considers his testimony on timing to be reliable as he recalled the specific date due to his injury on 28 September 1998 after they had reached Colonel Eddie Town. Alimamy Bobson Sesay testified that he was in a group coming to meet O-Five's group in Gbendembu, and that on their way to Gbendembu the troops heard Eldred Collins announcing Operation Spare No Soul over the international media,<sup>9811</sup> which took place on 17 August 1998.<sup>9812</sup> In light of this evidence, the Trial Chamber finds that the group of men

<sup>9803</sup> Abu Keita, Transcript 23 January 2008, p. 1995 (the men came with Bockarie upon his return from Burkina Faso which the Trial Chamber recalls was in late November/early December 1998); Mohamed Kabbah, Transcript 12 September 2008, pp. 16142, 16155-16156; TF1-585, Transcript 8 September 2008, pp. 15704-15706.

<sup>9804</sup> Alice Pyne, Transcript 19 June 2008, pp. 12254-12255, 12259.

<sup>9805</sup> Military Operations: Operation Fitti-Fatta.

<sup>9806</sup> Prosecution Final Trial Brief, para. 394; Defence Final Trial Brief, para. 610; Alice Pyne, Transcript 19 June 2008, pp. 12247-12248, 12251-12252, 12254-12255; Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8151-8153; TF1-375, Transcript 23 June 2008, pp. 12543-12544, 12563-12566; Perry Kamara, Transcript 5 February 2008, p. 3172; TF1-143, Transcript 5 May 2008, pp. 8982-8983, 8985; Foday Lansana, Transcript 22 Feb. 2008, pp. 4526-4528.

<sup>9807</sup> Alice Pyne, Transcript 19 June 2008, pp. 12259-12261; Transcript 20 June 2008, p. 12391.

<sup>9808</sup> Alice Pyne, Transcript 19 June 2008, pp. 12254-12255, 12259.

<sup>9809</sup> Perry Kamara, Transcript 6 February 2008, pp. 3185-3188.

<sup>9810</sup> Perry Kamara, Transcript 6 February 2008, pp. 3188-3190.

<sup>9811</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8170-8172.

<sup>9812</sup> TF1-150, Transcript 18 February 2008, pp. 4037-4038 (CS); Exhibit P-306, "UN Security Council, Second Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/960,

led by O-Five left Koinadugu sometime in August 1998 and arrived in Colonel Eddie Town sometime in September 1998.

4382. In light of the evidence, it is clear that the contingent of men who allegedly came to Sierra Leone under Abu Keita's command and were in Buedu in November 1998 was not the same contingent of men who were part of the group led by O-Five, who left Koinadugu in August 1998.

4383. However the Trial Chamber is satisfied that the evidence show a pattern of visits by Senegalese to Sierra Leone. The Trial Chamber accepts Alice Pyne's consistent both in prior statements to the Prosecution and in sworn testimony that was not challenged in cross-examination that Senegalese was sent by the Accused to be part of the reinforcements supplied to Bockarie.

4384. The Trial Chamber notes that it is not contested that Senegalese was sent by Bockarie with a group of men to Koinadugu after the Fitti-Fatta attack. The Prosecution alleges that Senegalese and the men accompanying him were sent to reinforce Superman's forces, but not all of the Prosecution witnesses supported this allegation in their testimony. Bobson Sesay testified that O-Five said that the former NPFL fighters came in Superman's group to reinforce SAJ Musa, and they participated in the attacks on Mongor Bendugu and Kabala.<sup>9813</sup> TF1-375, who was in Koinadugu when Senegalese and the former NPFL fighters arrived there, testified that they came after Superman arrived in Koinadugu and after the attacks on Mongor Bendugu and Kabala occurred.<sup>9814</sup> Alice Pyne testified that Senegalese told her that Bockarie sent him to reinforce Superman's troops on a mission Bockarie had given to Superman,<sup>9815</sup> and she said that Superman told her that Bockarie had sent him to kill SAJ Musa. She also testified that Senegalese's group arrived in Koinadugu after Superman.<sup>9816</sup> Foday Lansana also testified that Bockarie sent Superman to kill SAJ Musa.<sup>9817</sup> TF1-516 testified that Senegalese was sent on a mission in Kono,<sup>9818</sup> while TF1-

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16 October 1998", para. 4; Exhibit P-602, "Revolutionary United Front of Sierra Leone Brigade Headquarters -- Buedu, Meeting/Forum held in Buedu to Discuss Issues Concerning Our Movement at the Moment, August 17 1998".

<sup>9813</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8193-8197.

<sup>9814</sup> TF1-375, Transcript 24 June 2008, pp. 12556-12557, 12563-12567.

<sup>9815</sup> Alice Pyne, Transcript 19 June 2008, pp. 12250, 12252-12253.

<sup>9816</sup> Alice Pyne, Transcript 19 June 2008, pp. 12248-12251.

<sup>9817</sup> Foday Lansana, Transcript 22 February 2008, p. 4530.

<sup>9818</sup> TF1-516, Transcript 10 April 2008, p. 7185.

375 and Issa Sesay testified that Bockarie sent Senegalese with the men to Koinadugu to retrieve ammunition.<sup>9819</sup> Isaac Mongor testified that Senegalese was sent with CO Rocky to kill Superman.<sup>9820</sup> Based on this evidence, the Trial Chamber is satisfied that Senegalese and the men accompanying him were sent by Bockarie to Superman in Koinadugu, but does not find that Senegalese was sent by Bockarie as reinforcement to Koinadugu.

4385. With regard to the attacks in which the AFL fighters participated and during the course of which crimes were committed, the Prosecution relies on the evidence of TF1-375 to prove that the AFL fighters participated in attacks on Mongor Bendugu and Kabala while in Koinadugu and before O-Five's group left to Rosos.<sup>9821</sup> However, TF1-375 testified that the group of former NPFL fighters arrived in Koinadugu after the attacks on Mongor Bendugu and Kabala, stating that the reason the group was sent by Bockarie was to retrieve ammunition Superman's and SAJ Musa's forces captured during their attack on Kabala.<sup>9822</sup> For this reason, the Trial Chamber does not accept the Prosecution's submission.

4386. A number of witnesses testified with regard to the crimes committed by the group headed by O-Five as it advanced from Koinadugu to Colonel Eddie Town. The Trial Chamber notes that one of these witnesses, TF1-143, placed Five-Five in O-Five's group, although Five-Five left Koinadugu before Superman arrived in Koinadugu,<sup>9823</sup> and O-Five's group was sent by Superman and SAJ Musa from Koinadugu, therefore after Five-Five had left. Given that TF1-143 arrived in Koinadugu at a time Superman was already in Koinadugu,<sup>9824</sup> after Five-Five's group had left Koinadugu, the Trial Chamber finds that TF1-143 was in O-Five's group and that he was mistaken in saying that Five-Five was also in this group. The Trial Chamber considers that his confusion can be explained by his young age at the times the events occurred, and notes his testimony that he was drugged by his captors during this time.<sup>9825</sup> For this reason the Trial Chamber has treated his evidence with

<sup>9819</sup> TF1-375, Transcript 24 June 2008, pp. 12563-12567; Issa Sesay, Transcript 9 July 2010, p. 44167; Transcript 18 August July 2010, pp. 46632-46633.

<sup>9820</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5767-5768.

<sup>9821</sup> Prosecution Final Trial Brief, paras 294, 497.

<sup>9822</sup> TF1-375, Transcript 23 June 2008, pp. 12556-12557; Transcript 24 June 2008, pp. 12556-12557, 12563-12566.

<sup>9823</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8156-8159 (the witness testified that the group led by Gullit who left Koinadugu to Rosos before Superman had arrived in Koinadugu wrote on houses they did not burn "Five-Five heading for Freetown").

<sup>9824</sup> TF1-143, Transcript 5 May 2008, p. 8985.

<sup>9825</sup> TF1-143, Transcript 5 May 2008, pp. 8991-8992.

caution. With regard to the crimes committed by the Red Lion Battalion after it left Colonel Eddie Town, the Trial Chamber has relied on the testimony of Alimamy Bobson Sesay for the reasons set forth above.

4387. The group that left Koinadugu with O-Five included several hundred people, among which were about 200 fighters,<sup>9826</sup> among which were about 20 former NPFL fighters who were integrated into the AFL.<sup>9827</sup> The group attacked and committed crimes in Karina<sup>9828</sup> and Kamalo<sup>9829</sup> in Bombali District on their way to Colonel Eddie Town.

4388. The contingent of 1,000 men who left Colonel Eddie Town and advanced towards Freetown<sup>9830</sup> included the Red Lion Battalion which was comprised of 200 men, among which were the 20 former NPFL fighters who were integrated into the AFL.<sup>9831</sup> Along the way troops including between 200 and 1,000 fighters, participated in attacks and committed crimes in Kukuna<sup>9832</sup> in Port Loko District, and in Fisher Lane,<sup>9833</sup> Hastings,<sup>9834</sup> Eastern Police,<sup>9835</sup> Pademba Road Prison,<sup>9836</sup> Central Police Station,<sup>9837</sup> and Fourah Bay<sup>9838</sup> in Freetown and the Western Area.

4389. The 1,000 men who entered Freetown,<sup>9839</sup> including the 20 former NPFL fighters who were integrated into AFL fighters, participated in attacks in which crimes were

<sup>9826</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8177-8178; Transcript 22 April 2008, pp. 8193-8198, 8200-8201; Transcript 28 April 2008, pp. 8674, 8747, 8759, 8769-8771; Alice Pyne, Transcript 19 June 2008, p. 12260; Transcript 20 June 2008, pp. 12391-12392, 12398; TF1-375, Transcript 24 June 2008, p. 12573; Transcript 27 June 2008, p. 14783; Perry Kamara, Transcript 6 February 2008, pp. 3185, 3187-3188; TF1-028, Transcript 7 May 2008, pp. 9210, 9215-9216, 9220; TF1-143, Transcript 5 May 2008, p. 8988.

<sup>9827</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8193-8198, 8200-8201; Transcript 28 April 2008, pp. 8674, 8747, 8769-8771.

<sup>9828</sup> TF1-143, Transcript 5 May 2008, pp. 8989-8991; Perry Kamara, Transcript 6 February 2008, pp. 3188-3194.

<sup>9829</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8174, 8176-8177; TF1-143, Transcript 5 May 2008, pp. 9001-9004.

<sup>9830</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8251-8252, 8272; Perry Kamara, Transcript 6 February 2008, p. 3233.

<sup>9831</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8202-8203; Transcript 23 April 2008, pp. 8315-8318; Transcript 28 April 2008, pp. 8758-8765.

<sup>9832</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8205-8207; Perry Kamara, Transcript 6 February 2008, pp. 3200-3202.

<sup>9833</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8275-8276; Transcript 23 April 2008, pp. 8314-8315.

<sup>9834</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8261-8265, 8267-8268.

<sup>9835</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8279.

<sup>9836</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8280-8283.

<sup>9837</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8293-8294.

<sup>9838</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8333-8334.

<sup>9839</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8251-8252, 8272; Perry Kamara, Transcript 6 February 2008, p. 3233.

committed in Maraykula<sup>9840</sup> in Port Loko District and Waterloo<sup>9841</sup> in Freetown and the Western Area.

4390. 150 fighters, including from the Red Lion Battalion, participated in an attack in which crimes were committed in Kingtom<sup>9842</sup> in Freetown and the Western Area.

4391. An unknown number of fighters, including from the Red Lion Battalion, participated in attacks where crimes were committed in Mange Bureh<sup>9843</sup> in Port Loko District, and in Upgun<sup>9844</sup> in Freetown and the Western Area.

4392. There is no direct evidence showing that the former NPFL fighters from the AFL personally committed crimes, or that the crimes committed were committed specifically by members of the Red Lion Battalion, which was part of a larger group that committed the crimes. Nevertheless, the Trial Chamber notes that the Red Lion Battalion was considered “dangerous” to ECOMOG and civilians, and was described as “fierce” during their attack.<sup>9845</sup> The Trial Chamber recalls that the Red Lion Battalion numbered approximately 200 fighters, approximately 20 of whom were former NPFL fighters from the AFL.

### Findings

4393. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that approximately 20 former NPFL fighters who had been integrated into the Armed Forces of Liberia formed part of a group of approximately 200 fighters led by O-Five that attacked and committed crimes in Karina and Kamalo in Bombali District on or about August/September 1998.

4394. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that this group of 20 was incorporated into the Red Lion Battalion, which was comprised of 200 fighters and was part of a larger group of up to approximately 1,000 fighters who attacked and committed crimes in Waterloo, Fisher Lane, Hastings, Freetown Eastern

<sup>9840</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8224-8226.

<sup>9841</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8242-8244; TF1-028, Transcript 7 May 2008, pp. 9223-9224.

<sup>9842</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8294-8296, 8298.

<sup>9843</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8208-8210; TF1-028, Transcript 8 May 2008, pp. 9278-9280.

<sup>9844</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8334-8335, 8337-8339.

<sup>9845</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8319-8321.

Police, Pademba Road Prison, Kingtom, Fourah Bay and Upgun in Freetown and the Western Area on or about December 1998/January 1999.

4395. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that these 20 fighters were sent by the Accused from Liberia to Sierra Leone where they joined the RUF/AFRC forces in Sierra Leone.

## 2. Scorpion Unit

### Submissions of the Parties

4396. In alleging that the Accused sent fighters as reinforcements for the Kono and Freetown operations, the Prosecution submits that following the Camp Johnson Road incident in Liberia in September 1998, the Accused sent former ULIMO fighters to Sierra Leone in order to both strengthen the rebel forces and decrease the likelihood that ULIMO fighters would turn against his regime in Liberia. According to the Prosecution, upon the Accused's instructions to former ULIMO-K commander Varmuyan Sherif to "look for one of the most senior officers" of the former ULIMO-K to work alongside Sam Bockarie in Sierra Leone, Sherif approached Abu Keita and brought him to meet Benjamin Yeaten. Keita accepted Yeaten's proposal, which was planned with the Accused, to command a troop called the "Scorpion Unit" which would serve as a standby force in Buedu alongside Bockarie's forces. Keita then travelled to Sierra Leone, carrying a newly issued AK-47, a pistol and 10 boxes of ammunition, all of which were given to him by Yeaten. He was escorted by Zigzag Marzah, Sampson and Jungle, and by three NPFL bodyguards. A couple of weeks after Keita arrived in Sierra Leone, Bockarie returned with 150 men brought from Camp Naama in Liberia. Bockarie informed Keita that he did not agree to have a dual command structure and integrated the men into other RUF units, while Keita was given his own assignments. Bockarie sent Keita and Taylor's Liberian reinforcement personnel, and AFRC/RUF fighters, to attack and capture Kenema via Bunumbu, Segbwema, Daru, and other locations along that axis, during which the combined force killed civilians and burned down villages. The Prosecution relies on the testimonies of Abu Keita, Varmuyan Sherif and Augustine Mallah.<sup>9846</sup> The Trial Chamber also heard evidence on the arrival of Keita in

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<sup>9846</sup> Prosecution Final Trial Brief, paras 291-293.

Sierra Leone and his subsequent role in the RUF from TF1-371, Mohamed Kabbah, Albert Saido, Isaac Mongor, Jabaty Jaward, Foday Lansana, TF1-516, and TF1-367.

4397. The Defence does not dispute that Keita came to Buedu and fought alongside the RUF, but submits that the Accused played no role in this and that no credible evidence was introduced to show that the Accused was aware of the Scorpion Unit. The Defence challenges the credibility of Abu Keita and Varmuyan Sherif, and submits that their testimonies contradict rather than corroborate one another, and that Keita appears to have been influenced by substantial payments and promised relocation as an incentive for testifying. The Defence further submits that it is more plausible that due to their “pre-existing contacts with the RUF, Sherif and Keita were involved in activities on behalf of Benjamin Yeaten”, not the Accused.<sup>9847</sup>

### Evidence

#### Prosecution Witness Varmuyan Sherif

4398. Witness Varmuyan Sherif, a former ULIMO general who served in Taylor’s SSS, testified that Taylor called him to White Flower and instructed him to look for one of the most senior officers of former ULIMO-K to work alongside Sam Bockarie. Sherif explained that the Accused wished to send a senior ULIMO-K member to work alongside Sam Bockarie in Sierra Leone so that other former ULIMO-K fighters would “feel free” to do so as well.<sup>9848</sup> Sherif then contacted Abu Keita, who was the former deputy chief of staff of ULIMO-K and held the rank of Major General, making him one of the most senior officers the witness knew of at that time in ULIMO-K.<sup>9849</sup> At first, Keita told Sherif he was suspicious since the RUF had previously fought against ULIMO-K.<sup>9850</sup>

4399. After this conversation, fighting broke out in September in Camp Johnson Road in Monrovia, when Roosevelt Johnson resisted his arrest. Following this incident, Sherif again spoke with Keita who then accepted the offer.<sup>9851</sup>

<sup>9847</sup> Defence Final Trial Brief, paras 1269-1270, 1399-1404; Defence Response to Prosecution Final Trial Brief, paras 50-53.

<sup>9848</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 856-857. The witness did not provide a date for this event.

<sup>9849</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 857.

<sup>9850</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 857-858.

<sup>9851</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 858-859.

4400. Upon Musa Cissé's instructions, Sherif took Keita to Benjamin Yeaten's residence, located at the back of White Flower, to meet Bockarie who was waiting for Keita.<sup>9852</sup> In addition to Bockarie and Yeaten, also present at Yeaten's house were Joe Tuah, Dopoe Menkarzon, a four star general in Taylor's Special Forces, and "Sekou", who "was supposed to be used as the rebel leader for Guinea". During the meeting, the discussion focused on how to carry out various attacks. Sekou was there in case an attack came from Guinea. Yeaten instructed Bockarie to organise a group who would attack Guinea from Sierra Leone. Sherif did not remain more than five minutes at the meeting as the meeting was not for him. He only tried to make sure that Abu Keita was in good hands before he left.<sup>9853</sup>

4401. After Sherif left the meeting, he did not have contact with Keita again until 2000,<sup>9854</sup> when Keita sent Sherif a message through a letter stating that his Scorpion Unit was sent on Benjamin Yeaten's instruction to by Bockarie to go to fight in Liberia and assist the Liberian government in attacking LURD in Guinea.<sup>9855</sup> Sherif denied that Keita worked for LURD.<sup>9856</sup>

#### Prosecution Witness Abu Keita

4402. Witness Abu Keita, a former ULIMO-K commander who joined the AFL,<sup>9857</sup> described fighting breaking out at Camp Johnson Road during an attempted arrest of Roosevelt Johnson. Keita was not involved in the fighting, but was arrested for refusing to fight against Roosevelt Johnson and was blamed for meeting with Johnson prior to the incident, although the reason he met Johnson was because Johnson wanted the two former ULIMO factions, ULIMO-J and ULIMO-K, which Keita was a part of, to meet in order to mark the end of their rivalry.<sup>9858</sup>

<sup>9852</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 859.

<sup>9853</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 859-861; Transcript 10 January 2008, pp. 916-917.

<sup>9854</sup> Varmuyan Sherif, Transcript 14 January 2008, pp. 1191-1192. The witness confirmed a prior statement in which he said that in 2000 Taylor gave the RUF bases in Foya and Kolahun to attack Guinea through Gueckedou.

<sup>9855</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 861-862; Transcript 10 January 2008, pp. 898, 917; Transcript 14 January 2008, p. 1188. Sherif was shown Prosecution Exhibit P-028, "Operation Order-20 January 2001", ERN 12758. The document contains the following sentence: "Revolutionary Brothers behind enemies line [sic], forces name SCORPION UNIT is here commanded by Maj. Gen. Keita".

<sup>9856</sup> Varmuyan Sherif, Transcript 14 January 2008, p. 1188.

<sup>9857</sup> Abu Keita, Transcript 22 January 2008, pp. 1953-1954; Transcript 23 January 2008, pp. 1970, 2000; Transcript 24 January 2008, pp. 2110, 2145.

<sup>9858</sup> Abu Keita, Transcript 23 January 2008, pp. 1962-1964; Transcript 24 January 2008, pp. 2104-2105.







4403. Keita was held in detention for a week when Varmuyan Sherif, a former ULIMO-K member as well, came to release him from prison and asked Keita to cooperate with Taylor's government.<sup>9859</sup> From prison, Sherif took Keita to Musa Cissé's house at Congo Town. At the house Musa Cissé, Taylor's protocol officer, Benjamin Yeaten, the SS Director, Sherif, Papa Kuyateh, a police director, and Pa Morrie, a police officer who was Cissé's brother were present. Cissé and Yeaten urged Keita to cooperate with Taylor's government. Keita agreed and was then taken to Yeaten's house.<sup>9860</sup> That was the first time the witness met Yeaten.<sup>9861</sup>

4404. Around one week later, Jungle, Sampson and Zigzag Mazhar,<sup>9862</sup> members of the SS, came to Keita's residence and escorted Keita to Musa Cissé's house. From there they went to Yeaten's residence, which was located at the back of President Taylor's house.<sup>9863</sup> There, Keita met with Yeaten, Sam Bockarie, Eddie Kanneh who was with the Sierra Leone Army,<sup>9864</sup> SB Rogers who was the "War Council leader of the RUF", Rashid who was the "adjutant of the RUF", Varmuyan Sherif and Montgomery.<sup>9865</sup> This was the first time Keita met Bockarie.<sup>9866</sup>

4405. At the meeting, Yeaten asked Keita to join the RUF in Sierra Leone, explaining that he wanted Keita to be a commander of a standby force called the Scorpion Unit which would be based in Buedu, Kailahun District with Sam Bockarie.<sup>9867</sup> Yeaten said that he had planned this new unit with the President, and that the President had instructed him to send Keita to Sierra Leone.<sup>9868</sup>

<sup>9859</sup> Abu Keita, Transcript 23 January 2008, pp. 1964-1965; Transcript 24 January 2008, pp. 2106-2107. In a prior statement the witness said that it was Papay Kuyateh who released him from prison and took him to Sherif. The witness denied saying this.

<sup>9860</sup> Abu Keita, Transcript 23 January 2008, pp. 1964-1966.

<sup>9861</sup> Abu Keita, Transcript 24 January 2008, p. 2108.

<sup>9862</sup> The Trial Chamber notes that the witness referred to Zigzag Mazhar, rather than Marzah.

<sup>9863</sup> Abu Keita, Transcript 23 January 2008, pp. 1966-1968. Keita stated that the SS was the special close protection unit of the President.

<sup>9864</sup> Abu Keita, Transcript 23 January 2008, pp. 1971-1972. The witness stated that following the ECOMOG Intervention and the overthrow of the AFRC, the RUF and SLA formed a combined force called the "People's Army".

<sup>9865</sup> Abu Keita, Transcript 23 January 2008, pp. 1968-1969.

<sup>9866</sup> Abu Keita, Transcript 24 January 2008, pp. 2110-2111.

<sup>9867</sup> Abu Keita, Transcript 23 January 2008, pp. 1968-1971.

<sup>9868</sup> Abu Keita, Transcript 23 January 2008, pp. 1970-1971.

4406. At the meeting, Yeaten did not indicate whether any particular operations or attacks were envisaged for the new unit to carry out.<sup>9869</sup> On cross-examination, Keita confirmed that the reason for having the Scorpion Unit as a standby force was because “they wanted a force outside of Liberia that could come in from behind an enemy should Liberia be attacked”, while also confirming that he was told at the meeting that Bockarie would take care of him since what Keita would be doing would be in the interests of the West African sub-region.<sup>9870</sup> Keita also confirmed on cross-examination that Yeaten had promised him that he would send 300 men to Buedu who would be under Keita’s command.<sup>9871</sup>

4407. Keita said that at that same meeting, Bockarie stated that Eddie Kanneh would be the liaison officer between Sierra Leone and Liberia for the diamond business. Bockarie, who was the RUF’s commander, also complained that Superman was insubordinate and Yeaten undertook to speak to him.<sup>9872</sup>

4408. After the meeting at Yeaten’s house, Keita went with Bockarie to the Boulevard Hotel in Monrovia. At the hotel, they met with General Ibrahim Bah, a former NPFL member. This was the first time Keita met Bah. In addition to Bockarie, Bah and Keita, also present were Yeaten, Kanneh, SB Rogers, Rashid and one of Bah’s bodyguards known as General CR.<sup>9873</sup> The discussion focused on how General Bah could find a buyer for RUF diamonds and assist the RUF to obtain “radio communication” to use for propaganda.<sup>9874</sup> Keita testified that he saw Bockarie showing Bah over ten diamonds, but he did not see Bockarie hand the diamonds over to Bah.<sup>9875</sup> Following this meeting, Keita returned with Bockarie to the Kadija Hotel where Bockarie was staying. Keita stayed there with the delegation until the afternoon and returned to his home.<sup>9876</sup>

4409. The same night, Keita went with Yeaten, Bockarie, Musa Cissé, SB Rogers and Eddie Kanneh to White Flower. The men entered Taylor’s house and Yeaten instructed them to wait in the parlour. After Taylor appeared, Bockarie told Taylor that he had come to pay

<sup>9869</sup> Abu Keita, Transcript 23 January 2008, pp. 1970-1971.

<sup>9870</sup> Abu Keita, Transcript 24 January 2008, p. 2110.

<sup>9871</sup> Abu Keita, Transcript 24 January 2008, pp. 2130, 2137.

<sup>9872</sup> Abu Keita, Transcript 23 January 2008, pp. 1972-1973.

<sup>9873</sup> Abu Keita, Transcript 23 January 2008, pp. 1974-1975; Transcript 24 January 2008, p. 2111.

<sup>9874</sup> Abu Keita, Transcript 23 January 2008, p. 1975.

<sup>9875</sup> Abu Keita, Transcript 23 January 2008, pp. 1975-1976; Transcript 24 January 2008, p. 2112.

<sup>9876</sup> Abu Keita, Transcript 23 January 2008, p. 1976.





his respects. Taylor then told Bockarie to “maintain”, take care of the RUF in the absence of Foday Sankoh. Bockarie replied that he would do everything possible. Taylor then told Bockarie that Yeaten and Cissé should be immediately contacted in case problems emerge. That was the first time Keita had met Taylor in person.<sup>9877</sup>

4410. The men left Taylor’s residence and went down the hill to Yeaten’s residence, where they encountered Bockarie’s bodyguards. From there, Bockarie and his bodyguards departed and the witness returned to his home in Monrovia to prepare for his assignment.<sup>9878</sup>

4411. Afterwards, in late September 1998,<sup>9879</sup> Mazhar, Sampson and Jungle came to Keita’s house and told him that Yeaten had said that he should depart for Sierra Leone. Keita was then given by Yeaten, at Yeaten’s house, one AK-47, one “silent weapon pistol” which contained eight rounds of ammunition, ten boxes of ammunition, a Yaesu radio and three former Liberian NPFL fighters as bodyguards, each armed with a rifle.<sup>9880</sup>

4412. Keita and his three bodyguards were then escorted by Mazhar, Sampson, Jungle, Mike Lama, and a driver named “Yellowman” in an SS pick-up vehicle to Voinjama. In Voinjama, they were informed by the local police commander, Colonel Toma, that Bockarie was on his way and that they should await him.<sup>9881</sup> Upon Bockarie’s arrival in Voinjama, the two groups exchanged vehicles: Keita transferred his ammunition and other supplies to Bockarie’s vehicle to travel on to Sierra Leone with a police escort to meet the battalion commander in Foya, Colonel Stanley. Bockarie took the SS pick up to travel on to Monrovia, as Bockarie told Keita that he was going to see Taylor.<sup>9882</sup> Mazhar, Jungle, Sampson and Mike Lama returned to Monrovia with Bockarie.<sup>9883</sup>

4413. Toma gave Keita and his bodyguards a police escort to travel to Foya and meet Foya’s battalion commander, Colonel Stanley. In Foya, Issa Sesay was waiting for Keita.<sup>9884</sup>

<sup>9877</sup> Abu Keita, Transcript 23 January 2008, pp. 1976-1977; Transcript 24 January 2008, p. 2112.

<sup>9878</sup> Abu Keita, Transcript 23 January 2008, pp. 1978-1979, 1983-1984.

<sup>9879</sup> Abu Keita, Transcript 24 January 2008, p. 2117.

<sup>9880</sup> Abu Keita, Transcript 23 January 2008, pp. 1979-1982.

<sup>9881</sup> Abu Keita, Transcript 23 January 2008, pp. 1982-1984. Toma told the witness that he knew of Bockarie’s movements from a radio communication.

<sup>9882</sup> Abu Keita, Transcript 23 January 2008, p. 1984.

<sup>9883</sup> Abu Keita, Transcript 23 January 2008, p. 1986.

<sup>9884</sup> Abu Keita, Transcript 23 January 2008, pp. 1984-1985.

Keita then travelled with Sesay to Buedu.<sup>9885</sup> Upon arriving in Buedu, Sesay instructed an RUF commander named Kaisoko to allocate an apartment for Keita which would be close to Sesay and Bockarie.<sup>9886</sup> When Keita arrived in Buedu he saw an airstrip being constructed.<sup>9887</sup>

4414. “A couple of weeks” after Keita’s arrival in Buedu, in December 1998,<sup>9888</sup> Sesay and Keita travelled to Foya to meet Bockarie, who was on his way back to Sierra Leone.<sup>9889</sup> In Foya, they met Bockarie who came with two trucks the Libyan government gave Taylor and one “pick-up”. Bockarie came with 300 boxes of ammunition,<sup>9890</sup> and 150 men, both Sierra Leoneans and Liberians, whom Keita was told were taken from Camp Naama. The witness thought that these were the men Yeaten said would be sent to be under Keita’s command, but the men were taken to be trained at Camp Bunumbu, the RUF training camp, where Monica Pearson and Colonel Mongor were the training commanders. The convoy also included a Liberian police driver nicknamed Senegalese and Keita’s wife.<sup>9891</sup>

4415. Upon their return to Buedu, Bockarie explained to Keita the “RUF laws” – fighters were not allowed to have foreign currency, a passport or diamonds in their possession.<sup>9892</sup> Bockarie told Keita that after they had last met in Monrovia, he had travelled to Burkina Faso and showed Keita a picture of the place Bockarie stayed at and also depicting Sheku Suwape Koroma, “a Guinean who was in Liberia with Benjamin Yeaten”. The first time Keita met Sheku was in Monrovia with Yeaten before Keita left for his assignment, although Sheku did not attend the meetings Keita described. The next time Keita saw Sheku was when Sheku came to Buedu with Bockarie.<sup>9893</sup>

4416. Bockarie told Keita that there was only one command in Buedu and that the men he brought should be under his, Bockarie’s, command. Jungle, Sampson and Mazhar were present for this discussion, and they told Keita that “there is no big deal in that. We just have

<sup>9885</sup> Abu Keita, Transcript 23 January 2008, pp. 1985-1986.

<sup>9886</sup> Abu Keita, Transcript 23 January 2008, pp. 1986-1987.

<sup>9887</sup> Abu Keita, Transcript 23 January 2008, pp. 1987-1988.

<sup>9888</sup> Abu Keita, Transcript 24 January 2008, pp. 2130-2131.

<sup>9889</sup> Abu Keita, Transcript 23 January 2008, pp. 1988, 1993.

<sup>9890</sup> Abu Keita, Transcript 23 January 2008, pp. 1993-1994.

<sup>9891</sup> Abu Keita, Transcript 23 January 2008, pp. 1994-1996.

<sup>9892</sup> Abu Keita, Transcript 23 January 2008, p. 1996.

<sup>9893</sup> Abu Keita, Transcript 23 January 2008, pp. 1997-1999. On cross-examination Keita agreed that Sheku Suwape Koroma attended the meeting at Yeaten’s house. See Abu Keita, Transcript 24 January 2008, p. 2122.





to cooperate".<sup>9894</sup> Bockarie took Keita's bodyguards and the Yaesu radio and gave Keita three of his own bodyguards.<sup>9895</sup>

4417. Bockarie gave Keita a piece of paper which was his letter of assignment to the RUF, signed by President Taylor in blue pen. Keita asked Yeaten for the letter before he left Liberia. Keita lost this letter subsequently in Liberia when his mother's house burned down.<sup>9896</sup> After receiving this letter in Buedu, Keita spoke with Yeaten, who was in Monrovia, through the Yaesu radio at Bockarie's residence. Yeaten told the witness to safeguard the letter of assignment since it had been signed by the President.<sup>9897</sup>

4418. A second group of around 150 Liberian men arrived in Sierra Leone after the invasion of Kono and Freetown in January 1999, with the escort of Mazhar and Sampson. These men were dispatched into "another group of the RUF", and were not under Keita's command.<sup>9898</sup>

4419. On cross-examination Keita agreed that Bockarie's refusal to have a double command structure and him taking the men who were supposed to be under Keita's command was contrary to what Keita was told in Monrovia, and that in effect Bockarie disregarded the commands or directives of Benjamin Yeaten, which in turn came from Charles Taylor.<sup>9899</sup> Keita also agreed that while he received the rank of general in the RUF, he had no troops under his direct command.<sup>9900</sup>

4420. Abu Keita also testified that there was an offensive on Kono and Makeni and then an operation from Bunumbu to Segbwema, to Jumo Kafebu, Gbava and Bendu Junction. Officially, the taking of Kono Town was announced on Christmas Day, 1998. Keita played a part in the offensive; not in Kono but in Segbwema, Juma Kafebu, Gbava and Bunumbu. During the offensive which included Kono, other districts such as Makeni, Masingbi and Magburaka were involved. Sam Bockarie ordered that if any air raids took place or if there was any resistance in a place, then that place should be burned down. Keita himself took part

<sup>9894</sup> Abu Keita, Transcript 23 January 2008, p. 1999; Transcript 24 January 2008, p. 2132.

<sup>9895</sup> Abu Keita, Transcript 23 January 2008, p. 2005; Transcript 24 January 2008, p. 2132.

<sup>9896</sup> Abu Keita, Transcript 23 January 2008, pp. 1999-2001.

<sup>9897</sup> Abu Keita, Transcript 23 January 2008, p. 2001.

<sup>9898</sup> Abu Keita, Transcript 23 January 2008, p. 2025; Transcript 24 January 2008, pp. 2139-2131.

<sup>9899</sup> Abu Keita, Transcript 24 January 2008, pp. 2136-2137.

<sup>9900</sup> Abu Keita, Transcript 24 January 2008, p. 2138.

in burning down houses in Bunumbu, Sebguema, Jumo Kafebud and Gbava “into Kolahun and Kenema District”. He stated that “some places we burned down ten houses, some areas seven, some areas eight”.<sup>9901</sup> During the attack on Freetown, Keita was assigned to Segbwema, Bunumbu, to take wounded soldiers to the rear in Buedu where they could be treated. For example, Keita made civilians construct a hammock for Mano in order for them to take him to Buedu.<sup>9902</sup> During these attacks, Bockarie travelled to Monrovia and left Mike Lamin in charge of Buedu.<sup>9903</sup>

4421. Keita remained in Sierra Leone with the RUF until 2002.<sup>9904</sup> His functions from late 1998 onwards included ensuring that wounded soldiers were brought to Buedu and assisting in mining activities.<sup>9905</sup>

Prosecution Witness Augustine Mallah

4422. Witness Augustine Mallah, an RUF junior commando and security officer, testified that he attended a meeting in late 1998/beginning of 1999 in which Sam Bockarie said that he wanted to leave Kailahun and was going to Liberia to seek advice from Charles Taylor. Subsequently, the witness heard that Bockarie went to Liberia, sometime in 1999.<sup>9906</sup> After Bockarie returned from Liberia he sent messages to all the deployment areas around Kailahun that they should send two to three representatives to Buedu for a meeting. The witness went from Baiima to Buedu with Major Lamin, an AFRC soldier, and Major Kailondo to attend the meeting.<sup>9907</sup>

4423. The meeting in Buedu took place at around November 1998,<sup>9908</sup> and was attended by representatives from other deployment areas controlled by the RUF. About 60 to 80 persons attended the meeting from the AFRC, RUF, and Liberian forces that had come as reinforcements, as well as civilians. Bockarie said that he had come from Charles Taylor in Liberia, and that he had received arms and ammunition. Bockarie also said that he brought reinforcements “that had been given to him for a particular mission that he wanted to

<sup>9901</sup> Abu Keita, Transcript 23 January 2008, pp. 2008-2011; Transcript 24 January 2008, p. 2139.

<sup>9902</sup> Abu Keita, Transcript 23 January 2008, pp. 2022-2023; Transcript 24 January 2008, pp. 2037-2038.

<sup>9903</sup> Abu Keita, Transcript 23 January 2008, pp. 2011-2012.

<sup>9904</sup> Abu Keita, Transcript 24 January 2008, p. 2117.

<sup>9905</sup> Abu Keita, Transcript 24 January 2008, pp. 2137-2138.

<sup>9906</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20217-20218.

<sup>9907</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20218-20219.

<sup>9908</sup> Augustine Mallah, Transcript 13 November 2008, p. 20227.

undertake”. The reinforcements he brought were all Liberians, and their commander was Abu Keita. Bockarie announced Operation Free Sankoh at this meeting in the presence of “all the civilians, everybody”.<sup>9909</sup>

4424. Following this meeting, Bockarie convened a meeting for 30 to 40 senior officers out of Buedu at Waterworks. Bockarie said that he had planned Operation Spare No Soul, that this operation was to be taken seriously and that every commander should do exactly what he said. He stated that what he wanted was the land, and that they should destroy any town they “feel” is occupied by ECOMOG, kill civilians and burn the towns in order to raise international concern and as means to negotiate the freeing of Foday Sankoh with the “international committee”.<sup>9910</sup>

4425. According to this plan, the witness was to go to Baiima with Eagle, Manawai and the brigade commander, CO Denis, a.k.a. Monkey Brown. The command was to attack Bunumbu, Segbwema, Daru, Tondola, Bendu Junction, Jomukafebu, Kumbema and all the way to Kenema. That was the witness’s “own part” of the operation.<sup>9911</sup> When they returned to Buedu, Bockarie provided the commanders who were to go on the mission, which included the witness, Manawai, Eagle and CO Denis, with Abu Keita “and his reinforcements” to attack the various areas. Bockarie also provided the commanders with arms, ammunition and medicines.<sup>9912</sup>

4426. After they had received the reinforcements and the arms and ammunition, they carried out their mission and succeeded in capturing Kenema. During the attack, they followed Bockarie’s instructions of Operation Spare No Soul; they killed civilians and burnt down villages that they had captured.<sup>9913</sup> From Kenema, the witness went to Segbwema, where he heard over the BBC that the Junta had re-entered Freetown, in 1999.<sup>9914</sup>

#### Prosecution Witness TF1-371

<sup>9909</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20219-20220.

<sup>9910</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20220-20222. Military Operations: The Freetown Invasion, The Plan.

<sup>9911</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20222-20223.

<sup>9912</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20222-20223. The witness also saw Bockarie providing arms, ammunition and medicines to Issa Sesay, who was told by Bockarie to go to Kono with AFRC’s Akim and Soriba, and others, to join Superman and CO Rambo to Attack Kono, and from there Akim should attack Tongo while Issa and Morris Kallon would advance to Makeni.

<sup>9913</sup> Augustine Mallah, Transcript 13 November 2008, p. 20224.

<sup>9914</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20224-20225.





4427. Witness TF1-371 testified that before Bockarie departed for Monrovia in November or December 1998 to secure ammunition for the Kono attack, the RUF received in Buedu a small contingent of fighters from Liberia, led by a Guinean dissident called Sheku and his deputy, Abu Keita with “the so-called Scorpion Unit”. The witness stated that he had previously met Keita “with the ULIMO forces and later when I went to Monrovia he was now part of Mr Taylor's security outfit”.<sup>9915</sup>

4428. The witness spoke with Sheku and Keita who told him that they had an operation in Guinea, in Conakry. Sheku said that he was the head of the armed group for a detained opposition leader in Guinea named Alpha Condeh. Sheku stated that he had come to commence an operation in Guinea against the Government of President Conte, and that he came with two other men and Abu Keita. Sheku said that they had been sent to Buedu by Taylor and that Yeaten gave them a security escort to travel to Buedu.<sup>9916</sup>

4429. Following discussions on a simultaneous attack on Kono and Kenema, Bockarie gave instructions for the distribution of materiel and assigned the Scorpion Unit “that was there with Abu Keita and some other men that were brought by Sekou” to assist in capturing Kenema.<sup>9917</sup>

4430. TF1-371 also testified that during the simultaneous attack on Kono, Makeni and Kenema, Mike Lamin was in Buedu with Sam Bockarie, and spent most of his days with Bockarie in the radio room monitoring activities on the front lines.<sup>9918</sup>

4431. The flank that was to go through Kenema met strong resistance from ECOMOG, the Sierra Leonean army and the militias and went as far as Mano Junction and Segbwema. The manpower and supplies were concentrated at the Koidu axis. The flank that went through Koidu succeeded in capturing Koindu and by 25 December they had already captured Makeni.<sup>9919</sup>

#### Prosecution Witness Mohamed Kabbah

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<sup>9915</sup> TF1-371, Transcript 28 January 2008, p. 2402 (CS); Transcript 28 January 2008, p. 2502 (CS).

<sup>9916</sup> TF1-371, Transcript 29 January 2008, p. 2465 (CS).

<sup>9917</sup> TF1-371, Transcript 28 January 2008, p. 2414 (CS).

<sup>9918</sup> TF1-371, Transcript 28 January 2008, pp. 2417-2418 (CS).

<sup>9919</sup> TF1-371, Transcript 28 January 2008, pp. 2417-2418 (CS).



4432. Witness Mohamed Kabbah testified that at the time Bockarie returned to Buedu with a large consignment of ammunition from Monrovia, Zigzag Marzah, Liberian Mosquito from the NPFL, Sheku who “they said was going to take the war to Guinea”, Senegalese, a Guinean man named Sidibay, Jungle and Abu Keita all came to Buedu with him. Bockarie said that these men were the ones “who took the war to Guinea”, and stated that these men came “for the Guinea mission”. Abu Keita was a ULIMO general in Liberia who later joined the NPFL. Keita, Sheku and Sidibay were present when the Guinean operation was discussed.<sup>9920</sup> Kabbah also testified that during the period from 1991 to 1997, Keita was one of the ULIMO Generals from whom the RUF purchased ammunition.<sup>9921</sup>

Prosecution Witness Albert Saidu

4433. Witness Albert Saidu, an RUF adjutant, testified that when Bockarie and Eddie Kanneh returned with “a lot” of ammunition from Bockarie’s trip to Liberia and Burkina Faso in late 1998/early 1999, a meeting was held at Waterworks in Buedu. The witness could not attend the meeting as he was fighting in Kono. A day after the meeting, the witness came to Buedu where he was briefed about the meeting by two of Bockarie’s bodyguards, Shabado and Ray. They told the witness that frontline commanders and senior Vanguarders attended the meeting, including Bockarie, Eddie Kanneh, CO Jungle, General Ibrahim, SYB Rogers, Abu Keita and “some Liberians”. They had drawn a war plan to go and attack Kono and the Bunumbu-Segbwema axis simultaneously. Shabado and others told the witness that Keita, a Liberian, came from Liberia along with Colonel Jungle and General Ibrahim to participate in the fighting, and that he was assigned to the 1<sup>st</sup> brigade in the Bunumbu-Segbwema axis.<sup>9922</sup>

Prosecution Witness Isaac Mongor

4434. In a prior statement, Witness Isaac Mongor, a senior commander of the RUF, said that Abu Keita was a ULIMO Liberian rebel who went to fight alongside the RUF but was not sent by Charles Taylor. This statement was put to the witness in cross-examination

<sup>9920</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16142, 16155-16156; Transcript 17 September 2008, p. 16445.

<sup>9921</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16277-16278.

<sup>9922</sup> Albert Saidu, Transcript 5 June 2008, pp. 11080-11087.

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together with a following sentence that Keita had been working with the Prosecution, and Mongor was asked to confirm the statement, which he did.<sup>9923</sup>

Prosecution Witness Jabaty Jaward

4435. Witness Jabaty Jaward testified that he saw Pa Sheku, Colonel Jungle, Zigzag Marzah and Abu Keita in late 1998 at the time a large consignment of ammunition arrived in Buedu for “the Kono operation”, although he could not recall who the escorts of that shipment were.<sup>9924</sup>

Prosecution Witness Foday Lansana

4436. Witness Foday Lansana, an RUF radio commander, testified that he heard that when Superman was in Buedu, prior to the Fitti-Fatta operation, Issa Sesay had lost diamonds which were meant to be used to purchase arms and ammunition, but Fonti Kanu was able to obtain arms and ammunition from Monrovia. Lansana also came to know that ULIMO-K or LURD rebels in Lofa County, specifically General Abu Keita, came with arms and ammunition to Sam Bockarie in Buedu.<sup>9925</sup>

Prosecution Witness TF1-516

4437. Witness TF1-516 testified that Abu Keita, a ULIMO fighter, became an RUF combatant at “some point in time”, after the “ECOMOG disarmament in Liberia”, around 1996/1997. At first he was “moving with” Sam Bockarie, and after Bockarie left Keita was one of the officers sent to fight in Liberia by Issa Sesay. The witness saw Keita in Kenema during 1997, at a time Benjamin Yeaten (a.k.a. 50) invited Bockarie to celebrate the inauguration of the President.<sup>9926</sup>

Prosecution Witness TF1-367

4438. Witness TF1-367, an RUF commander, testified that Abu Keita was a ULIMO fighter who came from Liberia to the RUF “as a friend”. The first time the witness saw Keita

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<sup>9923</sup> Isaac Mongor, Transcript 3 April 2008, pp. 6542-6543.

<sup>9924</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13424.

<sup>9925</sup> Foday Lansana, Transcript 21 February 2008, pp. 4516-4518.

<sup>9926</sup> TF1-516, Transcript 9 April 2008, pp. 7101-7102.

was in Kono with Issa Sesay. Keita was in Kailahun up to Kono. Since Keita used to be a ULIMO fighter, he went to the front lines with the RUF.<sup>9927</sup>

### The Accused

4439. The Accused denied that he would appoint a former ULIMO fighter to head a unit, especially Abu Keita who was imprisoned for participating in joining the Roosevelt Johnson uprising on 18 September, when Johnson, the head of ULIMO-J, attempted to overthrow his government and was joined by several ULIMO-K members, such as Abu Keita. The Accused said that Keita, as a military man, not a politician, should not have gone to meet with Johnson as he knew there was tension in Monrovia. Keita was detained until the end of September when the Accused agreed to release him upon the request of Musa Cissé and Varmuyan Sherif for the purposes of reconciliation.<sup>9928</sup>

4440. The Accused explained that for reconciliatory purposes, he integrated senior ULIMO-K fighters into his regime. These included Varmuyan Sherif who worked as senior director of the SSS of the motorcade, and Musa Cissé, a Mandingo, who was a senior protocol officer of the president. Cissé, Sherif and other Mandingos were therefore “shocked” when they saw that Keita fought with Roosevelt Johnson against the Accused and asked him to order the Ministry of Defence to release Keita. The Accused accepted the request, for reconciliatory purposes, and asked the Defence Minister to release the Mandingos out of prison so that they would meet with senior Mandingo commanders and other elders in the country in order to continue the process of reconciliation. This was done with the knowledge and the consent of the Accused.<sup>9929</sup>

4441. The Accused denied that he ordered Yeaten to recruit Keita to his government, and questioned why he would ask a former ULIMO member who had demonstrated his disloyalty on a “major mission”, out of the thousands of former NPFL and ULIMO fighters at his disposal. The Accused contended that the meeting at Musa Cissé’s house was a

<sup>9927</sup> TF1-367, Transcript 29 August 2008, pp. 14974-14975.

<sup>9928</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26215-26218; Transcript 22 September 2009, pp. 29311-29312, 29327. Taylor stated that Keita was looking for mercenary work, which he eventually found in Côte d’Ivoire.

<sup>9929</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29325-29327.

meeting of senior Mandingos meant for reconciliatory purposes, “chastising him (Keita) for the nonsense that he had done”, not to recruit him.<sup>9930</sup>

4442. The Accused said that he knew nothing about the Scorpion Unit, and denied instructing Yeaten to send Keita to Sierra Leone to command a standby unit called the Scorpion Unit.<sup>9931</sup> The only Scorpion Unit Taylor had heard of was part of LURD and fighting against him. He said that this Scorpion Unit must have been what Keita and others started putting together.<sup>9932</sup>

4443. The Accused denied sending men in late 1998 to Sierra Leone, and questioned why he would have sent men to Sierra Leone to fight who needed military training out of the 30,000 NPFL disarmed men that he could have sent.<sup>9933</sup> He suggested that Keita collected some ex-ULIMO fighters on his way to Sierra Leone, as Keita went through Lofa along the way.<sup>9934</sup> The Accused also denied sending another 150 men to Sierra Leone after the Kono and Freetown attacks.<sup>9935</sup>

4444. Finally, the Accused denied writing a letter of appointment for Keita, saying that the President of Liberia does not, could not and would not sign even a military assignment in or out of Liberia. The only authority he had was to sign appointments of military commissions or personnel. He stated that he only signed in green pen, as did all the Presidents of Liberia before him, for historical reasons.<sup>9936</sup>

#### Defence Witness Issa Sesay

4445. Witness Issa Sesay testified that he never heard of the name Scorpion Unit for a unit within the RUF until he heard it in Court.<sup>9937</sup> He further testified that Abu Keita and Varmuyan Sherif, two ULIMO generals, met Bockarie in Foya in December 1996 and sold arms and ammunition from ULIMO to the RUF.<sup>9938</sup> Sesay said that from December 1996 until May 1997, Keita was in contact with Bockarie when Bockarie and other RUF members

<sup>9930</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29329-29331.

<sup>9931</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29340, 29347.

<sup>9932</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29344-29345.

<sup>9933</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29382-29385.

<sup>9934</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29385-29386.

<sup>9935</sup> Charles Ghankay Taylor, Transcript 22 September 2009, p. 29406.

<sup>9936</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29368-29371.

<sup>9937</sup> Issa Sesay, Transcript 29 July 2010, p. 45060.

went to Foya. Sesay first met Keita in 1997 when Keita arrived in Koindu with Varmuyan Sherif. On this occasion, Keita brought ammunition from Voinjama, the ULIMO headquarters.<sup>9939</sup>

4446. The contact resumed in December 1998 when Keita arrived in Buedu a day after Bockarie returned from his trip to Burkina Faso. Keita brought with him 20 to 25 “of his Mandingo people”. Keita and his men came without uniforms and were not armed. Keita told Bockarie and Sesay that he was afraid for his life as he was under threat from Liberian “securities” and came to stay with Bockarie and the RUF for safety. From December 1998 and until 2001, Keita was a guest of the RUF but was not a member of the RUF, nor was he recognized as an RUF commander.<sup>9940</sup>

4447. Sesay was never told that Keita was sent to Sierra Leone by Taylor, or that Yeaten sent Keita to command the Scorpion Unit in Sierra Leone. Sesay said that the 20 to 25 men brought by Keita were not called the Scorpion Unit, and there was no Scorpion Unit within the RUF.<sup>9941</sup>

4448. Sesay denied that he went to meet Keita in Foya, that he instructed someone to provide Keita with an apartment,<sup>9942</sup> that he travelled with Keita to receive Bockarie in Lofa County, that he went with Keita to Lofa County where they met two trucks loaded with 300 boxes of ammunition,<sup>9943</sup> or that 150 men came from Liberia to RUF-held territories.<sup>9944</sup>

4449. While staying with the RUF, Keita participated in a military operation with Mike Lamin in Bunumbu-Segbwema in January 1999. During this attack, the 20 to 25 men Keita brought with him went to the battlefield while commanded by Lamin who also provided them with arms. At the time of the attack on Kono, Lamin was still in Buedu. It was only in

<sup>9938</sup> Issa Sesay, Transcript, 6 July 2010, pp. 43781-43787.

<sup>9939</sup> Issa Sesay, Transcript 6 July 2010, pp. 43787-43788; Transcript 5 August 2010, p. 45521. In his examination in chief Sesay also said that he himself met Sherif around April 1997 during the RUF’s purchases of ammunition from ULIMO, but only first met Keita in December 1998. See Issa Sesay, Transcript 6 July 2010, pp. 43790-43791.

<sup>9940</sup> Issa Sesay, Transcript 29 July 2010, p. 45062; Transcript 5 August 2010, pp. 45521-45523, 45528, 45530-45531, 45535, 45542-45543. Keita did not tell Sesay, and Sesay was not aware, that Keita was imprisoned following the Camp Johnson Road incident.

<sup>9941</sup> Issa Sesay, Transcript 29 July 2010, p. 45060; Transcript 5 August 2010, pp. 45530-45533.

<sup>9942</sup> Issa Sesay, Transcript 5 August 2010, pp. 45535, 45537-45538.

<sup>9943</sup> Issa Sesay, Transcript 5 August 2010, pp. 45545-45546. Sesay stated that the largest shipment they received was 100 boxes of ammunition in around 1991. They did capture a large consignment of over 300 boxes of ammunition in Kono.





January that the attack on Kenema occurred, after Sesay managed to capture Kono, since that was when ECOMOG forces retreated from Bandajuma Yaweh, Bunumbu, Manowa, causing Bockarie to send Lamin to attack Segbwema. Sesay insisted that Keita did not go to the battlefield, although Keita was there with Lamin who commanded the operation.<sup>9945</sup>

#### Defence Witness John Vincent

4450. Witness John Vincent testified that he met Abu Keita in Buedu at the time of the Waterworks meeting, which Keita and the witness attended. Bockarie told the witness that Keita had escaped from Liberia with 20 to 40 other Mandingos and arms and ammunition, because Charles Taylor's men were after him and sought to kill him. He therefore did not communicate with Taylor's authorities. The witness did not see the 20 to 40 men, but said that Keita and the men joined the RUF,<sup>9946</sup> and that while Keita brought these men they were deployed by Bockarie.<sup>9947</sup>

#### Deliberations

4451. It is undisputed that Abu Keita went to Sierra Leone after the Camp Johnson Road incident. The Trial Chamber notes that the Camp Johnson Road incident was an attack on the Accused's Government led by former ULIMO-J fighters loyal to their leader Roosevelt Johnson, which culminated on 18 September 1998 with a heavy exchange of gunfire on and around the United States Embassy premises in central Monrovia, leading to the death of 52 people and serious injury to two Embassy personnel.<sup>9948</sup> At the time, Keita was a Major in the AFL, having been integrated into the armed forces following the election of the Accused in August 1997.<sup>9949</sup>

<sup>9944</sup> Issa Sesay, Transcript 29 July 2010, pp. 45062-45063; Transcript 5 August 2010, pp. 45547-45548.

<sup>9945</sup> Issa Sesay, Transcript 29 July 2010, p. 45061; Transcript 5 August 2010, pp. 45523-45524, 45542, 45556-45558.

<sup>9946</sup> John Vincent, Transcript 26 March 2010, pp. 38105-38110.

<sup>9947</sup> John Vincent, Transcript 26 March 2010, pp. 38111-38112.

<sup>9948</sup> Exhibit D-141, "Presidential Papers, Polices, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997-31 December 1998", pp. 63-65; Exhibit D-162, "Official Report of the Government of the Republic of Liberia on the Camp Johnson Road Conspiracy, 24 September 1998;" Exhibit D-163, "Code Cable to Predergast/Miyet United Nations New York, from Downes Thomas, RSG, UNOL, Monrovia, The Camp Johnson Road Incidents of 18 September 1998 and Subsequent Developments, 20 September 1998;" Charles Ghankay Taylor, Transcript 3 August 2009, p. 25742.

<sup>9949</sup> Abu Keita, Transcript 24 January 2008, p. 2094.

4452. The Prosecution submits that the Accused sent Keita to Sierra Leone with Liberian fighters as reinforcements for the Kono and Freetown operations, and that subsequently these forces fought in the attack on Kenema in which crimes were committed. In support of its submission the Prosecution primarily relies on the testimonies of Varmuyan Sherif, who purportedly selected Keita to head the Scorpion Unit after the Accused requested him to recommend a senior officer from ULIMO-K for the task, and Abu Keita, who was allegedly sent to command the Scorpion Unit in Sierra Leone. The Trial Chamber recalls its finding that Abu Keita and Sherif are generally credible witnesses.<sup>9950</sup>

4453. The Defence disputes that the Accused sent Keita to Sierra Leone and submits that the accounts of Sherif and Keita contradict rather than corroborate each other.<sup>9951</sup> The Trial Chamber observes that there are some discrepancies between the accounts of Keita and Sherif. While Sherif testified that Keita accepted the offer to cooperate with Taylor's government after the Camp Johnson Road incident,<sup>9952</sup> he did not mention that Keita was imprisoned due to that incident, as acknowledged by Keita himself, who also testified that Sherif was the one who released him from prison.<sup>9953</sup> Moreover, Sherif testified that he invited Keita to cooperate with Taylor's government prior to the incident,<sup>9954</sup> a detail which was not mentioned by Keita.

4454. Furthermore, Keita testified that Sherif took him from prison to Musa Cissé's house, and a week later he was taken to a meeting at Yeaten house,<sup>9955</sup> while Sherif testified that he took Keita to Yeaten's house upon Cissé's instructions.<sup>9956</sup> Sherif also said that he escorted Keita to Yeaten's house,<sup>9957</sup> while Keita said that Sherif escorted him to Cissé's house<sup>9958</sup> and that to the meeting at Yeaten's house he was escorted by Jungle, Sampson, and Zigzag Marzah, only mentioning that Sherif attended the meeting at Yeaten's house.<sup>9959</sup>

<sup>9950</sup> Credibility Assessment, Abu Keita, paras 213-219; Credibility Assessment, Varmuyan Sherif, Arms and Ammunition, para. 5324.

<sup>9951</sup> Defence Response to Prosecution Final Trial Brief, paras 51-52.

<sup>9952</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 858-859.

<sup>9953</sup> Abu Keita, Transcript 23 January 2008, pp. 1962-1965; Transcript 24 January 2008, pp. 2104-2107.

<sup>9954</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 857-858.

<sup>9955</sup> Abu Keita, Transcript 23 January 2008, pp. 1964-1968.

<sup>9956</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 859.

<sup>9957</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 859.

<sup>9958</sup> Abu Keita, Transcript 23 January 2008, pp. 1964-1966.

<sup>9959</sup> Abu Keita, Transcript 23 January 2008, pp. 1966-1969.





4455. The two witnesses also differed as to the attendees at the meeting at Yeaten's house. Sherif stated that the meeting was attended by Bockarie, Yeaten, Joe Tuah, Dopoe Menkarzon, and "Sekou".<sup>9960</sup> while Keita stated that the meeting was attended by Sherif, Bockarie, Yeaten, Eddie Kanneh, SB Rogers, Rashid and Montgomery.<sup>9961</sup>

4456. The Defence also highlights an alleged discrepancy between Sherif's account, that Keita was initially suspicious about cooperating with the RUF, and Keita's account that he was willing to do so.<sup>9962</sup> However, the Trial Chamber notes that both witnesses are consistent in their testimony that Keita accepted the offer.<sup>9963</sup>

4457. While noting that the two accounts differ in details, the Trial Chamber finds these details to be minor, given the consistent account of the two witnesses according to which following the Camp Johnson Road incident in Monrovia, Abu Keita was brought to a meeting at Yeaten's house, which included Bockarie, and that during the meeting Yeaten assigned Keita with a mission to go to Sierra Leone.<sup>9964</sup> Both witnesses implicated the Accused as being involved in the decision to send Keita to Sierra Leone. Sherif stated that the Accused ordered him to seek a senior ULIMO commander for the mission,<sup>9965</sup> and according to Keita, Yeaten said at the meeting that he had devised the plan with the Accused.<sup>9966</sup> Furthermore, according to Keita, after he arrived in Buedu, Bockarie showed him his letter of assignment signed by the Accused. This letter was presumably given to Bockarie by Yeaten, as Keita indicated that he asked Yeaten to provide him with a letter of assignment.<sup>9967</sup> After Bockarie showed the letter to Keita, Yeaten told Keita over the radio to safeguard the letter of assignment since it had been signed by the Accused.<sup>9968</sup> Keita testified that the letter had been burnt during a fire at his mother's residence.

<sup>9960</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 859-861; Transcript 10 January 2008, pp. 916-917.

<sup>9961</sup> Abu Keita, Transcript 23 January 2008, pp. 1968-1969.

<sup>9962</sup> Defence Response to Prosecution Final Trial Brief, para. 52.

<sup>9963</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 857-859; Abu Keita, Transcript 23 January 2008, pp. 1964-1966.

<sup>9964</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 858-861; Abu Keita, Transcript 23 January 2008, pp. 1962-1968.

<sup>9965</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 856-857.

<sup>9966</sup> Abu Keita, Transcript 23 January 2008, p. 1971.

<sup>9967</sup> Abu Keita, Transcript 23 January 2008, pp. 1999-2001.

<sup>9968</sup> Abu Keita, Transcript 23 January 2008, p. 2001.



4458. Keita's account of being sent to Sierra Leone by the Accused and given a security escort of SSS members, namely Zigzag Marzah, Jungle and Sampson,<sup>9969</sup> is corroborated by the testimony of TF1-371, who testified that he was told by a man named Sheku that he, Keita and two other men were sent by the Accused to Buedu, and that Yeaten, who was the SSS director, provided them with a security escort to travel to Buedu.<sup>9970</sup>

4459. The Defence challenges the credibility of Abu Keita on several grounds.<sup>9971</sup> Keita's testimony was inconsistent in a number of ways with his prior statements to the Prosecution. First, in a prior statement the witness had described substantially different attendees at the meeting at Yeaten's residence in Monrovia where he allegedly first met Bockarie. In his prior statement Keita had not mentioned the RUF and other attendees to whom he testified in court, specifically Eddie Kanneh, SYB Rogers, Montgomery and Rashid. Secondly, Keita testified that 300 men were brought in two stages, with a first group arriving with Bockarie on his return from Burkina Faso in December 1998 and a second group arriving around January 1999 with Marzah and Sampson. However, in a prior statement the witness stated that 350 men from Liberia arrived together around a week after Keita arrived in Buedu. Thirdly, in his first three statements to the Prosecution Keita did not mention that he met the Accused when he met Yeaten and Bockarie. Keita maintained that he told this to the Prosecution on each occasion.<sup>9972</sup> He ascribed the other inconsistencies to errors of the Prosecution.<sup>9973</sup>

4460. The Defence suggests that it is implausible that in a single day Keita met, for the first time, Yeaten, Bockarie, Bah and the Accused.<sup>9974</sup> The Trial Chamber disagrees and considers that having asked Sherif to find someone to undertake the mission, it is plausible that the Accused would want to meet the person chosen for the mission when Keita came to meet the other key RUF leaders.

4461. Several witnesses disputed that the Accused sent Abu Keita to Sierra Leone. Defence witnesses Issa Sesay and John Vincent testified that Abu Keita came to Sierra Leone on his

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<sup>9969</sup> Abu Keita, Transcript 23 January 2008, pp. 1979-1982.

<sup>9970</sup> TF1-371, Transcript 29 January 2008, p. 2465 (CS).

<sup>9971</sup> Defence Final Trial Brief, paras 1399-1403.

<sup>9972</sup> Abu Keita, Transcript 24 January 2008, pp. 2114-2117.

<sup>9973</sup> Abu Keita, Transcript 24 January 2008, pp. 2123-2124, 2126, 2128-2129.

<sup>9974</sup> Abu Keita, Transcript 24 January 2008, pp. 2112-2113.

own.<sup>9975</sup> The Trial Chamber recalls its finding that Issa Sesay's testimony should be treated with caution and requires corroboration.<sup>9976</sup> Moreover, Sesay gave two different accounts during his examination in chief as to the first time he met Sherif and Keita; he first said that he met Sherif in around April 1997 during the RUF's purchases of ammunition from ULIMO, but only met Keita in December 1998,<sup>9977</sup> while later he said that he first met Keita in 1997 when Keita arrived in Koindu with Varmuyan Sherif when they brought ammunition from Voinjama, ULIMO's headquarters.<sup>9978</sup>

4462. Before evaluating the merits of John Vincent's testimony, the Chamber will consider his general credibility.

4463. Defence Witness John Vincent was an RUF member between 1990 and 2000,<sup>9979</sup> where he served as overall training commander<sup>9980</sup> and attained the rank of Colonel.<sup>9981</sup> Vincent then became a member of the AFL in 2001<sup>9982</sup> before being recruited to the SSS in 2002.<sup>9983</sup> The Trial Chamber observed that Vincent exhibited a calm demeanour and provided clear and detailed testimony throughout his examination-in-chief, admitting when he did not know the answer to a question.<sup>9984</sup> The Trial Chamber also notes that the witness was willing to give inculpatory evidence.<sup>9985</sup> However, Vincent became noticeably agitated and evasive when challenged during cross-examination.

4464. Although Vincent was not present during some of the major events of the Sierra Leonean civil war,<sup>9986</sup> which may explain some of the gaps in his knowledge, the Trial

<sup>9975</sup> Issa Sesay, Transcript 29 July 2010, pp. 45060, 45062; Transcript, 5 August 2010, pp. 45521-45523, 45528, 45530-45535, 45542-45543; John Vincent, Transcript 26 March 2010 pp. 38105-38110.

<sup>9976</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>9977</sup> Issa Sesay, Transcript, 6 July 2010, pp. 43790-43791.

<sup>9978</sup> Issa Sesay, Transcript, 6 July 2010, pp. 43787-43788; Transcript, 5 August 2010, p. 45521.

<sup>9979</sup> John Vincent, Transcript 24 March 2010, pp. 37962-37963; Transcript 30 March 2010, p. 38259. Vincent testified that he briefly served with the NPFL before joining the RUF (John Vincent, Transcript 24 March 2010, p. 37962; Transcript 30 March 2010, p. 38261)

<sup>9980</sup> John Vincent, Transcript 25 March 2010, pp. 38049-38050; Transcript 31 March 2010, pp. 38391-38392.

<sup>9981</sup> John Vincent, Transcript 24 March 2010, p. 37963; Transcript 31 March 2010, pp. 38441-38443.

<sup>9982</sup> John Vincent, Transcript 24 March 2010, p. 37962; Transcript 30 March 2010, p. 38259.

<sup>9983</sup> John Vincent, Transcript 24 March 2010, pp. 37962-37964.

<sup>9984</sup> For example when asked about how the mined diamonds were spent (John Vincent, Transcript 26 March 2010, p. 38126).

<sup>9985</sup> John Vincent, Transcript 26 March 2010, pp. 38161-38162; Transcript 30 March 2010, pp. 38259-38261.

<sup>9986</sup> For example, during late 1998 and the Freetown invasion Vincent was undergoing "punishment" in Jojoima for wanting to join Superman and testified that he received very little information there (John Vincent, Transcript 26 March 2010, pp. 38129-38130; Transcript 30 March 2010, pp. 38231, 38326-38327).

Chamber found his awareness of well-known events throughout the conflict incongruously lacking.<sup>9987</sup> The Trial Chamber also notes that at times Vincent's evidence was patently implausible and denied events to which even other Defence witnesses attested. For example, he strenuously denied RUF violence against civilians.<sup>9988</sup> Given the 10 years Vincent served with the RUF, the rank he attained and the locations in which he served, the Trial Chamber considers that it is incredible that he would have neither witnessed nor heard about such crimes against civilians. Furthermore, he provided some inconsistent testimony without any reasonable explanation.<sup>9989</sup> In view of the foregoing, the Trial Chamber finds that Vincent's evidence must generally be considered with caution and cannot be relied upon without corroboration. The Trial Chamber will consider further issues relating to Vincent's credibility in context as they may arise.

4465. In view of the inconsistencies in Sesay's evidence in this instance and its findings that neither Sesay nor Vincent are generally credible witnesses, the Trial Chamber does not consider that their evidence raises a reasonable doubt as to the possibility that Taylor sent Keita to Sierra Leone.

4466. The Trial Chamber notes that Isaac Mongor confirmed his prior statement in his cross-examination that Keita was not sent to Sierra Leone by the Accused,<sup>9990</sup> but that he did so in response to questioning about the other half of the statement put to him, relating to whether Keita was working for the Prosecution. He was more specifically asked about that part of the statement, which was the focus of inquiry by counsel. The Trial Chamber does

<sup>9987</sup> For example, Vincent testified that he had never heard of Superman Ground in Kono (John Vincent, Transcript 30 March 2010 p. 38237) and did not know an operation named Fitti-Fatta which took place in mid-1998 (John Vincent, Transcript 30 March 2010, pp. 38236-38237; Transcript 31 March 2010, p. 38343) despite being based in Kono between the ECOMOG Intervention and August/September 1998 (John Vincent, Transcript 31 March 2010, pp. 38376-38383).

<sup>9988</sup> Vincent testified that he did not hear about any civilian being amputated or in any way harmed by the RUF during Operation Stop Election 1996 (John Vincent, Transcript 25 March 2010 pp. 38055-38057; Transcript 30 March 2010, pp. 38331-38332, 38334), that the AFRC initiated the campaign to amputate civilians and that he never saw any RUF member doing so throughout the conflict (John Vincent, Transcript 25 March 2010, pp. 38063-38066), that he did not hear about civilians being killed in Kenema, Kailahun or Makeni after the Intervention (John Vincent, Transcript 30 March 2010 pp. 38330-38331) and that the RUF never allowed children into combat before the age of 18 (John Vincent, Transcript 25 March 2010, pp. 37999-38000).

<sup>9989</sup> For example, Vincent first testified that he knew Dopoe Menkarzon "very well" (John Vincent, Transcript 26 March 2010, p. 38078). On cross-examination, he denied knowing him well stating "When you talk about knowing him well, that means maybe he and I have some things in common. No. Except maybe I say hi to him, then I pass by" (John Vincent, Transcript 1 April 2010, p. 38476). Although Vincent testified that he had never heard about human sacrifices in the RUF (John Vincent, Transcript 31 March 2010, p. 38363), he admitted that ~~he~~ had heard about the sacrifice of Alice Pyne's baby (John Vincent, Transcript 31 March 2010, p. 38363).

<sup>9990</sup> Isaac Mongor, Transcript 3 April 2008, pp. 6542-6543.

not, for this reason, consider his response to have evidentiary weight, particularly as he was not further examined on this issue or was questioned as to how he received this information. Prosecution witness TF1-367 testified that Keita was a ULIMO fighter who came from Liberia to the RUF “as a friend”, stating that Keita fought in the front lines with the RUF.<sup>9991</sup> The Trial Chamber does not find that this negates the possibility that the Accused sent Keita to Sierra Leone.

4467. In his testimony, the Accused challenged the proposition that he would entrust the function of heading a covert combat unit in a neighbouring country to a former enemy whom he had recently imprisoned in relation to the Camp Johnson Road Incident on suspicion of treasonous activity. Instead, the Accused described Keita as a mercenary, pointing to evidence that Keita subsequently went on to fight in Côte d’Ivoire.<sup>9992</sup>

4468. With regard to the Accused’s challenge, the Trial Chamber observes that when confronted on cross-examination with the contention that he was arrested on suspicion that he had plotted a coup with Johnson, Keita first denied but then conceded that one of the reasons for his arrest was that he refused to fight against Johnson’s men.<sup>9993</sup> Sherif provided an explanation as to why the Accused wished to send a former ULIMO-K fighter to fight alongside Sam Bockarie in Sierra Leone, stating that it would have encouraged other former ULIMO-K fighters to “feel free” to do so as well.<sup>9994</sup> However, the Trial Chamber observes that this appears to have been speculation on Sherif’s part as he did not testify that the Accused had explained any motive to him.

4469. The Defence proposes in its submissions that a plausible reading of the evidence is that due to pre-existing contacts with the RUF, Sherif and Keita were involved in activities on behalf of Yeaten and not the Accused.<sup>9995</sup> The Trial Chamber notes that Yeaten was a subordinate under the Accused’s authority.<sup>9996</sup> Moreover, the Trial Chamber notes that both Varmuyan Sherif and Abu Keita testified to the direct involvement of the Accused, Sherif in having been instructed by Taylor to find a ULIMO-K officer, with corroboration by TF1-371, who testified that the Accused sent Keita to Sierra Leone with a security escort

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<sup>9991</sup> TF1-367, Transcript 29 August 2008, pp. 14974-14975.

<sup>9992</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26215-26218.

<sup>9993</sup> Abu Keita, Transcript 24 January 2008, p. 2105.

<sup>9994</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 856-857.

<sup>9995</sup> Defence Final Trial Brief, para. 1404; Defence Response to Prosecution Final Trial Brief, para. 52.

provided by Yeaten, clearly indicating the involvement of the Accused. The Trial Chamber has no reason to believe that Yeaten would have acted independently in sending Keita to Sierra Leone.

4470. Nonetheless, the Trial Chamber has considered evidence cited by the Defence to prove Keita's pre-existing ties with the RUF. The Trial Chamber notes that Keita did not testify about his relationship with the RUF prior to his arrival in Sierra Leone in late 1998, although he did say that the first time he met Bockarie was at the meeting at Yeaten's house where Keita was given his assignment.<sup>9997</sup>

4471. TF1-371 testified that before Keita arrived in Sierra Leone, he had previously met Keita in association with ULIMO forces,<sup>9998</sup> and testified that in 1997 the RUF purchased arms and ammunition from ULIMO through Varmuyan Sherif, while Abu Keita was also "involved".<sup>9999</sup> On cross-examination the witness said that before Keita arrived in Buedu he and Bockarie were enemies, but became close after Keita's arrival in Sierra Leone. TF1-371 acknowledged that Keita's girlfriend's father, Mr Kallon, was Foday Sankoh's senior advisor, but denied that this constituted a personal connection to the RUF, or that this was Keita's entry point into the RUF.<sup>10000</sup>

4472. Foday Lansana testified that he heard that Keita had brought arms and ammunition to Bockarie in Buedu prior to the Fitti-Fatta operation,<sup>10001</sup> which occurred in mid-June 1998.<sup>10002</sup> Mohamed Kabbah testified that during the period from 1991 to 1997, Keita was one of the ULIMO generals from whom the RUF purchased ammunition.<sup>10003</sup>

4473. TF1-516 testified that he saw Keita in Kenema during 1997, when Yeaten invited Bockarie to celebrate the inauguration of the President,<sup>10004</sup> which occurred in August 1997.<sup>10005</sup> TF1-516 also stated that Keita joined the RUF after the "ECOMOG disarmament"

<sup>9996</sup> The Role of Intermediaries: Benjamin Yeaten.

<sup>9997</sup> Abu Keita, Transcript 24 January 2008, pp. 2110-2111.

<sup>9998</sup> TF1-371, Transcript 28 January 2008, p. 2402 (CS).

<sup>9999</sup> TF1-371, Transcript 31 January 2008, pp. 2696-2697 (CS).

<sup>10000</sup> TF1-371, Transcript 1 February 2008, pp. 2805-2807 (CS).

<sup>10001</sup> Foday Lansana, Transcript 21 February 2008, pp. 4516-4518.

<sup>10002</sup> Military Operations: Operation Fitti-Fatta.

<sup>10003</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16277-16278.

<sup>10004</sup> TF1-516, Transcript 9 April 2008, pp. 7101-7102.

<sup>10005</sup> Agreed Facts and Law, Fact 1(d).

in 1996/1997, referring to the disarmament of ULIMO in Liberia at the time. Given that TF1-516 is the only witness to say that Keita joined the RUF prior to 1998, the Trial Chamber believes that the witness was confused with regard to times, but accepts his testimony that Keita was in Kenema in 1997, given the specific detail the witness provided, that it was at the time of the inauguration of the President.

4474. The Trial Chamber recalls its previous findings that TF1-371, Mohamed Kabbah and TF1-516 are reliable witnesses.<sup>10006</sup> In the Trial Chamber's view, the pre-existing ties of Keita to the RUF, as provided by several Prosecution witness, would have made him a likely candidate for a mission involving working along with the RUF in Sierra Leone. In light of the evidence, the Trial Chamber finds that the Accused sent Abu Keita to Sierra Leone on a mission.

4475. With regard to the reason Keita was sent to Sierra Leone, the Trial Chamber notes that in his examination in chief Keita said that during the meeting at Yeaten's house Yeaten tasked him with commanding a standby force that would be called the Scorpion Unit and would be based with the RUF in Buedu. He also said that Yeaten did not indicate any particular operations or attacks that the unit should carry out.<sup>10007</sup> On cross-examination Keita confirmed that the Scorpion Unit was to be "a force outside of Liberia that could come in from behind an enemy should Liberia be attacked", while also confirming that he was told Bockarie would take care of him since what Keita would be doing would be in the interests of the West African sub-region.<sup>10008</sup>

4476. The Trial Chamber has considered other evidence concerning the purpose of Keita's mission to Sierra Leone. While in his examination in chief, Keita said that Sheku Suwape Koroma did not attend any of the meetings he described prior to his departure to Sierra Leone, saying that he met Sheku in Monrovia before he left,<sup>10009</sup> in his cross-examination Keita acknowledged that Sheku was present at the meeting at Yeaten's house.<sup>10010</sup> Sherif testified that during the meeting at Yeaten's house, Yeaten instructed Bockarie to organize a

<sup>10006</sup> Credibility Assessment, TF1-371, paras 220-226; Credibility Assessment, Mohamed Kabbah, paras 334-338; Credibility Assessment, TF1-516, paras 275-284.

<sup>10007</sup> Abu Keita, Transcript 23 January 2008, pp. 1968-1971.

<sup>10008</sup> Abu Keita, Transcript 23 January 2008, pp. 1970-1971; Transcript 24 January 2008, p. 2110.

<sup>10009</sup> Abu Keita, Transcript 23 January 2008, pp. 1997-1999.

<sup>10010</sup> Abu Keita, Transcript 24 January 2008, pp. 2122-2123.

group that would attack Guinea from Sierra Leone, and that “Sekou”, whom Sherif decried as “a rebel leader for Guinea”, was there “in case an attack came from Guinea”.<sup>10011</sup>

4477. TF1-371 testified that before Bockarie left for Monrovia to secure ammunition for the attack on Kono, in November or December 1998, the RUF received in Buedu a small contingent of fighters from Liberia, led by a Guinean dissident called Sheku and his deputy Abu Keita with “the so-called Scorpion Unit”.<sup>10012</sup> TF1-371 stated that Sheku told him that he, Keita and two other men were sent to Sierra Leone by the Accused, and that he had come to Sierra Leone to commence an operation in Guinea against the Government of President Conte, stating that Yeaten provided the convoy with a security escort to travel to Buedu.<sup>10013</sup> The Trial Chamber notes that in his cross-examination TF1-371 was unclear as to whether Keita and Sheku had arrived in Sierra Leone together.<sup>10014</sup>

4478. Mohamed Kabbah testified that at the time Bockarie had returned with a large consignment of ammunition from Monrovia, he saw Keita, Sheku, Senegalese, a Guinean named Sidibay, Zigzag Marzah, Jungle and Liberian Mosquito in Buedu, that Bockarie said that these men came “for the Guinea mission”, and that Keita, Sheku and Sidibay were present during discussions about “the Guinean operation”.<sup>10015</sup> The Trial Chamber also notes that in 2001, Keita participated in the operation against LURD in Guinea.<sup>10016</sup>

4479. The Trial Chamber considers, based on the evidence, that Keita was sent by the Accused to command a standby force in Sierra Leone, on call to help defend Liberia. While he was there, Keita was deployed by Bockarie and participated in the attack on Kenema. The evidence of other witnesses, including Prosecution witnesses, is that the Accused sent Keita to serve as a standby force for attacks on Liberia. As Keita himself confirmed, “they wanted

<sup>10011</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 859-861; Transcript 10 January 2008, p. 916-917.

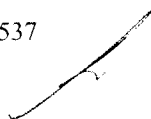
<sup>10012</sup> TF1-371, Transcript 28 January 2008, p. 2402 (CS); Transcript 28 January 2008, p. 2502 (CS).

<sup>10013</sup> TF1-371, Transcript 29 January 2008, p. 2465 (CS).

<sup>10014</sup> TF1-371, Transcript 31 January 2008, p. 2762 (CS): “And furthermore Sam Bockarie came with not only - in fact with this consignment [of ammunition], not only with this consignment, he came with that Guinean dissident I told you about who was already based in Monrovia, called Sheku. You know, he was already based there. He came along with other men. Abu Keita was - I mean was like a few days before they came in and he was already in, Sheku”.

<sup>10015</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16142, 16155-16156; Transcript 17 September 2008, p. 16445.

<sup>10016</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 861-862. See Leadership and Command Structure: Operations Outside Sierra Leone.





a force outside of Liberia that could come in from behind an enemy should Liberia be attacked".<sup>10017</sup>

4480. With regard to the men sent to serve as reinforcements under Keita's command, the Trial Chamber accepts Keita's testimony that Bockarie rejected the idea of having a dual command structure on the ground, and that Bockarie integrated the men sent to Keita as reinforcements into the RUF, who were then sent to fight in Kenema. According to Keita, Jungle, Sampson and Zigzag Marzah, members of Taylor's SSS,<sup>10018</sup> were present during this conversation and told Keita that he should cooperate with this arrangement.<sup>10019</sup> On cross-examination Keita confirmed that he had no troops under his direct command,<sup>10020</sup> contrary to the promise given to him by Yeaten that 300 men would be sent to serve under his command.<sup>10021</sup> The Trial Chamber notes that no evidence was adduced as to how Yeaten or the Accused responded to Bockarie's dismissal of their purported order. However, the Trial Chamber notes that Jungle and Marzah, members of the SSS under the command of Yeaten, told Keita to comply with Bockarie's demands. Having found that Jungle was a subordinate of the Accused during this time period,<sup>10022</sup> and given that Jungle told Keita to comply with Bockarie's demand to incorporate both Keita and the men sent to be under Keita's command into the RUF, the Trial Chamber finds that Jungle's instruction to Keita was done on behalf of the Accused.

4481. The Prosecution submits that upon Bockarie's orders Keita and the Liberian reinforcements who were integrated into the RUF participated in the attack on Kenema in which crimes were committed.<sup>10023</sup> The Defence points to Keita's testimony that the Liberian reinforcements were taken to be trained at Bunumbu and were not sent on a mission by Bockarie, as claimed by the Prosecution.<sup>10024</sup>

4482. Keita did not indicate whether the men, who according to him were taken to be trained at Bunumbu, participated in this attack. Augustine Mallah testified that following a

<sup>10017</sup> Abu Keita, Transcript 24 January 2008, pp. 2130, 2137.

<sup>10018</sup> Abu Keita, Transcript 23 January 2008, pp. 1966-1968.

<sup>10019</sup> Abu Keita, Transcript 23 January 2008, p. 1999; Transcript 24 January 2008, p. 2132.

<sup>10020</sup> Abu Keita, Transcript 24 January 2008, p. 2138.

<sup>10021</sup> Abu Keita, Transcript 24 January 2008, pp. 2129-2130.

<sup>10022</sup> The Role of Intermediaries: Daniel Tamba (a.k.a. Jungle)

<sup>10023</sup> Prosecution Final Trial Brief, para. 293.

<sup>10024</sup> Defence Response to Prosecution Final Trial Brief, para. 53.



meeting at Waterworks in November 1998, Bockarie provided the commanders who were to go fight in Kenema with Liberian reinforcements Bockarie had brought from Liberia after he had met with the Accused.<sup>10025</sup> According to Mallah, Keita was the commander of the reinforcements.<sup>10026</sup> The Trial Chamber notes that Mallah was one of the commanders tasked with attacking Bunumbu, Segbwema, Daru, Tondola, Bendu Junction, Jomukafebu, Kumbema and Kenema,<sup>10027</sup> some of which were indicated by Keita as places he was assigned to. The Trial Chamber notes that when questioned on cross-examination, Mallah was very candid about having listened to the testimony of Abu Keita via radio broadcast<sup>10028</sup> and does not find that this influenced his testimony.

4483. Mallah's testimony is supported by the evidence of TF1-371 who testified that following a discussion on a simultaneous attack on Kono and Kenema, Bockarie gave instructions for the distribution of materiel and assigned the Scorpion Unit "that was there with Abu Keita and some other men that were brought by Sekou" to assist in capturing Kenema.<sup>10029</sup> Albert Saidu also supports this evidence as he testified that he was told by two of Bockarie's bodyguards after a meeting at Waterworks in Buedu that the meeting was attended by frontline commanders and senior vanguards, including Abu Keita and "some Liberians", in which a simultaneous attack on Kono and the Segbwema-Bunumbu axis was discussed, and that Keita was assigned to the 1<sup>st</sup> brigade in the Bunumbu-Segbwema axis.<sup>10030</sup>

4484. The Defence highlights the testimony of Abu Keita as inconsistent with the testimony of Augustine Mallah in that Abu Keita stated that the men brought were both Sierra Leoneans and Liberians, while Mallah testified that they were all Liberians. However, Mallah testified that Bockarie said that the fighters were Liberians whilst Mallah himself testified that the manpower "comprised of fighters from Liberia".<sup>10031</sup> The Trial Chamber recalls that all of the fighters came from Liberia with Bockarie, and does not therefore find Keita's testimony inconsistent.

<sup>10025</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20219-20220, 20222-20223.

<sup>10026</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20219-20220; Transcript 17 November 2008, p. 20430.

<sup>10027</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20222-20223.

<sup>10028</sup> Augustine Mallah, Transcript 17 November 2008, p. 20374.

<sup>10029</sup> TF1-371, Transcript 28 January 2008, p. 2414 (CS).

<sup>10030</sup> Albert Saidu, Transcript 5 June 2008, pp. 11080-11087.

<sup>10031</sup> Augustine Mallah, Transcript 17 November 2008, p. 20430.





4485. The Trial Chamber recalls that all of the fighters came from Liberia with Bockarie and notes that Mallah did not say why he thought all the fighters were Liberians. The Trial Chamber does not find this inconsistency significant. Mallah would likely have assumed that the men were all Liberians since they had come from Liberia.

4486. The Trial Chamber notes that Abu Keita in his testimony did not say where the men Bockarie sent to be trained at Bunumbu were subsequently deployed. Presumably as reinforcements, they were sent to the frontlines to participate in the attack, and Keita did not say that they were not at Kenema. The focus of his testimony was that these troops were taken from his command. In light of the testimony of Augustine Mallah, which is supported by the testimony of TF1-371 and Albert Saidu, that the contingent of men brought from Liberia participated in the attack on Kenema, the Trial Chamber finds that Liberian reinforcements participated in the attack on Kenema, as did Keita.

4487. Keita testified that he fought in the Bunumbu-Segbwema axis, including in Jumo Kafebu, Gbava and Bendu junction, during the time of the attack on Kono on Christmas Day in 1998, and that he participated in the burning of houses. Later in his examination in chief, and also in his cross-examination, Keita was asked what was his assignment during the fighting in Freetown in January, and answered "I told you that I was assigned to Segbwema, Bunumbu" stating that his assignment was to take wounded soldiers to the rear in Buedu where they could be treated.<sup>10032</sup> The Trial Chamber believes that Keita participated in the burning of houses, as he testified, which does not preclude his having also taken wounded soldiers for treatment, as he added. Based on the testimony of Keita that he participated in the burning of houses during the attack on Kenema, and the testimony of Augustine Mallah that during the attack on Kenema the forces burned houses and killed civilians, the Trial Chamber finds that Keita participated in the commission of crimes during the attack on Kenema.

4488. The Trial Chamber notes that no Prosecution witness provided a number for the men who fought in Kenema, nor did Prosecution witnesses provide the number of men brought as reinforcements who participated in the attack on Kenema. Defence witness Issa Sesay stated that 20 to 25 Liberian men whom Keita brought to Sierra Leone were sent to the front lines

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<sup>10032</sup> Abu Keita, Transcript 23 January 2008, pp. 2008-2011, 2022-2023; Transcript 24 January 2008, pp. 2037-2038; 2139.



during the attack on Kenema, although he stated that Mike Lamin was in charge of the attack,<sup>10033</sup> while both Abu Keita and TF1-371 testified that during the attacks on Kenema and Kono Mike Lamin was stationed in Buedu.<sup>10034</sup> Sesay's testimony therefore cannot be relied upon. Defence witness John Vincent testified that he was told that Keita brought with him 20 to 40 Mandingos to Sierra Leone,<sup>10035</sup> but only stated that these men were deployed by Bockarie,<sup>10036</sup> without saying where.

4489. While the evidence indicates that at least some of the reinforcements from Liberia were sent to participate in the attack on Kenema, the Trial Chamber is unable to determine how many and in what proportion they were to the RUF forces as a whole in Kenema. While it is possible and even probable that the men committed crimes during these attacks, and provided support to others who committed crimes in these attacks, the Trial Chamber notes that as is unable to determine the relative impact the reinforcements sent by the Accused to Sierra Leone had on the commission of crimes in Kenema.

#### Findings

4490. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that Abu Keita and 150 men to be under his command were sent by the Accused to Sierra Leone.

4491. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that Abu Keita and the reinforcements were sent by the Accused for the purpose of fighting in the Kono and Freetown military operations, which included Kenema. However, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that Daniel Tamba (a.k.a. Jungle), on behalf of the Accused, approved Bockarie's decision to integrate the Scorpion Unit to be under Bockarie's command.

4492. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that Abu Keita and some of the reinforcements sent by the Accused participated in the attack on Kenema and that Abu Keita participated in the commission of crimes during this attack.

<sup>10033</sup> Issa Sesay, Transcript 29 July 2010, p. 45061; Transcript, 5 August 2010, pp. 45523-45524, 45542, 45556-45558.

<sup>10034</sup> Abu Keita, Transcript 23 January 2008, pp. 2011-2012; TF1-371, Transcript 28 January 2008, pp. 2417-2418 (CS).

<sup>10035</sup> John Vincent, Transcript 26 March 2010 pp. 38105-38110.





4493. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Daniel Tamba approved Bockarie's decision to integrate the Scorpion Unit to be under Bockarie's command on behalf of the Accused.

4494. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that Abu Keita and some of the reinforcements sent by the Accused participated in the attack on Kenema and that Abu Keita participated in crimes during this attack.

### 3. Repatriation of Sierra Leoneans

#### Submissions of the Parties

4495. The Prosecution submits that the Accused sent 62 "(former) SLA soldiers" to be trained at Camp Bunumbu in order for them to "clear the road" used to transport arms and ammunition between Liberia and Sierra Leone. The Prosecution also submits that after the Intervention the Accused implemented a policy of encouraging, facilitating and actively sending SLA members who retreated to Liberia back to Sierra Leone. The Prosecution contends that the Accused organized, armed and sent a large group of experienced SLA soldiers to Bockarie to support the operation to take Kono and the advance towards Freetown. The Prosecution further contends that Bockarie made efforts across the border and appointed SLA members such as Foday Kallon to cross into Liberia and persuade other SLA members to return to Sierra Leone to fight.<sup>10037</sup>

4496. The Prosecution also submits that Taylor's subordinates arrested, detained and forced Sierra Leoneans residing in Liberia, including refugees, to return to Sierra Leone to fight. According to the Prosecution, RUF members openly recruited people in Voinjama using financial incentives or arresting both men and women and forcing them to go to Sierra Leone to fight. "Civilians who refused to go were subjected to constant intimidation which included looting, beatings, and arrests".<sup>10038</sup>

4497. The Prosecution submits further that after fighting broke out in Voinjama, Liberia, in April 1999 the pressure for Sierra Leonean manpower escalated, resulting in the killing and/or torturing of Sierra Leonean civilians who refused to return to Voinjama or

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<sup>10036</sup> John Vincent, Transcript 26 March 2010 pp. 38111-38112.

<sup>10037</sup> Prosecution Final Trial Brief, paras 3, 190, 286, 327.

<sup>10038</sup> Prosecution Final Trial Brief, paras 287-288.



“volunteer” to fight, after Chucky Taylor accused them of being Kamajors. The Prosecution submits that three of those civilians were taken to meet the Accused who asked them if they were refusing to go to their country to fight when they were most needed, and when he received no answer the Accused asked the civilians if they were Kamajors sent to overthrow his government. The Accused threatened the civilians that if they did not tell the truth they would be taken to the beach and beheaded.<sup>10039</sup>

4498. To prove its submissions the Prosecution relies on the testimonies of TF1-362 Alimamy Bobson Sesay, TF1-539, TF1-590 and Issa Sesay.

4499. The Defence denies that the Accused sent manpower to the RUF or AFRC/RUF during the Indictment period. The Defence contends that the testimony of TF1-362 is contradictory and “defies logic”. The Defence submits that the inferences the Prosecution asks the Trial Chamber to make - that if Liberian security personnel or Liberian forces along the Sierra Leonean border acted in a manner which resulted in the supply of manpower during the Indictment period, it was done with the Accused’s knowledge and intent - are not supported by the facts. The Defence further argues that the Prosecution asks the Trial Chamber to find that since the Accused did not arrest fighters who retreated to Liberia and keep them in Liberia, he is guilty for any of the criminal activities which these individuals undertook upon their return to Sierra Leone. Finally, the Defence submits that the testimony of TF1-590 is uncorroborated and is focused primarily on the actions of Chucky Taylor rather than the Accused.<sup>10040</sup>

## Evidence

### Prosecution Witness TF1-362

4500. Witness TF1-362, an RUF member, testified that after the establishment of Bunumbu training camp in 1998, “during the time the RUF retreated from Freetown”, Issa Sesay instructed Monica Pearson to train “62 SLAs” at Bunumbu training camp in order for them to fight “in Liberia” to open the border between Sierra Leone and Liberia. Issa Sesay told Pearson that “Bockarie said that Charles Taylor said we should train the 62 SLA men to go

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<sup>10039</sup> Prosecution Final Trial Brief, paras 289-290.

<sup>10040</sup> Defence Final Trial Brief, paras 1100, 1287; Defence Response to Prosecution Final Trial Brief, paras 48-49.



and open the border between us and Gbarnga”.<sup>10041</sup> On cross-examination the witness confirmed a prior statement which states that the men were trained in order to help fight ULIMO forces that had captured the area between Lofa and Voinjama given that this was an important area since its closing limited the access between Taylor and the RUF.<sup>10042</sup>

4501. The witness said that the SLAs underwent guerrilla-fighting training for one to two weeks, as they had never fought in “the bush”.<sup>10043</sup> After they completed their training, Issa Sesay came to Bunumbu to get the 62 “SLAs”. The witness believed that the 62 SLAs went “to open the road” since that was what Issa Sesay told Pearson.<sup>10044</sup> Sesay came with Liberian ATU bodyguards, a special unit “behind Charles Taylor”, and they stayed at Bunumbu training base for “hours”.<sup>10045</sup> Sesay told Pearson that “Bra”, referring to Bockarie, said that Charles Taylor thanked her and said that she should continue with her “effort”.<sup>10046</sup>

4502. TF1-362 stated that Sam Bockarie also met Pearson in Bunumbu and informed her that he had sent Sesay with the 62 men and that it was Taylor who sent the 62 men to Bockarie so that they would be trained to “go and clear the road”.<sup>10047</sup>

4503. On cross-examination the witness confirmed prior statements, according to which the border between Liberia and Sierra Leone was closed as of 1992, but the witness could not recall for how long. The witness explained that the border area referred to as being closed as of 1992 was around Bomi Hills at the Bo Waterside area which is different from the border area in Gbarnga, around the “Buedu area”, which the 62 men were sent to open in 1998.<sup>10048</sup>

4504. The witness was confronted on cross-examination with another prior statement in which it was said that after the retreat from Freetown, Pearson received a direct order from Mosquito to establish a training camp at Bunumbu, and that she believed that the order had come from Taylor and that Taylor knew that Monica Pearson was in charge of the training

<sup>10041</sup> TF1-362, Transcript 27 February 2008, pp. 4895-4896 (CS).

<sup>10042</sup> TF1-362, Transcript 3 March 2008, pp. 5091-5092 (CS).

<sup>10043</sup> TF1-362, Transcript 27 February 2008, pp. 4895-4896 (CS).

<sup>10044</sup> TF1-362, Transcript 27 February 2008, p. 4899 (CS).

<sup>10045</sup> TF1-362, Transcript 27 February 2008, pp. 4896-4897 (CS) (one of the ATU bodyguards that arrived at the camp was Christopher Varmoh (a.k.a. Liberian Mosquito)).

<sup>10046</sup> TF1-362, Transcript 27 February 2008, pp. 4896-4897 (CS).

<sup>10047</sup> TF1-362, Transcript 27 February 2008, p. 4898 (CS).

<sup>10048</sup> TF1-362, Transcript 3 March 2008, pp. 5090-5092 (CS).

camp and was training the fighters, because two days after the training camp was established Mosquito told Pearson “specifically” that Charles Taylor said the 62 SLA soldiers were to be trained at Bunumbu training camp in order for them to go and “clear the forces who were blocking the access route between Charles Taylor and the RUF”, which was used to transport arms and ammunition between Liberia and Sierra Leone. The witness was confronted with the difference between the testimony that it was Sesay who instructed Pearson to train the 62 men, and that Sesay had received the instruction from Bockarie. The witness, who was present, explained that Pearson met both Sesay and Bockarie “face-to-face” when Pearson received the order to train the 62 men. Issa Sesay was with Bockarie at the same time when Pearson was told about the 62 SLAs, in Buedu. Sesay was the one who gave Pearson the message about the 62 men. They then “walked along directly” to Bockarie (a.k.a. Mosquito), who addressed the matter.<sup>10049</sup>

Prosecution Witness Alimamy Bobson Sesay

4505. Witness Alimamy Bobson Sesay, an AFRC member<sup>10050</sup> and officer<sup>10051</sup>, testified that during the February 1998 Intervention AFRC personnel retreated from Freetown towards Kabala. When the witness was in Kabala, he saw KBC, an AFRC member, crossing over to Guinea with other former SLA members, as most SLAs did.<sup>10052</sup>

4506. In March/April 1999,<sup>10053</sup> KBC arrived in Newton, where AFRC forces and the witness were, with a group comprised of four “SLAs”, including KBC, two RUF members, and two 10 year-old SBUs who KBC took from the RUF side in the Kono area and who were carrying “AKs”. The group came together with Captain Hindolo Trye and was well armed.<sup>10054</sup> KBC explained to the ARFC forces in Newton that he had fled from Guinea to Liberia since the Guinean authorities arrested senior Sierra Leonean commanders - “if you were an SLA you would be arrested”. KBC said that in Liberia, Charles Taylor called the former SLA members, organized, armed and sent them to Mosquito in Kailahun to reinforce

<sup>10049</sup> TF1-362, Transcript 3 March 2008, pp. 5091-5094 (CS).

<sup>10050</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7859-7867, 7869; Transcript 28 April 2008, pp. 8684, 8689.

<sup>10051</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7865-7866.

<sup>10052</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8401.

<sup>10053</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8404.

<sup>10054</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8403-8404.

the Junta troops in Freetown. KBC said that the group of SLAs sent by Taylor from Liberia included “many”,<sup>10055</sup> and was “a strong manpower”<sup>10056</sup>.

4507. According to KBC, his group came during the preparations to advance to Kono, participated in the successful attack to capture Kono, and then attempted to get to Freetown and reinforce the forces there. However, KBC explained that his group, including the four SLAs, was unable to get to Freetown and did not participate in the Freetown Invasion as they were “delayed;” during their advancement towards Freetown, they attacked areas in which ECOMOG forces were deployed. Therefore, some of the men were deployed in targeted areas, such as Kono, Makeni, Magburaka and Matotoka, for any counter attacks by ECOMOG forces. KBC said that he arrived in Newton due to his determination, as he wanted the forces to know that he did not run away and could not come to reinforce them in Freetown due to these “delays”.<sup>10057</sup>

4508. KBC’s group stayed with the witness’s forces until the ceasefire in 2000, when the West Side Boys were arrested in Freetown. During that period the forces based in Newton, including KBC’s group, organized patrols as that was the time of the peace negotiations.<sup>10058</sup>

4509. Bobson Sesay also testified that he met the Accused in early August 1999, after the signing of the Lomé Peace Accord, in the President’s office in Monrovia. The meeting was also attended by Johnny Paul Koroma, Bazzy, Junior Lion, Major Gbonkelenkeh and Hassan Papa Bangura (a.k.a Bomb Blast),<sup>10059</sup> Liberia’s Defence Minister, Daniel Chea, and Momoh Gibba who was Taylor’s “aide-de-camp”.<sup>10060</sup> During the meeting Taylor expressed his concern over the division between the RUF and the AFRC. Taylor said that he has been giving assistance to the AFRC/RUF in order for them to remove Kabbah’s government. He stated that he had been mobilizing “most of the SLAs” who came to Liberia and sent them to reinforce “you there”.<sup>10061</sup> Taylor said that he gave safe passage to “SLAs” who came from

<sup>10055</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8400-8404; Transcript 29 April 2008, p. 8795; Transcript 23 April 2008, pp. 8402-8405; Transcript 24 April 2008, pp. 8436-8437.

<sup>10056</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8797-8800.

<sup>10057</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8400-8402, 8404; Transcript 29 April 2008, pp. 8795-8800.

<sup>10058</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8402-8405; Transcript 24 April 2008, pp. 8436-8437.

<sup>10059</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, p. 8494.

<sup>10060</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8496, 8503-8504.

<sup>10061</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8503-8506 (Taylor also said that he had supplied the forces with arms and ammunition and food).



Guinea, made sure that they were not arrested, ordered that they be reorganized and sent them to Mosquito in Kailahun so that they could join the troops that advanced towards Freetown. Taylor also said that he had been co-ordinating the supplies – arms, ammunition and “even food” so they could remove the Government of Tejan Kabbah in Freetown. Taylor said that he wanted these men to join “the troops coming forwards” Freetown and overthrow the Government. That invasion eventually occurred on January 6.<sup>10062</sup>

4510. On cross-examination the witness agreed that the meeting with the Accused was an official matter, coordinated by the governments of Sierra Leone and Liberia. He confirmed his prior statement that the “SLAs” who travelled to Liberia for this meeting sought assurances from the Liberian government as it had influence over the RUF. The witness explained that the assurances they were seeking were due to fear of the RUF which had “strong connections in Liberia”. The witness also confirmed his prior statement that during the meeting Taylor said he hoped peace between the RUF and the AFRC could be achieved. The witness agreed that Taylor was facilitating peace between the RUF and the AFRC, but explained that if the meeting was meant to be with a peace mediator other countries could have invited the delegation. The reason they met with Taylor was because he “had direct influence on the AFRC and the RUF”.<sup>10063</sup>

#### Prosecution Witness TF1-539

4511. Witness TF1-539 testified that he left Sierra Leone and entered Lofa in Liberia three months after the Intervention. Three months later, the witness went to reside in Duala, around Monrovia.<sup>10064</sup> The witness stayed in Duala until 6 January 1999,<sup>10065</sup> and then moved to Congo Town.<sup>10066</sup> While in Congo Town, the witness was arrested by Joseph Marzah, who had suspected the witness of being a spy sent by Kabbah’s government in Sierra Leone to find out whether Taylor’s government was supporting the RUF/SLA. After the witness denied the allegation, Marzah told the witness that he was in charge of the

<sup>10062</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8509-8515 (The witness knew the Accused referred to the January 6 invasion since Bockarie told them that reinforcement was coming and Taylor confirmed that he sent to Mosquito in Kailahun the “SLAs” who had surrendered to support the advance towards Freetown).

<sup>10063</sup> Alimamy Bobson Sesay, Transcript 25 April 2008, pp. 8593-8596.

<sup>10064</sup> TF1-539, Transcript 10 June 2008, pp. 11400-11401.

<sup>10065</sup> TF1-539, Transcript 10 June 2008, pp. 11403-11405.

<sup>10066</sup> TF1-539, Transcript 10 June 2008, p. 11407.

“Death Squad” and that if he found that the witness was in fact a spy he would kill him.<sup>10067</sup>  
The witness later on met the Accused at his mansion in Monrovia.<sup>10068</sup>

4512. The witness testified that after he left the mansion with Joseph Marzah he ran into Foday Kallon, who was a lieutenant in the Sierra Leonean Army before they “fled”. The witness told Kallon that the man accompanying him, Marzah, was a powerful man whom the witness had come to fear. The witness informed Kallon that Marzah was in charge of the “Death Squad” and that Marzah had killed Moses Kabia (a.k.a. Rambo). The witness then asked Kallon to “save” him by informing ECOMOG or the American embassy so that the witness could go there “for rescue”. Marzah then approached the witness and Kallon and told the witness that they should go. The witness and Marzah then left.<sup>10069</sup>

4513. Foday Kallon told the witness that Mosquito had appointed him, Captain Bakarr and Captain Hindolo to mobilize men, “strong fighters who were interested”, to go and join forces with “the other men there to fight and be able to gain more grounds from ECOMOG and the government”. Kallon said he went to the refugee camp.<sup>10070</sup> The witness then described going on a trip to Burkina Faso<sup>10071</sup> in March 1999.<sup>10072</sup>

4514. On cross-examination the witness said that the trip to Burkina Faso took place at the end of 1998.<sup>10073</sup> In a prior statement the witness stated that the trip took place in around May 1998. The witness stated that he recalled that the trip took place in 1998 but denied giving his investigators a specific date.<sup>10074</sup>

4515. On re-examination the witness stated that the flight to Burkina Faso took place in 1999.<sup>10075</sup> The witness also acknowledged that while he can recall important events, he cannot recall specific dates.<sup>10076</sup>

<sup>10067</sup> TF1-539, Transcript 10 June 2008, pp. 11412-11413.

<sup>10068</sup> TF1-539, Transcript 10 June 2008, p. 11469.

<sup>10069</sup> TF1-539, Transcript 10 June 2008, pp. 11472-11473.

<sup>10070</sup> TF1-539, Transcript 10 June 2008, p. 11473.

<sup>10071</sup> TF1-539, Transcript 10 June 2008, p. 11478.

<sup>10072</sup> TF1-539, Transcript 11 June 2008, p. 11509.

<sup>10073</sup> TF1-539, Transcript 12 June 2008, p. 11690.

<sup>10074</sup> TF1-539, Transcript 12 June 2008, p. 11697.

<sup>10075</sup> TF1-539, Transcript 12 June 2008, p. 11720.

<sup>10076</sup> TF1-539, Transcript 12 June 2008, p. 11722.

Prosecution Witness TF1-590

4516. Witness TF1-590 testified that he fled from Kenema when he was 26 in fear of Kamajors and Nigerian-led forces who were on their way, according to rumours.<sup>10077</sup> He fled along with his pregnant wife and three of his brothers.<sup>10078</sup> When they got to Bomaru, at the border of Sierra Leone, there were thousands of refugees from Kenema and the surrounding area trying to cross the Sierra Leone-Liberian border. There were also hundreds of RUF rebels and AFRC soldiers. The refugees were detained, searched and some had property taken away. Sometimes people had to give money before they could cross,<sup>10079</sup> including the witness and his family.<sup>10080</sup>

4517. After the witness and his family crossed the border, they encountered a checkpoint on the Liberian side. There, the Liberian security forces took property from the refugees and demanded money before they could cross. The witness “used” his wife’s pregnancy and crossed with the help of the ICRC. They then got to Vahun. They were in Vahun for a week, during which security forces harassed and intimidated civilians. Civilians were arrested, especially men and young boys and girls, in order to force them to go back to Sierra Leone and fight or be used in any other form that could benefit the security forces. The security forces included the RUF, AFRC, Special Operation Division of the Liberian police (SOD) and other security forces from the Liberian police.<sup>10081</sup>

4518. The witness himself was arrested and detained for the same purpose by SODs, RUF and Liberian security forces. He was taken to the police station in the centre of the town and was held for about an hour. The witness and the other detained persons were then told to go to a meeting. The witness was not told the reason for the meeting. The witness was released from detention but refused to attend the meeting. He and his family left for Kolahun the next day, realizing Vahun was not a safe place.<sup>10082</sup>

4519. When they reached Kolahun they saw thousands of refugees and were discouraged since the refugees in Kolahun told them that there was harassment and violence there. Since

<sup>10077</sup> TF1-590, Transcript 12 June 2008, pp. 11732-11734; Transcript 16 June 2008, pp. 11907-11908.

<sup>10078</sup> TF1-590, Transcript 16 June 2008, p. 11951.

<sup>10079</sup> TF1-590, Transcript 13 June 2008, pp. 11748-11749.

<sup>10080</sup> TF1-590, Transcript 16 June 2008, pp. 11952-11953.

<sup>10081</sup> TF1-590, Transcript 13 June 2008, pp. 11749-11751.

<sup>10082</sup> TF1-590, Transcript 13 June 2008, pp. 11750-11751; Transcript 16 June 2008, pp. 11921-11923.

that was what the witness and his family were running from, they decided immediately to go to Voinjama, and left for Voinjama the same day.<sup>10083</sup>

4520. The witness and his family arrived in Voinjama on 27 February 1998.<sup>10084</sup> There were NGO's and other Sierra Leonean refugees. The witness's family was helped by a Liberian woman who hosted them. They then moved to a house on the other side of Voinjama, in the Mandingo quarter. There were two parts in Voinjama which had both cultural and political differences: on the one side there was the Loma ethnic group, which was comprised of Christians and was mainly in support of the NPFL and the Taylor administration. On the other side there was the Mandingo ethnic group, a Muslim group, which was in support of the former ULIMO and Alhaji Kromah.<sup>10085</sup>

4521. Around two months after he arrived in Voinjama, the witness opened a small kiosk in Voinjama. His business thrived and everybody in the community used it: refugees, civilians, travellers, security forces including the RUF, police, SOD, SSS, ATUs, immigration and custom officers, Liberians. The ATU was a Liberian security force commanded by Chucky Taylor, Charles Taylor's son. The witness was able to distinguish between these groups as they had clear distinct identification features: the SODs wore black overalls, the SSS wore a blue camouflage-like uniform, the "ATUs" wore American-like camouflage, and the immigration and custom officers wore civilian dress. The RUF personnel wore half camouflage, half civilian dress, and would be easily identifiable as they spoke Sierra Leonean tribal languages, such as Mende and Temne.<sup>10086</sup> These security forces would come to the witness' kiosk and discuss the situation in Sierra Leone. The witness would either hear them talking amongst themselves or they would discuss it with him and with other people in the kiosk.

4522. At one point in time an RUF commander named CO Victor, a Sierra Leonean, told the witness that he was there to recruit people to go and train in Gbarnga in Liberia for four weeks and thereafter go to Sierra Leone to fight. Those who signed the contract for this particular mission received \$USD 500 to \$US 1,000. Half of the sum was given to them before they went for training and the rest of the amount was to be given to them after they

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<sup>10083</sup> TF1-590, Transcript 13 June 2008, pp. 11752-11753.

<sup>10084</sup> TF1-590, Transcript 13 June 2008, p. 11758.

<sup>10085</sup> TF1-590, Transcript 13 June 2008, pp. 11753-11754; Transcript 16 June 2008, p. 11834.

<sup>10086</sup> TF1-590, Transcript 13 June 2008, pp. 11754-11759; Transcript 16 June 2008, pp. 11953-11956.

have finished the training. Victor told the witness that before they could sign this particular contract they had to meet with Chucky Taylor. At this time, CO Victor was with another Sierra Leonean RUF officer called CO Vandí, and some ATU and SOD members. CO Victor's primary responsibility was to recruit people. The recruitment was done either by encouragement or forcefully. When it was done forcefully, the SOD, the Liberian Police soldiers and the RUF would arrest people and take them to Sierra Leone to fight.<sup>10087</sup>

4523. The witness personally knew people who signed the contract CO Victor had told him about. After these people signed the contract they had money and would come to the witness's kiosk to purchase drinks and cigarettes and would leave some money with their relatives before they would go. After they would leave, the witness never saw them again.<sup>10088</sup> The witness knew about people being forced to go to Sierra Leone from people who visited his kiosk. When people were arrested the word spread to others who were then able to hide until the tension cooled down. Those who refused to go to Sierra Leone were subjected to molestation, looting, beatings, detention. The witness himself was a victim of that "situation" and was subjected to daily intimidation and threats of arrest. This was threatening as arrested people would sometimes never come back. The witness therefore needed to go into hiding at times.<sup>10089</sup>

4524. There were a lot of RUF men in Voinjama. In September 1998, the witness saw General Mosquito, the leader of the RUF at the time, coming to Voinjama. Mosquito came from Sierra Leone and went through Voinjama on his way to Monrovia. Two weeks later, Mosquito returned to Voinjama with a convoy. The convoy included Chucky Taylor and an aide to President Charles Taylor, who was a special protocol officer named Campare, a Gambian.<sup>10090</sup> The convoy also included two Arab men and some ATU, SSS, some members of the AFRC and the RUF.<sup>10091</sup> These security men were in Voinjama mainly in order to recruit people to undergo commando training in Gbarnga and then go to Sierra Leone. RUF members in Voinjama were in "good numbers". They had big guns on their vehicles and carried small rifles.<sup>10092</sup> The witness saw Mosquito, Chucky Taylor, Campare and others on

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<sup>10087</sup> TF1-590, Transcript 13 June 2008, pp. 11759-11763; 11766-11768.

<sup>10088</sup> TF1-590, Transcript 13 June 2008, pp. 11766-11768.

<sup>10089</sup> TF1-590, Transcript 13 June 2008, pp. 11768-11771; 11775-11776.

<sup>10090</sup> TF1-590, Transcript 13 June 2008, p. 11789.

<sup>10091</sup> TF1-590, Transcript 13 June 2008, pp. 11763-11766.

<sup>10092</sup> TF1-590, Transcript 16 June 2008, p. 11833.

their last day in Voinjama after they had spent one to two weeks there. They were walking down the road, close to the witness' kiosk. Mosquito talked with some Sierra Leonean people. The convoy then drove towards Sierra Leone.<sup>10093</sup>

4525. In February 1999, security forces came to the witness' kiosk to arrest the witness, but he was not there. His kiosk was then looted and the witness' brother who was in the kiosk was arrested by "the regular police in Liberia". The brother was taken to the police station. The witness' wife came to where the witness was staying, told him that his brother was arrested and that he should not go home or to his kiosk as there were "securities" there. The witness and his wife then asked the help of the woman who hosted them in the beginning in Voinjama. She contacted her uncle and they went to the police station. They negotiated with the police officer to release the witness' brother, but the police would not release the brother unless the witness surrendered himself. The witness knew he could not surrender himself as he would be forced to go and fight in Sierra Leone. They managed to release the witness' brother by paying the police off. His brother then left for Monrovia while the witness left Voinjama and went to the refugee camp in Kolahun which was safer. They were in refugee Camp 2 in Kolahun, and the witness was registered as a refugee with the UNHCR. The refugee camp was safer since, as the witness understood, it was "established" to the "Liberian security" that the refugee camp should be respected. The "Liberian security" therefore never went to the refugee camp to arrest people openly.<sup>10094</sup>

4526. In April 1999, fighting broke out in Voinjama while the witness was in Kolahun. The witness did not know who the attackers were. The attack was repelled by security forces in Liberia with "some RUF". The witness knew RUF forces were involved because he was told as much by his wife when he met up with his family after the attack. He saw RUF soldiers at the checkpoints alongside the security forces.<sup>10095</sup> The witness then went to Voinjama since his wife was there. They then decided to flee for Monrovia. There were thousands of people fleeing from Voinjama. The following morning, they headed to the Monrovia Highway towards Gbarnga. They reached a checkpoint at St Paul River Bridge on 18 April 1999. At the checkpoint, the men were separated from women, children under the age of 10 and elderly people. Some of the men who were detained at the checkpoint were taken behind the

<sup>10093</sup> TF1-590, Transcript 13 June 2008, p. 11768.

<sup>10094</sup> TF1-590, Transcript 13 June 2008, pp. 11776-11779; Transcript 17 June 2008, p. 11884.

<sup>10095</sup> TF1-590, Transcript 16 June 2008, p. 11833; Transcript 16 June 2008, pp. 11941-11942.

Military Police office. The security forces then asked the men to be a part of the fight they were engaged in. Refusing would be the equivalent of opposing. Those who refused to return to Voinjama were set aside.<sup>10096</sup>

4527. The witness was in the group of men who refused to take part in the fighting, along with more than 50 other men. After some time, three range rovers and one SUV jeep arrived with Chucky Taylor and the Demon Forces. Chucky Taylor was angry. He stood in front of the group and said that he had heard that there were “rebels and Kamajors” in the group. Chucky Taylor said that those who were rebels or Kamajors should come forward. There was no movement in the group. Chucky then pointed at 4 people, shot each of them in the head and killed them all. Chucky’s men took the bodies to the St Paul River and beheaded them. The heads were hung on the checkpoints. One of the heads was placed on one of the cars.<sup>10097</sup>

4528. The witness was then taken to Gbatala base in Monrovia where he was severely tortured for 5 days by ATU members commanded by Chucky Taylor. The group including the witness initially comprised of 10 to 15 men, but decreased as several men were brutally killed.<sup>10098</sup>

4529. After his second attempt to escape, the witness was caught by a group of ATU members. The witness and another man were brought back to the camp where Chucky and Campare were. Campare wanted to kill the witness and the other man. The two were then heavily tortured.<sup>10099</sup> There was another soldier present who had received a message from the Papay, Charles Taylor. The soldier said that Charles Taylor wanted to see the men. A third man was then brought and the three men were tortured again. The three men were then tied up in a painful manner called “tie-bay”, blindfolded with a hood and loaded onto jeeps.<sup>10100</sup>

<sup>10096</sup> TF1-590, Transcript 13 June 2008, pp. 11780-11782; Transcript 16 June 2008, pp. 11962-11963.

<sup>10097</sup> TF1-590, Transcript 13 June 2008, pp. 11782-11785; Transcript 16 June 2008, pp. 11962-11963.

<sup>10098</sup> TF1-590, Transcript 13 June 2008, pp. 11785-11787; Transcript 16 June 2008, pp. 11963-11966; Transcript 17 June 2008, pp. 11984-11987.

<sup>10099</sup> TF1-590, Transcript 13 June 2008, pp. 11809-11810.

<sup>10100</sup> TF1-590, Transcript 13 June 2008, pp. 11813-11814; Transcript 16 June 2008, pp. 11836-11839.

4530. The “ATUs” took the three men to Monrovia in the evening and they arrived in Monrovia around midnight.<sup>10101</sup> They were taken directly to Charles Taylor’s compound in Congo Town.<sup>10102</sup> By this time, the witness’s hood had fallen off and he was able to see his surroundings. After some time, Charles Taylor emerged with 4 to 5 officials.<sup>10103</sup> Charles Taylor was dressed casually when the witness first saw him, in “like pyjamas or something not officially dressed”. The witness and the two other men were naked.<sup>10104</sup>

4531. When Charles Taylor came, he told an ATU member to remove the sellotape from the mouths of the three men. Charles Taylor asked if these were the guys “who refused to go to their country and fight when they were most needed”. The prisoners said nothing. Charles Taylor then asked if they were Kamajors sent to overthrow his government. The witness tried to reply that he was not but was beaten by a bodyguard when trying to speak. All three said they were Sierra Leonean registered refugees and they did not know anything about what Charles Taylor was asking.<sup>10105</sup> The witness explained that Kamajors were members of a militia group in Sierra Leone and were not in Liberia. The accusation of being a rebel or a Kamajor was used to justify arrest and punishment for refusing to comply with security forces’ orders.<sup>10106</sup>

4532. Charles Taylor then said that if they refused to tell the truth they would be taken to the beach and beheaded. Then Daniel Chea, the Liberian Defence Minister, said that the prisoners should not be killed but should rather be used to get information from them. The Defence Minister said that if the prisoners were to be killed, they should have been killed where they came from.<sup>10107</sup> The witness and the two other prisoners were taken to Barclay Training Centre (BTC), the AFL’s headquarters, a military barracks in Monrovia.<sup>10108</sup> The three men were eventually released by the UNHCR from the BTC on 20 May 1999. The witness has still not fully recovered from his injuries.<sup>10109</sup>

<sup>10101</sup> TF1-590, Transcript 13 June 2008, pp. 11819-11820.

<sup>10102</sup> The witness only learned that this was Taylor’s compound later when he was at Barclay Training Centre, the headquarters of the AFL, a military barracks/garrison in Monrovia.

<sup>10103</sup> TF1-590, Transcript 13 June 2008, pp. 11814-11815.

<sup>10104</sup> TF1-590, Transcript 16 June 2008, pp. 11839-11840.

<sup>10105</sup> TF1-590, Transcript 13 June 2008, pp. 11815-11816; Transcript 16 June 2008, p. 11838.

<sup>10106</sup> TF1-590, Transcript 16 June 2008, pp. 11836-11838, 11840.

<sup>10107</sup> TF1-590, Transcript 13 June 2008, pp. 11816-11817.

<sup>10108</sup> TF1-590, Transcript 13 June 2008, p. 11817; Transcript 17 June 2008, pp. 11987.-11991.

<sup>10109</sup> TF1-590, Transcript 16 June 2008, pp. 11841-11846, 11857-11862, 11864-11865. The witness produced



4533. The witness stated that he was targeted because he repeatedly refused the order to go to be trained in Gbarnga in the past.<sup>10110</sup>

4534. On cross-examination the witness acknowledged that he had spoken to United States prosecutors for proceedings against Chucky Taylor in Miami.<sup>10111</sup>

4535. On cross-examination the witness was asked to describe Charles Taylor's compound. The witness stated that the house was fenced and there were "securities" all around, but he could not describe the building or a fountain which was located in the compound. The witness explained that while sitting in the jeep within the compound he was being beaten and was not observing his surroundings.<sup>10112</sup>

4536. On re-examination the witness explained that while he was in Charles Taylor's compound in Monrovia he concentrated on whether or not he would live. When Charles Taylor came, the witness was directed to look at Taylor. They were looking at him when he was speaking.<sup>10113</sup>

#### The Accused

4537. In relation to the testimony of TF1-362, the Accused testified that there was no fighting on the border between Gbarnga and Sierra Leone in 1998 and therefore this evidence is a fabrication.<sup>10114</sup> The Accused denied that he sent the 62 SLA men to be trained and questioned why trained men from the Sierra Leonean army would need to be trained.<sup>10115</sup>

4538. The Accused said he was not aware that members of the SLA were entering Liberia from Guinea following the ECOMOG Intervention in February 1998. He argued that people came in and out of Liberia all the time. He argued that if they came from Guinea they were

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a photograph taken at a refugee camp following his release showing markings to his arms (Exhibit P-141 (confidential)).

<sup>10110</sup> TF1-590, Transcript 16 June 2008, p. 11967.

<sup>10111</sup> TF1-590, Transcript 16 June 2008, p. 11866-11907, 11933-11937; Transcript 17 June 2008, pp. 11997-12001.

<sup>10112</sup> TF1-590, Transcript 17 June 2008, pp. 11980-11984.

<sup>10113</sup> TF1-590, Transcript 17 June 2008, pp. 12028-12030.

<sup>10114</sup> Charles Ghankay Taylor, Transcript 6 August 2009, p. 26219.

<sup>10115</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29064-29065.

not armed, and as ordinary civilians Liberian security personnel would not stop them.<sup>10116</sup>  
The Accused further stated that he did not know that the Guineans were arresting SLA and that it was not public knowledge.<sup>10117</sup>

4539. The Accused denied that he organized, armed and sent SLAs to Mosquito, or that he sent men to Sierra Leone prior to the attack on Kono. He denied using SLAs as mercenaries, saying that he did not even know that SLAs were in Liberia.<sup>10118</sup>

4540. The Accused agreed that a meeting took place in August 1999 at the Executive Mansion with members of the AFRC, his Defence Minister and his aide-de-camp, Momo Dgiba. He could not recall, but did not dispute, that Alimamy Bobson Sesay attended the meeting.<sup>10119</sup> The Accused questioned why would he tell a delegation a week after he met Johnny Paul Koroma that he had helped the AFRC, as Johnny Paul Koroma would have known of any assistance given to the AFRC by the Accused and would have thanked him. The Accused said at this point in time the AFRC and the RUF were not working together and that he asked the delegation how the dispute between the AFRC and the RUF could be resolved. The Accused stated that this was an official meeting for which the delegation was flown to Liberia by ECOMOG and the UN on a plane which included Tejan Kabbah's protocol officer. He argued that he would not have said that he helped the AFRC in an official meeting. All he said was that the RUF and the AFRC needed to stay together. The Accused asserted that at this meeting he offered to help the AFRC in the political process. That is why he was able to negotiate a position for Koroma and a position for the SLA. The Accused further asserted that he did not do it alone, that Kabbah and Eyadema, ECOWAS' chairman, were involved, and that it was done with the knowledge of the United Nations. He re-asserted that it was a known "situation"- freeing the UN personnel, removing Koroma "from the bush", bringing him to Monrovia, bringing "these boys" from Okra Hills to Monrovia, setting the peace so by the time Foday Sankoh got to Monrovia in September, Taylor had brought them together, and got them all back into Freetown in order to implement the Lomé peace agreement. There was nothing unofficial.<sup>10120</sup>

<sup>10116</sup> Charles Ghankay Taylor, Transcript 30 September 2009, pp. 30002-30003.

<sup>10117</sup> Charles Ghankay Taylor, Transcript 30 September 2009, p. 30004.

<sup>10118</sup> Charles Ghankay Taylor, Transcript 30 September 2009, pp. 30002, 30004-30006.

<sup>10119</sup> Charles Ghankay Taylor, Transcript 30 September 2009, p. 30026.

<sup>10120</sup> Charles Ghankay Taylor, Transcript 30 September 2009, pp. 30017-30020, 30022-30025.

4541. In regard to the testimony of TF1-590, the Accused denied sending a message asking to see the witness, and stated that he never knew whether an individual was arrested unless it was a national security issue.<sup>10121</sup>

4542. The Accused denied that TF1-590 and the two captured men were brought to see him and denied saying that they should be killed, stating that had he given such an order those men would have been killed and his order would not have been overridden by an “ordinary” security man.<sup>10122</sup> The Accused stated that it was incomprehensible that a prisoner would be beaten in front of him, and said that he is cultured enough not to come outside in his pyjamas.<sup>10123</sup> The Accused also noted TF1-590’s inability to describe his house where the meeting allegedly occurred.<sup>10124</sup>

#### Defence Witness Issa Sesay

4543. Witness Issa Sesay testified that during the ECOMOG and Kamajor attack on Daru most of the SLAs crossed over to Liberia. They started crossing over even after the start of the Intervention in Kenema, but the last group crossed over after the fall of Daru, around February/March 1998. Around September 1998, Sam Bockarie sent a radio message to Bomaru asking that Foday Kallon report to Buedu. Kallon passed through Pendembu where Sesay was based and told Sesay that Bockarie had invited him. Kallon went to Buedu, where Bockarie sent him to go to Liberia and invite SLAs who were based in Vahun, Kolahun and Foya to return to Sierra Leone. Kallon brought 15 to 20 SLAs from Vahun to Nomaru and they met Sesay in Pendembu. After Sesay informed Bockarie that the men had arrived, Bockarie instructed Sesay to send the 15 to 20 SLAs to two weeks of training at Bunumbu. After their training, the men came back to Pendembu. Two of the men stayed in Pendembu, while Sesay deployed the others in Kuiva, Mobai and Baiima.<sup>10125</sup>

<sup>10121</sup> Charles Ghankay Taylor, Transcript 3 November 2009, pp. 30959-30961.

<sup>10122</sup> Charles Ghankay Taylor, Transcript 3 November 2009, pp. 30961-30963.

<sup>10123</sup> Charles Ghankay Taylor, Transcript 3 November 2009, pp. 30964-30965.

<sup>10124</sup> Charles Ghankay Taylor, Transcript 3 November 2009, p. 30962.

<sup>10125</sup> Issa Sesay, Transcript 30 July 2010, pp. 45170-45172 (PS); Issa Sesay, Transcript 19 August 2010, pp. 46685-46686.

4544. According to Sesay, Bockarie ordered that the men be trained since they were in Liberia from March until September while not taking part in combat. They therefore needed to first be trained before being sent to the front lines.<sup>10126</sup>

4545. Sesay called TF1-362's account that he told Pearson that Bockarie said Taylor told him to train the 62 SLAs to open the border between Sierra Leone and Liberia "a black lie", as far as what he heard. There was no war in Liberia in 1998. There was therefore no need to fight in Liberia in order to open the border. Sesay himself went to Monrovia in April 1998 with a civilian vehicle.<sup>10127</sup>

4546. When describing what led to the death of Colonel Foday Kallon, a former SLA, Sesay stated that around mid-1998, Bockarie invited Kallon to Buedu. Kallon passed through Pendembu where he met Sesay and told Sesay he was going to meet Sam Bockarie, after he received a message that Bockarie wanted to see him. Kallon then continued on to Buedu and met Bockarie. Bockarie told Kallon to go to Liberia, to Kolahun, Vahun and the surrounding areas, and try to assemble the SLAs who had crossed to Liberia in February/March 1998 "for them to come back". Kallon crossed to Liberia and went to Kolahun and Vahun. He brought with him 15 SLAs or more and came to Pendembu. Kallon told Sesay to inform Bockarie that he had fulfilled the mission Bockarie had given him. Sesay then sent a message to Bockarie who instructed Sesay to send the soldiers to the training base, "to go and exercise" before being sent to the front lines. Bockarie then called Kallon to come to Buedu. Kallon went to Buedu and returned to Baiwala through Pendembu, where he met Sesay around September. Around November, before Bockarie "went on a trip" Bockarie called Kallon again. Kallon went through Pendembu, where Sesay saw him, and continued to Buedu. Bockarie told Kallon to go to Liberia again, and so Kallon went. Bockarie then went on a trip to Monrovia. While in Monrovia on the way to Burkina Faso, in early December, Bockarie sent Sesay a message that Kallon should be arrested when he returned to Sierra Leone until Bockarie returned. When Kallon came, he said he was unable to "get men this time". When Sesay told Kallon that he had received orders to arrest him and asked Kallon what he had done, Kallon said that he did not know. Sesay did not arrest Kallon as Kallon was Sesay's wife's uncle, but he told him to stay in Buedu until Bockarie returned, and Kallon agreed. Kallon stayed in Buedu for about a week until

<sup>10126</sup> Issa Sesay, Transcript 30 July 2010, pp. 45171-45172 (PS).

<sup>10127</sup> Issa Sesay, Transcript 30 July 2010, pp. 45173-45174 (PS).

Bockarie returned. When Bockarie returned he said that bodyguards such as Junior Vandi and one of Bockarie's bodyguards had told him, Bockarie, that Kallon had gone to the Sierra Leonean embassy<sup>10128</sup> which meant that Kallon was collaborating with the SLPP. Bockarie then took his pistol and shot Kallon to death.<sup>10129</sup> Sesay did not know why Junior Vandi was at the Sierra Leonean embassy, but surmised they were there as civilians rather than RUF members to avoid detection. They may have been visiting some fellow Mende tribesmen who were working there. Sesay did not know whether the information that Kallon was seen at the embassy was given to Bockarie by Liberian intelligence.<sup>10130</sup>

4547. On cross-examination Sesay said that Kallon, a Sierra Leonean, was successful in recruiting SLAs who were in Vahun and a few who were in Foya, in Liberia, to return to Sierra Leone. Kallon went to Liberia two times. The first time he brought 15 to 20 SLAs. Sesay did not know how Kallon convinced them to return to Sierra Leone. Sesay did not hear about Liberian securities arresting them or Kallon. Sesay could not recall whether Kallon brought men with him during the second time, when Bockarie instructed Sesay to arrest Kallon. Kallon was not sent to Monrovia but Sesay later learned from Bockarie that Kallon had gone to Monrovia and that someone saw Kallon at the Sierra Leonean embassy.<sup>10131</sup> In the RUF trial, Sesay had said that on the second occasion Kallon brought 7 men with him.<sup>10132</sup>

4548. Bockarie did not "do anything" to Junior Vandi. Junior Vandi was Sankoh's bodyguard, who was with Bockarie. Junior Vandi and another of Bockarie's bodyguards saw Kallon at the embassy. Bockarie did not do anything to them since they were the ones who gave Bockarie the information.<sup>10133</sup>

4549. Sesay confirmed that Captain Bakarr was an SLA officer who was brought back by Kallon. He stated that he left Bakarr in Buedu when he went to Kono. Bakarr was at Daru Barracks throughout the war. Sesay was asked where Bakarr was in 1998 and 1999. He replied that he left him in Pendembu when he went to Kono. Sesay escaped the attack on

<sup>10128</sup> The witness initially testified that it was the American Embassy but corrected himself (Issa Sesay, Transcript 6 August 2010, pp. 45633-45634).

<sup>10129</sup> Issa Sesay, Transcript 6 August 2010, pp. 45631-45633.

<sup>10130</sup> Issa Sesay, Transcript 19 August 2010, pp. 46688-46690.

<sup>10131</sup> Issa Sesay, Transcript 19 August 2010, pp. 46685-46686.

<sup>10132</sup> Issa Sesay, Transcript 19 August 2010, pp. 46691-46692.

<sup>10133</sup> Issa Sesay, Transcript 19 August 2010, pp. 46690-46691.

Makeni in April, and on his return from Makeni Bakarr was in Segbwema. Sometime in 1999, Bakarr went to Freetown.<sup>10134</sup>

4550. Sesay understood that the soldiers Kallon brought back to Sierra Leone wanted to return but asked for a “word of confidence” which Kallon gave them. Sesay’s friend, Kantus,<sup>10135</sup> told Sesay after he returned that “business was difficult” in Vahun.<sup>10136</sup>

4551. In re-examination, Sesay explained that Vahun in Liberia is nine miles away from Bomaru in Sierra Leone, that Kolahun is 17 miles from the Sierra Leonean border and that Foya is seven miles from the border. Other than SLAs who fled to Liberia, thousands of Sierra Leonean civilian refugees lived in Vahun, while hundreds of thousands of Sierra Leonean civilian refugees were in Kolahun. Civilians fled to Liberia through Kailahun and Bomaru during the Intervention. Civilians fled from Kenema, “from around Tongo”, Segbwema, Mano Junction, “up to Daru” and its surroundings. Those thousands of people were allowed access to Liberia as refugees. Refugee camps were set up in Vahun and Kolahun. Sesay stated that after the Lomé Accord “the Liberians” allowed the refugees to return to Sierra Leone. Sesay then agreed that the Sierra Leonean refugees along the Sierra Leone-Liberian border could go easily in and out of Sierra Leone. There was a trade taking place at the border where civilians met the refugees and traded with them.<sup>10137</sup>

#### Defence Witness Sam Kolley

4552. Witness Sam Kolley confirmed that Captain Bakarr was one of the SLAs brought back from Liberia to rejoin the AFRC/RUF forces but could not recall who brought him back. He only knew that Bakarr tried to bring people into Sierra Leone.<sup>10138</sup>

#### Deliberations

4553. The Prosecution submits that the Accused reorganised, armed and sent former SLA soldiers who fled to Liberia back to Sierra Leone to fight, as well as forcing Sierra Leonean

<sup>10134</sup> Issa Sesay, Transcript 19 August 2010, p. 46693.

<sup>10135</sup> Issa Sesay, Transcript 19 August 2010, p. 46686.

<sup>10136</sup> Issa Sesay, Transcript 19 August 2010, p. 46693.

<sup>10137</sup> Issa Sesay, Transcript 26 August 2010, pp. 47255-47258.

<sup>10138</sup> Sam Kolley, Transcript 4 November 2010, pp. 48792-48793.

civilians residing in Liberia, including refugees, to return to Sierra Leone to fight.<sup>10139</sup> The Trial Chamber will first address the allegation as it relates to SLA soldiers.

4554. The prosecution primarily relies on the testimonies of TF1-362 and Alimamy Bobson Sesay. The Trial Chamber recalls its findings that TF1-362 and Alimamy Bobson Sesay are generally credible witnesses.<sup>10140</sup>

4555. Prosecution witness Alimamy Bobson Sesay gave evidence that when he met with the Accused in around August 1999 the Accused told him that he had given safe passage to SLA members after the Intervention, ordered that they be reorganized, and armed and sent them to Bockarie (a.k.a. Mosquito) in Kailahun in order to support the advance towards Freetown.<sup>10141</sup> Bobson Sesay did not mention in one of his prior statements that the Accused sent the former SLA soldiers back to Sierra Leone, or that they were sent to support the advance towards Freetown, but the Trial Chamber accepts his explanation that he answered questions as they were posed and that the investigator did not ask him to elaborate on this matter at the time of that statement. The Trial Chamber notes that he did mention his meeting with the Accused.<sup>10142</sup>

4556. In addition to this evidence that the Accused later told him he had sent SLA soldiers back to Sierra Leone to fight, Bobson Sesay also testified that after the Freetown invasion he met one of these soldiers, who was part of the group of men sent by Taylor. The former SLA soldier named KBC arrived with a group of 8 men in Newton in March/April 1999: four "SLAs" including himself, two RUF SBUs, and two RUF members. KBC told Bobson Sesay that the group had fled to Liberia after the ECOMOG Intervention, and that Charles Taylor had called them, organized, armed and sent them to Bockarie (a.k.a. Mosquito) in Kailahun to reinforce the advance towards Freetown.<sup>10143</sup> They arrived before the attack on Kono.

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<sup>10139</sup> Prosecution Final Trial Brief, paras 3, 190, 286, 327.

<sup>10140</sup> Credibility Assessment, TF1-362, paras 244-253; Credibility Assessment, Alimamy Bobson Sesay, paras 285-289.

<sup>10141</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8496, 8503-8504, 8509-8515.

<sup>10142</sup> Alimamy Bobson Sesay, Transcript 25 April 2008, pp. 8586-8589, 8596-8597, 8601.

<sup>10143</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8404.

4557. The Accused denied that he regrouped, armed and sent former SLA members back to Sierra Leone to fight.<sup>10144</sup> He maintained that he would not have admitted to doing so in an official meeting known to the international community.<sup>10145</sup> Bobson Sesay acknowledged that the meeting was an official meeting, coordinated by the governments of Sierra Leone and Liberia, and that during the meeting Taylor said he hoped peace between the RUF and the AFRC could be achieved.<sup>10146</sup> The Trial Chamber does not find this argument of the Accused convincing. The fact that it was an official meeting is not dispositive of whether or not Taylor mentioned in the meeting his sending former SLA soldiers to fight in Sierra Leone. The Trial Chamber considers that it is not only plausible but even likely that while trying to mend the rift between the AFRC and the RUF in a meeting with an AFRC delegation, the Accused would have recalled to the delegation that he had supported their attempt to overthrow the Government of Tejan Kabbah in Freetown.

4558. Bobson Sesay testified that the group sent by the Accused came together with Captain Hindolo Trye.<sup>10147</sup> This evidence is supported by the testimony of Prosecution witness TF1-539, who testified that after he met the Accused at the Accused's residence, the witness ran into Foday Kallon in Monrovia. Kallon told the witness that Bockarie (a.k.a. Mosquito) had appointed him, Captain Bakarr and Captain Hindolo to mobilize men who were interested to go and fight in Sierra Leone.<sup>10148</sup> The Trial Chamber also notes that Bakarr, mentioned by TF1-539, was also named by Defence witness Sam Kolleh, who confirmed in his testimony that Bakarr was responsible for bringing men back to Sierra Leone.<sup>10149</sup>

4559. The Trial Chamber notes that TF1-539 recalls its finding that TF1-539's evidence requires corroboration,<sup>10150</sup> and notes that he was confused with regard to the timing of when he met Foday Kallon in Monrovia. He stated that he met Kallon before going on a trip to Burkina Faso, and gave different time periods for the trip to Burkina Faso in his direct,<sup>10151</sup>

<sup>10144</sup> Charles Ghankay Taylor, Transcript 30 September 2009, pp. 30002, 30004-30006.

<sup>10145</sup> Charles Ghankay Taylor, Transcript 30 September 2009, pp. 30022-30025.

<sup>10146</sup> Alimamy Bobson Sesay, Transcript 25 April 2008, pp. 8593-8596.

<sup>10147</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8402-8405; Transcript 24 April 2008, pp. 8436-8437.

<sup>10148</sup> TF1-539, Transcript 10 June 2008, p. 11473.

<sup>10149</sup> Issa Sesay, Transcript 19 August 2010, p. 46693; Sam Kolleh, Transcript 4 November 2010, pp. 48792-48793.

<sup>10150</sup> Credibility Assessment, TF1-539 paras 296-303.

<sup>10151</sup> TF1-539, Transcript 10 June 2008, pp. 11403-11405; Transcript 11 June 2008, p. 11509.



cross,<sup>10152</sup> and re-examination.<sup>10153</sup> The Trial Chamber notes that TF1-539 conceded that he had a problem with remembering dates,<sup>10154</sup> but the witness's testimony that he met Foday Kallon in Monrovia in late 1998 is consistent with the testimonies of Alimamy Bobson Sesay and Issa Sesay.

4560. TF1-539 testified that when he met Foday Kallon in Monrovia, he asked Kallon to go to the American embassy or ECOMOG and inquire whether the witness could seek refuge there, as Joseph Marzah, who was accompanying him, was a dangerous man and suspected the witness of being a spy.<sup>10155</sup> The Trial Chamber notes that this testimony is consistent and accords with the testimony of Defence witness Issa Sesay, who described the killing of Foday Kallon upon Kallon's return to Sierra Leone from the assignment given to him by Bockarie to bring back men to Sierra Leone from Liberia as related to the fact that, according to Sesay, Bockarie killed Kallon after he was told by bodyguards that Kallon was seen at the Sierra Leonean embassy in Monrovia, and Bockarie therefore suspected him of being a traitor. According to TF1-539, Marzah suspected him of being a spy, and he had asked Kallon to help him find refuge. Subsequently, according to Issa Sesay, Kallon was suspected of being a spy and killed for this reason.

4561. Issa Sesay stated that Bockarie returned from his trip a week after Foday Kallon returned from Liberia.<sup>10156</sup> The Trial Chamber has found that Bockarie returned from Burkina Faso at the end of November/early December 1998.<sup>10157</sup> This evidence supports the account of Alimamy Bobson Sesay that the group of SLA men sent by the Accused for the advance towards Freetown arrived in Kailahun during the preparations to attack Kono, which occurred in or around mid-December 1998.

4562. Based on the direct evidence of Bobson Sesay that the Accused sent former SLA soldiers to support the advance towards Freetown, his evidence from one of these soldiers that the group of men arrived with Hindolo Trye in Kailahun prior to the attack on Kono which occurred in or around mid-December 1998, the evidence of TF1-539 that Foday Kallon was in Monrovia with Captain Hindolo to mobilize men back to Sierra Leone, and

<sup>10152</sup> TF1-539, Transcript 12 June 2008, pp. 11690, 11697.

<sup>10153</sup> TF1-539, Transcript 12 June 2008, pp. 11720, 11722.

<sup>10154</sup> TF1-539, Transcript 11 June 2008, pp. 11555-11556.

<sup>10155</sup> TF1-539, Transcript 10 June 2008, pp. 11472-11473.

<sup>10156</sup> Issa Sesay, Transcript 19 August 2010, pp. 46690-46691.

the evidence of Issa Sesay that Foday Kallon was seen in Monrovia in around late November/early December 1998, the Trial Chamber finds that the men brought by Foday Kallon were sent by the Accused, and arrived in Kailahun in or around late November 1998.

4563. Bobson Sesay testified that KBC said that the group of SLA men sent by Taylor included “many”,<sup>10158</sup> and was “a strong manpower”.<sup>10159</sup> He told Bobson Sesay that the group of men was unable to reach Freetown and did not participate in the Freetown attack since they were “delayed” during the advance towards Freetown by ECOMOG attacks. KBC told the witness that they participated in the attack on Kono, and that some of the men were then deployed in Kono and Makeni for any counter attack by ECOMOG forces.<sup>10160</sup>

4564. While the Trial Chamber accepts the evidence of Alimamy Bobson Sesay that the SLA men sent by Taylor participated in the attacks on Kono, the Trial Chamber is unable to consider the impact this group of men had on the commission of crimes since the testimony of Bobson Sesay is vague with regard to the number of men sent by the Accused, and no evidence was introduced to show that the men sent by the Accused committed crimes.

4565. The Prosecution also submits that the Accused sent 62 former SLA soldiers to be trained at Camp Bunumbu. Prosecution witness TF1-362 testified that following the retreat from Freetown in 1998, Monica Pearson received 62 SLA members from Issa Sesay to be trained at Bunumbu training camp in order for them to fight “in Liberia” to open the border between Sierra Leone and Liberia. First, Pearson was told by Issa Sesay that Bockarie told him that the Accused told Bockarie that the men should be trained in order to “open the border between Gbarnga and Sierra Leone”.<sup>10161</sup> Later on, Bockarie himself told Pearson that Taylor sent the 62 men to Bockarie so that they would be trained to “go and clear the road”.<sup>10162</sup> The Trial Chamber heard evidence showing that a platoon is comprised of 62 soldiers.<sup>10163</sup>

<sup>10157</sup> Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Burkina Faso Shipment.

<sup>10158</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8400-8404; Transcript 29 April 2008, p. 8795; Transcript 23 April 2008, pp. 8402-8405; Transcript 24 April 2008, pp. 8436-8437.

<sup>10159</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8797-8800.

<sup>10160</sup> Alimamy Bobson Sesay, Transcript 29 April 2008, pp. 8796-8797.

<sup>10161</sup> TF1-362, Transcript 27 February 2008, pp. 4895-4896 (CS).

<sup>10162</sup> TF1-362, Transcript 27 February 2008, p. 4898 (CS).

<sup>10163</sup> TF1-362, Transcript 3 March 2008, pp. 5091-5094 (CS).

<sup>10163</sup> TF1-375 Transcript 24 June 2008, p. 12573; TF1-371, Transcript 24 January 2008, pp. 2192, 2195 (CS);

4566. In a prior statement TF1-362 stated that it was Bockarie who told Pearson that Taylor said the 62 SLAs should be trained at Bunumbu training camp, not Sesay. The Trial Chamber accepts the explanation of the witness with regard to the circumstances in which the conversation took place, with the result that Pearson ultimately received the information from both Sesay and Bockarie.

4567. The Accused denied sending the men to be trained in order to open the border between Gbarnga and Sierra Leone,<sup>10164</sup> and questioned why trained men from the Sierra Leonean army would need to be trained.<sup>10165</sup> The Trial Chamber notes that TF1-362 testified that the men needed to undertake guerrilla-fighting training as they had never fought in “the bush”,<sup>10166</sup> and accepts this explanation.

4568. Issa Sesay testified that Bockarie told him to send 15 to 20 SLA members who were brought from Liberia by Foday Kallon to be trained at Bunumbu training camp but denied that Bockarie told him that the men had been sent by Taylor.<sup>10167</sup> The Trial Chamber notes that Sesay gave three accounts as to the timing of this event in his testimony. During his examination in chief Sesay first said that Foday Kallon brought 15 to 20 SLA members who fled to Liberia in September 1998, and that these men were sent to be trained at Bunumbu. Sesay then said that “(a)round September 1998 ... starting from March to September” Bockarie sent Foday Kallon to Liberia to bring back AFRC members and that Kallon then brought 15 to 20 men from Liberia who were sent to be trained at Bunumbu.<sup>10168</sup> Later on in his examination in chief, Sesay said that Bockarie sent Foday Kallon in mid-1998 to Liberia to bring back former SLA members and that Kallon came back with 15 men whom he sent on Bockarie’s orders to be trained before sending them to the front lines.

4569. In this last account, Sesay noted that around September, Foday Kallon went to Baiwala and was there until November when Bockarie sent Kallon again to Liberia to recruit SLA men there. When Kallon returned from this second mission he told Sesay that he was

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TF1-371, Transcript 25 January 2008, p. 2253 (CS); Albert Saidu, Transcript 4 June 2008, p. 10952; TF1-338, Transcript 1 September 2008, p. 15096; Augustine Mallah, Transcript 12 November 2008, p. 20081; Martin George, Transcript 18 April 2010, p. 40226;

<sup>10164</sup> Charles Ghankay Taylor, Transcript 6 August 2009, p. 26219.

<sup>10165</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29064-29065.

<sup>10166</sup> TF1-362, Transcript 27 February 2008, pp. 4895-4896 (CS).

<sup>10167</sup> Issa Sesay, Transcript 30 July 2010, pp. 45173-45174 (PS).

<sup>10168</sup> Issa Sesay, Transcript 30 July 2010, pp. 45171-45172 (PS).

unable to recruit men at this time.<sup>10169</sup> On cross-examination Sesay agreed that Bockarie wanted to bring back SLA members who fled to Liberia in late 1998 and sent Foday Kallon to bring them back to Sierra Leone and that Kallon then brought 15 to 20 men with him. Sesay then said on cross-examination that Kallon went to Liberia twice to recruit SLA men, that he succeeded in bringing men back to Sierra Leone from his first trip, and that he could not recall whether he succeeded in bringing men back from Liberia the second time.<sup>10170</sup> In his testimony in the RUF case Sesay had stated that Kallon brought 7 men with him the second time.<sup>10171</sup>

4570. The Trial Chamber notes that Sesay confirmed in his testimony that a number of men were brought by Foday Kallon to Bunumbu sometime between March and September 1998 on the first of two trips from Liberia, the second of which was confirmed by several Prosecution witnesses as set forth above. The Trial Chamber accepts the testimony of TF1-362 that 62 men were brought to Bunumbu and notes that the number 62 may not have been an exact number but rather TF1-362's way of referring to a platoon.

4571. Issa Sesay testified that after their training, he deployed the SLA men who had been trained at Bunumbu in Pendembu, Kuiva, Mobai and Baiima.<sup>10172</sup> He denied that the men were sent to fight in order to open the border between Sierra Leone and Liberia, stating that there was no need as the border was open in 1998.<sup>10173</sup> The Trial Chamber notes that TF1-362 testified that the men were to fight "in Liberia" against ULIMO forces that had captured the area between Lofa and Voinjama.<sup>10174</sup> However, no evidence was introduced to show that there was fighting in Liberia in 1998. There is also no evidence that the route of supply from the Accused to the RUF was blocked in 1998, as the Trial Chamber found that there was a flow of supply from the Accused to the AFRC/RUF from around February 1998.<sup>10175</sup>

4572. In light of the foregoing, the Trial Chamber accepts the evidence of TF1-362 that a number of SLA soldiers were sent by Taylor back to Sierra Leone for training at Bunumbu

<sup>10169</sup> Issa Sesay, Transcript 6 August 2010, pp. 45631-45633.

<sup>10170</sup> Issa Sesay, Transcript 19 August 2010, pp. 46683-46685.

<sup>10171</sup> Issa Sesay, Transcript 19 August 2010, pp. 46691-46692.

<sup>10172</sup> Issa Sesay, Transcript 30 July 2010, pp. 45170-45172 (PS).

<sup>10173</sup> Issa Sesay, Transcript 30 July 2010, pp. 45173-45174 (PS).

<sup>10174</sup> TF1-362, Transcript 3 March 2008, pp. 5090-5092 (CS).

<sup>10175</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockarie's Leadership (February 1998-December 1999).

and does not find the denials of the Accused and Issa Sesay credible. However, the Trial Chamber notes that the testimony of TF1-362 that the men were sent to fight in Liberia is not supported by the evidence on record and would not in any event establish any link to crimes committed in Sierra Leone.

4573. With regard to the submission of the Prosecution on the forcible return of civilians, including refugees, to Sierra Leone, Witness TF1-539 mentioned in his testimony that when he met Foday Kallon in Monrovia, Kallon told him that he had gone to “the” refugee camp and was mobilizing men.<sup>10176</sup> The Prosecution relies on TF1-590, who described in his testimony a prolonged period of time in which civilian refugees in Vahun, Voinjama and Kolahun in Liberia were either encouraged or forced by RUF and AFRC men who were in Liberia to go to Sierra Leone and fight. The witness testified that Liberian authorities also helped in the mission of recruiting men, including the Special Operation Division of the Liberian police (SOD), SSS, ATU headed by Chucky Taylor, and immigration and custom officers. TF1-590’s account is based on the information provided to him by men from these forces and by men who agreed to go and be trained before going to fight in Sierra Leone. These men were customers at his kiosk in Voinjama and he identified the Liberian officials and military by their various uniforms. He also described his own experience of being arrested and detained in Vahun and told to go to a meeting in which he was to be forced to go and fight in Sierra Leone, although he escaped and did not attend the meeting, which apparently led to the arrest of his brother and efforts to arrest him.

4574. TF1-590 gave a detailed account of subsequently being tortured in Liberia by ATU members headed by Chucky Taylor when he refused to fight in Voinjama and was taken to meet the Accused at his compound, where the Accused confronted the men for refusing to go and fight in their country and threatened them with beheading.

4575. The Defence cross examined the witness on whether he could describe the area in which Taylor lived, but the witness could not recall details. The Trial Chamber accepts the witness’ explanation that when he was brought to the Accused’s compound he was not in a condition to observe his surroundings as he was naked, handcuffed and severely beaten, therefore concentrating on whether or not he would live.<sup>10177</sup> The Trial also notes that this

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<sup>10176</sup> TF1-539, Transcript 10 June 2008, p. 11473.

<sup>10177</sup> TF1-590, Transcript 17 June 2008, pp. 11980-11984, 12028-12030.

incident occurred at about midnight. In cross-examination TF1-590 also admitted to being a witness in the trial of Chucky Taylor in the United States.<sup>10178</sup> The Trial Chamber does not find that either his failure to recall the details of Taylor's compound or his status as a witness in the trial of Chucky Taylor undermines his credibility. The Trial Chamber found him to be candid, consistent and detailed in his testimony, which the Trial Chamber found credible.

4576. TF1-590 claimed that he was targeted due to his constant refusal to go and be trained to fight in Sierra Leone.<sup>10179</sup> The Trial Chamber notes that he was tortured after he refused to go and fight in Voinjama in Liberia, some time after the pressure he was put under to go fight in Sierra Leone.<sup>10180</sup> Moreover, he himself observed that the accusation of being a rebel or a Kamajor was used to justify arrest and punishment for refusing to do as ordered by security forces.<sup>10181</sup> In light of this evidence, the Trial Chamber cannot find with clarity exactly why he was tortured but accepts his testimony that Liberian government authorities arrested, detained and forced Sierra Leoneans residing in Liberia to return to Sierra Leone to fight.

4577. The Trial Chamber notes that no evidence was introduced to show how many refugees actually went back as a result of the pressures put on them by Liberian officials, whether they participated in any attacks, and if so when and where.

### Findings

4578. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused sent former SLA soldiers to the Bunumbu training camp soon after the Intervention.

4579. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that following their training these former SLA soldiers were used to "open the road" of arms and ammunition between Liberia and Sierra Leone.

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<sup>10178</sup> TF1-590, Transcript 16 June 2008, p. 11866-11907, 11933-11937; TF1-590, Transcript 17 June 2008, pp. 11997-12001.

<sup>10179</sup> TF1-590, Transcript 16 June 2008, p. 11967.

<sup>10180</sup> TF1-590, Transcript 13 June 2008, pp. 11782-11785; TF1-590, Transcript 16 June 2008, pp. 11962-11963.

<sup>10181</sup> TF1-590, Transcript 16 June 2008, p. 11840.

4580. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused reorganized, armed and sent a group of at least four former SLA soldiers who had fled to Liberia back to Sierra Leone to support the attack on Freetown, and that the men arrived in Kailahun on or around late November 1998.

4581. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that at least four former SLA soldiers sent by the Accused participated in the attack on Kono in December 1998 during which crimes listed in the Indictment were committed.

4582. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that Liberian government authorities and RUF/AFRC members recruited and forced civilian refugees residing in Liberia to return to Sierra Leone to fight. However, the evidence did not establish that these civilian refugees participated in attacks in Sierra Leone.

#### 4. Alleged Cooperation in the Return of Deserters to Sierra Leone

##### Submissions of the Parties

4583. The Prosecution submits that the Accused assisted the AFRC/RUF by having his Liberian police capture AFRC/RUF deserters and return them to Sierra Leone. The Prosecution provides two examples with regard to the arrest and detention of Fonti Kanu and Dauda Aruna Fornie. The Prosecution relies on the testimonies of TF1-371, Samuel Kargbo, Augustine Mallah, Dauda Aruna Fornie and Mohamed Kabbah.<sup>10182</sup>

4584. The Defence submits that the Prosecution asks the Trial Chamber to infer that if an action was taken by Liberian security personnel or Liberian forces along the Sierra Leonean border it was done with Taylor's knowledge and that he had intended those actions to be taken. According to the Defence, "such grand inferences are not supportable on the facts".<sup>10183</sup> With regard to the killing of Fonti Kanu the Defence relies on the testimony of Issa Sesay, according to which Kanu was arrested in Sierra Leone and was killed by Mike Lamin.<sup>10184</sup>

<sup>10182</sup> Prosecution Final Trial Brief, para. 285.

<sup>10183</sup> Defence Response to Prosecution Final Trial Brief, para. 48.

<sup>10184</sup> Defence Response to Prosecution Final Trial Brief, para. 49.

EvidenceProsecution Witness TF1-371

4585. Witness TF1-371, an RUF commander, testified that Colonel Fonti Kanu and other SLA officers defected to Foya and Vahun in Liberia after the fall of Daru to ECOMOG in 1998, but returned to Pendembu due to the “refugee situation” in Foya and Vahun. After Kanu returned to Pendembu he was mostly with Issa Sesay.<sup>10185</sup>

4586. Fonti Kanu became dissatisfied with the slow pace of combat activities. He escaped from Pendembu unbeknownst to Issa Sesay and returned to Liberia. After it was reported to Sesay that Fonti Kanu had escaped to a refugee camp in Liberia, Sesay decided to pursue Kanu, arrest him and bring him to Pendembu. This was because Kanu was a security risk as he knew too much about the strength of the RUF. Sesay told Mike Lamin to go along with him to Vahun.<sup>10186</sup>

4587. En route to Vahun, Mike Lamin accidentally shot and injured Issa Sesay’s driver when trying to seek shelter from Alpha jets. Sesay became “annoyed” with Lamin, and ordered the RUF military police to detain Lamin until Sesay returned from Vahun. Sesay then continued to Vahun.<sup>10187</sup> Sesay went to Vahun through Bomaru, where there was a market at the border which most RUF commanders used. The route was open and the access was easy.<sup>10188</sup>

4588. Later on that day, Sesay summoned Lamin to come to his house. When Lamin arrived at the house Kanu was lying on the ground naked in a state of unconsciousness and bruised, as he had been heavily beaten on the way from Vahun to Pendembu by RUF “securities” who accompanied Sesay. Sesay explained to the commanders who were at the house that Liberian “securities” at the border apprehended Fonti Kanu and turned him over to the Liberian armed forces’ captain who was assigned to the border. The captain, who was a friend of Issa Sesay, detained Kanu until Sesay arrived.<sup>10189</sup>

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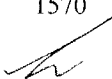
<sup>10185</sup> TF1-371, Transcript 28 January 2008, pp. 2395-2397 (CS).

<sup>10186</sup> TF1-371, Transcript 28 January 2008, p. 2397 (CS).

<sup>10187</sup> TF1-371, Transcript 28 January 2008, pp. 2397-2398 (CS).

<sup>10188</sup> TF1-371, Transcript 28 January 2008, p. 2400 (CS).

<sup>10189</sup> TF1-371, Transcript 28 January 2008, pp. 2398-2400 (CS).





4589. Issa Sesay ordered “his boys” to continue beating Fonti Kanu. Sesay sat on his veranda intoxicated. At one point Sesay started shooting his AK-47 all around, trying to shoot the unconscious Fonti Kanu, which brought some of the commanders to try to disarm Sesay. Sesay fought them and in the end shot Fonti Kanu in his left foot, but Fonti Kanu was already dead.<sup>10190</sup>

Prosecution Witness Samuel Kargbo

4590. Witness Samuel Kargbo, a member of the AFRC,<sup>10191</sup> testified that Lieutenant Colonel Fonti Kanu, who used to be his commander, came with Issa Sesay to Pendembu, where Kargbo was a deputy brigade commander. Sesay told the witness that Fonti Kanu was his uncle. They then returned to Buedu. After some time, Sesay visited Buedu and said that he, Sesay, was going to stay in Pendembu. By then Sesay had given Kanu an “XL motorbike” that he was using.<sup>10192</sup>

4591. Around July/August 1998 the witness was at his house when Sesay’s and Mike Lamin’s bodyguards came and rushed him to go to see Sesay who had summoned him. They went to where Sesay was lodged in Pendembu. There the witness met Sesay, Mike Lamin and some RUF commanders. Fonti Kanu was seated on the ground. Sesay explained to the witness that the Liberian police in Vahun had called him via radio communication to inform him that they had arrested Kanu while Kanu was attempting to surrender himself to UN agencies in Vahun. The Liberian police called Sesay because Sesay used to go “there” with Kanu.<sup>10193</sup> Sesay questioned why SLA commanders, in particular Kanu who had received “privileges” from Sesay, would surrender themselves to the UN. Sesay told the witness that the Liberian police handed Kanu over to him, and thereafter Sesay brought Kanu to the brigade headquarters in Pendembu.<sup>10194</sup>

4592. Sesay asked the witness what he should do with Kanu. Mike Lamin then said that there was nothing else to do other than kill Kanu. Immediately after, Lamin shot Kanu in one of his legs. Sesay then shot Kanu in his other leg. The other soldiers shot Kanu in both

<sup>10190</sup> TF1-371, Transcript 28 January 2008, pp. 2399-2400 (CS).

<sup>10191</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10439, 10448, 10450; Exhibit P-58, “Excerpts from the Sierra Leone Gazette No. 52, 4 September 1997 – 00007703-00007704”, ERN 7703-7704.

<sup>10192</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10551-10552.

<sup>10193</sup> The Trial Chamber understands this to mean that Sesay used to go to Liberia with Fonti Kanu.

<sup>10194</sup> Samuel Kargbo, Transcript 22 Mat 2008, pp. 10552-10555, 10608.

of his arms. Kanu was now helpless and was crying. “They”<sup>10195</sup> ordered the bodyguards to drag Kanu and “finish with him”. They dragged Kanu and shot him while he was on the ground. Kanu then went cold. “He”<sup>10196</sup> then told the bodyguards to go and “discharge” Kanu somewhere. The bodyguards went and threw Kanu’s body into a water-well on the road to Pendembu, close to the Barri. Sesay then said that if “you see me do this to my own family member, my own tribesman, a Temne man, I warn you if anybody dare try it you will not get scot-free”. The witness then went home thinking that they had lost “one strong man”.<sup>10197</sup>

Prosecution Witness Augustine Mallah

4593. Witness Augustine Mallah testified that he heard that Fonti Kanu wanted to escape to Liberia, but Issa Sesay sent men to arrest him. They later heard that Sesay killed Kanu.<sup>10198</sup>

Prosecution Witness Dauda Aruna Fornie

4594. Witness Dauda Aruna Fornie, an RUF radio operator,<sup>10199</sup> testified that after the Lomé Peace Accord, he wrote a letter together with Junior Vandi who was “Lion’s bodyguard”. Vandi gave the letter to Kaliko, one of Sankoh’s bodyguards, asking him to take the letter to Freetown and give it directly to Foday Sankoh. Kaliko showed the letter to different people in Kailahun Town. Information about the letter leaked to some of Mosquito’s bodyguards. The bodyguards immediately arrested Kaliko and took him with the letter to Mosquito. The bodyguards met Junior Vandi, Satellite and others “on the ground” and arrested them as well. During the night of these arrests Fornie was at his house when he heard rumors that Mosquito took the letter which Fornie and Vandi had intended to be sent to Freetown. Fornie therefore escaped that night from Buedu together with T-Boy. The two went through the Liberian border and reached Vahun in Liberia. Fornie did not go to

<sup>10195</sup> The Trial Chamber understands that the witness referred to Mike Lamin and Issa Sesay.

<sup>10196</sup> “They ordered the bodyguards to drag him and to take him somewhere and finish with him and they drag him. The bodyguards opened fire at him whilst he was on the ground and then he went cold. And then he said they should go and discharge of him somewhere”. The Trial Chamber is therefore unable to infer who the witness refers to when he states the word “He”.

<sup>10197</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10553-10554.

<sup>10198</sup> Augustine Mallah, Transcript 17 November 2008, p. 20380.

<sup>10199</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21395; Transcript 2 December 2008, p. 21418.

Pendembu or Kailahun and went straight to Vahun thinking he would feel safe there where Bockarie could not “use his veto” on him.<sup>10200</sup>

4595. When Fornie got to Vahun he sent a message from Vahun’s radio station to Sankoh who was in Freetown about the type of “attitude” Bockarie had developed, and that he had even arrested Junior Vandi and others. Thereafter, Fornie was arrested in Vahun and put in a pit. Mosquito sent an instruction to Vahun’s AFL commander, Captain Tengbeh. Captain Tengbeh then arrested Fornie and provided two armed men who escorted Fornie back to Sierra Leone. A vehicle picked Fornie up from the border and he was taken to Buedu. Bockarie then tortured Fornie and put him in jail, in a dungeon. Bockarie left Fornie in the dungeon when he crossed with his forces into Liberia. Fornie left Buedu before Christmas of 1999, before the year 2000 had arrived.<sup>10201</sup>

4596. On cross-examination Fornie explained that Bockarie imprisoned him in a dungeon because he had written a letter to Sankoh suggesting that the best way to convince Bockarie to disarm and leave Buedu was through Charles Taylor, as Taylor had direct influence over Bockarie.<sup>10202</sup>

Prosecution Witness Mohamed Kabbah

4597. Witness Mohamed Kabbah, an RUF radio operator,<sup>10203</sup> testified on cross-examination that he was arrested in late 1998, put in “a hole” for a week and tortured. The reason the witness did not escape from the RUF was that being in the RUF had become “a stigma”.<sup>10204</sup> The witness explained that if he had gone “to the government side” he would have been accused of being a rebel and they would have killed him. If he had fled to Liberia he would have been “hunted and brought back”, and perhaps would have been killed. If he had gone to Guinea he would not have been safe. He therefore could not have even attempted to escape.<sup>10205</sup>

<sup>10200</sup> Dauda Aruna Fornie, Transcript 8 December 2008, pp. 21629-21630.

<sup>10201</sup> Dauda Aruna Fornie, Transcript 8 December 2008, pp. 21630-21632; Transcript 10 December 2008, pp. 22125-22126.

<sup>10202</sup> Dauda Aruna Fornie, Transcript 8 December 2008, p. 21987; Transcript 11 December 2008, p. 22257.

<sup>10203</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>10204</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16241-16242.

<sup>10205</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16242-16243.

4598. On re-examination the witness explained that if he had gone to Liberia, Sam Bockarie would have either sent a message to the NPFL commanders at the border, to Foya where there was a radio station, saying that a person “has hidden”, or he would have sent “our own brothers” to Liberia so that they would “hunt” Kabbah and bring him back to Koidu, as the commander in Foya might not have recognized him. The RUF and the NPFL worked hand in hand. Therefore, if Kabbah had tried to hide from the RUF by going to the NPFL it would have meant that he had not hidden at all. Kabbah believed this would have happened since as a radio operator he knew “a lot of secrets” and if he would have chosen to hide from the RUF, RUF members would have suspected that he would reveal the secrets he knew about the RUF.<sup>10206</sup>

#### Defence Witness Issa Sesay

4599. Witness Issa Sesay, a senior RUF commander,<sup>10207</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>10208</sup> testified that Fonti Kanu was the commander in Daru before the AFRC and the RUF were pushed out of Daru. Afterwards, Kanu stayed in Kailahun Town, while Sesay, Mike Lamin, and Sam Bockarie were in Buedu. At one point, Kanu was arrested at Nyandahun, Sierra Leone, while trying to escape to Liberia for the first time. He was brought to Kailahun and Bockarie was informed via the radio by Vandi Kosia, the commander in Kailahun. Bockarie then ordered that Kanu be detained. During a visit to Kailahun Town by Sesay, Bockarie and Mike Lamin, Bockarie ordered that Kanu be brought to him. When Kanu was brought to Bockarie, Bockarie expressed his anger that Kanu knew RUF secrets from Burkina Faso and was now trying to escape and inform the SLPP government about RUF activities. Sesay and Colonel Paul pleaded with Bockarie to “forget and forgive” Kanu. Bockarie agreed and released Kanu from custody. Kanu then stayed in Kailahun Town.<sup>10209</sup>

4600. In April 1998, Sesay was posted to Pendembu after losing diamonds.<sup>10210</sup> Kanu asked Sesay to join him in Pendembu and Sesay agreed. In Pendembu Kanu and Sesay had a close relationship. They were from the same tribe and the same district. One night, in October 1998, Kanu left Pendembu and went towards the border without Sesay’s

<sup>10206</sup> Mohamed Kabbah, Transcript 17 September 2008, pp. 16456-16458.

<sup>10207</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>10208</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>10209</sup> Issa Sesay, Transcript 29 July 2010, pp. 45032-45034; Transcript 16 August 2010, pp. 46298-46299.

knowledge. In the morning, the RUF Military Police (MP) at Bomaru in Sierra Leone arrested Kanu. MP Amara sent Sesay a radio message to Pendembu that Kanu was in their custody after they arrested him very early in the morning as he was attempting to cross the border to Liberia. Sam Bockarie's radio operator monitored the message and conveyed it to Bockarie. Bockarie then told Mike Lamin to go to Pendembu and then go to Bomaru to take Kanu from custody. Lamin passed through Pendembu while Sesay was on patrol and went to Bomaru to collect Kanu. Lamin then brought Kanu to Pendembu.<sup>10211</sup>

4601. Sesay returned to Pendembu from his patrol and saw Kanu tied up against a car in front of Sesay's house. Sesay met Lamin who informed him that Bockarie sent him (Lamin). As they were speaking, Bockarie's radio operator contacted Lamin and informed him that Bockarie wished to speak with him. Lamin went to speak with Bockarie, and when he returned to Sesay, he informed him that Bockarie had ordered Lamin to execute Kanu. Lamin then asked his bodyguard for his AK and shot Kanu four times to death.<sup>10212</sup> Bockarie wanted Kanu dead because Kanu knew about the link the RUF had with Burkina Faso, which was top secret, and he was therefore a security threat. Bockarie also had a grudge against Kanu as Kanu was the SLA commander who attacked the RUF in Kailahun before the AFRC coup 1996.<sup>10213</sup>

4602. Sesay stated that he had no authority to arrest Lamin and denied that he was drunk during the incident, arguing instead that it was Lamin who everybody in the RUF knew was a "drunkard", as Lamin once shot his bodyguard for drinking his "cane juice".<sup>10214</sup>

4603. Sesay stated that during this time it was not easy to cross over to Liberia as MPs and guards were deployed there. A person who wanted to cross over to Liberia needed a pass from Sesay or Bockarie. On the Liberian side the Liberian border guards interrogated anyone who wanted to cross over.<sup>10215</sup>

<sup>10210</sup> Diamonds: Loss of Diamonds by Sesay.

<sup>10211</sup> Issa Sesay, Transcript 29 July 2010, pp. 45035-45038; Issa Sesay, Transcript 16 August 2010, pp. 46298-46299, 46303.

<sup>10212</sup> Issa Sesay, Transcript 29 July 2010, pp. 45037-45038; Issa Sesay, Transcript 16 August 2010, p. 46299. On cross examination Sesay said Fonti Kanu was in the vehicle with his hands tied behind his back.

<sup>10213</sup> Issa Sesay, Transcript 16 August 2010, pp. 46299-46300.

<sup>10214</sup> Issa Sesay, Transcript 29 July 2010, pp. 45037-45038 (PS).

<sup>10215</sup> Issa Sesay, Transcript 29 July 2010, p. 45039 (PS).

4604. On cross-examination Sesay disagreed with the proposition that Kanu crossed over to Liberia and was arrested there, asserting that Kanu was arrested in Bomaru in Sierra Leone by the RUF. Sesay explained that Kanu was arrested because he tried crossing the border during the night. During the day civilians used to trade at the border in Bomaru and Vahun, around the border in Folima.<sup>10216</sup>

4605. Sesay denied taking part in the torture and killing of Kanu, asserting it was Mike Lamin who shot Kanu and killed him.<sup>10217</sup>

### Deliberations

4606. The Prosecution submits that security forces subordinate to Taylor assisted the AFRC/RUF by capturing personnel who were trying to escape from the movement. The Prosecution provided two examples to support its submission; the arrest of Fonti Kanu in Liberia by Liberian authorities who turned him over to Issa Sesay, and the arrest and surrender of Dauda Aruna Fornie.<sup>10218</sup> Mohamed Kabbah, also cited by the Prosecution in support of its submission, testified about his own detention in Sierra Leone and what he thought might have happened if he had tried to escape to Liberia.

4607. It is not disputed that Fonti Kanu was captured and then killed in Sierra Leone. The issue disputed is whether he was captured in Liberia and handed over to the RUF by Liberian authorities. Prosecution witness Samuel Kargbo testified that in July/August 1998 he was told by Issa Sesay that the Liberian police in Vahun called Sesay via radio communication and informed Sesay that they had arrested Fonti Kanu as he was attempting to surrender himself to UN agencies in Vahun. Sesay also told Kargbo that the Liberian police handed Kanu over to him.<sup>10219</sup> This evidence is corroborated by Prosecution witness TF1-371 who testified that he was told by Issa Sesay that Liberian securities at the border apprehended Fonti Kanu who escaped from Pendembu to Liberia and turned him over to the Liberian armed forces' captain, who detained Kanu until Sesay arrived.<sup>10220</sup> Prosecution

<sup>10216</sup> Issa Sesay, Transcript 16 August 2010, pp. 46303-46304.

<sup>10217</sup> Issa Sesay, Transcript 16 August 2010, p. 46304.

<sup>10218</sup> Prosecution Final Trial Brief, para. 285.

<sup>10219</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10552-10555, 10608.

<sup>10220</sup> TF1-371, Transcript 28 January 2008, pp. 2398-2400 (CS).

witness Augustine Mallah further corroborates this evidence, stating that he heard that Fonti Kanu tried to escape to Liberia and that Issa Sesay then sent men to arrest Kanu.<sup>10221</sup>

4608. The Defence relies on the testimony of Defence witness Issa Sesay to refute the allegation that Kanu was arrested in Liberia.<sup>10222</sup> Issa Sesay testified that Fonti Kanu was arrested in Bomaru in Sierra Leone by the RUF military police in October 1998 while trying to cross over to Liberia, not in Liberia by the Liberian police.<sup>10223</sup> Sesay also testified that he only saw Kanu after he returned to Pendembu from his day-patrols, and that in Pendembu Kanu was already handcuffed, having been collected from detention by Mike Lamin,<sup>10224</sup> implying that Sesay himself was not involved in Kanu's arrest and detention. However, two Prosecution witnesses, Samuel Kargbo and TF1-371, testified that Sesay told them that he was the one who received Kanu from detention. While Prosecution witness Augustine Mallah testified that he heard that Sesay sent men to arrest Kanu, without mentioning that it was Sesay who went to apprehend Kanu, his testimony does not support Sesay's account that he himself was not involved in Kanu's arrest.

4609. The Trial Chamber notes that Issa Sesay gave a contradictory and implausible explanation as to why Kanu was arrested before crossing over to Liberia. During his examination in chief, Sesay stated that a person who wanted to cross over to Liberia needed a pass from Sesay or Bockarie.<sup>10225</sup> On cross-examination, when asked why Fonti Kanu was arrested, Sesay answered that Kanu was arrested because he tried crossing the border during the night, as opposed to during the day when there was a trading area around the border.<sup>10226</sup> Sesay was questioned in cross-examination on his testimony that persons who wanted to cross the border to Liberia needed a pass from Sesay or Bockarie to do so. Sesay then stated that there was a trading area around the border, and that a pass was not needed during the daytime. The Trial Chamber does not find Sesay's account credible and recalls its finding that his testimony must be treated with caution and requires corroboration.<sup>10227</sup>

<sup>10221</sup> Augustine Mallah, Transcript 17 November 2008, p. 20380.

<sup>10222</sup> Defence Response to Prosecution Final Trial Brief, para. 49.

<sup>10223</sup> Issa Sesay, Transcript 29 July 2010, pp. 45035-45038 (PS); Transcript 16 August 2010, pp. 46298-46299, 46303.

<sup>10224</sup> Issa Sesay, Transcript 16 August 2010, pp. 46299-46300.

<sup>10225</sup> Issa Sesay, Transcript 29 July 2010, p. 45039 (PS).

<sup>10226</sup> Issa Sesay, Transcript 16 August 2010, pp. 46303-46304.

<sup>10227</sup> Credibility Assessment, Issa Sesay, paras 359-372.

4610. The Trial Chamber recalls its findings that TF1-371, Samuel Kargbo and Augustine Mallah are generally credible witnesses.<sup>10228</sup> Their accounts of what happened largely conform to each other, with a few differences in details that do not, in the view of the Trial Chamber, undermine their credibility. In light of the evidence, the Trial Chamber finds that Fonti Kanu was arrested and returned to Sierra Leone by Liberian authorities.

4611. Prosecution witness Dauda Aruna Fornie testified that he was arrested in Vahun, Liberia after the Lomé Peace Accord, while trying to escape from Bockarie because of a letter he had written to Foday Sankoh about Bockarie, which had been intercepted by Bockarie. Fornie testified that Captain Tengbeh, the AFL commander in Vahun in Liberia, arrested him upon Bockarie's request and surrendered him to Bockarie. Bockarie then tortured Fornie and locked him in a dungeon,<sup>10229</sup> leaving him there when he left for Liberia,<sup>10230</sup> which the Trial Chamber has found was in December 1999.<sup>10231</sup>

4612. When confronted on cross-examination with the fact that the letter and its reference to the Accused were not mentioned in a prior statement, Fornie testified that he must have told his investigators about it since everybody from the RUF and the AFRC knew about the letter and his arrest. He also stated that he could not recall every detail that had taken place a decade ago.<sup>10232</sup>

4613. The Trial Chamber notes that the account by Dauda Aruna Fornie of his arrest falls in line with the testimony of Mohamed Kabbah, who gave several reasons to explain why he believed that he could not have left the RUF. Among them, he said that if he had gone to Liberia, Bockarie would have sent a message to the NPFL commanders at the border in Foya to arrest and surrender him.<sup>10233</sup> Kabbah also stated that Bockarie might have sent "our own brothers", which the Trial Chamber understands to mean RUF members, to bring him back to Koidu.

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<sup>10228</sup> Credibility Assessment, TF1-371, paras 220-226; Credibility Assessment, Samuel Kargbo, paras 290-295; Credibility Assessment, Augustine Mallah, Pre-Indictment period (1988-1996), para. 2522.

<sup>10229</sup> Dauda Aruna Fornie, Transcript 8 December 2008, pp. 21629-21632.

<sup>10230</sup> Dauda Aruna Fornie, Transcript 10 December 2008, pp. 22125-22126.

<sup>10231</sup> Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Sam Bockarie.

<sup>10232</sup> Dauda Aruna Fornie, Transcript 8 December 2008, pp. 21987-21989.

<sup>10233</sup> Mohamed Kabbah, Transcript 17 September 2008, pp. 16456-16458.



4614. Recalling that Fornie is a generally reliable witness,<sup>10234</sup> the Trial Chamber accepts Fornie's testimony that he was arrested by an AFL commander in Liberia at Bockarie's request and handed over to the Bockarie. Kabbah's testimony supports this finding in general terms and indicates the understanding Kabbah had, which he describes in effect as common knowledge, that Liberian authorities cooperated with the RUF on the return of wanted Sierra Leoneans who escaped to Liberia.

#### Findings

4615. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that Liberian police authorities detained two AFRC/RUF members, Fonti Kanu and Dauda Aruna Fornie, and handed them over to RUF personnel in late 1998 and late 1999, respectively.

4616. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that Liberian police authorities detained AFRC/RUF deserter Fonti Kanu, and Dauda Aruna Fornie, and handed them over to RUF personnel in late 1998 and late 1999, respectively.

#### Summary of Findings

4617. The Trial Chamber has found that -

- (i) The Prosecution has proved beyond reasonable doubt that approximately 20 former NPFL fighters who had been integrated into the Armed Forces of Liberia formed part of a group of approximately 200 fighters led by O-Five that attacked and committed crimes in Karina and Kamalo in Bombali District on or about August/September 1998.
- (ii) The Prosecution has proved beyond reasonable doubt that this group of 20 was incorporated into the Red Lion Battalion, which was comprised of 200 fighters and was part of a larger group of up to approximately 1,000 fighters who attacked and committed crimes in Waterloo, Fisher Lane, Hastings, Freetown Eastern Police, Pademba Road Prison, Kingtom,

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<sup>10234</sup> Credibility Assessment, Dauda Aruna Fornie, paras 346-358.

Fourah Bay and Uppun in Freetown and the Western Area on or about December 1998/January 1999.

- (iii) The Prosecution has proved beyond reasonable doubt that these 20 fighters were sent by the Accused from Liberia to Sierra Leone where they joined the RUF/AFRC forces in Sierra Leone.
- (iv) The Prosecution has proved beyond reasonable doubt that Abu Keita and 150 men to be under his command were sent by the Accused to Sierra Leone. The Prosecution failed to prove beyond reasonable doubt that Abu Keita and the reinforcements were sent by the Accused for the purpose of fighting in the Kono and Freetown military operations, which included Kenema. However, the Trial Chamber has found that the Prosecution has proved beyond reasonable doubt that Daniel Tamba (a.k.a. Jungle), on behalf of the Accused, approved Bockarie's decision to integrate the Scorpion Unit to be under Bockarie's command.
- (v) The Prosecution has proved beyond reasonable doubt that Abu Keita and some of the reinforcements sent by the Accused participated in the attack on Kenema and that Abu Keita participated in the commission of crimes during this attack.
- (vi) The Prosecution has proved beyond reasonable doubt that the Accused sent former SLA soldiers to the Bunumbu training camp soon after the Intervention.
- (vii) The Prosecution failed to prove beyond reasonable doubt that following their training these former SLA soldiers were used to "open the road" of arms and ammunition between Liberia and Sierra Leone.
- (viii) The Prosecution has proved beyond reasonable doubt that the Accused reorganized, armed and sent a group of at least four former SLA soldiers who had fled to Liberia back to Sierra Leone to support the attack on Freetown, and that the men arrived in Kailahun on or around late November 1998.

- (ix) The Prosecution has proved beyond reasonable doubt that at least four former SLA soldiers sent by the Accused participated in the attack on Kono in December 1998 during which crimes listed in the Indictment were committed.
- (x) The Prosecution has proved beyond reasonable doubt that Liberian government authorities and RUF/AFRC members recruited and forced civilian refugees residing in Liberia to return to Sierra Leone to fight. However, the evidence did not establish that these civilian refugees participated in attacks in Sierra Leone.
- (xi) The Prosecution has proved beyond reasonable doubt that Liberian police authorities detained two AFRC/RUF members, Fonti Kanu and Dauda Aruna Fornie, and handed them over to RUF personnel in late 1998 and late 1999, respectively.

#### Conclusion

4618. The Trial Chamber has found that approximately 20 former NPFL fighters who had been integrated into the Armed Forces of Liberia formed part of a group of approximately 200 fighters led by O-Five who attacked and committed crimes in Karina and Kamalo in Bombali District on or about August/September 1998. Subsequently, this group of 20 fighters was incorporated into the Red Lion Battalion, which was comprised of 200 fighters and was part of a larger group of up to approximately 1,000 fighters who attacked and committed crimes in Waterloo, Fisher Lane, Hastings, Freetown Eastern Police, Pademba Road Prison, Kingtom, Fourah Bay and Upgun, on or about December 1998/January 1999. These 20 fighters were sent by the Accused from Liberia to Sierra Leone where they joined the RUF/AFRC forces in Sierra Leone and participated in attacks in which crimes were committed.

4619. The Trial Chamber has found that Abu Keita and the reinforcements known as the Scorpion Unit were sent by the Accused to Sierra Leone and participated in the attack on Kenema, in which Abu Keita committed crimes. Although the evidence does not establish beyond reasonable doubt that the Scorpion Unit was sent for the purpose of fighting in the Kono and Freetown military operations, which included the attack on Kenema, Daniel

Tamba, on behalf of the Accused, approved Bockarie's decision to integrate the Scorpion Unit under his command.

4620. The Accused sent former SLA soldiers to the Bunumbu training camp soon after the Intervention, although their subsequent deployment was not established. The Accused later sent a group of at least four former SLA soldiers from Liberia back to Sierra Leone to support the attack on Freetown. These men arrived in Kailahun in or around late November 1998, and they participated in the attack on Kono in December 1998, although they were unable to reach Freetown and did not participate in the Freetown attack.

4621. Liberian government authorities and RUF/AFRC members recruited and forced Sierra Leoneans residing in Liberia to return to Sierra Leone to fight. However, the evidence did not establish that these civilian refugees participated in attacks in Sierra Leone.

4622. The Trial Chamber considered the allegation by the Prosecution that the Accused assisted the AFRC/RUF by capturing and returning AFRC/RUF deserters to Sierra Leone. The Trial Chamber has found that Liberian police authorities detained two RUF/AFRC members Fonti Kanu, and Dauda Aruna Fornie, and handed them over to RUF personnel in late 1998 and late 1999, respectively. In evidence about his own arrest and torture in Sierra Leone, Mohamed Kabbah described as common knowledge the cooperation of Liberian authorities and the RUF on the return of wanted Sierra Leoneans who escaped to Liberia.

**F. Arms and Ammunition**

General Submissions by the Parties

4623. The Prosecution submits that the Accused, both personally and through his subordinates, directly supplied and facilitated the supply of essential materiel that made possible the RUF's attacks and control of territory throughout the Indictment Period.<sup>10235</sup> At various times during the Indictment Period, the Prosecution alleges that the Accused ensured a "steady stream" of materiel to the RUF and AFRC by:<sup>10236</sup>

- (i) delivering arms and ammunition to the RUF and the AFRC via alleged subordinates or providing arms and ammunition to Bockarie, Sesay or their subordinates when they came to Liberia;<sup>10237</sup>
- (ii) facilitating the purchase of arms and ammunition by the RUF and AFRC from former ULIMO-K fighters in Lofa County;<sup>10238</sup> and arranging for several of the largest shipments of arms/ammunition relied on by the RUF and AFRC, including:
  - (iii) a shipment arriving in Magburaka in or around October 1997 (the "Magburaka Shipment"),<sup>10239</sup> and
  - (iv) a shipment arriving in Liberia and originating from Burkina Faso in late 1998 (the "Burkina Faso Shipment").<sup>10240</sup>

4624. According to the Prosecution, the materiel that the Accused supplied, or facilitated the supply of, "ensured the very survival of the rebels as a viable armed group at several crucial times" and contributed significantly to the crimes committed in Sierra Leone by the RUF, AFRC and/or the Accused's Liberian fighters.<sup>10241</sup> In particular, the Prosecution submits that the Accused provided the ammunition and arms which the RUF used to carry out the Fitti-Fatta mission in mid-1998, as well as the operations in the north of Sierra Leone

<sup>10235</sup> Prosecution Final Trial Brief, para. 2.

<sup>10236</sup> Prosecution Final Trial Brief, para. 206.

<sup>10237</sup> Prosecution Final Trial Brief, paras 4, 6.

<sup>10238</sup> Prosecution Final Trial Brief, para. 7.

<sup>10239</sup> Prosecution Final Trial Brief, para. 206.

<sup>10240</sup> Prosecution Final Trial Brief, para. 8.

in the lead up to the 1999 Freetown invasion,<sup>10242</sup> and that the Accused played a key role in facilitating the shipment of arms and ammunition supplies relied on by the RUF for the Freetown invasion itself.<sup>10243</sup>

4625. The Defence rebuttal to the Prosecution case is three-pronged. First, it refutes the allegation that the Accused was either involved in or informed of the supply of military equipment to the RUF and AFRC during the Indictment Period.<sup>10244</sup> The Defence largely rejects Prosecution evidence that the Accused was implicated in the supply of arms and ammunition to the RUF and AFRC during the Indictment Period as weak or unreliable.<sup>10245</sup> The Defence contends that the Liberian government was not in a position to supply any military equipment to Sierra Leone because:

- (i) it was itself short of arms and ammunition due to the process of disarmament in Liberia which had taken place prior to 1998;<sup>10246</sup>
- (ii) the Accused himself made sure that the border between Liberia and Sierra Leone was at relevant times monitored by ECOMOG;<sup>10247</sup>

4626. Second, the Defence submits that any materiel the RUF or the AFRC sourced from Liberia was without the knowledge of the Accused, being conducted, facilitated or arranged by persons acting through unofficial channels.<sup>10248</sup>

4627. Third, the Defence contends that any assistance provided by sources in Liberia made no substantial contribution to the commission of the crimes pleaded in the Indictment. The Defence alleges that the RUF and AFRC's primary sources of military equipment were not from Liberia, but from: weapons captured from ECOMOG; from government stores when the groups acted as the Junta government; and from arms trading with Guinea and former ULIMO combatants.<sup>10249</sup> The Defence submits that where the RUF or the AFRC did source

<sup>10241</sup> Prosecution Final Trial Brief, para. 206.

<sup>10242</sup> Prosecution Final Trial Brief, paras 156-157.

<sup>10243</sup> Prosecution Final Trial Brief, para. 169.

<sup>10244</sup> Defence Final Trial Brief, para. 1034.

<sup>10245</sup> Defence Final Trial Brief, paras 1035 *et seq.*

<sup>10246</sup> Defence Final Trial Brief, para. 1032.

<sup>10247</sup> Defence Final Trial Brief, para. 1148.

<sup>10248</sup> Defence Final Trial Brief, para. 1034.

<sup>10249</sup> Defence Final Trial Brief, paras 1033-1034, 1131.

materiel from Liberia, the amount of materiel it obtained was small and not sufficient to enable the RUF or AFRC to launch major operations.<sup>10250</sup>

### 1. Preliminary Issues

4628. Before turning to the Prosecution's allegations, the Trial Chamber will consider two preliminary issues raised by the parties in relation to the Accused's ability to transport materiel across the Liberian-Sierra Leonean border during the Indictment period and the Accused's capacity to supply the RUF or AFRC given the arms embargo imposed on Liberia during the Indictment period.

#### (a) Closure of the Border/Arms Embargo

##### Submissions of the parties

4629. The Defence contends that the Accused was unable to transport materiel from Liberia to Sierra Leone because for much of the Indictment period, the border between Liberia and Sierra Leone was closed or the presence of ECOMOG prevented the movement of materiel across the border.<sup>10251</sup> It submits that when the Accused became President in July 1997, ECOMOG was in reality the only effective force in the country and patrolled the border between Sierra Leone and Liberia.<sup>10252</sup> According to the Defence, the Accused and the Liberian government took steps to prevent arms and ammunition being taken to Sierra Leone, in particular, making an offer to President Kabbah to post observers on the border to monitor the situation with regards to arms crossing into Sierra Leone and making repeated requests for the UN or ECOMOG to deploy observers to monitor the border. In late October 1997<sup>10253</sup> and late December 1998,<sup>10254</sup> the Liberian government closed the border with Sierra Leone in collaboration with ECOMOG. The Defence submits that the border remained closed from this time until after the Lomé Peace Accord was signed in July 1999.<sup>10255</sup> The Defence adduced evidence from Issa Sesay, John Vincent, DCT-190, DCT-292, as well as Exhibits D-385, D-136, D-341, D-127, D-062, D-157, D-169, D-177, D-175,

<sup>10250</sup> Defence Final Trial Brief, para. 1131.

<sup>10251</sup> Defence Final Trial Brief, para. 557.

<sup>10252</sup> Defence Final Trial Brief, para. 469.

<sup>10253</sup> Defence Final Trial Brief, para. 493.

<sup>10254</sup> Defence Final Trial Brief, paras 557, 1148.

<sup>10255</sup> Defence Final Trial Brief, paras 493, 557.

D-189, D-141, D-179, D-178, D-031, D-181, D-182, D-191, D-185, D-188, D-347, D-232, D-235, D-239C, D-003, D-263, D-264, D-268, D-037, and D-348.

4630. The Prosecution contends that ECOMOG and UNOMIL forces never had sufficient resources to prevent the movement of materiel across the Liberia-Sierra Leone border, and that the lack of proper coordination between ECOMOG and the UN observers hindered their effectiveness, as did movement of the majority of ECOMOG personnel to Sierra Leone following the Presidential elections in Liberia. It was therefore easy for the Accused to circumvent these border patrols.<sup>10256</sup> The Prosecution points to the Accused's evidence that he bought ammunition from ECOMOG in Liberia as an indication that ECOMOG did not effectively enforce the arms embargoes.<sup>10257</sup> The Prosecution contends that the Accused's testimony that he would have been unable to send materiel into Sierra Leone is contradicted by oral and documentary evidence of movements of arms and ammunitions across borders.<sup>10258</sup>

4631. The Prosecution argues that Liberian support for the border closure from December 1998 hid the reality that the border was only closed to those forces the Accused did not support, and that by stationing his subordinates at the border the Accused was able to ensure that it remained open for the RUF/AFRC.<sup>10259</sup> The Prosecution submits that the Defence contention that the Accused was not able to control the border is at odds with the testimony of Issa Sesay, who stated that when Taylor granted refuge to Bockarie and his soldiers in 1999, he closed the border to all RUF except for Ibrahim Bah. The Prosecution argues that this acknowledgment of the Accused's ability to seal the border confirms that cross-border transactions of materiel would not have escaped the attention of the Accused.<sup>10260</sup> The Prosecution adduced evidence from Moses Blah, Augustine Mallah, Albert Saidu, Joseph Marzah, Abu Keita, TF1-367, TF1-516, TF1-371, TF1-567, and TF1-579, as well as Exhibits P-466, P-467, P-468, P-469, P-470, P-472, P-473, P-474, P-475, P-130, and P-080.

### Evidence

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<sup>10256</sup> Prosecution Final Trial Brief, paras 213-214, 1261.

<sup>10257</sup> Prosecution Final Trial Brief, para. 1262.

<sup>10258</sup> Prosecution Final Trial Brief, para. 214.

<sup>10259</sup> Prosecution Final Trial Brief, paras 209, 1200.

<sup>10260</sup> Prosecution Final Trial Brief, para. 1264.



Prosecution Witness Moses Blah

4632. Moses Blah was Inspector General of the NPFL from 1990 to 1997, Liberian Ambassador of Libya and Tunisia following Taylor's election to 2000, and Vice-President of Liberia from 2000 to 2003.<sup>10261</sup> Blah testified that the border between Sierra Leone and Liberia was effectively controlled by ULIMO from 1992 until the elections in June 1997.<sup>10262</sup>

4633. Blah agreed with the suggestion of Defence counsel that when Charles Taylor became president, ECOMOG was in reality the only effective force in the country and numbered around 10,500 troops. He also agreed that they were primarily responsible for policing within Liberia, and that although there were several instances of ECOMOG soldiers abusing their power, they were able to exercise control in most regions throughout Liberia, including establishing firm buffer zones between the various pre-election factions.<sup>10263</sup>

4634. According to Blah, Taylor again closed the border with Sierra Leone as part of the peace process from December 1998 to 2 October 1999 in order to put pressure on the RUF to begin discussions that would lead to peace.<sup>10264</sup> On re-examination, Blah explained that his knowledge of the border closure came from an announcement on the radio and he did not have direct knowledge of the state of the border.<sup>10265</sup>

4635. However, according to Blah, the borders between Liberia and Sierra Leone, like the borders between Liberia and Côte d'Ivoire and Liberia and Guinea, are artificial as ethnic groups span both countries. Blah agreed with the suggestion by Defence counsel in cross-examination that there was historically a great deal of fluidity of movement across these borders, and it was virtually impossible for any nation to police ingress and egress.<sup>10266</sup>

Prosecution Witness Augustine Mallah

<sup>10261</sup> Moses Blah, Transcript 14 May 2008, pp. 9882-9884. Blah also became President of Liberia for 60 days from 11 August to 11 October 2003. Moses Blah, Transcript 16 May 2008, p. 10065.

<sup>10262</sup> Moses Blah, Transcript 19 May 2008, p. 10193.

<sup>10263</sup> Moses Blah, Transcript 20 May 2008, p. 10241.

<sup>10264</sup> Moses Blah, Transcript 20 May 2008, p. 10314.

<sup>10265</sup> Moses Blah, Transcript 20 May 2008, pp. 10362-10363.

<sup>10266</sup> Moses Blah, Transcript 19 May 2008, pp. 10151-10152.





4636. Augustine Mallah testified that the only time the border between Liberia and Sierra Leone was effectively closed was in 1992, when ULIMO occupation succeeded in cutting off the RUF supply line from Liberia.<sup>10267</sup> Although he was aware that the border between Liberia and Sierra Leone was officially closed from 1998 to 1999, Mallah testified that it was porous as between the former NPFL and the RUF. Mallah saw members of the RUF and Taylor's men cross the border without hindrance.<sup>10268</sup>

Prosecution Witness Albert Saidu

4637. Albert Saidu testified that he was not aware that President Taylor closed the Liberian/Sierra Leonean border from December 1998 to 2 October 1999. According to Saidu, the only time that the RUF supply route was effectively blocked was from the end of 1992 up to 1996, when ULIMO permanently occupied the border.<sup>10269</sup> Saidu believed that the announcement by the Liberian government that they had closed the border in December 1998 was merely to satisfy the international community and "movement between the RUF and the Charles Taylor government still continued from 1998 up to 2001".<sup>10270</sup>

Prosecution Witness Joseph Marzah

4638. Joseph Marzah testified that ECOMOG troops deployed in Liberia maintained checkpoints on all major and minor roads throughout the country throughout the period 1996 and 1997. Some checkpoints were manned by ECOMOG while others were manned by Liberians. Generally at those checkpoints, all persons and vehicles were searched.<sup>10271</sup> However, Charles Taylor had close contacts with ECOMOG through Victor, the ECOMOG commander assigned to Taylor at White Flower, and was able to transport materiel across borders through bribery of ECOMOG officials. At times, the materiel would be transported in an ECOMOG jeep, and officials at the checkpoints would not check these vehicles. The witness used ECOMOG vehicles when he was transporting arms from Roberts International Airport to White Flower in Monrovia. In 1996, when ULIMO captured Lofa, ECOMOG troops escorted him to Yekepa on Taylor's instructions to pass through to Sierra Leone.<sup>10272</sup>

<sup>10267</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20085-20086.

<sup>10268</sup> Augustine Mallah, Transcript 17 November 2008, pp. 20437-20440.

<sup>10269</sup> Albert Saidu, Transcript 6 June 2008, pp. 11205-11206.

<sup>10270</sup> Albert Saidu, Transcript 6 June 2008, p. 11224.

<sup>10271</sup> Joseph Marzah, Transcript 14 March 2008, p. 6097.

<sup>10272</sup> Joseph Marzah, Transcript 14 March 2008, pp. 6098-6099.





The witness affirmed that throughout the period in which they were assigned in Liberia, Nigerian ECOMOG troops were conniving with Taylor to evade the arms embargo.<sup>10273</sup>

4639. According to Marzah, ECOMOG personnel also used to sell weapons to Charles Taylor. Marzah was instructed by Taylor to approach Victor with US dollars, and Victor would in turn provide the witness with arms and ammunition from the ECOMOG base.<sup>10274</sup>

Prosecution Witness Abu Keita

4640. Abu Keita, a former member of ULIMO-K assigned by Yeaten to Sierra Leone,<sup>10275</sup> testified that when he first moved to Buedu, some time in September or October 1998,<sup>10276</sup> there were checkpoints at the border between Sierra Leone and Liberia. If a civilian wanted to cross the border from Sierra Leone into Liberia he would have to speak to the G-2 or G-5 Commanders of the RUF troops to obtain a pass. These two commanders were in charge of liaising between civilians and fighters. However, if a civilian tried to cross the border without obtaining a pass, the RUF would assume that the civilian was trying to escape. These passes were recognised on both sides of the border, including by the AFL and Liberian police.<sup>10277</sup>

4641. The witness testified that, on one occasion, around September 1998, when he moved to Buedu together with Issa Sesay, he and Sesay passed through three checkpoints manned by the AFL and Liberian police and customs on one side, and the RUF on the Sierra Leonean side.<sup>10278</sup>

Prosecution Witness TF1-367

4642. TF1-367, a former RUF member, testified that from 1993, ULIMO took control of the border areas in Liberia and cut NPFL off from RUF from 1993 to 1996, when ECOMOG began disarming ULIMO troops. When ECOMOG deployed at Lofa County, the road

<sup>10273</sup> Joseph Marzah, Transcript 14 March 2008, pp. 6099-6100.

<sup>10274</sup> Joseph Marzah, Transcript 14 March 2008, pp. 6090-6094.

<sup>10275</sup> Abu Keita, Transcript 23 January 2008, p. 1970.

<sup>10276</sup> Abu Keita, Transcript 24 January 2008, p. 2117. It is not clear when Keita left Buedu. The witness testified that he was in Buedu during January 1999, but on cross-examination said that he was travelling back and forth between Buedu and Makeni at that time. Transcript 23 January 2008, p. 2020; Transcript 24 January 2008, pp. 2140-2142. He was not in Buedu by August 1999 as he was taking part in Operation Mosquito Spray in August 1999: Transcript 23 January 2008, pp. 2045-2048.

<sup>10277</sup> Abu Keita, Transcript 23 January 2008, p. 2045.





“opened up” because ECOMOG prevented ULIMO from harassing RUF troops attempting to cross the border. At this time, the witness would travel back and forth from Sierra Leone to Liberia.<sup>10279</sup> The witness noted that when ECOMOG entered Lofa, they set up road blocks towards the border areas at Mendekoma Highway in Foya and at Vahun, although not at Voinjama and it was possible to cross from Sierra Leone into Liberia via Voinjama without meeting any ECOMOG checkpoints.<sup>10280</sup>

Prosecution Witness TF1-516

4643. TF1-516, a radio operator stationed in Buedu from the time of the ECOMOG Intervention to mid-1999, testified that during his time in Buedu, there was little hindrance to the flow of RUF personnel across the border to Liberia and the movement of personnel was frequent.<sup>10281</sup>

Prosecution Witness TF1-371

4644. TF1-371 testified that when Taylor became President in August 1997, ECOMOG was in control of the country and were stationed on the border.<sup>10282</sup> During 1998, the Liberian-Sierra Leonean border was open and many RUF commanders would go to Vahun, in Liberia, to buy goods.<sup>10283</sup>

Prosecution Witness TF1-567

4645. TF1-567 testified that during the Issa Sesay administration, he travelled to Charles Taylor’s farm at Malkei, near Gbarnga to get ammunition. He was accompanied by two Liberian SS men, which meant the witness never faced any problems at checkpoints, which were manned by the NPFL.<sup>10284</sup>

Prosecution Witness TF1-579

<sup>10278</sup> Abu Keita, Transcript 23 January 2008, pp. 1985-1986.

<sup>10279</sup> TF1-367, Transcript 21 August 2008, pp. 14309-14310; Transcript 29 August 2008, pp. 14965.

<sup>10280</sup> TF1-367, Transcript 29 August 2008, pp. 14965-14970.

<sup>10281</sup> TF1-516, Transcript 8 April 2008, p. 6957.

<sup>10282</sup> TF1-371, Transcript 31 January 2008, pp. 2698-2700.

<sup>10283</sup> TF1-371, Transcript 28 January 2008, p. 2400.

<sup>10284</sup> TF1-567, Transcript 4 July 2008, pp. 12996-13000.



4646. TF1-579 testified that he took materiel to Bockarie in Buedu twice in 1998.<sup>10285</sup> TF1-579 stated that on one of his trips, the group passed a checkpoint just before the border with Sierra Leone, at Foya. AFL soldiers were based on the Liberian side and there was a rope “gate”. Upon crossing the rope, the group was on RUF territory.<sup>10286</sup>

4647. The witness testified that on these trips, there was no difficulty passing through the border checkpoints because “all those who were assigned at that checkpoint knew exactly what was going on and they knew the various commanders like Sampson and Jungle and they had the order there that any time that car arrived there they should allow it to pass through”.<sup>10287</sup>

4648. TF1-579 testified that while in 1997 and 1998 ECOMOG had checkpoints in Monrovia and other areas of Liberia, when he was delivering ammunition from Monrovia to Buedu he never had to pass through an ECOMOG checkpoint.<sup>10288</sup>

#### The Accused

4649. The Accused testified that, from the middle of 1996 to the end of 1997, ECOMOG troops were fully deployed throughout the country, with as many as 18,000 to 20,000 troops on the ground.<sup>10289</sup> During this period, ECOMOG were effectively “in charge” of Liberian territory and controlled the border between Sierra Leone and Liberia. ECOMOG had such control that it was threatening the sovereignty of the Liberian government. On 24 October 1997, the Accused also wrote a letter to President Sani Abacha of Nigeria, complaining that ECOMOG were allowing Kamajors to use border areas of Liberia as a base from which to launch attacks on Sierra Leone.<sup>10290</sup> From 1997 into 1998, ECOMOG continued to operate along the border in an effort to prevent any movement of arms and personnel across the border.<sup>10291</sup>

<sup>10285</sup> TF1-579, Transcript 5 November 2008, pp. 19830-19831.

<sup>10286</sup> TF1-579, Transcript 5 November 2008, p. 19834.

<sup>10287</sup> TF1-579, Transcript 5 November 2008, p. 19835.

<sup>10288</sup> TF1-579, Transcript 25 November 2008, pp. 21108-21110.

<sup>10289</sup> Charles Ghankay Taylor, Transcript 16 November 2009, pp. 31751- 31756.

<sup>10290</sup> Charles Ghankay Taylor, Transcript 27 July 2009, pp. 25274-25275.

<sup>10291</sup> Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25351-25352; Transcript 10 August 2009, pp. 26329-26333.





4650. The Accused testified that the size of ECOMOG troops deployed in Liberia steadily decreased from 1997.<sup>10292</sup> He stated that after the election, Ghana and Nigeria repatriated a few of their battalions from Liberia while the Côte d'Ivoire withdrew completely. Burkina Faso and Niger left a few forces behind.<sup>10293</sup> In March 1997 there were 10,000 ECOMOG troops in Liberia.<sup>10294</sup> By October 1998, the ECOMOG headquarters had moved to Freetown and by November 1998 approximately 800 ECOMOG troops remained in Liberia and were employed for capacity building, the majority having gone to Sierra Leone. By the beginning of 1999, only about 400 to 500 ECOMOG troops remained in Liberia.<sup>10295</sup> The Accused also affirmed that the presence of UNOMIL in Liberia ended on 30 September 1997.<sup>10296</sup>

4651. The Accused stated that during the time ECOMOG was deployed in Liberia, to the best of his knowledge they were able to carry out their mission successfully. However, the Accused was aware that ECOMOG publicly complained of insufficient financial support as well as insufficient logistical resources.<sup>10297</sup> The Accused confirmed that there was a disagreement between himself and the ECOMOG Force Commander General Malu which had culminated in General Malu being replaced as Force Commander of ECOMOG but denied allegations that this related to his plans to put ECOMOG under his own command.<sup>10298</sup> The Accused also testified that he bought ammunition from ECOMOG officers during the war.<sup>10299</sup>

4652. According to the Accused, the Liberian government officially closed the border with Sierra Leone on several occasions. During a meeting of the Committee of Five held on 22 to 23 October 1997, reviewing the situation in Sierra Leone, the Liberian government closed its borders with Sierra Leone in order to further the implementation of the peace process. A combination of Liberian security personnel and ECOMOG enforced this closure, while UNOMIL were present as observers. The border remained closed until July 1999 after the

<sup>10292</sup> Charles Ghankay Taylor, Transcript 16 November 2009, pp. 31751- 31756.

<sup>10293</sup> Charles Ghankay Taylor, Transcript 21 January 2010, pp. 33868-33873.

<sup>10294</sup> Charles Ghankay Taylor, Transcript 17 November 2009, p. 31927.

<sup>10295</sup> Charles Ghankay Taylor, Transcript 18 November 2009, pp. 31959-31962.

<sup>10296</sup> Charles Ghankay Taylor, Transcript 18 November 2009, p. 31947.

<sup>10297</sup> Charles Ghankay Taylor, Transcript 21 January 2010, pp. 33806-33807.

<sup>10298</sup> Charles Ghankay Taylor, Transcript 21 January 2010, pp. 33873-33877.

<sup>10299</sup> Charles Ghankay Taylor, Transcript 3 August 2009, p. 25785; Transcript 26 November 2009, pp. 32628-32629.





Lomé agreement was signed.<sup>10300</sup> Prior to this closure, the border was open for “normal movement” but not for “military activities”.<sup>10301</sup>

4653. The Accused also testified that around 29-31 October 1998, at the ECOWAS summit meeting at Abuja, he met with other heads of state including President Tejan Kabbah of Sierra Leone, and Secretary-General Kofi Annan.<sup>10302</sup> President Tejan Kabbah informed the Accused that he had received reports that arms were being sent from Liberia to the Sierra Leonean rebels, which the Accused denied. The Accused told Kabbah that he had repeatedly requested the Security Council to post troops on the border to prevent such transactions.<sup>10303</sup>

4654. The Accused affirmed that on 22 December 1998, shortly after returning from the inauguration of President Blaise Compaoré in Burkina Faso, he made a statement in which he announced the intention of the Liberian government to close its borders with Sierra Leone due to insurgents of both Sierra Leonean and Liberian provenance crossing the border of Sierra Leone into Liberia. Once it was announced, the border closed.<sup>10304</sup> The closure of the border was achieved with the cooperation of President Tejan Kabbah.<sup>10305</sup> The Accused explained that the border was closed and re-opened several times, and that December 1998 was not the first time that it had closed.<sup>10306</sup> The border remained closed from December 1998 until 1999, after the signing of the Lomé Peace Accord.<sup>10307</sup>

4655. According to the Accused, on 25 August 1999, the ECOWAS heads of state decided to extend ECOMOG’s mandate in Sierra Leone, charging it with the task of monitoring arms movements,<sup>10308</sup> the protection of UNAMSIL and persons working under DDR, and monitoring the cease fire. The Accused explained that ECOMOG had power to establish roadblocks, checkpoints and monitor the movement of arms and ammunitions throughout

<sup>10300</sup> Charles Ghankay Taylor, Transcript 29 July 2009, pp. 25472-25474; Transcript 7 September 2009, p. 28234.

<sup>10301</sup> Charles Ghankay Taylor, Transcript 28 July 2009, p. 25447.

<sup>10302</sup> Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26016-26017.

<sup>10303</sup> Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26027, 26029.

<sup>10304</sup> Charles Ghankay Taylor, Transcript 5 August 2009, p. 26114.

<sup>10305</sup> Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26118-26119.

<sup>10306</sup> Charles Ghankay Taylor, Transcript 11 August 2009, p. 26436.

<sup>10307</sup> Charles Ghankay Taylor, Transcript 13 August 2009, p. 26804.

<sup>10308</sup> Charles Ghankay Taylor, Transcript 8 September 2009, p. 28307.





Sierra Leone.<sup>10309</sup> This made it virtually impossible for the Accused to provide arms and ammunitions to Sierra Leone.<sup>10310</sup>

Defence Witness Issa Sesay

4656. Issa Sesay testified that the Liberian/Sierra Leonean border closed immediately after Bockarie moved permanently to Liberia and did not reopen until May 2000. During this time, only Ibrahim Bah was able to cross the border.<sup>10311</sup> Sesay stated that he was aware of the border closure when, afterwards, Momoh Rogers, an RUF member, went to the border to urge those individuals that had accompanied Bockarie into Liberia to return to Sierra Leone but was prevented from crossing the border. The Liberian border guards arrested Rogers and then seriously beat him. Rogers had to go to Freetown to receive treatment.<sup>10312</sup>

4657. Issa Sesay also stated that a few days after Bockarie left for Monrovia, Sankoh also moved from Freetown to Monrovia in mid-December. While Sankoh was in Liberia, he met Ibrahim Bah and two white men from Belgium—Michel and Louis, who then travelled with Akim Turay to Pendembu in a truck with heavy duty mining equipment in it.<sup>10313</sup> Sankoh told Sesay that these men were going to be in Kono to be doing some mining and they would be buying diamonds. Michel and Louis returned to Liberia when Sankoh left Kono, in late January 2000. They left the mining equipment behind.<sup>10314</sup>

4658. The commander in Buedu, Copor Meh, also used to report to Sesay via radio that the border was closed. When Sesay arrived in Buedu on his way to Monrovia in May 2000, the civilians told him that he was the first person since Bah to use a vehicle on that road to the border. When Sesay crossed over into Liberia, he spoke with Sierra Leonean refugees who told him the closed border had prevented them from returning home.<sup>10315</sup>

Defence Witness John Vincent

<sup>10309</sup> Charles Ghankay Taylor, Transcript 8 September 2009, pp. 28308-28310.

<sup>10310</sup> Charles Ghankay Taylor, Transcript 8 September 2009, p. 28312.

<sup>10311</sup> Issa Sesay, Transcript 14 July 2010, p. 44465.

<sup>10312</sup> Issa Sesay, Transcript 14 July 2010, pp. 44463-44464.

<sup>10313</sup> Issa Sesay, Transcript 14 July 2010, pp. 44476-44478.

<sup>10314</sup> Issa Sesay, Transcript 14 July 2010, pp. 44482-44483.

<sup>10315</sup> Issa Sesay, Transcript 14 July 2010, pp. 44484-44485, 44489-44491.







4659. John Vincent, an RUF fighter, testified that around 22 December 1998, the border between Sierra Leone and Liberia closed. He did not know the reason for the border closure, but he understood that it meant the RUF “were now supposed to struggle on our own” and could only obtain ammunition through capturing supplies from ECOMOG and the SLA and trade with Guinea.<sup>10316</sup>

Defence Witness DCT-190

4660. DCT-190, a former ULIMO fighter who was part of the Special Forces assisting the CDF in 1997 and 1998,<sup>10317</sup> testified that approximately one month after the Camp Johnson Road incident, which the witness places in September 1997,<sup>10318</sup> he took part in a mission with the CDF, which began in Liberia at the Gendema crossing point. ECOMOG was deployed at the Klay Junction and took the witness’s forces over to Gendema.<sup>10319</sup> The witness was part of a reconnaissance team that crossed the border to Sierra Leone to gather military information ahead of the operation.<sup>10320</sup> The witness stated that since the border between Liberia and Sierra Leone is long and porous, with 18 to 20 crossing points, they used eight crossing points at midnight and crossed by canoe.<sup>10321</sup>

Defence Witness DCT-292

4661. DCT-292, an RUF member,<sup>10322</sup> testified that in 1996 all Liberian checkpoints were under the supervision of the NPFL and that it was possible to pass unhindered through the checkpoint if accompanied by an NPFL commander or ECOMOG officer.<sup>10323</sup>

Prosecution Exhibits P-466, P-467, P-468, P-469, P-470, P-472, P-473, P-474, P-475

4662. Exhibit P-466 is the Second Progress Report of the Secretary-General on the UN Observer Mission in Liberia, dated 14 February 1994. The report records the ongoing progress of establishing a buffer zone along Liberia’s borders, noting that along the border with Sierra Leone, UNOMIL was consulting with ULIMO on the establishment of three

<sup>10316</sup> John Vincent, Transcript 26 March 2010 pp. 38121-38123.

<sup>10317</sup> DCT-190, Transcript 07 June 2010, pp 42232, 4235, 42236.

<sup>10318</sup> DCT-190, Transcript 07 June 2010, p. 42241.

<sup>10319</sup> DCT-190, Transcript 07 June 2010, p. 42239.

<sup>10320</sup> DCT-190, Transcript 07 June 2010, p. 42239.

<sup>10321</sup> DCT-190, Transcript 07 June 2010, p. 42239.

<sup>10322</sup> DCT-292, Transcript 31 May 2010, pp. 41673-41674 (PS).





checkpoints on the border towns of Bo, Kongo and Vahun.<sup>10324</sup> The report also notes that a proposed expansion of ECOMOG forces in Liberia also meant ECOMOG faced added logistical and financial difficulties. In particular, the additional ECOMOG troops had not received the logistical support required for their deployment, and secondly, troop-contributing countries or donors were not able to cover the cost for stipends to the additional troops, a major factor in troop morale. The existing ECOMOG troops also faced logistical difficulties due to the length of their mission in Liberia.<sup>10325</sup>

4663. Exhibit P-467 is the Sixth Progress Report of the Secretary-General on the UN Observer Mission in Liberia, 26 August 1994. According to the Report, ECOMOG continued to be faced with resource and logistical problems, delaying full deployment throughout the country. The Secretary-General notes that he has consistently emphasised ECOMOG's critical need for resources to carry out its mandate, although "[t]o date [...] the response has been disappointing".<sup>10326</sup>

4664. Exhibit P-468 is the Twelfth Progress Report of the Secretary-General on the UN Observer Mission in Liberia dated 13 September 1995. In the Report, the Secretary-General reiterates that ECOMOG has been hampered in the supervision of the peace agreements in Liberia by a lack of financial and logistic resources.<sup>10327</sup>

4665. Exhibit P-469 is the Thirteenth Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, dated 23 October 1995. On the resource requirements of ECOMOG, the Secretary-General records that ECOMOG's strength as at October 1995 was 7,269 but that it estimated that some 12,000 troops would be required to carry out its concept of operations in Liberia. The report also notes that ECOMOG faced a number of logistical difficulties; in particular, ECOMOG's deployment capability was limited and substantial additional logistic assistance was required to enable it to carry out its

<sup>10323</sup> DCT-292, Transcript 3 June 2010, p. 42051.

<sup>10324</sup> Exhibit P-466, "Excerpts from: United Nations Security Council, S/1994/168, Second Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, 14 February 1994", para. 18.

<sup>10325</sup> Exhibit P-466, "Excerpts from: United Nations Security Council, S/1994/168, Second Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, 14 February 1994", paras 26-29.

<sup>10326</sup> Exhibit P-467, "Excerpts from: United Nations Security Council, S/1994/1006, Sixth Progress Report of the Secretary General on the United Nations Observer Mission in Liberia, 26 August 1994", paras 15-16.

<sup>10327</sup> Exhibit P-468, "Excerpts from: United Nations Security Council, S/1995/781, Twelfth Progress Report of the Secretary General on the United Nations Observer Mission in Liberia, 13 September 1995", para. 43.

responsibilities under the Abuja agreement, with priority needs being vehicles, communications, spare parts and fuel.<sup>10328</sup>

4666. Exhibit P-470 is the Sixteenth Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, dated 1 April 1996. The report states that ECOMOG received an additional infantry battalion from Nigeria, increasing its total strength up from approximately 7,000 to 7,500 troops, as well as 3 helicopters and 20 trucks as part of the logistical assistance pledged by the United States of America.<sup>10329</sup> It notes that ECOMOG was deployed at Monrovia, Gbarnga, Buchanan, Greenville, Kakata, Suehn and Konola.<sup>10330</sup>

4667. Exhibit P-471 is the Seventeenth Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, dated 21 May 1996. It notes that because of hostilities erupting in April, ECOMOG had to withdraw from Gbarnga, Bo Tienne and Sinjie and reduce its strength in Buchanan and Kakata.<sup>10331</sup>

4668. Exhibit P-472 is the Nineteenth Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, dated 17 October 1996. It estimates the force strength of ECOMOG as at October 1996 at some 7,500, deployed in Monrovia, Kakata, Buchanan and the Po River.<sup>10332</sup>

4669. Exhibit P-473 is the Twenty-First Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, dated 29 January 1997. The Report states that as at 29 January 1997, ECOMOG troops numbered 7,500 in Liberia and had been further deployed into the interior of Liberia in support of the disarmament process. The report also records that ECOMOG had successfully established buffer zones between ULIMO-J and ULIMO-K in Bomi and Grand Cape Mount counties although the creation of a similar

<sup>10328</sup> Exhibit P-469, Excerpts from: United Nations Security Council, S/1995/881, Thirteenth Progress Report of the Secretary General on the United Nations Observer Mission in Liberia, 23 October 1995", paras 35-37.

<sup>10329</sup> Exhibit P 470, "Excerpts from: United Nations Security Council, S/1996/232, Sixteenth Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, 1 April 1996", para. 24.

<sup>10330</sup> Exhibit P-470, "Excerpts from: United Nations Security Council, S/1996/232, Sixteenth Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, 1 April 1996", para. 25.

<sup>10331</sup> Exhibit P-471, "Excerpts from: United Nations Security Council, S/1996/362, Seventeenth Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, 21 May 1996", paras. 21-22.

<sup>10332</sup> Exhibit P-472, "Excerpts from: United Nations Security Council, S/1996/858, Nineteenth Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, 17 October 1996", paras. 19, 21.

buffer between the NPFL in Bong and Lofa counties required additional troops and logistical support.<sup>10333</sup>

4670. Exhibit P-474 is the Twenty-Second Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, dated 19 March 1997. The Report states that as at March 1997, ECOMOG troops numbered 10,000 in Liberia and was currently deployed throughout the country except in Grand Kru and River Cess counties.<sup>10334</sup>

4671. Exhibit P-475 is the Twenty Third Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, dated 19 June 1997. The Report states that as at June 1997, ECOMOG troops numbered 11,000 in Liberia.<sup>10335</sup>

#### Defence Exhibit D-385

4672. Exhibit D-385 is a Special Supplement of the Official Journal of ECOWAS, Volume 22, 1997, setting out extracts from major documents on the Liberian crisis, including the Final Report of the Fifth meeting of Ministers of Foreign Affairs of the ECOWAS Committee of Nine on the Liberian crisis on 15-16 May 1995. The Committee of Nine Report indicates that the ECOMOG Field Commander, Major-General J. M. Inienger presented a report accounting for ECOMOG activities in Liberia since August 1994 to the date of the meeting. Inienger's report "drew attention to the worsening logistics positions of ECOMOG and the reduction of its troops from 10,000 to 8,443". It noted that that despite the optimum force level required for ECOMOG operations in Liberia being 18,000, he was pleading for a force strength of only 12,000, being the required minimum number of ECOMOG troops, and called for reinforcement and other resources "in order to fulfil creditably the remaining part of the ECOMOG mandate".<sup>10336</sup>

#### Defence Exhibit D-136

<sup>10333</sup> Exhibit P-473, "Excerpts from: United Nations Security Council, S/1997/90, Twenty-First Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, 29 January 1997", p. 3.

<sup>10334</sup> Exhibit P-474, "Excerpts from: United Nations Security Council, S/1997/237, Twenty-Second Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, 19 March 1997", paras 15, 17.

<sup>10335</sup> Exhibit P-475, "Excerpts from: United Nations Security Council, S/1997/478, Twenty Third Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, S/1997/478, 19 June 1997", p. 5.

<sup>10336</sup> Exhibit D-385, "Official Journal of the Economic Community of West African States (ECOWAS), Volume 22, Special Edition, 1997– DCT 184 (194 pages)", p. 56, para. 23.





4673. Exhibit D-136 is the Final Report of the Sixteenth Meeting of ECOWAS Chiefs of State, held in Abuja, Nigeria, on 26–27 August 1997.<sup>10337</sup> During a closed session in which only military personnel could attend,<sup>10338</sup> ECOMOG Force Commander Major General Victor Malu, provided a progress report on the Liberian peace process. Malu reported that ECOMOG increased to 11,000 troops towards the Liberian elections. Malu also reported that “ECOMOG personnel were redeployed in adequate numbers around the country and along the Liberia/Sierra Leone border to prevent any spill over effect”.<sup>10339</sup>

#### Defence Exhibit D-341

4674. Exhibit D-341 is an article published on the Sierra Leone News Website, dated 22 October 1997. It states that Liberia “closed its border with Sierra Leone on Wednesday and said it would strictly limit the use of its territory for military action to restore the government of President Ahmad Tejan Kabbah”.<sup>10340</sup>

#### Defence Exhibit D-127

4675. Exhibit D-127 is an article published in the New African, in December 1997, entitled “Taylor’s Triumph Liberia’s 100 Days”. It includes an interview with Charles Taylor concerning his election victory in August 1997 and his intentions for his administration as President. A postscript to the interview states:

“Straight from this interview, President Taylor went into a long cabinet meeting with his colleagues at the end of which the government announced the closure of the border with Sierra Leone to avoid cross-border incursions by the fighting forces in Sierra Leone. Two days after this announcement, ECOWAS achieved a breakthrough at its meeting in Conakry, Guinea, where the military regime in Freetown headed by Major Paul Koroma agreed to hand over power in April 1998 to President Tejan Kabbah who will run a power sharing government as enunciated under the Abidjan Accord of November 1995 which led to the elections in Sierra Leone in March 1996.”<sup>10341</sup>

#### Defence Exhibit D-062

<sup>10337</sup> Exhibit D-136, “ECOWAS, Final Report, Sixteenth Meeting of ECOWAS Chiefs of State, Abuja, Nigeria, 26–27 August 1997 – DCT 76 (27 pages)”, p.

<sup>10338</sup> Charles Ghankay Taylor, Transcript 28 July 2009, p. 25343.

<sup>10339</sup> Exhibit D-136, “ECOWAS, Final Report, Sixteenth Meeting of ECOWAS Chiefs of State, Abuja, Nigeria, 26–27 August 1997 – DCT 76 (27 pages)”, p. 11.

<sup>10340</sup> Exhibit D-341, “Article, Sierra Leone News Website, October 22 1997 – DCT 277 (1 page)”, p. 1.

<sup>10341</sup> Exhibit D-127, “New African, No. 358, Taylor’s Triumph Liberia’s 100 Days, December 1997 – DCT 171 (14 pages)”, p. 9.

4676. Exhibit D-062 is a Chronology of the Sierra Leonean Civil War set out as part of a special report on website "Africa Confidential", dated April 1998. It notes that after the Liberian elections, 4000 ECOMOG troops were moved from Liberia to Freetown.<sup>10342</sup>

Prosecution Exhibit P-130

4677. Exhibit P-130 is the Fifth Report of the United Nations Secretary-General to the Security Council on the Situation in Sierra Leone, dated 9 June 1998. In the report, the Secretary-General notes that although ECOMOG has continued to make progress following the expulsion of the RUF/AFRC Junta from the capital, Freetown, in mid-February, "it is severely overextended and its advance has been beset by logistical constraints, as well as by fierce resistance from elements of the AFRC and the RUF".<sup>10343</sup> It further states that, while ECOMOG has deployed a total of 12,000 personnel in Sierra Leone, it has also appealed for a further 6,000 to enable it to carry out its functions more effectively.<sup>10344</sup>

4678. The Secretary-General further reports that:

On 5 May 1998, President Taylor wrote to me deprecating the "disturbing allegation" that the Government of Liberia was involved in the conflict in Sierra Leone and stressing his commitment to the maintenance of peace in the region. President Taylor informed me that he had proposed to the Chairman of ECOWAS that ECOMOG "cordon off" the border between the two countries, and said he would welcome the concurrence of the United Nations with his suggestion that United Nations monitors be deployed in the border area.

On 7 May 1998, the Liberian Government issued a policy statement reaffirming that it would not permit its territory to be used to destabilize any neighbouring country and stating that President Taylor had approved the deployment of an ECOMOG observer unit at the border between Liberia and Sierra Leone in Lofa County, Liberia.

The Government of Sierra Leone has welcomed the issuance of the policy statement [...]<sup>10345</sup>

Defence Exhibit D-158

4679. Exhibit D-158 is a report by Minister Counsellor Christian M Wisseh, member of the permanent mission of the Republic of Liberia to the United Nations on a meeting on 15 June

<sup>10342</sup> Exhibit D-062, "How Diamonds Fuelled the Conflict, Chronology of Sierra Leone, Sierra Leone Diamonds, Africa Confidential, April 1998", p. 6.

<sup>10343</sup> Exhibit P-130, "United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998 - 00004201 - 00004217", paras 13-14, ERN. 4203.

<sup>10344</sup> Exhibit P-130, "United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998 - 00004201 - 00004217", para. 18, ERN. 4204.

<sup>10345</sup> Exhibit P-130, "United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998 - 00004201 - 00004217", paras 30-32, ERN. 4206.

1998 with Ambassador Antonio Monteiro, Permanent Representative of Portugal and the President of the Security Council. It records that at the meeting, the Ambassador and President of the Security Council informed Wisseh of concerns expressed by the Security Council that there were reports that many of the fighters supporting the former Junta in the East of Sierra Leone were Liberian nationals. According to the report, Wisseh stressed the Liberian Government's policy not to allow its territory to be used to destabilise neighbouring countries and that President Taylor had previously appealed to the Secretary-General for the deployment of United Nations observers to monitor the situation at the Liberian and Sierra Leonean border.<sup>10346</sup>

Prosecution Exhibit P-080

4680. Exhibit P-080 is the First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, dated 12 August 1998. Reporting on the activities of ECOMOG and the military and security situation in Sierra Leone, the Secretary-General notes that while ECOMOG has deployed an additional brigade in Sierra Leone, allowing it to mount more aggressive patrols, its estimated 10,000 troops in theatre are "still overstretched and in need of significant additional logistical support, in order to contain the rebels and restore and maintain order in the eastern and northern parts of the country".<sup>10347</sup>

Defence Exhibit D-169

4681. Exhibit D-169 is the Second Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, dated 16 October 1998. The Report notes difficulties in the relationship between President Kabbah of Sierra Leone and President Taylor of Liberia after information received by Kabbah of alleged preparations by Liberia for the despatch of fighters for an incursion into Sierra Leone. The Secretary-General states that in an effort to improve relations between the two countries and show their commitment to subregional peace and security, "should both parties agree, the deployment of ECOMOG troops at the

<sup>10346</sup> Exhibit D-158, "Permanent Mission of the Republic of Liberia to the United Nations, Report on the Meeting between Ambassador Antonio Monteiro, Permanent Representative of Portugal and President of the Security Council, and Minister Counsellor Christian M Wisseh", p. 2.

<sup>10347</sup> Exhibit P-080, "UN Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998 – 00012386 – 00012400", para. 15, ERN. 12389.





border, subsequently accompanied by United Nations military observers, could help to stabilise the situation and restore mutual confidence".<sup>10348</sup>

Defence Exhibit D-177

4682. Exhibit D-177 is a compilation of media releases published by the ECOMOG Press Information Office, covering the period September to December 1998. A press statement dated 9 December 1998, titled "Enforce embargo on Liberia to block arms flow to rebels – Gen Shelpidi", records Major General Timothy Shelpidi, the ECOMOG Force Commander as calling publicly on the United Nations to ensure a stricter enforcement of the existing arms embargo and possibly impose fresh sanctions on Liberia as a way of stopping the flow of arms to the rebel forces in Sierra Leone. Commenting that the only possible supply route and source of all illegal arms in Sierra Leone is Liberia, General Shelpidi further states:

Gen Shelpidi said it has been proved beyond all doubts in several instances that Liberia remains the only possible supply route and source of all illegal arms in Sierra Leone, urging the United Nations not to take President Charles Taylor's denials seriously. [...]

On the possibility of deploying ECOMOG troops for direct policing of Liberia/Sierra Leone boarder [sic], General Shelpidi said the human and material resources required for realistic and effective monitoring could be very enormous, moreso in view of the porosity of borders in Africa. He said the International community could still do a lot to help the situation by prevailing on Liberian authorities.<sup>10349</sup>

4683. According to the press release, Shelpidi's view was that the major problem now facing ECOMOG was the issue of insufficient troops as "many countries that promised contributing forces are yet to fulfil despite repeated assurances. This situation is being compounded by the inadequacy of logistics".<sup>10350</sup>

Defence Exhibit D-175

4684. Exhibit D-175 is the Third Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone dated 16 December 1998. The report notes that a Liberian delegation led by the Minister of National Security undertook a two-day visit to Sierra

<sup>10348</sup> Exhibit D-169, "UN Security Council, Second Progress Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1998/960, 16 October 1998 – DCT 170", paras 6-7, 61, ERN. 12373, 12383.

<sup>10349</sup> Exhibit D-177, "Media Communique, A Compilation of News/Press Releases of ECOMOG, Vol. 1, No. 1, Sept-Dec 1998, Freetown, December 1998 – DCT 23", p. 24.

<sup>10350</sup> Exhibit D-177, "Media Communique, A Compilation of News/Press Releases of ECOMOG, Vol. 1, No. 1, Sept-Dec 1998, Freetown, December 1998 – DCT 23", p. 25.







Leone on 9 December 1998 after which the Liberian government announced that President Kabbah had agreed with President Taylor's request for joint patrols on the border of Sierra Leone and Liberia.<sup>10351</sup>

Defence Exhibit D-189

4685. Exhibit D-189 is a statement issued by the government of Liberia setting out a chronology of the steps it has taken to dispel allegations regarding Liberia's support for the RUF/Junta between May 1998 and February 1999. Included as one of these measures is the issuance of a Special Statement on 19 December 1998 concerning the closure of the Liberian border with Sierra Leone and the deployment of units of the Armed Forces of Liberia to border areas.<sup>10352</sup>

Defence Exhibit D-141

4686. Exhibit D-141 is a collection of the Accused's policies, statements, speeches and other Presidential Papers from 2 August 1997 to 31 December 1998, published by the Department of Public Affairs and Presidential Press Secretary in around 1999.<sup>10353</sup> The collection documents the activities of the Accused and important events during his presidency.<sup>10354</sup>

4687. It includes a copy of a public statement made by President Taylor at the Executive Mansion in Monrovia, on 22 December 1998 "on the occasion of his safe return home from attending the inauguration of the President of Burkina Faso".<sup>10355</sup> In that statement, Taylor referred to recent radio announcements concerning the closure of the border with Sierra Leone and explained that the closure was prompted by signals received by the Liberian government that the escalating nature of the conflict in Sierra Leone might lead to a spill over into Liberian territory, and intelligence reports that elements loyal to ULIMO were planning to infiltrate insurgents across the border. According to the statement, the Liberian

<sup>10351</sup> Exhibit D-175, "UN Security Council, Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/1176, 16 December 1998 – DCT 102", para. 14.

<sup>10352</sup> Exhibit D-189, "Statement on Measures Taken by the Government of Liberia to Dispel Allegations Regarding Liberia's Support for the RUF/Junta between May 1998 and February 1999 – DCT 177 (4 pages)", p. 2.

<sup>10353</sup> Charles Ghankay Taylor, Transcript 28 July 2009, p. 25206.

<sup>10354</sup> Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25205-25206.

<sup>10355</sup> Exhibit D-141, "Presidential Papers, Policies, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997– 31 December 1998 – DCT 256 (398 pages)", pp. 289-291.

government immediately convened a National Security Council meeting to discuss the issues. Based on the recommendation of the Council, the Government noted its intention to collaborate with ECOMOG to enforce the closure, and to deploy security and paramilitary units along the border.<sup>10356</sup>

4688. A policy statement by the Government of the Republic of Liberia on allegations against Liberia for involvement in the Sierra Leonean crisis, made in Monrovia on 29 December 1998, recalled its decision to permit joint Liberian and ECOMOG patrols of the border with Sierra Leone, and the subsequent deployment of these forces, and its previous requests to the UN Secretary-General for the deployment of UN observers along the border.<sup>10357</sup>

4689. Exhibit D-141 also includes a copy of the joint communiqué of the meeting between the President of Sierra Leone and the President of Liberia on 2 July 1998 in Abuja. The meeting was jointly hosted by the Chairman of ECOWAS and the Secretary-General of the United Nations. The communiqué records that as part of the discussions on ways in which security and cooperation between the neighbouring states could be further improved, both the heads of State of Liberia and Sierra Leone “would welcome and support the deployment of United Nations and ECOMOG observers along their border”.<sup>10358</sup>

#### Defence Exhibit D-179

4690. Exhibit D-179 is a letter from Charles Taylor to the President of the Security Council dated 6 January 1999. The letter details Taylor’s concern about the accusation leveled against the Government of Liberia that it was augmenting violence in Sierra Leone. Taylor refutes the allegations as inconsistent and without substantial proof. In the letter, Taylor also emphasises that the Liberian government has requested ECOWAS and the United Nations to deploy observers at the Liberian-Sierra Leonean border and offered to conduct joint border security activities with the Government of Sierra Leone.<sup>10359</sup> Taylor notes that while “the

<sup>10356</sup> Exhibit D-141, “Presidential Papers, Policies, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997– 31 December 1998 – DCT 256 (398 pages)”, p. 290; see also p. 56.

<sup>10357</sup> Exhibit D-141, “Presidential Papers, Policies, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997– 31 December 1998 – DCT 256 (398 pages)”, p. 292.

<sup>10358</sup> Exhibit D-141, “Presidential Papers, Policies, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997– 31 December 1998 – DCT 256 (398 pages)”, p. 298; Charles Ghankay Taylor, Transcript 3 August 2009, p. 25803.

<sup>10359</sup> Exhibit D-179, “Letter to the President of the Security Council, from the President of Liberia, S/1999/17, 6

Secretary-General indicated his intention to discuss the matter further with the Government with a view to making appropriate recommendations to the Security Council for the deployment of observers on the border”, “to date nothing has been done by the Security Council to this effect”.<sup>10360</sup>

#### Defence Exhibit D-178

4691. Exhibit D-178 is a Special Report of the Secretary-General on the UN Observer Mission in Sierra Leone, dated 7 January 1999, concerning military and other developments in Sierra Leone to date. The report states that on 20 December 1998, President Charles Taylor had announced the closure of the border between Sierra Leone and Liberia and that he had ordered Armed Forces of Liberia personnel to station themselves at the border. President Taylor informed the representative of the Secretary-General in Liberia, Felix Downes-Thomas, that he had received intelligence reports concerning an impending attack against the territory of Liberia to take place. Additionally, the report states that Taylor also proposed ECOMOG troops in Liberia should mount joint patrols with Liberian personnel along the border.<sup>10361</sup>

#### Defence Exhibit D-034

4692. Exhibit D-034 is a document published by the Liberian Ministry of Information, Cultural Affairs and Tourism, dated 26 January 1999, setting out the Liberian government’s response to allegations of its involvement in the Sierra Leone civil war. In a section entitled “Practical steps by Liberia to bring peace to Sierra Leone”, it states:

On the military front, the Liberian border with Sierra Leone has been well-fortified so as to prevent any situation where retreating AFRC/RUF rebels could contemplate the use of the Liberian side of the border to launch hit-and-run military operations into Sierra Leone. Because of this preventive measure, the Liberian side of the border has remained absolutely calm from any military activity.

And finally, in an attempt to ensure international verification of Liberia’s neutrality in the Sierra Leonean crisis, the Liberian government has invited the United Nations, the OAU and ECOWAS to send a joint observer mission at the border that would monitor the

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January 1999 – DCT 33”, p. 2.

<sup>10360</sup> Exhibit D-179, “Letter to the President of the Security Council, from the President of Liberia, S/1999/17, 6 January 1999 – DCT 33”, p. 2.

<sup>10361</sup> Exhibit D-178, “UN Security Council, Special Report of the Secretary General on the UN Observer Mission in Sierra Leone, 7 January 1999 – DCT 100”, para. 11.





movement of forces both on the Liberian and Sierra Leonean sides of the border. To this date such verification team is yet to be put in place.<sup>10362</sup>

### Defence Exhibit D-181

4693. Exhibit D-181 is a Code Cable from Felix Downes-Thomas, Special Representative of the Secretary-General in Monrovia, to Prendergast, the Undersecretary-General for Political Affairs at the United Nations,<sup>10363</sup> on the withdrawal of ECOMOG troops from Liberia, dated 30 January 1999. It comments on a PANA news article of 15 January 1999 which reported the withdrawal of the Nigerian contingent of ECOMOG from Monrovia. Downes-Thomas notes that ECOMOG had deployed its personnel primarily in Monrovia and more visibly at checkpoints in and along roadways leading to Monrovia. While Liberian security officers have successfully taken over the manning of those checkpoints, he records that concerns have been raised regarding the ability of government forces to contain organised violence anywhere in the country. In particular, the Liberian population harboured concerns regarding the conduct of Liberian security agents, and were “particularly apprehensive about the overall conduct of members of the Special Security Services (SSS)”.<sup>10364</sup> He also noted that despite the often tense relationship between the NPFL-led government and ECOMOG, the government would have preferred a scaled-down ECOMOG presence “as opposed to its sudden and massive withdrawal”.<sup>10365</sup>

4694. On the allegations in the PANA article concerning Liberian complicity in fueling the conflict in Sierra Leone, Downes-Thomas notes that there is a reluctance from those making such accusations to furnish incontrovertible evidence, but “[i]f allegations about Liberian supply of fighters and war material to RUF are true, then one must conclude that either such supply ante-date the recent events in Sierra Leone or that the joint ECOMOG/Liberia monitoring of the closed Liberia/Sierra Leone border has been thoroughly ineffective”.<sup>10366</sup>

<sup>10362</sup> Exhibit D-034, “Liberia's Response to Allegations of Her Involvement in the Sierra Leone Civil War, Ministry of Information, Cultural Affairs and Tourism Monrovia, Liberia, 26 January 1999, 00028759-00028766”, pp. 8-9, ERN. 28764.

<sup>10363</sup> Charles Ghankay Taylor, Transcript 11 August 2009, p. 26480.

<sup>10364</sup> Exhibit D-181, “Outgoing Code Cable to Prendergast, United Nations, New York from Downes-Thomas, RSG, UNOL, Monrovia, Reported Withdrawal of ECOMOG Troops from Liberia – 30 January 1999 – DCT 48”, paras 4-5.

<sup>10365</sup> Exhibit D-181, “Outgoing Code Cable to Prendergast, United Nations, New York from Downes-Thomas, RSG, UNOL, Monrovia, Reported Withdrawal of ECOMOG Troops from Liberia – 30 January 1999 – DCT 48”, paras 7, 19.

<sup>10366</sup> Exhibit D-181, “Outgoing Code Cable to Prendergast, United Nations, New York from Downes-Thomas,

Defence Exhibit D-182

4695. Exhibit D-182 is a code cable from the United Nations to UNOMSIL in Conakry dated 5 February 1999 commenting on a “five-point plan” proposed by UNOMSIL as to furthering stability in the region. The code cable sets out a number of points that UNOMSIL should take on its visits to Monrovia and Ouagadougou, including that the United Nations “would [...] welcome the exercise of any influence President Taylor could bring to bear on the rebels to reach an accommodation with the GOSL”.<sup>10367</sup> The cable also notes:

In his 9 June 1998 report (S/1958/486), the Secretary-General responded positively in principle to calls by GOL to deploy United Nations personnel at the border between Liberia and Sierra Leone. In practice, however, this has proved impossible in view of the absence of any ECOMOG deployment to provide security.<sup>10368</sup>

Defence Exhibit D-191

4696. Exhibit D-191 is the Fifth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, dated 4 March 1999. The Secretary-General notes the Government of Liberia’s request to deploy United Nations monitors along with ECOMOG forces at the Liberia/Sierra Leone border in light of repeated allegations of illegal shipments of arms to the rebels, and remarks that although he intends to pursue options further with President Taylor, “practical obstacles to the proposal to deploy United Nations monitors at the border [...] remain, as deployment of the ECOMOG forces required to protect them is unlikely”.<sup>10369</sup>

Defence Exhibit D-185

4697. Exhibit D-185 is an official statement from the Ministry of Foreign Affairs in Liberia on the Sierra Leonean conflict. It set out a number of undertakings “in furtherance of the efforts of the Government of Liberia to discourage Liberian citizens from complicating the crisis in Sierra Leone”, including renewing its request to the Government of Sierra Leone to accept the joint patrol and monitoring of the Liberian/Sierra Leonean border, renewing its

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RSG, UNOL, Monrovia, Reported Withdrawal of ECOMOG Troops from Liberia – 30 January 1999 – DCT 48”, paras 2-4.

<sup>10367</sup> Exhibit D-182, “Outgoing Code Cable to Okelo, UNOMSIL, Conakry from Miyet, United Nations, New York, Your Five-Point Plan and Next Steps, 5 February 1999 – DCT 132”, p. 2.

<sup>10368</sup> Exhibit D-182, “Outgoing Code Cable to Okelo, UNOMSIL, Conakry from Miyet, United Nations, New York, Your Five-Point Plan and Next Steps, 5 February 1999 – DCT 132”, p. 2.

<sup>10369</sup> Exhibit D-191, “UN Security Council, Fifth Report of the Secretary General on the United Nations

request to the United Nations Security Council to approve deployment of United Nations and ECOMOG forces at the border, and reinforcing directives to security forces to ensure that no cross border movement or transshipment of arms and ammunition takes place.<sup>10370</sup>

Defence Exhibit D-188

4698. Exhibit D-188 is a letter from President Taylor to the United Nations Secretary-General dated 23 February 1999, renewing his requests for the United Nations to consider the deployment of observers or monitors at the Liberia-Sierra Leonean border. It further states that the government of Liberia has called upon its citizens to disengage its participation from the conflict in Sierra Leone.<sup>10371</sup>

Defence Exhibit D-347

4699. Exhibit D-347 is an extract from the Official Journal of the Economic Community of West African States recording the decision of the Heads of State and Government of ECOWAS on 25 August 1999 to redefine the mandate of ECOMOG in Sierra Leone. Article 1(1) defines the new ECOMOG mandate in Sierra Leone to include both the maintenance of peace and security of Sierra Leone and the protection of UNOMSIL and other DDR personnel. Article 1(2)(d) and (e) instructs ECOMOG to “[...] establish road blocks and check points to check movement of arms and ammunition and assist in directing refugees and displaced persons” and “man entry points (land, sea and air) in order to prevent illegal movement of arms and ammunition into or out of the country”.<sup>10372</sup>

Defence Exhibits D-232, D-235, and D-239C

4700. Exhibit D-232 is a code cable from Felix Downes-Thomas, Special Representative of the Secretary-General in Monrovia, to Prendergast, the Undersecretary-General for Political Affairs at the United Nations,<sup>10373</sup> reporting on a conversation with President Taylor on 26 January 2000. Downes-Thomas reports that Taylor requested that he convey to the

Observer Mission in Sierra Leone, S/1999/237, 4 March 1999 – CMS pgs. 21594–21607 – DCT 142”, para. 50.

<sup>10370</sup> Exhibit D-185, “Republic of Liberia, Ministry of Foreign Affairs, Monrovia, Official Statement of the Government of Liberia on the Sierra Leone Crisis, 19 February 1999 – DCT 169”, pp. 3-4.

<sup>10371</sup> Exhibit D-188, “Letter to the Secretary General of the United Nations, Kofi Annan, from the President of Liberia, Charles Ghankay Taylor, 23 February 1999 – DCT 59”, p. 2.

<sup>10372</sup> Exhibit D-347, “Official Journal of the Economic Community of West African States (ECOWAS), Vol. 36, August 1999 – DCT 281 (4 pp.)”, p. 3.

<sup>10373</sup> Charles Ghankay Taylor, Transcript 11 August 2009, p. 26480.

Secretary-General that Taylor was agreeable to the deployment inside Liberia and along the Sierra Leone-Liberia border of UN observers and monitors who could among other things, deter or report on any cross-border traffic of diamonds, arms or security personnel.<sup>10374</sup>

4701. Exhibit D-235 is a code cable to Downes-Thomas from Prendergast dated 10 February 2000, acknowledging Taylor's request for UN observers and suggesting that the Government of Liberia should set out its request in writing, setting out, inter alia, the proposed deployment locations, numbers of observers, whether it envisaged the deployment of armed troops and the level of support to be provided by the Liberian government.<sup>10375</sup>

4702. Exhibit D-239C is a code cable from Downes-Thomas to Prendergast, dated 14 April 2000, explaining that he had met with the Foreign Minister, who had clarified that the Liberian government was not "desperately inviting UN monitors [...] to Liberia", and the request was made rather to defend its innocence against the background of the allegations that Liberia was fuelling the conflict in Sierra Leone. The cable reports that the Minister concluded that it was up to the UN to decide whether it was necessary for it to accept the request. Downes-Thomas states that his own view was that the issues could be comprehensively addressed by a "UN technical survey team" and sought advice on whether such a measure would be necessary.<sup>10376</sup>

#### Defence Exhibit D-003

4703. Exhibit D-003 is a Radio Log Book recording radio messages between RUF commanders from 23 September 1999 to 18 April 2000. Exhibit D-003 was adduced through Prosecution witness Perry Kamara, who testified that it was one of the logbooks relating to Buedu, Sam Bockarie's radio station.<sup>10377</sup>

4704. One of the recorded messages from C/S Rock (Buedu) Operator to Foday Sankoh (a.k.a. "Smile") dated 6 February 2000, states:

<sup>10374</sup> Exhibit D-232, "Code Cable to Prendergast, United Nations, New York, from Downes-Thomas, RSG, UNOL, Monrovia, Conversation with President Taylor, 27 January 2000 – DCT 38", para. 6.

<sup>10375</sup> Exhibit D-235, "Code Cable to Downes-Thomas, RSG, UNOL, from Prendergast, United Nations, New York, Recent Cables, 10 February 2000 – DCT 166", p. 1.

<sup>10376</sup> Exhibit D-239C, "Outgoing Code Cable to Prendergast, United Nations, New York, from Downes-Thomas, RSG, UNOL, Proposed Deployment of UN Observers on Liberia/Sierra Leone Border, 14 April 2000 – DCT 136", p. 1

<sup>10377</sup> Perry Kamara, Transcript 7 February 2008, pp. 3334-3335.





Sir, be informed that since you talked with the brothers on the other side (Liberia) in order for us to work hand in hand, up till now the border is closed between us by them. People are very eager to return home upon your instruction but they give no chance for them to come. About 50 (fifty) civilians came to Worsorga but the Liberia securities raised them and send them back from where they came from. The harassment on the border is too great sir. All this confusion is mostly caused by the brothers at Foya.<sup>10378</sup>

4705. Another message from Col Momoh Rogers to Issa Sesay (a.k.a. "Survival") dated 22 March 2000, states: "Despite the closure of the border line on Sierra Leone and Liberia side brothers from across yesterday bitterly beat two of our civilians who were willingly returning home. It's serious".<sup>10379</sup>

4706. A further radio message from the Fourth battalion commander, Major Fayia Sahr at Koindu to the First Brigade Commander, dated 7 April 2000, states:

the constant harassment of peaceful Sierra Leonean returnees by the Liberian security on the borderline is the order of the day this has continued for quite a long time now. They (Liberian securities) are always impeding the movement of our people to and fro as they claimed the border being closed".<sup>10380</sup>

#### Defence Exhibits D-263 and D-264

4707. Exhibit D-263 is a letter from Monie Captan, the Liberian Foreign Minister, to Thomas P Pickering, the United States Under-Secretary of State dated 17 August 2000, discussing the ongoing attacks launched from the Guinea-Sierra Leone borders on Liberia. It draws the Under-Secretary's attention to the "highly porous nature of our borders" and formally requests the United States to "(a) facilitate international monitors to be stationed at Liberian borders; and (b) provide technical assistance to improve monitoring capacity at all ports of entry".<sup>10381</sup>

4708. Exhibit D-264 is a letter from President Taylor to President Bill Clinton of the United States, dated 23 August 2000, discussing the continuing attacks against Liberia emanating from the Sierra-Leone/Guinea border region, stressing that the "inviolability of the borders between Liberia, Guinea and Sierra Leone remains a crucial issue" and

<sup>10378</sup> Exhibit D-003, "Radio Log Book Three - 00008727 - 00008903, 23 September 1999 to 18 April 2000", ERN. 8790.

<sup>10379</sup> Exhibit D-003, "Radio Log Book Three - 00008727 - 00008903, 23 September 1999 to 18 April 2000", ERN. 8806.

<sup>10380</sup> Exhibit D-003, "Radio Log Book Three - 00008727 - 00008903, 23 September 1999 to 18 April 2000", ERN. 8819.

<sup>10381</sup> Exhibit D-263, "Letter to Thomas Pickering, Under Secretary of State, Department of State, Washington, from Charles Taylor, dated 17 August 2000 - DCT 114", p. 3.







requesting US support in Liberian calls for, among other things, a UN monitoring presence along Liberian borders.<sup>10382</sup>

#### Defence Exhibit D-268

4709. Exhibit D-268 is a letter from President Taylor to the UN Secretary-General, Kofi Annan, dated 28 August 2000, referring to recent attacks on Liberia by armed insurgents from the area of the Guinea-Sierra Leone borders and calling again for a monitoring presence of the United Nations at these borders. It also suggests the utilisation of an airborne multi-spectral service in detection of any unusual movements along the entire border.<sup>10383</sup>

#### Defence Exhibit D-037

4710. Exhibit D-037 is a letter dated 5 July 2001 from the Permanent Representative of Liberia to the UN Secretary-General. Annexed to this letter is a document in which the Government of Liberia states that it remains completely and totally disengaged with the RUF and that the Sierra Leone-Liberia border remained closed since March 2001 and is patrolled daily by security personnel for effective monitoring.<sup>10384</sup>

#### Defence Exhibit D-348

4711. Exhibit D-348 is an excerpt from the Official Journal of the Economic Community of West African States (ECOWAS), Vol. 38, dated December 2000, recording the decision of the Heads of State and Government on 15-16 December 2000 to deploy ECOMOG along the border between Guinea and Liberia.<sup>10385</sup>

#### Deliberations

##### (i) ECOMOG presence at the border

<sup>10382</sup> Exhibit D-264, "Letter to the President of the United States, H.E William Jefferson Clinton, from the President of Liberia, Dr Charles Ghankay Taylor, 23 August 2000 – DCT 250", p. 2.

<sup>10383</sup> Exhibit D-268, "UN Security Council, Letter dated 28 August 2000, from the President of Liberia, addressed to the Secretary General, S/2000/844, 1 September 2000 – DCT 129", pp. 1-2.

<sup>10384</sup> Exhibit D-037, "United Nations Security Council, Letter dated 5 July 2001 from the Permanent Representative of Liberia to the United Nations addressed to the Secretary-General, S/2001/675, 9 July 2001 - 00100011-00100017", para 1.1. Moses Blah, Transcript 20 May 2008, pp. 10323-10325.

<sup>10385</sup> Exhibit D-348, "Official Journal of the Economic Community of West African States (ECOWAS), Vol. 38, December 2000 – DCT 282 (2 pages)", p. 7.

4712. The Defence submits that ECOMOG presence in Liberia effectively prevented the Accused from engaging in cross-border arms trade with the rebels in Sierra Leone.<sup>10386</sup> The evidence unequivocally demonstrates that there was an ECOMOG presence in Liberia from around August 1990<sup>10387</sup> to at least January 1999.<sup>10388</sup> Its task was to oversee the implementation of successive peace agreements in Liberia, a key component of which was the establishment of a buffer zone along the Liberia-Sierra Leonean border.<sup>10389</sup> It is clear that prior to 1997, ECOMOG never successfully achieved this. Although some efforts were made to negotiate the establishment of checkpoints at the border with Sierra Leone,<sup>10390</sup> due to continuing hostilities, ECOMOG deployment in Liberian territory remained for the most part restricted to Monrovia and a few strongholds scattered near the southern coastline.<sup>10391</sup> It is evident that at least until 1996 or 1997 ECOMOG suffered from resource deficiencies which delayed full deployment throughout the country.<sup>10392</sup>

<sup>10386</sup> Defence Final Trial Brief, para. 469.

<sup>10387</sup> Exhibit D-141, "Presidential Papers, Policies, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997– December 31 1998 – DCT 256 (398 pages)", p. 69; Exhibit D-120, "Analytical Chronology of the ECOWAS Peace Plan for Liberia: Banjul to Akosombo and Beyond- DCT43 (93 pages)", para. 12; Charles Ghankay Taylor, Transcript 20 July 2009, pp. 24729-24732.

<sup>10388</sup> Exhibit D-181, "Outgoing Code Cable to Prendergast, United Nations, New York from Downes-Thomas, RSG, UNOL, Monrovia, Reported Withdrawal of ECOMOG Troops from Liberia – 30 January 1999 – DCT 48", paras 7, 19.

<sup>10389</sup> Exhibit D-385, "Official Journal of the Economic Community of West African States (ECOWAS), Volume 22, Special Edition, 1997– DCT 184 (194 pages)", p. 7, para. 10 (on the Yamoussoukro Accords in 1991); Exhibit D-141, "Presidential Papers, Policies, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997– December 31 1998 – DCT 256 (398 pages)", p. 73 (on the Contonou Agreement in 1993); Exhibit P-469, Excerpts from: United Nations Security Council, S/1995/881, Thirteenth Progress Report of the Secretary General on the United Nations Observer Mission in Liberia, 23 October 1995 (P-469)", para. 24 (on the 1995 Abuja Agreement).

<sup>10390</sup> Exhibit P-466, "Excerpts from: United Nations Security Council, S/1994/168, Second Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, 14 February 1994", para. 18 (UNOMIL consulted with ULIMO on the establishment of three checkpoints to be manned by ECOMOG on the border towns of Bo, Kongo and Vahun).

<sup>10391</sup> Exhibit P-471, "Excerpts from: United Nations Security Council, S/1996/362, Seventeenth Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, 21 May 1996", paras 21-22 (because of hostilities erupting in April, ECOMOG had to withdraw from Gbarnga, Bo Tienne and Sinjie and reduce its strength in Buchanan and Kakata).

<sup>10392</sup> Exhibit P-466, "Excerpts from: United Nations Security Council, S/1994/168, Second Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, 14 February 1994", paras 26-29. This situation did not change despite repeated requests to contributor countries, and the continuing lack of resources hampered the conduct of their task in supervising the successive peace agreements in Liberia: Exhibit P-467, "Excerpts from: United Nations Security Council, S/1994/1006, Sixth Progress Report of the Secretary General on the United Nations Observer Mission in Liberia, 26 August 1994", paras 15-16; Exhibit P-468, "Excerpts from: United Nations Security Council, S/1995/781, Twelfth Progress Report of the Secretary General on the United Nations Observer Mission in Liberia, 13 September 1995", para. 43; Exhibit P-469, Excerpts from: United Nations Security Council, S/1995/881, Thirteenth Progress Report of the Secretary General on the United Nations Observer Mission in Liberia, 23 October 1995 (P-469)" paras 35-37 (Substantial additional logistic assistance was required to enable ECOMOG to carry out its responsibilities under the Abuja agreement and

4713. According to the Accused, from mid-1996 until the end of 1997, ECOMOG troops were fully deployed throughout the country<sup>10393</sup> and were effectively “in charge” of Liberian territory, including controlling the border between Sierra Leone and Liberia.<sup>10394</sup> However, documentary evidence indicates that only with a substantial injection of troops in early 1997 was ECOMOG able to deploy throughout the country.<sup>10395</sup> By late August 1997, ECOMOG personnel were deployed along the Liberia/Sierra Leone border.<sup>10396</sup> Prosecution witnesses Moses Blah,<sup>10397</sup> TF1-371,<sup>10398</sup> and TF1-367,<sup>10399</sup> also indicate that ECOMOG was able to maintain a presence at the border when the Accused was elected as President.

4714. The Prosecution contends that even if ECOMOG maintained a presence on the border, due to continuing resource deficiencies ECOMOG was never able to assert *effective* control of the border. The Trial Chamber notes that from early on in the Indictment period, ECOMOG began phasing out its presence in Liberia.<sup>10400</sup> Although in June 1997, ECOMOG troops numbered 11,000 in Liberia,<sup>10401</sup> in August of that year, ECOWAS extended the mandate of ECOMOG into the territory of Sierra Leone<sup>10402</sup> and diverted 4000 troops from Liberia to Freetown.<sup>10403</sup> According to the Accused, the total number of ECOMOG troops

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recalling that “a severe shortage of logistic support was a main reason for the inability of ECOMOG to carry out its tasks under the Cotonou Agreement”); see also Charles Ghankay Taylor, Transcript 21 January 2010, pp. 33806-33807 (the Accused was aware that ECOMOG publicly complained of insufficient financial support as well as insufficient logistical resources); see also Exhibit D-385, “Official Journal of the Economic Community of West African States (ECOWAS), Volume 22, Special Edition, 1997– DCT 184 (194 pages)”, p. 56, para. 23 (drawing attention to the worsening logistics positions of ECOMOG and the reduction of its troops from 10,000 to 8,443).

<sup>10393</sup> Charles Ghankay Taylor, Transcript 16 November 2009, pp. 31751- 31756.

<sup>10394</sup> Charles Ghankay Taylor, Transcript 27 July 2009, pp. 25274-25275.

<sup>10395</sup> Exhibit P-473, “Excerpts from: United Nations Security Council, S/1997/90, Twenty-First Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, 29 January 1997”, p. 3.

<sup>10396</sup> Exhibit D-136, “ECOWAS, Final Report, Sixteenth Meeting of ECOWAS Chiefs of State, Abuja, Nigeria, 26–27 August 1997 – DCT 76 (27 pages)”, p. 11.

<sup>10397</sup> Moses Blah, Transcript 20 May 2008, p. 10241 (ECOMOG was in reality the only effective force in the country. ECOMOG forces numbered around 10,500 troops and were primarily responsible for policing within Liberia).

<sup>10398</sup> TF1-371, Transcript 31 January 2008, pp. 2698-2700 (CS) (when the Accused became President in August 1997, ECOMOG was in control of the country and were stationed on the border).

<sup>10399</sup> TF1-367, Transcript 29 August 2008, pp. 14977- 14950 (when ECOMOG intervened in Lofa County in 1996 and 1997, they set up checkpoints at the border).

<sup>10400</sup> Charles Ghankay Taylor, Transcript 16 November 2009, pp. 31751- 31756.

<sup>10401</sup> Exhibit P-475, “Excerpts from: United Nations Security Council, S/1997/478, Twenty Third Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia, S/1997/478, 19 June 1997”, p. 5.

<sup>10402</sup> Exhibit D-340, “Official Journal of the Economic Community of West African States (ECOWAS), Vol. 33, August 1997 – DCT 279 (8 pages)”, pp. 13-14.

<sup>10403</sup> Exhibit D-062, “How Diamonds Fuelled the Conflict, Chronology of Sierra Leone, Sierra Leone Diamonds, Africa Confidential, April 1998”, p. 6; Charles Ghankay Taylor, Transcript 18 November 2009, p. 31960.

dropped to 800 by November 1998, and by the beginning of 1999, only about half that number remained in Liberia,<sup>10404</sup> marking the commencement of the withdrawal of ECOMOG troops.<sup>10405</sup>

4715. The extent to which these shortages had an effect on the ability of ECOMOG to adequately police the border is unclear. However, a number of witnesses testified to crossing the border from Sierra Leone to Liberia and back at this time. TF1-367, a former RUF member, testified that although when ECOMOG deployed at Lofa County they set up road blocks towards the border areas, they were unable to monitor all the major border crossing points.<sup>10406</sup> As the Trial Chamber has previously found, the occupation of the border areas of Liberia by ULIMO from 1993 to the commencement of the disarmament programme obstructed access by the RUF to Liberia during that period.<sup>10407</sup> However, according to TF1-367, the road effectively “opened up” once ECOMOG deployed in Lofa County because ECOMOG prevented ULIMO from harassing Sierra Leoneans attempting to cross the border.<sup>10408</sup> Both Augustine Mallah and Albert Saidu affirmed that the only time the border between Liberia and Sierra Leone was closed in practice was when ULIMO occupied the border areas from around 1993 to 1996 or 1997, and testified that the border was porous at all other times.<sup>10409</sup>

4716. Joseph Marzah also suggested that the corruption of ECOMOG officials meant that it was easy to evade border controls at this time. He testified that ECOMOG commanders provided Taylor with ECOMOG branded vehicles, sold Taylor arms and ammunition, and escorted Marzah to the border while he transported materiel to Sierra Leone.<sup>10410</sup> According

<sup>10404</sup> Charles Ghankay Taylor, Transcript 18 November 2009, pp. 31959-31962.

<sup>10405</sup> Exhibit D-181, “Outgoing Code Cable to Prendergast, United Nations, New York from Downes-Thomas, RSG, UNOL, Monrovia, Reported Withdrawal of ECOMOG Troops from Liberia – 30 January 1999 – DCT 48”.

<sup>10406</sup> TF1-367, Transcript 29 August 2008, pp. 14965- 14970.

<sup>10407</sup> Pre-Indictment Period (1988-1996): Alleged RUF Assistance Fighting ULIMO in Liberia. See also Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28709-28710 (the border was entirely cut off when ULIMO occupied the area until January 1997 following the disarmament programme); Moses Blah, Transcript 19 May 2008, p. 10193 (the border between Sierra Leone and Liberia was effectively controlled by ULIMO from 1992 until the elections in June 1997); Karmoh Kanneh, Transcript 13 May 2008, pp. 9676-9678 (the border was sealed off from middle of 1992 till 1997 when the disarmament process was underway); Abu Keita, Transcript 24 January 2008, pp. 2150-2151. (ULIMO's control of the border area continued until 1997 when Charles Taylor was elected President).

<sup>10408</sup> TF1-367, Transcript 21 August 2008, pp. 14309-14310; Transcript 29 August 2008, p. 14965

<sup>10409</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20085-20086; Albert Saidu, Transcript 6 June 2008, pp. 11205-11206.

<sup>10410</sup> Joseph Marzah, Transcript 14 March 2008, pp. 6098-6099.

to Defence witness DCT-292, in 1996, when the presence of ECOMOG in Liberia was significant, it was possible to pass unhindered through border checkpoints if accompanied by an NPFL commander.<sup>10411</sup> While the Accused did not agree that ECOMOG assisted with the movement of arms across the border, he agreed that he did purchase arms and ammunition from corrupt ECOMOG commanders.<sup>10412</sup> The Trial Chamber recalls its previous finding that the evidence of Joseph Marzah must be treated with caution,<sup>10413</sup> but notes that in this instance, his evidence is corroborated by TF1-367, who testified as to the ability to cross the Sierra Leonean-Liberia border while ECOMOG was stationed there in 1997.

4717. It was also the Accused's evidence that once ECOMOG troops moved into Sierra Leone, their mandate extended to monitoring the movement of arms and ammunition into and out of Sierra Leone. Exhibit D-347 affirms that at least from August 1999, the ECOMOG mandate in Sierra Leone was defined to include "man[ning] entry points (land, sea and air) in order to prevent illegal movement of arms and ammunition into or out of the country".<sup>10414</sup> Nonetheless, evidence suggests that logistical and other resource shortages persisted,<sup>10415</sup> hampering ECOMOG's ability to police the border from the Sierra Leonean side. In a press statement dated 9 December 1998, Major General Timothy Shelpidi, the ECOMOG Force Commander, noted that while, in his opinion, cross-border arms supply from Liberia was the only possible supply route for the entry of illegal arms into Sierra Leone, insufficient troops and inadequate logistical support prevented ECOMOG from directly policing the border.<sup>10416</sup> Similarly, Exhibits D-182, D-191 and P-130 indicate that while the United Nations welcomed in principle the Government of Liberia's proposal to deploy United Nations monitors at the border between Liberia and Sierra Leone, up to

<sup>10411</sup> DCT-292, Transcript 3 June 2010, p. 42051.

<sup>10412</sup> Charles Ghankay Taylor, Transcript 3 August 2009, p. 25785; Transcript 26 November 2009, pp. 32628-32629.

<sup>10413</sup> Credibility Assessment, Joseph Marzah, paras 263-268.

<sup>10414</sup> Charles Ghankay Taylor, Transcript 8 September 2009, pp. 28308-28310; Exhibit D-347, "Official Journal of the Economic Community of West African States (ECOWAS), Vol. 36, August 1999 – DCT 281 (4 pp.)" (defining the ECOMOG mandate in Sierra Leone to include establishing "road blocks and check points to check movement of arms and ammunition and assist in directing refugees and displaced persons" and "man[ning] entry points (land, sea and air) in order to prevent illegal movement of arms and ammunition into or out of the country").

<sup>10415</sup> Exhibit P-080, "UN Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998 – 00012386 – 00012400", para. 15, ERN. 12389 (ECOMOG's estimated 10,000 troops are "still overstretched and in need of significant additional logistical support").

<sup>10416</sup> Exhibit D-177, "Media Communique, A Compilation of News/Press Releases of ECOMOG, Vol. 1, No. 1, Sept-Dec 1998, Freetown, December 1998 – DCT 23", pp. 24-25.





March 1999, this proved impossible due to the absence of any ECOMOG deployment to provide security.<sup>10417</sup>

4718. In view of this evidence, the Trial Chamber is not satisfied that the deployment of ECOMOG in Liberia or Sierra Leone was sufficient to prevent the cross-border movement of arms and ammunitions.

(ii) Closure of the border by the Liberian government

4719. The Defence further submits that the Liberian government itself closed the border in 1997 and 1998, reinforcing the ECOMOG troops at the border with Liberian forces. The Accused testified to several occasions on which the Liberian government officially closed the border with Sierra Leone.<sup>10418</sup> He then testified that during a meeting of the Committee of Five held on 22 to 23 October 1997 the Liberian government closed the border.<sup>10419</sup> Later, the Accused affirmed that on 22 December 1998, he announced the closure of the border, due to reports of the escalation of the conflict in Sierra Leone and intelligence that the defunct ULIMO were planning to infiltrate insurgents across the border.<sup>10420</sup>

4720. The Trial Chamber notes that the announcement by the Liberian government that it closed the border with Sierra Leone in October 1997 is corroborated by Exhibit D-341<sup>10421</sup> and Exhibit D-127,<sup>10422</sup> both media articles covering the announcement of the closure. That the Liberian government also closed the border with Sierra Leone in December 1998 is corroborated by Exhibits D-141,<sup>10423</sup> Exhibit D-189,<sup>10424</sup> both publications issued by the

<sup>10417</sup> Exhibit P-130, “United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998 - 00004201 – 00004217”, paras 30-32, ERN. 4206; Exhibit D-182, “Outgoing Code Cable to Okelo, UNOMSIL, Conakry from Miyet, United Nations, New York, Your Five-Point Plan and Next Steps, 5 February 1999 – DCT 132”, p. 2; Exhibit D-182, “Outgoing Code Cable to Okelo, UNOMSIL, Conakry from Miyet, United Nations, New York, Your Five-Point Plan and Next Steps, 5 February 1999 – DCT 132”, p. 2; Exhibit D-191, “UN Security Council, Fifth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1999/237, 4 March 1999 – CMS pgs. 21594–21607 – DCT 142”, para. 50.

<sup>10418</sup> Charles Ghankay Taylor, Transcript 11 August 2009, p. 26436 (The Accused explained that the border was closed several times).

<sup>10419</sup> Charles Ghankay Taylor, Transcript 29 July 2009, p. 25472-25474; Transcript 7 September 2009, p. 28234.

<sup>10420</sup> Charles Ghankay Taylor, Transcript 5 August 2009, p. 26114.

<sup>10421</sup> Exhibit D-341, “Article, Sierra Leone News Website, October 22 1997 – DCT 277 (1 page)”, p. 1.

<sup>10422</sup> Exhibit D-127, “New African, No. 358, Taylor’s Triumph: Liberia’s 100 Days, December 1997 – DCT 171 (14 pages)”, p. 9.

<sup>10423</sup> Exhibit D-141, “Presidential Papers, Policies, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997– December 31 1998 – DCT 256 (398 pages)”, p. 290; see also p. 56.

<sup>10424</sup> Exhibit D-189, “Statement on Measures Taken by the Government of Liberia to Dispel Allegations





Liberian government, Exhibit D-178,<sup>10425</sup> the Secretary-General's progress report, Prosecution witness Moses Blah,<sup>10426</sup> and Defence witness John Vincent.<sup>10427</sup> The Trial Chamber accepts that on both occasions the Liberian government announced the official closure of the border and their intention to enforce that closure in collaboration with ECOMOG.<sup>10428</sup> The Accused gave a number of other dates for the closure of the border,<sup>10429</sup> but due to a lack of corroborative evidence the Trial Chamber is not satisfied that the Liberian government also announced a closure of the border at those times.

4721. Evidence indicates that after the official closure of the border in December 1998, a joint force of ECOMOG and Armed Forces of Liberia personnel was present at the border. In Exhibit D-178, the Secretary-General in his progress report on the situation in Sierra Leone noted that along with the announcement of the border closure, the Accused also ordered Armed Forces of Liberia personnel to station themselves at the border.<sup>10430</sup> The existence of a joint ECOMOG/Liberia monitoring of the closed Liberia/Sierra Leone border in January 1999 is also affirmed by Felix Downes-Thomas, Special Representative of the Secretary-General in Monrovia, in Exhibit D-181.<sup>10431</sup>

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Regarding Liberia's Support for the RUF/Junta between May 1998 and February 1999 – DCT 177 (4 pages)", p. 2 (Included as one of these measures is the issuance of a Special Statement on 19 December 1998 concerning the closure of the Liberian border with Sierra Leone and the deployment of units of the Armed Forces of Liberia to border areas).

<sup>10425</sup> Exhibit D-178, "UN Security Council, Special Report of the Secretary General on the UN Observer Mission in Sierra Leone, 7 January 1999 – DCT 100", Para. 11

<sup>10426</sup> Exhibit D-141, "Presidential Papers, Policies, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997– December 31 1998 – DCT 256 (398 pages)", pp. 56, 289-291; Moses Blah, Transcript 20 May 2008, p. 10314 (the Trial Chamber notes that Blah recalled this event only after prompting from Defence counsel during cross-examination).

<sup>10427</sup> John Vincent, Transcript 26 March 2010 pp. 38121-38123.

<sup>10428</sup> Charles Ghankay Taylor, Transcript 29 July 2009, p. 25473; Exhibit D-141, "Presidential Papers, Policies, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997– December 31 1998 – DCT 256 (398 pages)", p. 290.

<sup>10429</sup> Charles Ghankay Taylor, Transcript 14 July 2009, p. 24332 (stating that he closed the border with Sierra Leone in August 1998); Transcript 16 September 2009, p. 29047 (stating that the Liberian government closed the border with Sierra Leone in October 1998).

<sup>10430</sup> Exhibit D-178, "UN Security Council, Special Report of the Secretary General on the UN Observer Mission in Sierra Leone, 7 January 1999 – DCT 100", para. 11.

<sup>10431</sup> Exhibit D-181, "Outgoing Code Cable to Prendergast, United Nations, New York from Downes-Thomas, RSG, UNOL, Monrovia, Reported Withdrawal of ECOMOG Troops from Liberia – 30 January 1999 – DCT 48", paras 2-4; see also Exhibit D-141, "Presidential Papers, Policies, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997– December 31 1998 – DCT 256 (398 pages)", p. 292 (recalling the government's decision to permit joint Liberian and ECOMOG patrols of the border with Sierra Leone, and the subsequent deployment of these forces); Exhibit D-189, "Statement on Measures Taken by the Government of Liberia to Dispel Allegations Regarding Liberia's Support for the RUF/Junta between May 1998 and February 1999 – DCT 177 (4 pages)", p. 2 (referring to the closure of the Liberian border with Sierra Leone on 19 December 1998 and the deployment of units of the Armed Forces of Liberia to border areas).





4722. However, whether the Liberian forces were any more effective at policing the border is questionable. A number of witnesses testified to first-hand experiences of crossing the border from 1998 to 1999. Both TF1-579 and Abu Keita, who claimed to have been involved in the delivery of materiel across borders during this time, suggested that they had no difficulty getting through the border checkpoints, even though AFL soldiers were stationed there.<sup>10432</sup> Abu Keita noted that the RUF commanders issued entry “passes” for border crossings which were recognised on both sides of the border, including by the AFL and Liberian police.<sup>10433</sup> TF1-579 testified it was a simple matter to bypass ECOMOG checkpoints on the way from Monrovia to Buedu.<sup>10434</sup>

4723. The Trial Chamber recalls its previous finding that the evidence of TF1-579 must be treated with caution.<sup>10435</sup> However, his evidence as to the porous nature of the border as between the Accused’s subordinates and the RUF is corroborated by witnesses about whose testimony the Trial Chamber had no reservations. In addition to Abu Keita, Augustine Mallah, Albert Saidu and TF1-516 also testified that from 1998 to 1999, there was little hindrance to the flow of RUF personnel and Taylor’s subordinates across the border.<sup>10436</sup> Saidu believed that the announcement by the Liberian government that they had closed the border in December 1998 was merely to satisfy the international community and did nothing to prevent the movement of RUF members.<sup>10437</sup>

4724. In rebuttal to this evidence, the Defence cites correspondence documenting the Accused’s requests to the United Nations for the deployment of United Nations observers or monitors at the Liberia-Sierra Leonean border, dating from mid-1998, as contemporary evidence of the unlikelihood of the Accused being responsible for arms and ammunition being taken to Sierra Leone.

4725. The Trial Chamber notes that although it was repeatedly mooted in discussions between the Accused’s government and the United Nations,<sup>10438</sup> evidence suggests no such

<sup>10432</sup> Abu Keita, Transcript 23 January 2008, p. 2045; TF1-579, Transcript 5 November 2008, p. 1983.

<sup>10433</sup> Abu Keita, Transcript 23 January 2008, p. 2045.

<sup>10434</sup> TF1-579, Transcript 25 November 2008, pp. 21108-21110.

<sup>10435</sup> Credibility Assessment, TF1-579, paras 339-345.

<sup>10436</sup> Augustine Mallah, Transcript 17 November 2008, pp. 20437-20440; Albert Saidu, Transcript 6 June 2008, p. 11224; TF1-516, Transcript 8 April 2008, p. 6957.

<sup>10437</sup> Albert Saidu, Transcript 6 June 2008, p. 11224.

<sup>10438</sup> Exhibit P-130, “United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998 - 00004201 – 00004217”, paras 30-31, ERN. 4206 (On 7 May 1998, the







monitoring programme was ultimately put into place.<sup>10439</sup> Exhibits D-235 and D-239C,

Liberian Government issued a policy statement "stating that President Taylor had approved the deployment of an ECOMOG observer unit at the border between Liberia and Sierra Leone in Lofa County, Liberia"); Exhibit D-158, "Permanent Mission of the Republic of Liberia to the United Nations, Report on the Meeting between Ambassador Antonio Monteiro, Permanent Representative of Portugal and President of the Security Council, and Minister Counsellor Christian M Wisseh", p. 2 (recalling that President Taylor had previously appealed to the Secretary General for the deployment of United Nations observers to monitor the situation at the Liberian and Sierra Leonean border); Exhibit D-141, "Presidential Papers, Policies, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997– December 31 1998 – DCT 256 (398 pages)", p. 298 (a joint communiqué of the meeting between the President of Sierra Leone and the President of Liberia on 2 July 1998 in which both the heads of State of Liberia and Sierra Leone stated they "would welcome and support the deployment of United Nations and ECOMOG observers along their border"); Exhibit D-141, "Presidential Papers, Policies, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997– December 31 1998 – DCT 256 (398 pages)", p. 292 (a policy statement by the Liberian government on 29 December 1998 recalling its previous requests to the UN Secretary General for the deployment of UN observers along the border); Exhibit D-178, "UN Security Council, Special Report of the Secretary General on the UN Observer Mission in Sierra Leone, 7 January 1999 – DCT 100", para. 11 (stating that in addition to announcing the closure of the border between Sierra Leone and Liberia in December 1998, Taylor also proposed ECOMOG troops in Liberia should mount joint patrols with Liberian personnel along the border); Exhibit D-179, "Letter to the President of the Security Council, from the President of Liberia, S/1999/17, 6 January 1999 – DCT 33", p. 2 (letter emphasising that the Liberian government has requested ECOWAS and the United Nations to deploy observers at the Liberian-Sierra Leonean border); Exhibit D-034, "Liberia's Response to Allegations of Her Involvement in the Sierra Leone Civil War, Ministry of Information, Cultural Affairs and Tourism Monrovia, Liberia, 26 January 1999, 00028759-00028766", pp. 8-9, ERN. 28764; Exhibit D-185, "Republic of Liberia, Ministry of Foreign Affairs, Monrovia, Official Statement of the Government of Liberia on the Sierra Leone Crisis, 19 February 1999 – DCT 169", pp. 3-4 (set out a number of undertakings "in furtherance of the efforts of the Government of Liberia to discourage Liberian citizens from complicating the crisis in Sierra Leone", including renewing its request to the United Nations Security Council to approve deployment of United Nations and ECOMOG forces at the border, and reinforcing directives to security forces to ensure that no cross border movement or transshipment of arms and ammunition takes place); Exhibit D-188, "Letter to the Secretary General of the United Nations, Kofi Annan, from the President of Liberia, Charles Ghankay Taylor, 23 February 1999 – DCT 59", p. 2 (renewing Taylor's request for the United Nations to consider the deployment of observers or monitors at the Liberia-Sierra Leonean border. It further states that the government of Liberia has called upon its citizens to disengage its participation from the conflict in Sierra Leone); Exhibit D-232, "Code Cable to Prendergast, United Nations, New York, from Downes-Thomas, RSG, UNOL, Monrovia, Conversation with President Taylor, 27 January 2000 – DCT 38", para. 6 (Downes-Thomas reports that Taylor requested that he convey to the Secretary-General that Taylor was agreeable to the deployment inside Liberia and along the Sierra Leone-Liberia border of UN observers and monitors who could, among other things, deter or report on any cross-border traffic of diamonds, arms or security personnel); Exhibit D-235, "Code Cable to Downes-Thomas, RSG, UNOL, from Prendergast, United Nations, New York, Recent Cables, 10 February 2000 – DCT 166", p. 1 (acknowledging Taylor's request for UN observers and suggesting that the government of Liberia should set out its request in writing, setting out, inter alia, the proposed deployment locations, numbers of observers, whether it envisaged the deployment of armed troops and the level of support to be provided by the Liberian government).

<sup>10439</sup> Charles Ghankay Taylor, Transcript 3 August 2009, p. 25803; Exhibit D-182, Outgoing Code Cable to Okelo, UNOMSIL, Conakry from Miyet, United Nations, New York, Your Five-Point Plan and Next Steps, 5 February 1999 – DCT 132", p. 2 ("In his 9 June 1998 report (S/1958/486), the Secretary-General responded positively in principle to calls by GOL to deploy United Nations personnel at the border between Liberia and Sierra Leone. In practice, however, this has proved impossible in view of the absence of any ECOMOG deployment to provide security"). The Trial Chamber notes that in late 2000, the Liberian government renewed its request for an ECOMOG or United Nations monitoring presence at the Sierra Leonean and Guinean borders due to recent attacks on Liberia by armed insurgents. Exhibit D- 263, "Letter to Thomas Pickering, Under Secretary of State, Department of State, Washington, from Charles Taylor, dated 17 August 2000 – DCT 114 (D-263)", p. 3; Exhibit D-264, "Letter to the President of the United States, H.E William Jefferson Clinton, from the President of Liberia, Dr Charles Ghankay, 23 August 2000 – DCT 250 (D-264)", p. 2; Exhibit D- 268, "UN Security Council, Letter dated 28 August 2000, from the President of Liberia, addressed to the Secretary General, S/2000/844, 1 September 2000 – DCT 129 (D-268)", pp. 1-2. This request appears to have been answered. Exhibit D-348, "Official Journal of the Economic Community of West African States (ECOWAS),

establish that although in February 2000, the United Nations suggested that the Government of Liberia should set out its request for UN observers in writing,<sup>10440</sup> the Liberian government did not do so, explaining that it was not “desperately inviting UN monitors [...] to Liberia”, and the request was made rather to defend its innocence against allegations that Liberia was fuelling the conflict in Sierra Leone.<sup>10441</sup> Citing this evidence, the Prosecution contends that the United Nations “called Taylor’s bluff” when it requested the Liberian government to provide details of the requested monitoring mission, and hence could not be used as evidence of the Accused’s good faith.<sup>10442</sup>

4726. The Trial Chamber notes that this is not the only reasonable inference from the Liberian government’s failure to provide the written request, given that its response did not depart from the context and language of its previous requests, which had emphasised the need for Liberia to clear its name. However, the Trial Chamber considers it significant that in August 2000, the Liberian government again sought the deployment of international monitors at Liberian borders, this time in response to attacks launched by insurgents from Guinea.<sup>10443</sup> That in December 2000 it succeeded in obtaining ECOWAS approval for the deployment of ECOMOG along the border between Liberia and Guinea<sup>10444</sup> indicates that if the Liberian government had wanted to do so, it could have sought greater policing of the Sierra Leonean border.

4727. The Defence also invoked the Accused’s proposal to President Kabbah to implement joint Liberian-Sierra Leonean patrols on the border. There is some reason to doubt whether the joint border patrols were ever seriously considered by either side. Although according to

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Vol. 38, December 2000 – DCT 282 (2 pages)”.

<sup>10440</sup> Exhibit D-235, “Code Cable to Downes-Thomas, RSG, UNOL, from Prendergast, United Nations, New York, Recent Cables, 10 February 2000 – DCT 166”, p. 1.

<sup>10441</sup> Exhibit D-239C, “Outgoing Code Cable to Prendergast, United Nations, New York, from Downes-Thomas, RSG, UNOL, Proposed Deployment of UN Observers on Liberia/Sierra Leone Border, 14 April 2000 – DCT 136 (D-239C)”, p. 1

<sup>10442</sup> Exhibit D-235, “Code Cable to Downes-Thomas, RSG, UNOL, from Prendergast, United Nations, New York, Recent Cables, 10 February 2000 – DCT 166”, p. 1; Exhibit D- 239-A, “Outgoing Code Cable to Downes-Thomas, RSG, UNOL from Prendergast, United Nations, New York, Proposed Deployment of UN Observers of Liberia/Sierra Leone Border, 12 April 2000 – DCT 136 (D-239A)”, p. 1.

<sup>10443</sup> Exhibit D- 263, “Letter to Thomas Pickering, Under Secretary of State, Department of State, Washington, from Charles Taylor, dated 17 August 2000 – DCT 114 (D-263)”, p. 3; Exhibit D-264, “Letter to the President of the United States, H.E William Jefferson Clinton, from the President of Liberia, Dr Charles Ghankay, 23 August 2000 – DCT 250 (D-264)”, p. 2; Exhibit D- 268, “UN Security Council, Letter dated 28 August 2000, from the President of Liberia, addressed to the Secretary General, S/2000/844, 1 September 2000 – DCT 129 (D-268)”, pp. 1-2.

<sup>10444</sup> Exhibit D-348, “Official Journal of the Economic Community of West African States (ECOWAS), Vol. 38,

Exhibit D-175, in early December 1998 the Liberian government announced that President Kabbah had agreed with President Taylor's proposal,<sup>10445</sup> yet in public statements in January and February 1999, it sought to renew the request to President Kabbah.<sup>10446</sup> There is no evidence to show that such joint patrols were ever implemented.

4728. In any case, the Trial Chamber considers what is relevant is not the official position of the Liberian government but the practical reality of what was occurring at the border. Evidence from witnesses with firsthand experience of crossing the border during this period suggests that although the border between Liberia and Sierra Leone was officially closed from 1998 to mid-1999, that closure was largely ineffective.

(iii) The Accused's ability to control the border and the closure of the border from December 1999

4729. The Prosecution submits that the Accused had the ability to control, allow or prevent cross-border transactions of materiel and that this is confirmed by evidence that the border was closed after Bockarie's departure from Sierra Leone in December 1999.<sup>10447</sup>

4730. Some evidence suggests that Liberian forces did exert a degree of control over the Liberian/Sierra Leonean border in 2000. Exhibit D-003 contains a number of radio messages between RUF commanders recording incidents from February to March 2000 when Liberian forces stationed at the border forcibly prevented Sierra Leonean refugees returning home.<sup>10448</sup> Issa Sesay also testified that the Accused closed the border immediately after

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December 2000 – DCT 282 (2 pages)", p. 7.

<sup>10445</sup> Exhibit D-175, "UN Security Council, Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/1176, 16 December 1998 – DCT 102 (D-175)", para. 14 (after a two-day visit by a Liberian delegation to Sierra Leone on 9 December 1998 the Liberian government announced that President Kabbah had agreed with President Taylor's request for joint patrols on the border of Sierra Leone and Liberia).

<sup>10446</sup> Exhibit D-179, "Letter to the President of the Security Council, from the President of Liberia, S/1999/17, 6 January 1999 – DCT 33", p. 2 (Letter notes that the Liberian government has offered to conduct joint border security activities with the Government of Sierra Leone); Exhibit D-185, "Republic of Liberia, Ministry of Foreign Affairs, Monrovia, Official Statement of the Government of Liberia on the Sierra Leone Crisis, 19 February 1999 – DCT 169", pp. 3-4 (set out a number of undertakings "in furtherance of the efforts of the Government of Liberia to discourage Liberian citizens from complicating the crisis in Sierra Leone", including renewing its request to the Government of Sierra Leone to accept the joint patrol and monitoring of the Liberian/Sierra Leonean border).

<sup>10447</sup> Prosecution Final Trial Brief, para. 1264.

<sup>10448</sup> Exhibit D-003, "Radio Log Book Three - 00008727 - 00008903, 23 September 1999 to 18 April 2000", ERN. 8790, 8806, 8819.

Bockarie moved permanently to Liberia,<sup>10449</sup> and that this had prevented civilians from returning to Sierra Leone.<sup>10450</sup> Further, Exhibit D-037 records the Liberian government as stating that since March 2001 the Sierra Leonean-Liberia border had been closed and was patrolled daily by security personnel.<sup>10451</sup>

4731. However, evidence suggests that the border was not closed to all individuals. According to Issa Sesay, certain persons remained capable of crossing the border, in particular, Ibrahim Bah and persons in his company. He stated that a few days after Bockarie left for Monrovia in December 1999, Sankoh also moved from Freetown to Monrovia and on Sankoh's return, Ibrahim Bah and two white men from Belgium, also crossed the border with a truck carrying mining equipment.<sup>10452</sup> TF1-567 also testified that when delivering arms and ammunition to Sierra Leone during 2000 and 2001, he never faced any problems at checkpoints because he was accompanied by Liberian Secret Service personnel.<sup>10453</sup> The Trial Chamber considers that the ability of select persons to cross the Sierra Leonean border during this period indicates that even if the border was officially closed, the Accused was able to authorise particular movements between Liberia and Sierra Leone of which he approved.

4732. The Trial Chamber is mindful that it is not necessary to establish that the Accused had the ability to control the border, only that there were insufficient border controls to prevent the existence of a cross-border arms trade. In this regard, the Trial Chamber considers significant Moses Blah's evidence that the border between Liberia and Sierra Leone was largely artificial and was virtually impossible for any nation to police.<sup>10454</sup> However, in light of the evidence of Issa Sesay and TF1-567, the Trial Chamber is satisfied that although from December 1999 to 2001, the border between Sierra Leone and Liberia was to some degree closed to civilians, this was not sufficient to prevent the cross-border movement of arms and ammunition.

### Findings

<sup>10449</sup> Issa Sesay, Transcript 14 July 2010, p. 44465.

<sup>10450</sup> Issa Sesay, Transcript 14 July 2010, pp. 44484-44485, 44489-44491.

<sup>10451</sup> Exhibit D-037, "United Nations Security Council, Letter dated 5 July 2001 from the Permanent Representative of Liberia to the UNited Nations addressed to the Secretary-General, S/2001/675, 9 July 2001 - 00100011-00100017", para 1.1. Moses Blah, Transcript 20 May 2008, pp. 10323-10325.

<sup>10452</sup> Issa Sesay, Transcript 14 July 2010, pp. 44476-44478.





4733. The Trial Chamber finds beyond reasonable doubt that at no relevant time in the Indictment period was the ECOMOG presence on the Liberia/Sierra Leone border, or the official closure of the border by the Liberian Government, sufficient to prevent the cross-border movement of arms and ammunition.

(b) Shortage of Materiel in Liberia

Submissions of the Parties

4734. The Defence argues that the Accused was not in a position to supply arms and ammunitions to the Sierra Leonean rebels because the disarmament process in Liberia, left the Liberian government with no arms and/or ammunition to give.<sup>10455</sup> The Defence submits that disarmament in Liberia had been completed in December 1996, prior to the electoral process and none of the collected materiel was given to the Accused when he became president.<sup>10456</sup> According to the Defence, a persistent reality of the Accused's presidency was the severe lack of arms for use by his domestic security forces due in part to the arms embargo imposed on Liberia by the Security Council.<sup>10457</sup> It was only when confronted with repeated incursions that Liberia violated the embargo to acquire war materiel from Serbia in early 2002 in order to legitimately defend itself, by which time the war in Sierra Leone had ended.<sup>10458</sup> The Defence relies primarily on the evidence of the Accused, and additionally adduced evidence from Issa Sesay, Yanks Smythe, John Vincent, DCT-008, Exhibits D-136, D-201, D-204, D-230, D-286A, D-286B, D-297A, D-297B, D-297C, D-337, D-349, D-351, D-361, D-362, D-364, D-369, and D-394.

4735. The Prosecution refutes this argument on several grounds. First, it contends that the Accused is not telling the truth when he claims not to have had arms and ammunition during his Presidency prior to 2001 and is contradicted by aspects of his own testimony.<sup>10459</sup> The Prosecution contends that the disarmament in Liberia never truly occurred, and the NPFL and other factions hid their caches of arms and ammunition.<sup>10460</sup> It submits that the evidence

<sup>10453</sup> TF1-567, Transcript 4 July 2008, pp. 12996-13000.

<sup>10454</sup> Moses Blah, Transcript 19 May 2008, pp. 10151-10152.

<sup>10455</sup> Defence Final Trial Brief, paras 533, 1032; Defence Opening Statement, Transcript 13 July 2009, p. 24313.

<sup>10456</sup> Defence Final Trial Brief, para. 463.

<sup>10457</sup> Defence Final Trial Brief, paras 706-707.

<sup>10458</sup> Defence Final Trial Brief, paras 707-709.

<sup>10459</sup> Prosecution Final Trial Brief, paras 1255, 1258-1259.

<sup>10460</sup> Prosecution Final Trial Brief, para. 210.

also establishes that the Accused was continuing to arrange clandestine arms deals long before the arms shipment in 2002, circumventing the UN arms embargo imposed on Sierra Leone by paying bribes to foreign officials.<sup>10461</sup> The Prosecution also relies on a number of Prosecution and Defence witnesses who acknowledged that the RUF did get ammunition from Liberia during the period that Liberia was subject to the arms embargo.<sup>10462</sup> The Prosecution adduced evidence from Moses Blah, TF1-371, Joseph Marzah, Dauda Aruna Fornie, Varmuyan Sherif, Ian Smillie, Stephen Ellis, and Exhibits P-018, P-032, P-453, P-482.

4736. Further, the Prosecution submits that the Accused's claim that the Liberian government had no access to arms and ammunitions is implausible or incompatible with the Defence claim that the Sierra Leonean rebel forces did obtain ammunition and arms from Liberian government personnel, only that they were acting independently from the Accused.<sup>10463</sup>

## Evidence

### Prosecution Witness Moses Blah

4737. Moses Blah was Inspector General of the NPFL from 1990 to 1997,<sup>10464</sup> Liberian Ambassador of Libya and Tunisia following Taylor's election to 2000,<sup>10465</sup> and Vice-President of Liberia from 2000 to 2003.<sup>10466</sup> Blah testified that the disarmament process in Liberia was completed by the middle of 1996. Of the weapons collected, some went to the police, some to the army, some for training and some were burnt during the disarmament process in Liberia. However, while some factions disarmed, others did not do so properly, for example, by disarming only their old weapons or by burying their weapons. Blah described the process as "a game".<sup>10467</sup>

<sup>10461</sup> Prosecution Final Trial Brief, paras 213, 1255-1257.

<sup>10462</sup> Prosecution Final Trial Brief, para. 1252.

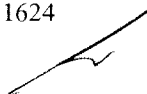
<sup>10463</sup> Prosecution Final Trial Brief, para. 1254.

<sup>10464</sup> Moses Blah, Transcript 15 May 2008, pp. 9943-9945.

<sup>10465</sup> Moses Blah, Transcript 14 May 2008, pp. 9882-9884.

<sup>10466</sup> Moses Blah, Transcript 14 May 2008, pp. 9882-9884. Blah became President of Liberia for 60 days from 11 August to 11 October 2003. Moses Blah, Transcript 16 May 2008, p. 10065.

<sup>10467</sup> Moses Blah, Transcript 19 May 2008, pp. 10207-10208.





4738. Blah described several arms shipments that came into Liberia during his time working with Charles Taylor. He knew of four such shipments. The first occurred in December 1989, when Blah picked up a consignment of arms and ammunition in Abidjan, provided by the Minister of Defence during Houphouet Boigny's administration in the Côte d'Ivoire.<sup>10468</sup>

4739. The second arms shipment occurred when he was Liberian ambassador and travelled with Joe Tuah to Ouagadougou to talk to President Blaise Compaoré about Compaoré's relationship with Taylor, which had become strained. Compaoré complained he had been "risking his life for Taylor". Blah stated that from what he saw and from his analysis, Compaoré had been shipping consignments of arms and ammunition and news from Gaddafi to Taylor.<sup>10469</sup> While there Blah saw Musa Cissé and Grace Minor, the latter a friend of Taylor's and a Liberian Senator,<sup>10470</sup> who had "come on a mission....also to see Blaise Compaoré". Blah, Tuah and Cissé then returned to Liberia on a plane loaded with arms and ammunition.<sup>10471</sup> These were unloaded by NPFL soldiers into waiting trucks. He did not see where the cargo was taken but "usually" "it goes straight to Mr Taylor's house and at the back of his house there was a place underground where the weapons were kept all the time".<sup>10472</sup> This was the "old building" called White Flower. Taylor's new residence was "also called White Flower".<sup>10473</sup>

4740. The third shipment to reach Monrovia arrived towards the end of the witness's time as Vice-President and just before Taylor resigned. It was seized by UNOMIL forces at Roberts International Airfield. Blah did not state where this shipment came from.<sup>10474</sup>

4741. Blah also knew of another arms shipment, earlier in his vice-presidency, which was transported by a plane that crashed as it approached Roberts International Airport. Blah drove to the scene and saw the crash but did not investigate it. At the scene Blah saw two white men from the plane, who had Ukrainian passports, being taken to hospital.<sup>10475</sup>

<sup>10468</sup> Moses Blah, Transcript 14 May 2008, pp. 9820-9822; Transcript 20 May 2008, pp 10277-10278.

<sup>10469</sup> Moses Blah, Transcript 15 May 2008, p. 9894.

<sup>10470</sup> Moses Blah, Transcript 15 May 2008, pp. 9894, 9904-9905.

<sup>10471</sup> Moses Blah, Transcript 14 May 2008, pp. 9886-9889, Transcript 15 May 2008, p 9895.

<sup>10472</sup> Moses Blah, Transcript 15 May 2008, p. 9897.

<sup>10473</sup> Moses Blah, Transcript 15 May 2008, p. 9898

<sup>10474</sup> Moses Blah, Transcript 20 May 2008, pp. 10277-10278.

<sup>10475</sup> Moses Blah, Transcript 15 May 2008, pp. 9901-9902; Transcript 20 May 2008, p. 10277.

4742. Despite these shipments, Blah also testified that throughout his time and involvement with the NPFL and the Taylor government, arms were in short supply for the fighting forces and for the Liberian police. This was always a major concern for the government, particularly after the UN Security Council imposed an arms embargo.<sup>10476</sup>

4743. Blah testified that there was an area underneath Taylor's residence where weapons were stored. Weapons from this storage area could be sent to the frontlines. It was a highly restricted area but the witness knew about it due to his rank as the Inspector General of the NPFL, and later Ambassador and Vice-President. He would also see trucks backing up to this storage area and being loaded.<sup>10477</sup>

#### Prosecution Witness TF1-371

4744. TF1-371 testified that he was aware of first the Magburaka shipment and two other subsequent major shipments of materiel which were imported into Liberia and then transported into Sierra Leone. The first of the subsequent shipments came by plane from Ouagadougou in Burkina Faso to Roberts International Airport in Liberia with Mr Cissé, Taylor's protocol officer and taken to White Flower in November or December 1998. Supplies from this shipment were trucked into to Buedu. The second shipment was in early 1999 when Sam Bockarie left for Monrovia and came back with a consignment of materiel to Buedu.<sup>10478</sup> Between these shipments Bockarie took regular trips to Monrovia and brought arms but "not really large, in huge quantities as those three shipments".<sup>10479</sup>

4745. In response to a suggestion by Defence Counsel in cross-examination that the Liberian government was still subject to an arms embargo when it was sending two large shipments of arms to Sierra Leone, the witness explained that the arms embargo was not an effective measure to prevent materiel coming into Liberia. Those on whom the embargo was placed breached the arms embargo in order to ensure that they survived.<sup>10480</sup>

#### Prosecution Witness Joseph Marzah

<sup>10476</sup> Moses Blah, Transcript 20 May 2008, pp. 10279-10280.

<sup>10477</sup> Moses Blah, Transcript 15 May 2008, pp. 9973-9974. The Accused denied the existence of this structure. Charles Ghankay Taylor, Transcript 4 November 2009, p. 31132.

<sup>10478</sup> TF1-371, Transcript 31 January 2008, pp. 2702-2703 (CS).

<sup>10479</sup> TF1-371, Transcript 31 January 2008, p. 2700 (CS).

<sup>10480</sup> TF1-371, Transcript 31 January 2008, p. 2740 (CS).



4746. Joseph Marzah testified that not all of the arms collected during the disarmament process in Liberia were destroyed by ECOMOG, only the “ugly” ineffective weapons were destroyed. The ECOMOG commander assigned to Taylor at White Flower,<sup>10481</sup> Victor, allowed the factions to hide their arms, either by burying them at the Camp Schefflein Highway or by taking them to Gbarnga. Taylor’s men therefore still had possession of the effective weapons.<sup>10482</sup> Marzah testified that arms and ammunition were transported on Ecomog vehicles from the airport to White Flower<sup>10483</sup> and that ECOMOG personnel also used to sell weapons to Charles Taylor. Marzah was instructed by Taylor to approach Victor with US dollars, and Victor would in turn provide the witness with arms and ammunition from the ECOMOG base.<sup>10484</sup>

Prosecution Witness Dauda Aruna Fornie

4747. Dauda Aruna Fornie testified that on returning from a trip to Monrovia shortly after the ECOMOG Intervention, when Bockarie had obtained a supply of arms and ammunition such as AK rounds, GPMG, RPG and RPG rockets, Bockarie remarked that Taylor had told him that while Taylor did not have much ammunition, he was ready to support the RUF “to the best of his ability”.<sup>10485</sup>

Prosecution Witness Varmuyan Sherif

4748. Varmuyan Sherif testified that LURD made major incursions into Liberia “at the end of 1998 going into 1999”. He stated that at this time, the Liberian Government was not well equipped and short of the arms to defend itself because the country had been disarmed and the weapons burned by ECOMOG.<sup>10486</sup>

Prosecution Exhibit P-032 and Prosecution Witness Stephen Ellis

4749. Exhibit P-032 is the first report of the Panel of Experts established pursuant to Security Council Resolution 1343 (2001) concerning the compliance by the Government of Liberia with its arms embargo and links between Liberia and the conflict in Sierra

<sup>10481</sup> Joseph D. Marzah, Transcript 14 March 2008, pp. 6091, 6103-6104.

<sup>10482</sup> Joseph D. Marzah, Transcript 14 March 2008, pp. 6102-6103.

<sup>10483</sup> Joseph D. Marzah, Transcript 14 March 2008, p. 6099.

<sup>10484</sup> Joseph D. Marzah, Transcript 14 March 2008, pp. 6090-6094.

<sup>10485</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 214543-214545.

<sup>10486</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 1006-1007.

Leone.<sup>10487</sup> Describing sources of revenue for the breach of the arms embargo, the report states that the Panel obtained bank transfer details for two transfers of funds from the Liberian International Ship and Corporate Registry (“LISCR”) to San Air General Trading in the United Arab Emirates on 21 June 2000 and 7 July 2000, for \$USD 525,000 and \$USD 400,000 respectively. The report asserts “[t]hese two payments were for arms and transportation in violation of Security Council resolutions”.<sup>10488</sup> “San Air's bank accounts were used for many payments for arms deliveries to Liberia and the money trail is described in the section on government expenditures”.<sup>10489</sup>

4750. According to the Panel’s report, the LISCR admitted that it made these payments following written requests from the Commissioner of Maritime Affairs, Benoni Urey, through his Deputy Commissioner of Financial Affairs (DCFA), instructing LISCR to redirect a pending distribution of the Government's share of the Registry collection to a non-governmental account. LISCR became increasingly uncomfortable at the growing regularity of requests for divergence from standard procedure in late 2000 and informed the Commissioner of Maritime Affairs that it would no longer honour such requests.<sup>10490</sup>

4751. The report then notes:

Having found resistance from LISCR, Commissioner Urey then changed his strategy, writing to his Deputy Commissioner for Financial Affairs on 13 September to authorize one payment of US\$ 200,000 on 13 September 2000, one payment of US\$ 174,000 on 20 September 2000 and one payment of US\$ 174,000 on 27 September 2000. According to a copy of Urey's letter in the Panel's possession, these amounts were to be transferred to the Maritime Affairs Account at the Ecobank in Monrovia for onward transmission to the San Air General Trading Account in Sharjah, "via: the account of S. Ruprah" (annex 9).

These transfers from the Maritime Account correspond with the issuing of a US\$ 200,000 cheque (No. 0019119) from the BMA Ecobank account in Monrovia (Account 10610001812018). This cheque was written out to "Sanjivan Ruprah", dated "13 September 2000" and signed by Commissioner of Maritime Affairs Benoni Urey.<sup>10491</sup>

4752. The Panel documented a number of case studies in which it believed the Liberian government to have violated UN-imposed sanctions. In relation to one of these case studies,

<sup>10487</sup> See Exhibit P-022, “United Nations Security Resolution 1343 (2001) Adopted on 7 March 2001”, paras 19-20, ERN 100009.

<sup>10488</sup> Exhibit P-032, “Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)”, para. 412, ERN 4521.

<sup>10489</sup> Exhibit P-032, “Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)”, para. 412, ERN 4521.

<sup>10490</sup> Exhibit P-032, “Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)”, para. 415, ERN 4521.

<sup>10491</sup> Exhibit P-032, “Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)”, paras

the Panel reported that Liberia set up a ghost airline, known as “West Africa Air Services”, to transport arms cargoes in July and August 2000 using a forged End-User Certificate for a company in Guinea. According to the Panel, the plane shuttled between Monrovia and Abidjan to bring over 100 tons of ammunition to Liberia.<sup>10492</sup> The Panel interviewed Sanjivan Ruprah in relation to West African Air Services documents that he signed for flights from Abidjan to Monrovia during July and early August 2000. Ruprah affirmed that these trips were for transportation of ammunition. The Panel also referred to Ruprah as “the same person the Panel on Sierra Leone identified as an arms dealer involved in the Liberian procurement process”.<sup>10493</sup> It also stated that Ruprah was an associate of Victor Bout, another arms dealer.<sup>10494</sup>

4753. According to the Panel’s report, the corporate relationships of the companies San Air, West Africa Air Services and others revolved around a network of arms dealers including Victor Bout and Sanjivan Ruprah. The Panel found that the main company behind many of the shipments was San Air.<sup>10495</sup>

4754. The Panel also interviewed General Robert Guei who, after the elections in Côte d’Ivoire, acknowledged that he had signed an End-User Certificate for a flight of cargo of ammunition from Ukraine to Abidjan in July 2000 which was then transferred to Liberia. He explained that when he took office, after a coup d’etat in 1999, he wanted to replenish depleted Ivorian army stocks. When he asked the Heads of State of other African countries to assist, the Liberian President supplied some arms and even sent an emissary to help the General out. This emissary was the Liberian Ambassador-at-large Mohamed Salame, a resident of Abidjan, and owner of a timber business in Liberia. Salame offered his services and asked General Guei to sign the End-User Certificate and offered to split the consignment

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416-417, ERN 4521-4522.

<sup>10492</sup> Exhibit P-032, “Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)”, para. 17, ERN 4445.

<sup>10493</sup> Exhibit P-032, “Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)”, paras 207-208, ERN 4479.

<sup>10494</sup> Exhibit P-032, “Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)”, para. 23, ERN 4445.

<sup>10495</sup> Exhibit P-032, “Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)”, para. 22, ERN 4445.

between Côte d'Ivoire and Liberia. The General acknowledged that some of the ammunition had remained in Côte d'Ivoire but most of it had been for Liberia.<sup>10496</sup>

4755. The composition of the UN Panel of Experts for Liberia is almost identical to the Panel for Sierra Leone, with the exception that Ian Smillie was replaced as a member of the panel by Alex Vines.<sup>10497</sup> Exhibit P-032 was admitted through Prosecution witness Stephen Ellis, who provided the Office of the Prosecutor of the Special Court with a report on the connection between the RUF and Liberia.<sup>10498</sup> His report cited Exhibit P-032 in support of its conclusion that there was continuing connection between the accused and the RUF in the deals in diamonds and arms.<sup>10499</sup>

#### Prosecution Exhibit P-018 and Prosecution Witness Ian Smillie

4756. Exhibit P-018 is a report of the UN Panel of Experts dated December 2000 appointed pursuant to Security Council resolution 1306 (2000), paragraph 19, in relation to Sierra Leone. The report identifies Sanjivan Ruprah, a Kenyan national, as a "well-known" weapons dealer playing a "key role in Liberia's airline registry and in the arms trade".<sup>10500</sup> According to Exhibit P-018, in 1999, Ruprah was appointed by the Liberian Minister of Transport to act as the "Global Civil Aviation agent worldwide". Ruprah would travel using a Liberian diplomatic passport in the name of Samir M. Nasr, which identified him as Liberia's Deputy Commissioner for Maritime Affairs, and carried additional authorisation from the Liberian International Ship and Corporate Registry.<sup>10501</sup>

4757. Ian Smillie, a co-author of Exhibit P-018,<sup>10502</sup> affirmed that Ruprah was a senior official in the aircraft registry of Liberia and that he was travelling using a Liberian passport

<sup>10496</sup> Exhibit P-032, "Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)", para. 216, ERN 4481.

<sup>10497</sup> Compare Exhibit P-032, "Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)", ERN. 4435A and Exhibit P-018, "Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000", p. 3, ERN 4373.

<sup>10498</sup> Exhibit P-019, "Expert Report "Diamonds, the RUF and Liberian connection – A Report for the Office of the Prosecutor The Special Court for Sierra Leone", Ian Smillie, April 21 2007".

<sup>10499</sup> Stephen Ellis, Transcript 16 January 2008, pp. 1446-1447.

<sup>10500</sup> Exhibit P-018, "Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000", paras 26, 224, ERN. 4380, 4408.

<sup>10501</sup> Exhibit P-018, "Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000", paras 26, 225-226, ERN. 4408.

<sup>10502</sup> See Exhibit P-018, "Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000", p. 3, ERN 4373, which cites Ian Smillie as one of the co-authors of the Expert Panel Report.

under an assumed name.<sup>10503</sup> He noted that the connections documented in Exhibit P-018 between Ruprah, known arms dealer Victor Bout, and Liberia were partly anecdotal and partly came from intelligence sources and from people in the aircraft business.<sup>10504</sup> According to Smillie, the Panel saw a picture of Sanjivan Ruprah's Liberian passport and a passport in the name of Samir Nasr.<sup>10505</sup> Smillie stated that when the UN Panel of Experts asked the Charles Taylor about Ruprah and his work, Taylor denied that he knew Ruprah.<sup>10506</sup>

#### Prosecution Exhibit P-482

4758. Exhibit P-482 is Annex XII from the report of the Panel of Experts on Liberia established pursuant to Security Council Resolution 1521 (2003), a letter from the Ministry of Finance, Republic of Liberia, dated 20 August 1999, to the General Manager of the Oriental Timber corporation. The subject of the letter is "GOL tax payment transfer", and authorises the transfer of \$USD 500,000 against forestry related taxes to Sanjivan Ruprah. It is signed by Juanita E Neal, Deputy Minister of Revenue.<sup>10507</sup>

#### Prosecution Exhibit P-453

4759. Exhibit P-453 is an article from an online news service, [www.pbs.org](http://www.pbs.org), reporting on an interview with Daniel Chea in May 2005 concerning Chea's work as Liberian Minister of Defence under the government of Charles Taylor. In the interview, Chea describes the disarmament of 1995 as a "fiasco. There was no disarmament...It was a haphazard attempt".<sup>10508</sup>

#### The Accused

<sup>10503</sup> Ian Smillie, Transcript 7 January 2008, p. 571.

<sup>10504</sup> Ian Smillie, Transcript 7 January 2008, p. 560.

<sup>10505</sup> Ian Smillie, Transcript 8 January 2008, p. 658.

<sup>10506</sup> Ian Smillie, Transcript 7 January 2008, pp. 571-572.

<sup>10507</sup> Exhibit P-482, "Annex XII, Letter from the Ministry of Finance, Republic of Liberia, GOL tax payment transfer, 20 August 1999". Defence counsel objected to the admission of Exhibit P-482 for the reason that it contained evidence that was probative to the guilt of the Accused and hence had to satisfy the requirements of the Trial Chamber's decision in *Prosecutor v Taylor*, SCSL-03-1-T, Decision on Prosecution Motion in Relation to the Applicable Legal Standards Governing the Use And Admission of Documents by the Prosecution during Cross-Examination, 30 November 2009. The Trial Chamber has overruled that objection: Charles Ghankay Taylor, Transcript 27 January 2010, p. 34245.

<sup>10508</sup> Exhibit P-453, "Excerpts from: News article, Frontline World, Liberia – No More War, A Political Survivor: Interview with Daniel Chea, May 2005", p.4.

4760. The Accused testified that Liberia had no arms and ammunitions during his presidency prior to 2001 to send outside the country, and if there were such arms and ammunitions, denied that he had any access to them.<sup>10509</sup> The Accused testified that when he was elected as President of Liberia in July 1997 the Liberian economy and infrastructure had been destroyed and there was no national armed force as they had factionalised during the war.<sup>10510</sup> The Liberian government issued a general order for all NPFL soldiers to disarm to the peacekeepers after the Civil War,<sup>10511</sup> and this began in late 1996 to 1997.<sup>10512</sup> The materiel collected was kept by ECOMOG and the UN and stored at the ECOMOG headquarters.<sup>10513</sup> Although the Accused asked for use of some of the material, his requests were denied.<sup>10514</sup> During and after the process of disarmament, only the ECOMOG soldiers assigned to the Accused, as a newly elected President, and the Accused's security protection and the Secret Service were armed; they had "some handguns",<sup>10515</sup> although he later stated that even his own "securities" were not armed.<sup>10516</sup>

4761. The Accused testified that the United States, "our good friends" insisted on the destruction of all the arms as a signal that Liberia wanted to put the war behind it. While it was not a popular idea, and the Accused was concerned about Liberia's inability to defend itself from external threats, Liberia finally agreed to do it and the materiel collected as a result of the disarmament process was destroyed in about February 1999.<sup>10517</sup> The official destruction of arm and ammunitions in Liberia concluded on 18 October 1999,<sup>10518</sup> when it was announced by the UN in an official statement attributable to the spokesman of the Secretary-General.<sup>10519</sup> Every weapon turned over was ultimately destroyed.<sup>10520</sup> During re-

<sup>10509</sup> Charles Ghankay Taylor, Transcript 28 October 2009, p. 30524; see also Transcript 28 July 2009, p. 25436; Transcript 3 August 2009, p. 25823; Transcript 17 August 2009, pp. 26901-26903; Transcript 10 September 2009, pp. 28612-28613; Transcript 26 October 2009, pp. 30279-30280.

<sup>10510</sup> Charles Ghankay Taylor, Transcript 23 July 2009, pp. 25195-25198.

<sup>10511</sup> Charles Ghankay Taylor, Transcript 28 July 2009, p. 25347.

<sup>10512</sup> Charles Ghankay Taylor, Transcript 11 August 2009, p. 26444.

<sup>10513</sup> Charles Ghankay Taylor, Transcript 23 July 2009, pp. 25195-21597; Transcript 17 August 2009, pp. 26901-26903; Transcript 10 September 2009, pp. 28612-28613; Transcript 30 September 2009, p. 29992; Transcript 26 October 2009, pp. 30279-30280.

<sup>10514</sup> Charles Ghankay Taylor, Transcript 23 July 2009, pp. 25195-25197.

<sup>10515</sup> Charles Ghankay Taylor, Transcript 23 July 2009, pp. 25195-21597.

<sup>10516</sup> Charles Ghankay Taylor, Transcript 30 September 2009, p. 29992.

<sup>10517</sup> Charles Ghankay Taylor, Transcript 11 August 2009, pp. 26444-26447.

<sup>10518</sup> Charles Ghankay Taylor Transcript 17 August 2009, pp. 26901-26903; Transcript 9 September 2009, pp. 28444-28445.

<sup>10519</sup> Charles Ghankay Taylor, Transcript 9 September 2009, pp. 28444-28445.

<sup>10520</sup> Charles Ghankay Taylor, Transcript 23 July 2009, pp. 25195-25197.

examination, the Accused testified that the NPFL did not completely disarm and stated “based on the bar set at that particular time one can say total, but in looking at the real analysis of what would be called total disarmament, that's virtually impossible to be total. But I mean according to the bar set I would say it was satisfactory” He stated that the NPFL gave up only about 80 to 90 percent of the arms in their possession by the end of the disarmament process and acknowledged that UN observers estimated that 50% of the NPFL disarmed, but given his explanation that it was impossible to have “total disarmament” he considered disarmament levels of 80 to 90 percent to be “satisfactory”.<sup>10521</sup> The Accused estimated that the level of disarmament for ULIMO was only 40 to 45 percent.<sup>10522</sup> On the whole, he estimated the disarmament process in Liberia to be only 70 percent successful and acknowledged that there was a significant amount of arms unaccounted for.<sup>10523</sup> The Accused was aware that former ULIMO personnel hid some of their weapons and that they were selling ammunition to Sierra Leone and the RUF,<sup>10524</sup> some of these hidden weapons having been brought to him at his residence in Monrovia by Varmuyan Sherif. This was to demonstrate Sherif's loyalty to the Taylor government.<sup>10525</sup> He denied any knowledge of an interlinked network of traders and insurgents that fuelled cross-border trade in arms, but subsequently agreed that “the borders are porous” and acknowledged that people were selling arms but were doing so without his consent<sup>10526</sup>

4762. With the arms destroyed and ECOMOG leaving, Liberia had virtually no capacity to defend itself.<sup>10527</sup> Accused testified that incursions into Liberia by LURD through Guinea began in late 1998, and there were also attacks in 1999 and 2000.<sup>10528</sup> Having destroyed the arms and with ECOMOG drawing down, the Accused had virtually no capacity to defend Liberia from the LURD incursion. For this reason, as well as the fact that the Government of Liberia had no official army but was relying on diverse groups loyal to the government, LURD made a rapid advance.<sup>10529</sup>

<sup>10521</sup> Charles Ghankay Taylor, Transcript 18 February 2010, pp. 35402-35403.

<sup>10522</sup> Charles Ghankay Taylor, Transcript 29 October 2009, pp. 30737-30740.

<sup>10523</sup> Charles Ghankay Taylor, Transcript 26 August 2009, pp. 27788-27793.

<sup>10524</sup> Charles Ghankay Taylor, Transcript 18 February 2010, p. 35404.

<sup>10525</sup> Charles Ghankay Taylor, Transcript 29 October 2009, pp. 30737-30740.

<sup>10526</sup> Charles Ghankay Taylor, Transcript 26 August 2009, pp. 27788-27793.

<sup>10527</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26553-26555.

<sup>10528</sup> Charles Ghankay Taylor, Transcript 31 August 2009, pp. 28044-28045.

<sup>10529</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26553-26555.

4763. The Accused testified concerning one incident during September 1998 when Liberian government forces engaged in heavy fighting with the forces of Roosevelt Johnson, a former minister in the Accused's government<sup>10530</sup> who led a rebellion<sup>10531</sup> against the Taylor administration and set up a city-state in Camp Johnson Road, Monrovia.<sup>10532</sup> With some assistance from ECOMOG, the Liberian Government defeated Johnson's group.<sup>10533</sup>

4764. The Accused stated that to the best of his knowledge the Security Council in Resolution 788, dated 19 November 1992, calling for states to implement a complete arms embargo on deliveries of weapons to Liberia was still in place in relation to Liberia.<sup>10534</sup> In 1997 ECOWAS lifted the arms embargo it had imposed on Liberia but was unable to persuade the UN Security Council to do the same.<sup>10535</sup> In 2000 or 2001 the Accused wrote a letter to the UN Security Council informing them that, the Government of Liberia was invoking the right to self-defence in Article 51 of the UN Charter and would import arms from Serbia in order to defend itself against the LURD incursion.<sup>10536</sup> The Accused testified that prior to the writing of that letter no arms were imported into Liberia in breach of the arms embargo and that he was unaware that Liberia was used as a conduit for arms going into Sierra Leone. He stated that "if arms were going through Liberia when he need(ed) arms to fight". "the logical thing to do" (was) "to take them".<sup>10537</sup> The Accused denied allegations that he had any access to new weapons in 1998.<sup>10538</sup> Benoni Urey only began organising arms purchases from Serbia in 2000 on Taylor's authority and with his implied authority. Although the accounts were set up for payments in late 1999,<sup>10539</sup> and the first shipment of arms after disarmament came from Serbia in 2001 or 2002.<sup>10540</sup> Sometimes a bribe would have to be paid to transport arms through a country to Liberia, although Taylor

<sup>10530</sup> Charles Ghankay Taylor, Transcript 30 July 2009, p. 25701.

<sup>10531</sup> Charles Ghankay Taylor, Transcript 3 August 2009, p. 25741.

<sup>10532</sup> Charles Ghankay Taylor, Transcript 3 August 2009, p. 25742.

<sup>10533</sup> Charles Ghankay Taylor, Transcript 30 July 2009, p. 25719.

<sup>10534</sup> Charles Ghankay Taylor, Transcript 7 September 2009, pp. 28214-28216.

<sup>10535</sup> Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25414-25415.

<sup>10536</sup> Charles Ghankay Taylor, Transcript 27 Aug 2009, pp. 27838-27839; Transcript 26 November 2009, pp. 32513-32515. The Accused was unable to find the letter, although it was mentioned in UN papers. Charles Ghankay Taylor, Transcript 31 August 2009, p. 28072. The letter included all the information as to the source of the arms, the type and the amount which would be imported. Charles Ghankay Taylor, Transcript 29 September 2009, pp. 29869-29871; 26 November 2009, pp. 32516-32518.

<sup>10537</sup> Charles Ghankay Taylor, Transcript 31 August 2009, p. 28074.

<sup>10538</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26191-26194.

<sup>10539</sup> Charles Ghankay Taylor, Transcript 27 January 2010, pp. 34224-34231.

<sup>10540</sup> Charles Ghankay Taylor, Transcript 31 August 2009, p. 28074, 34230-34228.



does not know which countries these were.<sup>10541</sup> Taylor's Chief of Protocol, Musa Cissé, was one of those responsible for arranging the bribes.<sup>10542</sup>

4765. The Accused testified that he also bought ammunition from ECOMOG officers during the the fighting with ECOMOG.<sup>10543</sup>

4766. During cross-examination, in response to the statement by General Robert Guei recorded in Exhibit P-032, the Accused agreed that when General Guei took power on in 1999 he asked Liberia for assistance. The Accused admitted that he sent Guei trained Ivorian SSS personnel to serve as Guei's bodyguards and stated that they carried with them small quantities of ammunitions and light weapons. Taylor denied giving instruction to Mohamed Salame to get General Guei to sign an End User certificate.<sup>10544</sup>

4767. In response to the statement in Exhibit P-032 that the Liberian International Ship and Corporate Registry made two transfers of funds from to San Air General Trading in the United Arab Emirates in 2000, the Accused testified that he did not know what these transfers were for but if there were documents showing that the transfers were for the purchase of arms by a relevant government authority they would have been approved by him as President of Liberia. Benoni Urey, the Commissioner of Maritime Affairs, in approving the transfers was acting with Taylor's (implied) authority.<sup>10545</sup>

4768. In response to Exhibit P-482, the Accused stated that he was unaware of instructions by the Liberian Ministry of Finance to the Oriental Timber Company to make a forestry-related tax payment of \$USD 500,000 to a Swiss bank account in the name of "Sanjivan Ruprah". However, he acknowledged that even though he did not remember the transaction itself, any letter from the Ministry of Finance to Ruprah would have first gone through clearance from the President.<sup>10546</sup> The Accused stated the money transfers were not his responsibility unless a controversy arose and an investigation was required but reiterated that

<sup>10541</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32526-32529; Transcript 2 December 2009, p. 32910.

<sup>10542</sup> Charles Ghankay Taylor, Transcript 2 December 2009, p. 32910.

<sup>10543</sup> Charles Ghankay Taylor, Transcript 3 August 2009, p. 25785; Transcript 26 November 2009, pp. 32628-32629. The Accused was not precise as to "the fighting" he is referring to or when it occurred.

<sup>10544</sup> Charles Ghankay Taylor, Transcript 27 January 2010, pp. 34261-34268.

<sup>10545</sup> Charles Ghankay Taylor, Transcript 27 January 2010, pp. 34224, 34231.

<sup>10546</sup> Charles Ghankay Taylor, Transcript 27 January 2010, pp. 34241-34246.





a half a million dollar transfer would not have been made without the approval of the government.<sup>10547</sup>

4769. The Accused at first denied knowing Sanjivan Ruprah.<sup>10548</sup> He explained that diplomatic passports were given to non nationals as a courtesy for short periods of time accompanied by a sealed document from Ministry of Foreign Affairs when they were representing Liberia's interests such as investors or non-Liberians granted consular services.<sup>10549</sup> However, the Accused stated in cross-examination that he knew of Ruprah but was not personally acquainted with him. The Accused believed Ruprah worked in a public relations ambassadorial role for the Maritime agency but could not be certain.<sup>10550</sup> Finally, the Accused affirmed that he approved Sanjivan Ruprah as an Ambassador-at-Large for Liberia, based on recommendations, and approved the issue of his diplomatic passport.<sup>10551</sup>

#### Defence Witness Issa Sesay

4770. Issa Sesay testified that he heard, from Foday Sankoh, among others, that ECOMOG sold ammunition. On one occasion, Foday Sankoh sent someone to purchase ammunition from ECOMOG.<sup>10552</sup>

4771. In cross-examination Sesay agreed that without the ammunition brought by Bockarie from Liberia in December 1998, the attack on Koidu would never have taken place. He stated that if he had not received ammunition to attack Kono he would not have launched these initial operations,<sup>10553</sup> and without taking Kono and capturing the ammunition there, the RUF would not have had the materiel necessary to attack other areas.<sup>10554</sup> He denied his previous testimony given in 2007 that the ammunition came from Burkina Faso, stating that he realised after reading the transcripts that had not given the right account.<sup>10555</sup>

<sup>10547</sup> Charles Ghankay Taylor, Transcript 27 January 2010, pp. 34247-34250.

<sup>10548</sup> Charles Ghankay Taylor, Transcript 25 August 2009, p. 27685; Transcript 26 August 2009 p. 27800.

<sup>10549</sup> Charles Ghankay Taylor, Transcript 26 August 2009, pp. 27800-27803.

<sup>10550</sup> Charles Ghankay Taylor, Transcript 20 January 2010, pp. 33737-33739.

<sup>10551</sup> Charles Ghankay Taylor, Transcript 27 January 2010, pp. 34247-34250.

<sup>10552</sup> Issa Sesay, Transcript 17 August 2010, p. 46520.

<sup>10553</sup> Issa Sesay, Transcript 12 August 2010, p. 46169- 46171, Transcript 18 August 2010, pp. 46661-46662.

<sup>10554</sup> Issa Sesay, Transcript 18 August 2010, pp. 46661-46662.

<sup>10555</sup> Issa Sesay, Transcript 18 August 2010, p. 46171. The testimony was given in *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T.

Defence Witness Yanks Smythe

4772. Yanks Smythe, who was Assistant Director for Operations for the SSS between 1998 and July 2000,<sup>10556</sup> testified that Charles Taylor's securities were armed to protect Taylor as he was President.<sup>10557</sup> Smythe also testified that there was a warehouse for the SSS in a building next to White Flower which contained supplies including supplies of arms and ammunition, including light weapons, AK-47s and ammunition and RPGs for the SSS.<sup>10558</sup> The SSS had another small warehouse at the Executive Mansion containing "small light weapons". The arms and ammunition of the Armed Forces of Liberia were kept separately from the SSS warehouses and were held at the Barclay Centre.<sup>10559</sup>

Defence Witness John Vincent

4773. John Vincent, a Liberian member of the RUF from September 1990 to 2000 before leaving to join the Armed Forces of Liberia in 2001, testified that he met Jungle on the way to the Waterworks meeting of 1998.<sup>10560</sup> Jungle informed Vincent that he was making regular trips to Buedu and providing Bockarie with ammunition.<sup>10561</sup> Vincent did not know from where in Liberia Jungle obtained supplies but he never heard that these supplies came from Taylor.<sup>10562</sup>

Defence Witness DCT-008

4774. DCT-008, a radio operator in Gbarnga and Monrovia Liberia, from August 1994 to 2003,<sup>10563</sup> testified that Yeaten, without Taylor's knowledge purchased ammunition from disarmed factions in Liberia<sup>10564</sup> which he then onsold to Bockarie in Sierra Leone, beginning late 1998.<sup>10565</sup>

Defence Exhibit D-136

<sup>10556</sup> Yanks Symthe, Transcript 24 February 2010 pp. 35865-35867, 35952

<sup>10557</sup> Yanks Smythe, Transcript 1 March 2010, pp. 36385-36386.

<sup>10558</sup> Yanks Smythe, Transcript 24 February 2010 pp. 35933-35935.

<sup>10559</sup> Yanks Smythe, Transcript 24 February 2010 pp. 35936-35938

<sup>10560</sup> John Vincent, Transcript 26 March 2010 pp. 38109-38113, Transcript 30 March 2010 p.38259.

<sup>10561</sup> John Vincent, Transcript 26 March 2010 pp. 38110-38111.

<sup>10562</sup> John Vincent, Transcript 26 March 2010 p. 38112; Transcript 30 March 2010 p. 38260.

<sup>10563</sup> DCT-008, Transcript 24 August 2010, p. 46949 (PS).

<sup>10564</sup> DCT-008, Transcript 27 August 2010, pp. 47389, 47393; Transcript 7 September 2010, pp. 48086-48087, 48104-48105.

4775. Exhibit D-136 is a report of a meeting of ECOWAS Chiefs of State in Nigeria on 26 to 27 August 1997, discussing ECOMOG's actions taken in Liberia and Sierra Leone. The report discusses the completion of the disarmament process and details ECOMOG's contribution to disarmament: since its commencement, ECOMOG had recovered 35, 000 weapons and 4 million assorted small ammunition.<sup>10566</sup>

#### Defence Exhibit D-201

4776. Exhibit D-201 is a letter dated 14 July 1999 from President Obasanjo to Charles Taylor. The letter thanks Taylor for his invitation to the symbolic burning of arms and ammunition surrendered to the UN and ECOWAS by former military factions in Liberia, to mark the 152<sup>nd</sup> anniversary of Liberian independence.<sup>10567</sup>

#### Defence Exhibit D-204

4777. Exhibit D-204 is an article from the BBC News website dated 28 July 1999 referring to the arms destruction ceremony in Liberia as "one of the largest weapons destruction programmes the world has seen in recent years". However, it reports Nigerian General Felix Mukakperou, who headed the ECOMOG units in West Africa and was charged with the safeguard of the captured weapons, as stating that the weapons destruction programme was "a mess" and several weeks behind schedule. He warned that unarmed UN monitors were incapable of protecting those weapons not yet destroyed from possible seizure by armed groups which might want them after ECOMOG troops withdraw from Liberia.<sup>10568</sup>

#### Defence Exhibit D-230

4778. Exhibit D-230 is a note dated 5 January 2000 from the Office of the Representative of the Secretary-General to Liberian Minister of Foreign Affairs Moni Captan. The note annexes a report on the destruction of arms and ammunition by the UN, ECOWAS and the Government of Liberia between July and October 1999. It estimates that the total number of

<sup>10565</sup> DCT-008, Transcript 27 August 2010, pp. 47391-47392; Transcript 7 September 2010, p. 48182.

<sup>10566</sup> Exhibit D-136, "ECOWAS, Final Report, Sixteenth Meeting of ECOWAS Chiefs of State, Abuja, Nigeria, 26-27 August 1997 - DCT 76 (27 pages)", p. 10; Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25346-25347.

<sup>10567</sup> Exhibit D-201, "Outgoing Code Cable to Downes-Thomas (Only), RSG, UNOL, Monrovia, Liberia, from Prendergast, United Nations, New York, 7 May 1999 - DCT 65".

<sup>10568</sup> Exhibit D-204, "BBC News, World: Taylor: A New Era for Liberia, 26 July 1999 - DCT 220", 28 July 1999, p. 2.

weapons of all sizes destroyed between 25 July and 20 September 1999 to be 19,297 and the total rounds of ammunition destroyed to be 3,164,849. The report also notes that the destruction of weapons and ammunition of all sizes was completed on 18 October 1999.<sup>10569</sup>

Defence Exhibits D-286A, D-286B, D-297A, D-297B and D-297C

4779. Exhibits D-286A, D-286B, D-297A, D-297B and D-297C are photographs which show President Taylor, Tejan Kabbah, Olusegun Obasanjo and Alpha Konare at Barclay training Centre in 1999 on the occasion of the burning of arms.<sup>10570</sup>

Defence Exhibit D-337

4780. Exhibit D-337 is UN Security Council Resolution 788 (1992), dated 19 November 1992, on the situation in Liberia. Paragraph 8 of the resolution calls for states to implement a “general and complete embargo” on all deliveries of weapons and military equipment to Liberia until the Security Council decides otherwise.<sup>10571</sup>

Defence Exhibit D-349

4781. Exhibit D-349 is a letter from Charles Taylor to UN Secretary-General Kofi Annan, dated 22 January 1999. The letter expresses concern about the safekeeping of confiscated arms after withdrawal of ECOMOG and states that the Liberian Government would not accept removal of the arms from Liberian territory and that the UN must ensure the arms remained in its custody.<sup>10572</sup> It also states that while the Liberian government “is amenable to the possible destruction of unserviceable arms”, it wished the remaining arms to “remain in the custody of the United Nations for the future utilization by the Liberian Army”.<sup>10573</sup>

<sup>10569</sup> Exhibit D-230, “United Nations, Office of the Representative of the Secretary General, Note to Monie Captan, Minister of Foreign Affairs, Liberia, from Ambassador Bariyu Adeyemi, Office in Charge, UNOL, 5 January 2000 – DCT 16”.

<sup>10570</sup> Exhibit D-286A, “Photographs at the Barclay Training Centre on the day that weapons were destroyed”; Exhibit D-286B, “Photographs at the Barclay Training Centre on the day that weapons were destroyed”; Exhibit D-297A, “Photograph – DP-120, each showing President Taylor, Tejan Kabbah, Olusegun Obasanjo and Alpha Konare at Barclay training Centre in 1999”; Exhibit D-297B, “Photograph – DP-121”; Exhibit D-297C, “Photograph – DP-122”.

<sup>10571</sup> Exhibit D-337, “UN Security Council Resolution 788 (1992), S/RES/788, 19 November 1992 – DCT 260 (3 pages)”, para. 8.

<sup>10572</sup> Exhibit D-349, “Letter to the Secretary General of the United Nations, H.E Kofi Annan, from the President of Liberia, Dahkpannah Dr Charles Ghankay Taylor, 22 January 1999 – DCT 286”, p. 1.

<sup>10573</sup> Exhibit D-349, “Letter to the Secretary General of the United Nations, H.E Kofi Annan, from the President of Liberia, Dahkpannah Dr Charles Ghankay Taylor, 22 January 1999 – DCT 286”, p. 2.





Defence Exhibit D-351

4782. Exhibit D-351 is a letter from UN Secretary-General Kofi Annan to Charles Taylor, dated 5 March 1999 in response to Taylor's letter of 22 January 1999 concerning the disposal of weapons collected by ECOMOG during the disarmament. The Secretary-General's letter welcomes the Liberian Government's willingness to destroy unserviceable weapons and as regards any weapons or ammunition which would be found to be serviceable, states that the Secretary-General assumed further consultations on their disposition between the Liberian Government, ECOMOG and the UN would be necessary.<sup>10574</sup>

Defence Exhibit D-361

4783. Exhibit D-361 is a letter dated 17 June 1999 from the UN Secretary-General to Liberian Minister of Foreign Affairs Moni Caplan, welcoming the Liberian government's decision to destroy arms and ammunition.<sup>10575</sup>

Defence Exhibit D-362

4784. Exhibit D-362 is a joint communiqué issued by Presidents Obasanjo and Charles Taylor dated 25 June 1999, following the visit of President Obasanjo to Liberia. In the communiqué, the Nigerian President commends the decision of the Government of Liberia to destroy the arms and ammunition collected from disarmament in Liberia and notes that technical discussions have commenced concerning the process of destruction.<sup>10576</sup>

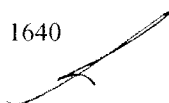
Defence Exhibit D-364

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<sup>10574</sup> Exhibit D-351, "Code cable to Downes-Thomas, RSG, UNOL, Monrovia, Liberia from Miyet, United Nations, New York, Letter from Secretary General, 5 March 1999, in response to letter from Taylor of 22 Jan", p. 2.

<sup>10575</sup> Exhibit D-361, "Letter from Sec-Gen UN to the Liberian Foreign Minister, recording the decision of the Government of Liberia to destroy arms and ammunition collected during the disarmament process, dated 17 June 1999".

<sup>10576</sup> Exhibit D-362, "Joint Communiqué following the visit of President Obasanjo to Liberia, dated 25 June 1999", para 1.3.



4785. Exhibit D-364 is a letter dated 27 July 1999, addressed to Charles Taylor from UN Secretary-General Kofi Annan. The letter congratulates Taylor on the destruction of arms and ammunition underway in Monrovia.<sup>10577</sup>

Defence Exhibit D-369

4786. Exhibit D-369 is a statement attributable to the spokesman of the UN Secretary-General dated 18 October 1999. The Secretary-General welcomes the completion of the weapons destruction programme in Liberia.<sup>10578</sup>

Defence Exhibit D-394

4787. Exhibit D-394 is a BBC news article, dated 4 February 2002. In the article, Liberia's defence Minister, Daniel Chea, states his forces are unable to get new military supplies because of the arms embargo imposed on Liberia. Chea states that if the embargo was lifted the Liberian forces could defeat LURD within a month.<sup>10579</sup>

Deliberations

4788. The Accused's claim that he had insufficient military supplies to send to Sierra Leone or to defend Liberia from internal and external threats rests on two contentions: first, that the country had disarmed such that no arms were available in Liberia, and second that the arms embargo imposed in Liberia by the UN Security Council from 1992 onwards meant that he could not and did not import materiel from external sources.

4789. The parties do not dispute that there was a process of disarmament within Liberia although the dates given by various witnesses differ.<sup>10580</sup> The Accused testified that disarmament began in late 1996 to 1997, while Exhibit P-453 records Daniel Chea, the Liberian Minister of Defence, describing disarmament as occurring as early as 1995.<sup>10581</sup>

<sup>10577</sup> Exhibit D-364, "Letter to the President of Liberia, from the United Nations Secretary-General, Kofi Annan, 27 July 1999 – DCT 327".

<sup>10578</sup> Exhibit D-369, "Statement Attributable to the Spokesman of the Secretary-General: Weapons Disposal in Liberia, New York, 18 October 1999 – DCT 338 (2 pages)", p.1.

<sup>10579</sup> Exhibit D-394, "BBC News Article: Liberia 'Struggling to Defeat' Rebels, 4 February 2002 – DCT 354 (3 pages)", pp. 1-2.

<sup>10580</sup> Exhibit D-136, "ECOWAS, Final Report, Sixteenth Meeting of ECOWAS Chiefs of State, Abuja, Nigeria, 26–27 August 1997 – DCT 76 (27 pages)", p. 10; Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25346-25347.

<sup>10581</sup> Exhibit P-453, "Excerpts from: News article, Frontline World, Liberia – No More War, A Political





Moses Blah testified that disarmament was completed by mid-1996.<sup>10582</sup> Undisputed evidence shows that arms and ammunition collected as a result of disarmament were publicly destroyed between 25 July 1999 and 18 October 1999.<sup>10583</sup>

4790. The Defence cites the evidence concerning the destruction of arms in support of its argument that post-election, the Accused no longer had arms in Liberia.<sup>10584</sup> While this evidence supports the conclusion that the disarmament process resulted in the destruction of a significant amount of arms and ammunition,<sup>10585</sup> other evidence clearly establishes that complete disarmament did not occur. Even the Accused himself testified that the NPLF gave up only about 80 to 90 percent of the arms in their possession by the end of the disarmament process and placed the level of disarmament for ULIMO as being far lower, at only 40 to 45 percent.<sup>10586</sup> Moses Blah testified that not all of the factions disarmed and some did not do so properly.<sup>10587</sup> The Accused, as did Blah<sup>10588</sup> and Joseph Marzah,<sup>10589</sup> admitted that various factions hid their arms rather than disarming.<sup>10590</sup> There is also evidence in the record

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Survivor: Interview with Daniel Chea, May 2005", p.4.

<sup>10582</sup> Moses Blah, Transcript 19 May 2008, pp. 10207-10208.

<sup>10583</sup> Charles Ghankay Taylor, Transcript 17 August 2009, pp. 26901-26903; Transcript 9 September 2009, pp. 28444-28445; Transcript 10 September 2009, pp. 28612-28613; Exhibit D-201, "Outgoing Code Cable to Downes-Thomas (Only), RSG, UNOL, Monrovia, Liberia, from Prendergast, United Nations, New York, 7 May 1999 – DCT 65"; Exhibit D-361, "Letter from Sec-Gen UN to the Liberian Foreign Minister, recording the decision of the Government of Liberia to destroy arms and ammunition collected during the disarmament process, dated 17 June 1999"; Exhibit D-362, "Joint Communiqué following the visit of President Obasanjo to Liberia, dated 25 June 1999"; Exhibit D-286A, "Photographs at the Barclay Training Centre on the day that weapons were destroyed"; Exhibit D-286B, "Photographs at the Barclay Training Centre on the day that weapons were destroyed"; Exhibit D-297A, "Photograph – DP-120, each showing President Taylor, Tejan Kabbah, Olusegun Obasanjo and Alpha Konare at Barclay training Centre in 1999"; Exhibit D-297B, "Photograph – DP-121"; Exhibit D-297C, "Photograph – DP-122"; Exhibit D-364, "Letter to the President of Liberia, from the United Nations Secretary-General, Kofi Annan, 27 July 1999 – DCT 327"; Exhibit D-369, "Statement Attributable to the Spokesman of the Secretary-General: Weapons Disposal in Liberia, New York, 18 October 1999 – DCT 338 (2 pages)", p.1 (welcoming the completion of the weapons destruction programme in Liberia which commenced on 25 July 1999).

<sup>10584</sup> Defence Final Trial Brief, para. 1032, footnote 2970.

<sup>10585</sup> Exhibit D-136, "ECOWAS, Final Report, Sixteenth Meeting of ECOWAS Chiefs of State, Abuja, Nigeria, 26–27 August 1997 – DCT 76 (27 pages)", p. 10 (During the period of disarmament, ECOMOG had recovered 35,000 weapons and 4 million assorted small ammunition); Exhibit D-230, "United Nations, Office of the Representative of the Secretary General, Note to Monie Captan, Minister of Foreign Affairs, Liberia, from Ambassador Bariyu Adeyemi, Office in Charge, UNOL, 5 January 2000 – DCT 16" (estimating that the total number of weapons of all sizes destroyed between 25 July and 20 September 1999 to be 19,297 and the total rounds of ammunition destroyed to be 3,164,849); Exhibit D-204, "BBC News, World: Taylor: A New Era for Liberia, 26 July 1999 – DCT 220", 28 July 1999, p. 2 (The destruction of weapons in Liberia "is one of the largest weapons destruction programmes the world has seen in recent years").

<sup>10586</sup> Charles Ghankay Taylor, Transcript 29 October 2009, pp. 30737-30740.

<sup>10587</sup> Moses Blah, Transcript 19 May 2008, pp. 10207-10208.

<sup>10588</sup> Moses Blah, Transcript 19 May 2008, pp. 10207-10208.

<sup>10589</sup> Joseph Marzah, Transcript 14 March 2008, pp. 6147-6152.

<sup>10590</sup> Charles Ghankay Taylor, Transcript 18 February 2010, p. 35404.



suggesting the possibility that only unserviceable arms were destroyed, rather than all arms.<sup>10591</sup> Those closest to the disarmament programme considered it to be less than exemplary. Liberian Minister of Defence Daniel Chea described it as a “fiasco”,<sup>10592</sup> General Felix Mukakperou, who headed the ECOMOG army in West Africa and was charged with the safeguard of the captured weapons, described the process as “a mess”,<sup>10593</sup> and Moses Blah called it “a game”.<sup>10594</sup> In this context, the Trial Chamber does not consider the evidence concerning disarmament and the destruction of arms probative of the assertion that the Accused did not have sufficient arms to send to Sierra Leone.

4791. In relation to the arms embargo, there is undisputed evidence that in November 1992 the UN Security Council imposed a “general and complete embargo” on all deliveries of weapons and military equipment to Liberia that remained in place throughout the Indictment period.<sup>10595</sup> The Accused testified that until he notified the Security Council of his intention to purchase weapons from Serbia, the Liberian Government did not import arms and ammunition from external sources,<sup>10596</sup> although the Accused was inconsistent on the date when he notified the Security Council and when the first shipment from Serbia arrived. The Accused first stated that he sent the letter to the Security Council in January or February 2001. Later in direct examination the Accused stated this occurred in late 2001 or early 2002, and in re-examination pushed the date back to 2000.<sup>10597</sup> Similarly, while the Accused

<sup>10591</sup> Joseph Marzah, Transcript 14 March 2008, pp. 6102-6103 (Not all of the arms collected during the disarmament process in Liberia were destroyed by ECOMOG, only the “ugly” ineffective weapons were destroyed); Exhibit D-349, “Letter to the Secretary General of the United Nations, H.E Kofi Annan, from the President of Liberia, Dahkpannah Dr Charles Ghankay Taylor, 22 January 1999 – DCT 286” (stating that while the Liberian government “is amenable to the possible destruction of unserviceable arms”, it wished the remaining arms to “remain in the custody of the United Nations for the future utilization by the Liberian Army”); Exhibit D-351, “Code Cable to Downes-Thomas, RSG, UNOL, Monrovia, Liberia from Miyet, United Nations, New York, Letter from Secretary General, 5 March 1999, in response to letter from Taylor of 22 Jan”, p. 2 (The Secretary General welcomes the Liberian Government’s willingness to destroy unserviceable weapons and assumed further consultations on the disposition of any weapons or ammunition found to be serviceable).

<sup>10592</sup> Exhibit P-453, “Excerpts from: News article, Frontline World, Liberia – No More War, A Political Survivor: Interview with Daniel Chea, May 2005”, p.4.

<sup>10593</sup> Exhibit D-204, “BBC News, World: Taylor: A New Era for Liberia, 26 July 1999 – DCT 220”, 28 July 1999, p. 2.

<sup>10594</sup> Moses Blah, Transcript 19 May 2008, pp. 10207-10208.

<sup>10595</sup> Exhibit D-337, “UN Security Council Resolution 788 (1992), S/RES/788, 19 November 1992 – DCT 260 (3 pages)”, para. 8; Charles Ghankay Taylor, Transcript 7 September 2009, pp. 28214-28216.

<sup>10596</sup> Charles Ghankay Taylor, Transcript 27 Aug 09, pp. 27838-27839; Transcript 31 August 2009, pp. 28072, 28074; Transcript 29 September 2009, pp. 29869-29871; Transcript 26 November 2009, pp. 32513-32518, 32520-32522, 32531-32535; Transcript 18 February 2010, pp. 35414-35422.

<sup>10597</sup> Charles Ghankay Taylor, Transcript 27 August 2009, pp. 27838-27839; Transcript 31 August 2009, pp. 28072; Transcript 29 September 2009, pp. 29869-29871; Transcript 26 November 2009, pp. 32513-32515; Transcript 18 February 2010, pp. 35417-35422.



first stated that the Serbian importation occurred in early 2002;<sup>10598</sup> in cross-examination he stated the first shipment arrived in the middle of 2001;<sup>10599</sup> and in his re-examination the Accused placed this event as early as 2000.<sup>10600</sup> In light of these inconsistencies, the Trial Chamber does not consider the Accused's evidence as to when he first imported arms into Liberia in contravention of the arms embargo credible, nor does the Trial Chamber consider his evidence to support the Defence contention that the Liberian government only began purchasing arms from external sources after the end of the Sierra Leonean Civil War.

4792. The Prosecution led evidence that the Accused arranged clandestine arms deals long before the weapons from Serbia began arriving in 2002, relying on the findings in Exhibit P-032, the first report of the UN Panel of Experts on Liberia,<sup>10601</sup> and in particular on evidence set out in that Exhibit of transfers in June to September 2000 from the LISCR to a company in the United Arab Emirates, which were traceable to the account of Sanjivan Ruprah.<sup>10602</sup> According to Exhibit P-032, Ruprah admitted that he was involved in arranging flights transporting cargoes of ammunition from Abidjan to Monrovia during July and early August 2000, around the same time as the transactions from the LISCR took place.<sup>10603</sup> Corroborating the assertions in Exhibit P-032 is Exhibit P-482, a letter from the Liberian Ministry of Finance and signed by the Deputy Minister of Revenue, dated 20 August 1999, to the General Manager of the Oriental Timber corporation authorising the transfer of \$USD 500,000 against forestry related taxes to Sanjivan Ruprah.<sup>10604</sup> Ian Smillie, and Exhibits P-018 and P-032 identify Ruprah as an international arms dealer.<sup>10605</sup>

4793. The Trial Chamber observes that the findings made by Exhibit P-032 are based on a variety of sources, most importantly oral interviews with key individuals and contemporary documentary evidence, including documents evidencing transfers of funds. The Trial

<sup>10598</sup> Charles Ghankay Taylor, Transcript 31 August 2009, p. 28074.

<sup>10599</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32516-32518.

<sup>10600</sup> Charles Ghankay Taylor, Transcript 18 February 2010, pp. 35414-35417.

<sup>10601</sup> Prosecution Final Trial Brief, paras 1256-1257.

<sup>10602</sup> Exhibit P-032, "Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)", para. 412, ERN 4521.

<sup>10603</sup> Exhibit P-032, "Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)", paras 208, 436, ERN. 00004479, 00004526.

<sup>10604</sup> Exhibit P-482, "Annex XII, Letter from the Ministry of Finance, Republic of Liberia, GOL tax payment transfer, 20 August 1999".

<sup>10605</sup> Exhibit P-018, "Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000", paras 26, 224, ERN. 00004380, 00004408; Exhibit P-032, "Exhibit P-032, "Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)", para. 207, ERN. 00004479

Chamber notes that although Exhibit P-032 was adduced through witness Stephen Ellis, who cited the document in his expert report for the Office of the Prosecutor,<sup>10606</sup> Ellis himself was unable to provide much background information to the exhibit. However, the Trial Chamber finds that in relation to this particular incident, the factual claims made in Exhibit P-032 are well-documented and has no reason to doubt their reliability. The Trial Chamber also considers relevant to assessing the weight and reliability of Exhibit P-032 that Ian Smillie, one of the authors of Exhibit P-018, which had reached similar conclusions concerning the role of Ruprah, affirmed those conclusions and explained the evidentiary basis on which they were reached.

4794. Further, the Trial Chamber considers it notable that in response to the evidence in Exhibit P-032 concerning two transfers of funds from the LISCR in 2000, the Accused testified that he did not know of these particular transfers but if they were for the purchase of arms they would have been approved by him as President of Liberia. He also acknowledged that if Benoni Urey, the Commissioner of Maritime Affairs, approved the transfers, he was acting with Taylor's implied authority.<sup>10607</sup> He also stated that while he was unaware of instructions set out in Exhibit P-482, any letter from the Ministry of Finance to Ruprah would have first been submitted for clearance from the President. Significantly, the Trial Chamber notes that he took responsibility for the transfer.<sup>10608</sup> Although the Accused initially denied knowing Sanjivan Ruprah,<sup>10609</sup> he later stated that he knew of Ruprah but was not personally acquainted with him,<sup>10610</sup> and finally, conceded that he approved Sanjivan Ruprah as an Ambassador-at-Large for Liberia and approved the issue of his diplomatic passport.<sup>10611</sup> Given the Accused's own acknowledgement that the large transfers of funds to Ruprah must have been authorised through official channels, it is a reasonable inference that the military shipments that Ruprah admitted to have facilitated around the same time had the imprimatur of the Liberian government.

<sup>10606</sup> Stephen Ellis, Transcript 16 January 2008, pp. 1445-1446.

<sup>10607</sup> Charles Ghankay Taylor, Transcript 27 January 2010, pp. 34226, 34231.

<sup>10608</sup> Charles Ghankay Taylor, Transcript 27 January 2010, p. 34246 ("I have no recollection of the specific purpose, as much as I can, because of the amount, it had to get some clearance from the mansion and I take responsibility. I would not say that I would remember all of the - \$500,000, while it's a big amount, but it's not something that I would sit here today and remember").

<sup>10609</sup> Charles Ghankay Taylor, Transcript 25 August 2009, p. 27685.

<sup>10610</sup> Charles Ghankay Taylor, Transcript 20 January 2010, pp. 33737-33739.

<sup>10611</sup> Charles Ghankay Taylor, Transcript 27 January 2010, pp. 34247-34250.

4795. That the Accused was obtaining arms and ammunitions in breach of the arms embargo from prior to 2001 and 2002 is also supported by Moses Blah. Blah described a number of occasions in which Taylor obtained materiel shipments through other West African States, notably Côte d'Ivoire and Burkina Faso. In particular, Moses Blah described one incident from 1997 to 2000 when he travelled to Burkina Faso and met a separate delegation from Liberia which had arranged to bring back to Liberia a plane loaded with arms and ammunition. According to Blah, Blaise Compaoré's behaviour suggested the existence of a longer-term supply relationship with Burkina Faso than the single incident that Blah had witnessed.<sup>10612</sup> TF1-371 also testified that he was aware of major shipments of materiel which were imported into Liberia and then transported into Sierra Leone when the arms embargo was in place in late 1998 and early 1999,<sup>10613</sup> affirming that the arms embargo was not an effective measure to prevent materiel coming into Liberia.<sup>10614</sup> The Trial Chamber recalls its previous finding that the evidence of TF1-371 and Moses Blah is generally reliable.<sup>10615</sup> Even Defence witness John Vincent testified that he heard of regular supplies of military supplies being transported from Liberia to the RUF headquarters in Buedu in 1998.<sup>10616</sup>

4796. In light of the evidence from Exhibits P-032, P-018, P-482, Moses Blah, TF1-371, and John Vincent the Trial Chamber finds the Accused's denial of importation of arms into Liberia prior to 2002 not credible.

4797. There is some evidence to support the Accused's assertion that Liberia was short of materiel at relevant times during the Indictment period. Moses Blah<sup>10617</sup> and Varmuyan Sherif<sup>10618</sup> both agreed with the Accused that arms were in short supply under the Accused's regime, particularly during the period of LURD attacks on Liberia during and after

<sup>10612</sup> Moses Blah, Transcript 15 May 2008, p. 9894.

<sup>10613</sup> TF1-371, Transcript 31 January 2008, pp. 2702-2703 (CS).

<sup>10614</sup> TF1-371, Transcript 31 January 2008, p. 2740 (CS).

<sup>10615</sup> Credibility Assessment, Moses Blah, Pre-Indictment period (1988-1996), para. 2222; Credibility Assessment, TF1-371, paras 220-226. Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Burkina Faso Shipment; Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockarie's Leadership (February 1998-December 1999).

<sup>10616</sup> John Vincent, Transcript 26 March 2010 pp. 38110-38111.

<sup>10617</sup> Moses Blah, Transcript 20 May 2008, pp. 10279-10280; DCT-190, Transcript 8 June 2010, pp. 42336-42337.

<sup>10618</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 1006-1007.

1999.<sup>10619</sup> However, aspects of the Accused's evidence belie the claim that the Liberian government had no supplies of arms and ammunitions at its disposal. The Accused himself admitted that he bought weapons from ECOMOG during the Liberian civil conflict.<sup>10620</sup> He also testified that his security protection and the Secret Service were armed, although he later contradicted himself.<sup>10621</sup> Yanks Smythe explained that the Secret Service had access to at least two warehouses of arms and ammunition, and importantly, that the Armed Forces of Liberia also had its own separate store of materiel.<sup>10622</sup> Moses Blah also testified that there was a storage area for military equipment below the Accused's residence from which trucks were loaded and frontlines were supplied.<sup>10623</sup> That he was able to defeat the rebellion led by the forces of Roosevelt Johnson in September 1998, after "heavy fighting", albeit with the assistance of ECOMOG, indicates that the Liberian government had resources available to put down internal threats.<sup>10624</sup>

4798. The aspect of the Accused's testimony which most significantly undercuts the claim that he had no arms to give to Sierra Leonean rebels, is his admission that he sent men with arms and ammunition to assist General Guei in Côte d'Ivoire when Guei took power in a coup in 1999, during the time when, under attack from LURD, the Liberian government most needed its military supplies.<sup>10625</sup>

4799. Finally, even if Liberia confronted a shortage of supplies, this does not preclude a finding that the Accused supplied the RUF and the AFRC. As Dauda Aruna Fornie's evidence suggests, even though the Accused may not have had much ammunition, it did not prevent him from "doing what he can" to support the RUF.<sup>10626</sup> The Trial Chamber notes that of the shipments to the RUF and AFRC alleged to be linked to the Accused during the

<sup>10619</sup> See also Exhibit D-394, "BBC News Article: Liberia 'Struggling to Defeat' Rebels, 4 February 2002 -- DCT 354 (3 pages)" (Daniel Chea states that his forces were unable to get new military supplies to fight rebels in Northern Liberia because of the arms embargo, and were relying on captured materiel).

<sup>10620</sup> Prosecution Final Trial Brief, para 1255; Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32628-32629; Joseph Marzah also testified that ECOMOG would sell their weapons to the Accused. Joseph Marzah, Transcript 14 March 2008, pp. 6090-6094; see also Issa Sesay, Transcript 17 August 2010, p. 46520 (Sesay heard ECOMOG sold ammunition).

<sup>10621</sup> Charles Ghankay Taylor, Transcript 23 July 2009, pp. 25195-21597; Transcript 30 September 2009, p. 29992 ("My securities are not even armed. So where am I going to get these arms from to send?").

<sup>10622</sup> Yanks Smythe, Transcript 24 February 2010 pp. 35936-35938.

<sup>10623</sup> Moses Blah, Transcript 15 May 2008, p. 9974.

<sup>10624</sup> Charles Ghankay Taylor, Transcript 30 July 2009, p. 25719.

<sup>10625</sup> Charles Ghankay Taylor, Transcript 27 January 2010, pp. 34261-34268.

<sup>10626</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21454-21455.





Indictment period, the largest arrived not from Liberia, but through Liberia from third party states, primarily Burkina Faso, and was alleged to have been facilitated by the Accused.

4800. For these reasons, the Trial Chamber is satisfied that Liberia had the capacity to supply arms and ammunitions to the rebel groups in Sierra Leone from its own supplies, and to facilitate larger arms shipments through third countries.

### Findings

4801. The Trial Chamber finds the Prosecution has proved beyond reasonable doubt that the Accused was able to obtain arms and had the capacity to supply arms and ammunition to the rebel groups in Sierra Leone, and had the capacity to facilitate larger arms shipments through third countries.

## 2. Allegations of Direct Supply by the Accused

### (a) During the Junta period

#### (i) Alleged Ammunition Supply from Daniel Tamba

### Submissions of the Parties

4802. The Prosecution submits that Bockarie contacted Taylor in 1997 requesting arms and ammunition and that Taylor complied with the request. One shipment of ammunition that Taylor sent got stuck near Buedu before reaching Bockarie in Kenema. Daniel Tamba (a.k.a. Jungle), a member of Taylor's SSS, conveyed this information to Bockarie. Bockarie then sent his subordinates to Pendumbu to meet Jungle and another of Taylor's Liberian subordinates called Senegalese. Civilians were used to transfer the ammunition from the larger vehicle on to other vehicles. The ammunition – boxes of GPMG rounds, AK-47 rounds and RPG rockets – was then taken on to Bockarie in Kenema. The Prosecution contends that Bockarie sent some of this ammunition to Denis Mingo (a.k.a. Superman) in Freetown to be used in an anticipated ECOMOG attack against Freetown.<sup>10627</sup> The Prosecution adduced evidence from Jabaty Jaward, TF1-375, Isaac Mongor, TF1-585, TF1-371, Karmoh Kanneh, Albert Saidu, Augustine Mallah, Dauda Aruna Fornie, TF1-168 and Mustapha M. Mansaray.

<sup>10627</sup> Prosecution Final Trial Brief, para. 224.

4803. The Defence challenges the claim that Tamba delivered arms and ammunition to Bockarie and that Tamba was sent by the Accused. The Defence also submits that the evidence does not show what the materiel was used for and for how long it lasted, and therefore it cannot have had a substantial effect on the commission of the crimes during this period.<sup>10628</sup> The Defence adduced evidence from the Accused, Issa Sesay and Exhibit D-009.

### Evidence

#### Prosecution Witness Jabaty Jaward

4804. Witness Jabaty Jaward testified that a person named Daniel Falla, whom he knew as “Jungle”, came to Bockarie’s house in Kenema in early 1998. Jungle was a member of Charles Taylor’s Special Security Service (“SSS”) in Liberia, “but he had been with the RUF since 1994”, as he was part of the NPFL group which was “cut off” by ULIMO and was forced to join the RUF. Jungle stayed in Sierra Leone for a year and later on crossed over to Guinea and entered Liberia, although Jaward could not recall the specific date on which Jungle returned to Liberia. The next time Jaward saw Jungle was in 1998.<sup>10629</sup>

4805. Jaward was present when Jungle told Bockarie that he came to inform him that he brought ammunition which got stuck close to Buedu. Jungle did not say where he came from with the ammunition or who provided him with it, but Jaward believed Jungle came from Liberia since he was in Taylor’s SSS, and that Jungle could not have obtained ammunition in Liberia other than getting it “through the orders” of Charles Taylor.<sup>10630</sup> The witness also explained in cross-examination that at that time Jungle was the “coordinator” between Bockarie and Taylor, “especially” for arms deals.<sup>10631</sup>

4806. Jaward was in Daru, before the ECOMOG intervention, when he heard that Bockarie’s convoy had passed through Daru and went on in the direction of Buedu. The witness believed that the convoy was going to collect the ammunition Jungle had informed Bockarie about.<sup>10632</sup>

<sup>10628</sup> Defence Final Trial Brief, paras 1060-1062.

<sup>10629</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13353-13354.

<sup>10630</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13354-13355.

<sup>10631</sup> Jabaty Jaward, Transcript 16 July 2008, pp. 13830-13831.

<sup>10632</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13355, 13358.

4807. The day after Jungle arrived in Kenema, Jaward saw Bockarie giving Jungle “a parcel”. The witness knew the parcel contained diamonds as at that time diamonds were always referred to as “a parcel”. When Bockarie handed the parcel to Jungle, he told Jungle that this is what he has now for “the old man”, referring to Charles Taylor. At that time Foday Sankoh and Charles Taylor were referred to as “Papay” or “old man”.<sup>10633</sup>

4808. On cross-examination, Jaward was confronted with a prior statement in which he said that he saw Jungle coming to meet Bockarie in Kenema but did not know whether Bockarie had given diamonds to Jungle or whether Jungle had brought arms and ammunition to Bockarie. Jaward explained that this was because the Prosecution investigators had not accurately recorded what he had told them.<sup>10634</sup> On re-examination it was shown that six months after the initial statement and 12 months prior to giving evidence, Jaward had corrected his statement to the Prosecution. In the corrected statement, he said that Bockarie gave diamonds to Jungle to take to Taylor, and that Jaward was present when Jungle informed Bockarie that a truck of ammunition was stuck next to Buedu. Jaward also affirmed another prior statement to the Prosecution in which he stated that when Jungle came to visit Bockarie in Kenema during the Junta period, Jungle told Jaward that Bockarie had given him some “parcels” of diamonds for “the old man”, which the witness understood to refer to Taylor.<sup>10635</sup>

#### Prosecution Witness TF1-375

4809. Witness TF1-375, an RUF member, testified that in 1997 Denis Mingo (a.k.a. Superman), who was in Freetown, gave the witness and other men an assignment to go to Kenema to collect ammunition from Bockarie. When they got to Kenema, Bockarie told them that Jungle had brought ammunition but that the car he used broke down, and that they therefore needed to go to Pendembu to meet Jungle and collect the ammunition. They went with two Land Cruiser pick-ups. When they arrived they met Jungle and Senegalese. The witness stated that “Jungle was in the SSS in Liberia. He was a bodyguard to President Taylor, close protection unit”<sup>10636</sup> and that Senegalese was a member of President Taylor’s Special Forces. The ammunition, comprised of GMG rounds in boxes, AK-47 rounds and

<sup>10633</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13356-13357.

<sup>10634</sup> Jabaty Jaward, Transcript 16 July 2008, pp. 13830-13833, 13838-13839.

<sup>10635</sup> Jabaty Jaward, Transcript 18 July 2008, pp. 14037-14042.

<sup>10636</sup> TF1-375, Transcript, 23 June 2008, p. 12490.



RPG rockets, was in Jungle's truck. Upon Jungle's instructions, they gathered civilians who then transferred the ammunition from the truck to the two land-cruiser pick-ups. The convoy then went with Jungle to Kenema, where Bockarie told them to immediately take some of the ammunition to Mingo in Freetown because they heard that ECOMOG would soon be attacking them there. They then went to Freetown and gave the ammunition to Mingo.<sup>10637</sup>

4810. When asked about where this shipment of ammunition came from, the witness testified that he did not know at the time, but when he later became Jungle's close friend, Jungle told the witness that he was the liaison between Sam Bockarie and President Taylor. Jungle would bring diamonds to Taylor and in return Taylor would give him ammunition, sometimes from White Flower, the Executive Mansion in Liberia, to take to Bockarie.<sup>10638</sup> TF1-375 then stated that "that was not his first time to cross over with ammunition".<sup>10639</sup>

4811. On cross-examination the witness was questioned about why he had not mentioned in prior statements that he had met Jungle on one of his arms trips in 1997. The witness asserted that he had told the Prosecution that he met Jungle in 1997 in Pendembu, and insisted that this should be recorded in other prior statements he gave to the Prosecution.<sup>10640</sup> In another prior statement, the witness had also said that he was introduced to Jungle in 1998. When asked why he would need an introduction in 1998 if he had already met Jungle in 1997, the witness explained that he had not been officially introduced to Jungle in 1997 because when Jungle returned with the witness and the convoy to Kenema, Bockarie urged the men to take the ammunition to Freetown quickly. In 1998, there was a meeting attended by Jungle and the witness's "bosses", in which the witness was officially introduced to Jungle.<sup>10641</sup>

#### Prosecution Witness Isaac Mongor

4812. Witness Isaac Mongor confirmed, on cross-examination, a prior statement in which he stated that before the AFRC coup in 1997 Bockarie told him that Tamba (a.k.a.

<sup>10637</sup> TF1-375, Transcript, 23 June 2008, pp. 12487-12492, 12495-12496.

<sup>10638</sup> TF1-375, Transcript, 23 June 2008, pp. 12490-12491.

<sup>10639</sup> TF1-375, Transcript, 23 June 2008, p. 12491.

<sup>10640</sup> TF1-375, Transcript, 27 August 2008, pp. 14743-14748. The witness was also first denied saying that he told the prosecution that Tamba was his best friend, but then stated that he confirmed to the prosecution that Tamba was his best friend.

<sup>10641</sup> TF1-375, Transcript, 27 August 2008, pp. 14748-14751.

Jungle)<sup>10642</sup> went to see Charles Taylor to request ammunition. Mongor also confirmed his statement that in 1997, when Mongor was with the AFRC in Freetown, Bockarie told him that Jungle had come back to Buedu with some 50 boxes of ammunition for AKs, RPGs and GMGs. Mongor confirmed that he believed Jungle was in Monrovia when the AFRC took over, and that Jungle brought the ammunition to Buedu when the RUF had already joined the AFRC in Freetown, at a time Mongor himself was in Freetown.<sup>10643</sup> Mongor stated that Bockarie did not send the ammunition to Freetown and confirmed saying that the RUF's top command did not inform the AFRC about this shipment.<sup>10644</sup>

Prosecution Witness Mustapha Mansaray

4813. Witness Mustapha Mansaray testified that he visited Bockarie in Kenema in August 1997 several times. Mansaray stated that at Bockarie's house were also residing Junior Vandii/JR, junior fighters and Daniel Tamba, an NPFL member.<sup>10645</sup> Mansaray first met Tamba in 1995 in Zogoda when Tamba was with Foday Sankoh. Mansaray understood that at that time Sankoh would send Tamba to Liberia to get arms and ammunition or to Guinea to get food for the RUF. Mansaray did not know from where Tamba would obtain the arms and ammunition since he did not travel with him.<sup>10646</sup>

Prosecution Witness TF1-585

4814. Witness TF1-585, an RUF radio operator, was questioned about a prior statement in which the witness told the Prosecution about frequent visits to Kenema by Jungle. In that statement, she had said that she did not know the purpose of Tamba's visits to Kenema. The witness explained that at the time of the visits she did not know but later on found out that

<sup>10642</sup> Isaac Mongor, Transcript 10 March 2008, p. 5683; Transcript 2 April 2008, pp. 6504-6506; Transcript 3 April 2008, pp. 6507-6508. The witness did not know Tamba's first name, Daniel, but was familiar with his nickname, Jungle.

<sup>10643</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6727-6728.

<sup>10644</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6728-6732. The witness was questioned why earlier in his testimony he said that there was no mistrust between the RUF and the AFRC, if the RUF's top command, which included Mongor, decided not to inform the AFRC about this shipment. The witness explained that while he was in the top command, it was Bockarie who was in charge of ammunition, and he was the one who mistrusted the AFRC while the witness did not feel that there was mistrust.

<sup>10645</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5296-5297.

<sup>10646</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5296-5298.

Tamba came to Kenema upon Benjamin Yeaten's (aka "50") orders. The witness did not see Tamba bringing arms and ammunition to Kenema.<sup>10647</sup>

4815. Prosecution Witness TF1-371

4816. Witness TF1-371 affirmed a prior statement in which he stated that in 1997 Bockarie contacted Taylor from Kenema requesting material support. This was told to him by Bockarie.<sup>10648</sup> TF1-371 also testified that he came to know "Dennis Tamba" (a.k.a. Jungle) when Tamba came from Kenema to meet Issa Sesay in Freetown in 1997. According to TF1-371, at that time, and during "most of the time", Jungle acted as a liaison between the RUF and the NPFL and later between the RUF and Musa Cissé and Taylor.<sup>10649</sup> Issa Sesay initially told the witness that Jungle played such a role, but the witness himself came to know it also later on, in 1998.<sup>10650</sup>

4817. On re-examination, the witness confirmed his prior statement in which he stated that before the 1997 coup, Denis Tamba made trips to Guinea for arms for the RUF. He explained in his testimony that after he met Tamba in Freetown and Buedu, Tamba told the witness that he managed to get in touch with the RUF before the coup and would come to meet the RUF high command, Issa Sesay and Foday Sankoh, in Kailahun.<sup>10651</sup>

Prosecution witness Karmoh Kanneh

4818. Witness Karmoh Kanneh testified that when Foday Sankoh returned from signing the Abidjan Peace Accord, Sankoh held a meeting of senior RUF commanders at which he explained that he was going on a political tour to Libya and other areas and that they should take orders from Bockarie, who in turn should take orders from the NPFL leader, Charles Ghankay Taylor. Sankoh gave his satellite phone to Bockarie so that they would have "links"<sup>10652</sup>. Sankoh told the meeting that he wanted to introduce Jungle to them. He said that Jungle was "the Pa's" representative, that is, Charles Ghankay Taylor's representative.

<sup>10647</sup> TF1-585, Transcript 9 September 2008, pp. 15842-15845.

<sup>10648</sup> TF1-371, Transcript 31 January 2008, pp. 2692-2693 (CS).

<sup>10649</sup> TF1-371, Transcript 28 January 2008, pp. 2372-2373 (CS).

<sup>10650</sup> TF1-371, Transcript 28 January 2008, p. 2373 (CS).

<sup>10651</sup> TF1-371, Transcript 4 February 2008, pp. 2965-2966.

<sup>10652</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9358.

Jungle buttressed what “the Pa” had said, stating that he will do the level best of his ability.<sup>10653</sup> The witness did not know Jungle’s real name.<sup>10654</sup>

4819. Kanneh testified that, during the Junta period, he would take diamonds mined at Tongo Fields to Sam Bockarie. On two occasions he witnessed Bockarie calling Taylor to inform him of the total number of diamonds mined when Jungle was present. On both occasions, Jungle confirmed the number of diamonds on the phone to Taylor and Taylor instructed Bockarie to hand the diamonds over to Jungle. Bockarie did so and Jungle took them via helicopter from Foya to Monrovia.<sup>10655</sup>

4820. On cross-examination, the witness stated that before the meeting in which Jungle was introduced as Taylor’s representative, at the end of 1996, Jungle, as an NPFL member, “came with the war”. Until that meeting, Taylor did not have a representative. The witness did not know why at this point Taylor needed a representative, explaining that all Sankoh said is that Jungle is “Taylor’s eye”.<sup>10656</sup>

Prosecution witness Albert Saidu

4821. Witness Albert Saidu testified that he first met Jungle when in 1998 at Buedu, after the ECOMOG Intervention, Sam Bockarie gave Albert Saidu a letter to deliver to Colonel Jungle in Foya Tenga, Liberia.<sup>10657</sup> However, the witness was aware that previously Jungle had come to RUF territories. When Jungle came previously, it was common knowledge that he brought materiel and that he was working directly with Charles Taylor. Securities close to Bockarie would inform the witness any time Jungle entered RUF territory.<sup>10658</sup>

Prosecution witness Augustine Mallah

4822. Witness Augustine Mallah testified that while he was in Kenema during the Junta period, he met Colonel Jungle one time at Bockarie’s residence. He, Bockarie and Jungle sat down together. Bockarie told Mallah that Colonel Jungle had been sent by Charles Taylor

<sup>10653</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9358-9359.

<sup>10654</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9356-9359.

<sup>10655</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9380-9385.

<sup>10656</sup> Karmoh Kanneh, Transcript 13 May 2008, pp. 9671-9673.

<sup>10657</sup> Albert Saidu, Transcript 5 June 2008, pp. 11041-11042.

<sup>10658</sup> Albert Saidu, Transcript 4 June 2008, pp. 11027-11028.

for some parcels of diamonds. Mallah remained in Kenema while Bockarie, Colonel Jungle and others went to Tongo.<sup>10659</sup>

Prosecution witness Dauda Aruna Fornie

4823. Witness Dauda Aruna Fornie testified that in or about late 1997, three months after arriving in Kenema, he was assigned to work as a radio operator with Bockarie in Kenema Town. Fornie was in communication with almost every AFRC/RUF station, including the radio station in Liberia where Charles Taylor was based.<sup>10660</sup> The communications concerned the movement of troops, co-ordination of mining, and requests for arms and ammunition.<sup>10661</sup>

Prosecution Witness TF1-168

4824. Witness TF1-168 testified that in 1994 an RUF group on a food-finding mission discovered a group of NPFL fighters along the Sierra Leone-Liberian border, including Daniel Tamba.<sup>10662</sup> This NPFL group was cut off from Liberia because of ULIMO which was at the border. At that point, Tamba and his group were effectively incorporated into the RUF. Over time, Tamba became a trusted member of the RUF. In 1996, Bockarie sent Tamba to Sankoh who was in Abidjan after telling Sankoh he needed money to purchase materiel from ULIMO. Sankoh sent Tamba with \$USD 7,000 to give to Bockarie. Bockarie then sent Tamba to Danané.<sup>10663</sup>

Prosecution Witness Mustapha M. Mansaray

4825. Witness Mustapha M. Mansaray testified that he visited Bockarie in Kenema in August 1997 several times. Mansaray stated that at Bockarie's house also resided Junior Vandi/JR, junior fighters and Daniel Tamba, an NPFL member. Mansaray first met Tamba in 1995 in Zogoda when Tamba was with Foday Sankoh. Mansaray understood that at that time Sankoh would send Tamba to Liberia to get arms and ammunition or to Guinea to get

<sup>10659</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20148-20149.

<sup>10660</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21429.

<sup>10661</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21429.

<sup>10662</sup> TF1-168, Transcript 16 January 2009, p. 23535.

<sup>10663</sup> TF1-168, Transcript 16 January 2009, pp. 23534-23537.





food for the RUF. Mansaray did not know from where Tamba would obtain the arms and ammunition since he did not travel with him.<sup>10664</sup>

### The Accused

4826. The Accused denied providing ammunition to Daniel Tamba to bring to Bockarie in 1997. He denied knowing Senegalese and asserted that no person named “Jungle” or a person named Daniel Tamba was in the SSS close protection unit. The Accused also denied that Tamba was a liaison between him and Bockarie, or that he received diamonds from him. The Accused suggested that some witnesses assumed that Tamba was meeting with him when travelling to Liberia when in fact Tamba did not report to him and the Accused did not use Tamba as a “coordinator” between Sam Bockarie and himself.<sup>10665</sup> The Accused testified that he did not even know Jungle.<sup>10666</sup>

### Defence Witness Issa Sesay

4827. Witness Issa Sesay denied that when Senegalese and “Jungle” came in 1997 to join Bockarie in Kenema they brought a truck with ammunition with them. Sesay explained that while he did see Senegalese and Mike Lamin coming to Kenema in 1997 with a man named “Jungle” to rejoin the RUF after the AFRC coup, that individual was a former ULIMO member, known as “ULIMO Jungle”, not Daniel Tamba. ULIMO Jungle did not bring ammunition on that trip, and Sesay never heard that they brought ammunition on that trip.<sup>10667</sup> Sesay also testified that Daniel Tamba could not have delivered ammunition to the RUF during this period because in 1997, when Sesay was in Freetown and Bockarie in Kenema, he was in Abidjan. Tamba went to Côte d’Ivoire in 1996 and stayed there until 1998.<sup>10668</sup> In 1997, Sesay was stationed in Freetown but he used to go to Kenema, and Bockarie used to come from Kenema to Freetown. Therefore, if ammunition had arrived in Kenema, Sesay would have known.<sup>10669</sup>

<sup>10664</sup> Mustapha M. Mansaray, Transcript 5 March 2008, pp. 5296-5298.

<sup>10665</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28853-28861; Transcript 24 October 2009, p. 30414; Transcript 26 October 2009, pp. 30230-30232, 30267-30268.

<sup>10666</sup> Charles Ghankay Taylor, Transcript 15 September 2009, p. 28859.

<sup>10667</sup> Issa Sesay, Transcript 11 August 2010, pp. 45953-45957. Lamin and Senegalese told Sesay the route which they took from Monrovia to Pendembu and onto to Kenema. See Issa Sesay, Transcript 11 August 2010, pp. 45959-45961.

<sup>10668</sup> Issa Sesay, Transcript 6 July 2010, pp. 43803-43805.

<sup>10669</sup> Issa Sesay, Transcript 11 August 2010, p. 45956.





4828. Sesay further testified that he never heard that the AFRC received ammunition from Taylor in 1997.<sup>10670</sup> He maintained that during the Junta regime, the RUF did not get ammunition from any source other than the AFRC or from Burkina Faso as part of the Magburaka shipment.<sup>10671</sup>

#### Defence Exhibit D-009

4829. Exhibit D-009 is a salute report to Sankoh by Bockarie, dated 26 September 1999, in which Bockarie recounts events after Sankoh left Sierra Leone in November 1996 to the date of the report. The report states that during Sankoh's absence:

many contacts were made to sympathizers to promote the image of the movement, details of which will be presented to you in a manner so as not to cause any breach of security. Out of these contacts I was able to get the basic needs and facilitate our military move to Kono and onwards past Machine [sic]<sup>10672</sup>

#### Deliberations

4830. In support of its allegation that during the Junta period the Accused sent Daniel Tamba with ammunition to Bockarie, the Prosecution relies primarily on the evidence of TF1-375, who testified that on Bockarie's instructions, he personally collected a shipment brought by Tamba and transported it to Kenema.

4831. The Trial Chamber recalls its finding that TF1-375's evidence should be treated with caution and requires corroboration.<sup>10673</sup> It also notes that in relation to this particular shipment, TF1-375 failed to explain on cross-examination why he had not mentioned in prior statements that he had met Jungle on one of his arms trips in 1997.<sup>10674</sup> However, the Trial Chamber notes that his account of the arrival of the shipment is corroborated by Jabaty Jaward, who also referred to a man known as "Jungle" informing him that he had brought ammunition which became stuck close to Buedu. While Jaward believed Jungle's real name to be Daniel Falla, the Trial Chamber considers that the account he provided of Falla bears sufficient similarity to the person identified by other witnesses as Daniel Tamba as to leave

<sup>10670</sup> Issa Sesay, Transcript 11 August 2010, pp. 45957-45958.

<sup>10671</sup> Issa Sesay, Transcript 11 August 2010, pp. 45956-45957.

<sup>10672</sup> Exhibit D-009, "RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie", ERN. 9663.

<sup>10673</sup> Credibility Assessment, TF1-375, paras 308-312.

<sup>10674</sup> TF1-375, Transcript, 27 August 2008, pp. 14743-14748.

no doubt that they are the same person.<sup>10675</sup> Although Jaward had, in a prior statement, stated that he had not known whether Tamba had brought arms and ammunition to Bockarie, in light of the evidence that Jaward had ensured that his statement was corrected prior to his testimony, and recalling its finding that Jaward is a generally credible witness,<sup>10676</sup> the Trial Chamber accepts his explanation that this was because the Prosecution investigators had not correctly recorded his evidence.<sup>10677</sup>

4832. From the unique detail of the truck being “stuck”, the Trial Chamber can draw the inference that Jaward and TF1-375 testified as to the same occurrence.<sup>10678</sup> Isaac Mongor also testified that Tamba delivered ammunition to the RUF in 1997, after the AFRC coup, although it may not have been the same shipment as that described by Jaward and TF1-375.<sup>10679</sup>

4833. The Defence submits that it is significant that neither Exhibit D-009, Bockarie’s salute report,<sup>10680</sup> nor Exhibit P-067, the RUF’s situation report<sup>10681</sup> make any reference to Tamba supplying the RUF with arms and ammunition.<sup>10682</sup> The Defence also relies on Issa Sesay’s testimony that although he was not stationed in Kenema at the time the ammunition allegedly came to Kenema in 1997, he used to go to Kenema and if Jungle did deliver materiel, Sesay would have been told by Bockarie.<sup>10683</sup>

<sup>10675</sup> Jaward described Jungle as a member of the Liberian SSS, who had joined the RUF in Sierra Leone but later left for Liberia, and frequently delivered military and other supplies to the RUF from Liberia: Jabaty Jaward, Transcript 10 July 2008, pp. 13386-13388; Transcript 9 July 2008, pp. 13353-13354; Transcript 10 July 2008, pp. 13425-13426. This is also corroborated by, for example: TF1-371, Transcript 28 January 2008, pp. 2372-2374; Transcript 28 February 2008, pp. 4485-4487; TF1-579, Transcript 5 November 2008, pp. 19830-19832, 19847; Mohamed Kabbah, Transcript 15 September 2008, pp. 16165-16166; TF1-168, Transcript 16 January 2009, pp. 23534-23537.

<sup>10676</sup> The Role of Intermediaries: Daniel Tamba (a.k.a. Jungle)

<sup>10677</sup> Jabaty Jaward, Transcript 16 July 2008, pp. 13830-13839; Transcript 18 July 2008, pp. 14037-14041.

<sup>10678</sup> The Trial Chamber consider it significant that both Jaward and Mongor testified that the ammunitions were stuck close to or delivered to Buedu, not Pendembu, as TF1-375 testified. The Trial Chamber notes that Pendembu is not far from Buedu, and lies in the same direction as Pendembu from Daru, where Jaward was stationed: See Exhibit P-052, “Map of Sierra Leone – AFRC/RUF primary radio locations – mid 1998, as indicated by TF1-360 – 00100182”.

<sup>10679</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6728-6732.

<sup>10680</sup> Exhibit D-009, “RUF Defence Headquarters, Salute Report to the Leader of the Revolution from Major General Sam Bockarie”, ERN. 96589671.

<sup>10681</sup> Exhibit P-067, “RUF People’s Army – Situation Report to Foday Sankoh from the Black Guard Commander”, ERN. 9672-9681.

<sup>10682</sup> Defence Final Trial Brief, para 1060.

<sup>10683</sup> Issa Sesay, Transcript 11 August 2010, p. 45956



4834. The Trial Chamber considers that neither TF1-585's failure to personally see Jungle bring ammunition during 1997 nor the lack of reference in Exhibits D-009 or P-067 to Tamba supplying the RUF is conclusive of the non-occurrence of this event. TF1-585 acknowledged that Jungle did visit Kenema frequently during 1997, but that at the time, she was not privy to the purpose of his visits. She also testified that she was not in Kenema during the entire duration that Bockarie was stationed there.<sup>10684</sup> It is likely that at this time when Jungle was not frequently delivering materiel to the RUF,<sup>10685</sup> the witness would have been unaware of the transportation of a single consignment of materiel. On similar grounds, the Trial Chamber does not consider Bockarie's failure to tell Sesay about a delivery of supplies to Kenema dispositive of whether it did or did not occur. In relation to the salute reports, the Trial Chamber notes that in Exhibit D-009, Bockarie's indication that he would not disclose his sources of supplies in the salute report for security reasons,<sup>10686</sup> provides an explanation for why accounts of Jungle delivering materiel would not appear in that report.

4835. The Trial Chamber has considered Issa Sesay's evidence as to the whereabouts of Daniel Tamba at this time. According to Sesay, Tamba did not deliver ammunition to the RUF during this period because in 1997, when Sesay was in Freetown and Bockarie in Kenema, Tamba was in Abidjan, having gone to Côte d'Ivoire with Sankoh in May/June 1996.<sup>10687</sup> However, the Trial Chamber notes that Sesay later contradicted himself, stating that during 1997 Jungle travelled back to Buedu to answer a summons from Bockarie and spent a week in Sierra Leone in August 1997.<sup>10688</sup> The Trial Chamber does not therefore accept Sesay's evidence that Tamba could not have delivered ammunition to Bockarie in Kenema because he was in Abidjan. In any case, his evidence is contradicted by Mustapha Mansaray, who testified that in August 1997 he visited Kenema and saw that Tamba was residing in Bockarie's house.<sup>10689</sup>

<sup>10684</sup> TF1-585, Transcript 5 September 2008, pp. 15601-15603 (the witness visited Tongo for 2-3 days when she was based in Kenema).

<sup>10685</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockarie's Leadership (February 1998-December 1999).

<sup>10686</sup> Exhibit D-009, "RUF Defence Headquarters, Salute Report to the Leader of the Revolution from Major General Sam Bockarie", ERN. 9663.(Bockarie states that during Sankoh's absence "many contacts were made to sympathizers to promote the image of the movement, details of which will be presented to you in a manner so as not to cause any breach of security. Out of these contacts I was able to get the basic needs and facilitate our military move to Kono [...]").

<sup>10687</sup> Issa Sesay, Transcript 11 August 2010, p. 45957

<sup>10688</sup> Issa Sesay, Transcript 8 July 2010, pp. 44096-44103; Transcript 27 July 2010, pp. 44797-44799.

<sup>10689</sup> Mustapha Mansaray, Transcript 5 March 2008, pp. 5295-5298.





4836. The Defence further contends that even if Tamba did bring ammunition to Bockarie he acted independently as a member of the RUF, and outside of the Accused's knowledge or effective control. The Defence submits that an alternative explanation for the source of the ammunition brought by Tamba is that he received money from Sankoh to purchase arms and ammunition from ULIMO.<sup>10690</sup> The Defence cites in support of this theory the evidence of Mustapha Mansaray, who testified that in 1995 Sankoh sent Tamba to Liberia to collect arms, ammunition and food for the RUF, and the evidence of TF1-168, who testified that in 1996 Sankoh provided Tamba with money so that arms and ammunition could be purchased from ULIMO.<sup>10691</sup> The Trial Chamber has also had regard to TF1-371's testimony that before the 1997 coup, Tamba made trips to Guinea for arms for the RUF.<sup>10692</sup>

4837. The Trial Chamber finds that the Defence's submissions that Ibrahim Bah and Daniel Tamba were acting on behalf of Foday Sankoh and the RUF should be accorded little weight in determining any relationship that Tamba may have had with the Accused. The Trial Chamber accepts the testimonies of TF1-168, Issay Sesay, TF1-371 and Mustapha Mansaray that Tamba was working for Sankoh and the RUF, but notes that no evidence was adduced to suggest that these relationships were exclusive. Further, the Trial Chamber notes that this evidence relates to Tamba's activities in 1995 and 1996, during which the border between Liberia and Sierra Leone was occupied by ULIMO and supply routes from Monrovia to the RUF were cut off.<sup>10693</sup> Even if Tamba was engaged in purchasing materiel from ULIMO and Guinea during earlier periods, it is of little value in determining the provenance of shipments brought during the Junta period, when the supply routes to Monrovia had been re-opened.<sup>10694</sup>

4838. The Trial Chamber considers relevant the evidence of a number of witnesses who testified that during the Junta period, Tamba was working as a liaison between the Accused and the RUF. TF1-371 testified that he came to know "Dennis Tamba" (a.k.a. Jungle) in 1997, at which time, and during "most of the time", Jungle acted as a liaison between the RUF and the Accused.<sup>10695</sup> Prosecution witness Karmoh Kanneh also testified that at the end

<sup>10690</sup> Defence Final Trial Brief, para. 1061.

<sup>10691</sup> TF1-168, Transcript 16 January 2009, pp. 23534-23537.

<sup>10692</sup> TF1-371, Transcript 4 February 2008, pp. 2965-2966.

<sup>10693</sup> See *supra*, Pre-Indictment Period (1988-1996): Alleged RUF Assistance Fighting ULIMO in Liberia

<sup>10694</sup> See *supra*, Arms and Ammunition: Preliminary Issues, Closure of Border/Arms Embargo.

<sup>10695</sup> TF1-371, Transcript 28 January 2008, pp. 2372-2373 (CS).





of 1996, Foday Sankoh introduced Jungle at a meeting of senior RUF commanders as the Accused's representative.<sup>10696</sup> Albert Saidu also testified that although he first met Jungle in 1998 at Buedu, after the ECOMOG Intervention,<sup>10697</sup> he was aware that previously Jungle had come to RUF territories and at those previous times it was common knowledge that Jungle worked directly with Charles Taylor.<sup>10698</sup> Both Karmoh Kanneh<sup>10699</sup> and Augustine Mallah<sup>10700</sup> testified that, during the Junta period, Jungle took parcels of diamonds from Bockarie to Taylor in Monrovia.<sup>10701</sup>

4839. Although the evidence that Tamba was working as a liaison between the Accused and the RUF during the Junta period does not rule out the possibility that he was obtaining materiel supplies for the RUF from other sources, such as ULIMO and Guinea, there is evidence which indicates that materiel supplies were obtained from the Accused. When asked about the source of the shipment of ammunition which became stuck at Pendembu, TF1-375 testified that he heard from Tamba that Tamba would obtain materiel for these transactions on the Accused's orders from the Executive Mansion.<sup>10702</sup> It is clear from TF1-375's testimony that Tamba was acting as the liaison between the Accused and Bockarie for this particular shipment.<sup>10703</sup>

4840. Jaward also testified that he believed that the ammunition which became stuck near Buedu was from Charles Taylor and that at the time of the shipment, he knew Jungle was the "coordinator" between Bockarie and Taylor, "especially" for arms deals.<sup>10704</sup> Jaward's response as to why he held this belief was somewhat speculative: he held this opinion because, as Tamba was a member of the SSS, he could not have had any source of ammunition except for the Accused.<sup>10705</sup> However, the Trial Chamber notes that Jaward also

<sup>10696</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9356-9359.

<sup>10697</sup> Albert Saidu, Transcript 5 June 2008, pp. 11041-11042.

<sup>10698</sup> Albert Saidu, Transcript 4 June 2008, pp. 11027-11028.

<sup>10699</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9380-9385.

<sup>10700</sup> Augustine Mallah, Transcript 12 November 2008, p. 20149.

<sup>10701</sup> See *supra*, Diamonds: Alleged Delivery of Diamonds to the Accused, Junta Period.

<sup>10702</sup> TF1-375, Transcript, 23 June 2008, pp. 12490-12495.

<sup>10703</sup> TF1-375, Transcript, 23 June 2008, p. 12491 ("Q. Do you know where Jungle had got the ammunition which you then transferred to Sam Bockarie in Kenema? A. The first time I met him we did not discuss that much, but when I got to know him later he explained to me [...] sometimes the President used to send him to get the ammunition from White Flower, the Executive Mansion, to take it to Sam Bockarie and *that was not his first time to cross over with ammunition*" [emphasis added]).

<sup>10704</sup> Jabaty Jaward, Transcript 16 July 2008, pp. 13830-13831.

<sup>10705</sup> Jabaty Jaward, Transcript 9 July 2008, p. 13355 ("I knew that [Jungle] wouldn't have had ammunitions all by himself in Liberia rather than getting it through the orders of Charles Taylor.")

had a much stronger basis for his belief. Jaward testified that the day after Jungle arrived in Kenema to inform him that he brought ammunition which got stuck close to Buedu, Jaward saw Bockarie give Tamba a parcel of diamonds, telling him that “this is what I now have for the old man”<sup>10706</sup> which the witness understood to mean that the diamonds were to be taken to the Accused in Liberia.<sup>10707</sup> The Trial Chamber considers that it is a reasonable inference that the diamonds were provided in payment for the arms just delivered.

4841. Finally, Isaac Mongor testified that Bockarie informed him that prior to the AFRC coup, Bockarie sent Tamba to collect ammunition from the Accused, and that Tamba returned after the coup with a shipment of ammunition to Buedu.<sup>10708</sup> The Trial Chamber recalls its previous finding that it had no general reservations concerning the credibility of Mongor<sup>10709</sup> but notes that his evidence as to this shipment was not elicited during examination-in-chief. Rather, Defence counsel drew attention to his account of the shipment in a prior statement because counsel sought to challenge another aspect of the witness’s evidence-in-chief.<sup>10710</sup> Critically, Mongor was not challenged on the part of his statement which is of core relevance to this allegation, the attribution of the ammunition to the Accused. In light of this, the Trial Chamber has no reason to doubt his account that on Bockarie’s instructions Tamba brought a supply of ammunition from the Accused during the Junta period.

4842. Further, there is evidence that Bockarie was communicating with the Accused in relation to arms and ammunitions requests during this period. TF1-371 testified that Bockarie told him that he had sought materiel assistance from the Accused in 1997 when he was at Kenema.<sup>10711</sup> Dauda Aruna Fornie also testified that in or about late 1997, when he worked as a radio operator with Bockarie in Kenema Town, some communications with the Accused’s radio station in Liberia concerned requests for arms and ammunition.<sup>10712</sup> Another radio operator, Mohamed Kabbah, testified that juniors would not know of arms orders as “that area is a very sensitive one”.<sup>10713</sup> However he stated that he was in Kailahun,

<sup>10706</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13352-13355.

<sup>10707</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13352-13355.

<sup>10708</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6727-6728.

<sup>10709</sup> Credibility Assessment, Isaac Mongor, paras 269-274.

<sup>10710</sup> Isaac Mongor, Transcript 4 April 2008, pp. 6693-6697.

<sup>10711</sup> TF1-371, Transcript 31 January 2008, pp. 2692-2693 (CS).

<sup>10712</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21429.

<sup>10713</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16291-16293.





not Kenema, during the AFRC regime and did not operate with Sam Bockarie directly<sup>10714</sup> and was not always on the radio<sup>10715</sup>. Further, TF1-371, who was in a position to know about such requests, corroborates Fornie's testimony.

4843. On the basis of the evidence of Mongor, TF1-375, and Jaward, as corroborated by TF1-371 and Dauda Aruna Fornie, the Trial Chamber is satisfied that materiel brought by Tamba to the RUF in Sierra Leone during the Junta period was sourced from the Accused.

### Findings

4844. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that during the Junta period the Accused sent ammunition to Bockarie in Sierra Leone via Daniel Tamba (a.k.a. Jungle).

#### (ii) Alleged Ammunition Supply by Memunatu Deen and Fonti Kanu

### Submissions of the Parties

4845. The Prosecution submits that later in 1997 Taylor sent the Junta another shipment by road, which was paid for with diamonds. Memuna Deen, an RUF radio operator based in Monrovia, and Fonti Kanu, the Battalion commander for Daru, travelled from Monrovia to Daru with ammunition provided by the Accused for "AKs, GMGs and RPGs". According to the Prosecution, Bockarie picked up the ammunition from Daru and brought the materiel to Kenema.<sup>10716</sup> In support of this allegation, the Prosecution relies primarily on the evidence of Dauda Aruna Fornie.

### Evidence

#### Prosecution Witness Dauda Aruna Fornie

4846. Prosecution witness Dauda Aruna Fornie, an RUF radio operator, testified that in late 1997 when the RUF were in Kenema, Memunatu<sup>10717</sup> Deen, a field radio operator for the RUF based in Monrovia at that time, and Fonti Kanu, Battalion commander for Daru,

<sup>10714</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16284.

<sup>10715</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16286.

<sup>10716</sup> Prosecution Final Trial Brief, para. 225.

<sup>10717</sup> The witness also refers to Deen as "Memuna" Deen. See Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21432-21433.

travelled to Liberia to get ammunition. After Deen and Kanu returned to Daru they contacted Mosquito and informed him that they had returned with ammunition.<sup>10718</sup>

4847. The witness knew about the shipment because Deen contacted the witness from Monrovia “before they left” and told him that she and Kanu were travelling to bring “some materials” that were given to them by Charles Taylor. Deen contacted the witness once they had arrived in Daru. Fornie and Bockarie then travelled to Daru to collect the shipment and returned to Kenema with some of the materiel. Deen and Bockarie told the witness that the materiel included “AK rounds”, “GPMG” and “RPG”.<sup>10719</sup>

4848. Deen went to Monrovia after Foday Sankoh was arrested following the Abidjan peace negotiations. She lived in Monrovia with Musa Zesay, a Gambian who was a member of the Special Forces, one of Taylor’s “securities”. In late 1997, Deen and Musa Zesay were the liaisons through which the RUF coordinated most of their affairs. Musa Zesay was the RUF’s direct link to Taylor. Zesay fulfilled that role until the ECOMOG Intervention, when Benjamin Yeaten took over that position.<sup>10720</sup>

4849. Fornie was questioned on cross-examination about a prior statement to the Prosecution, a month before he testified, in which he described the shipment brought by Fonti Kanu and Memunatu Deen in 1997 after the Accused was elected. He did not mention the Accused as the source for the ammunition in that interview, nor in any other interview with the Prosecution. In a second prior statement, the witness stated that Fonti Kanu was involved in obtaining ammunition for the AFRC and RUF during the Junta period from Liberia, without mentioning the Accused.<sup>10721</sup> The witness suggested that if it was not recorded in the statements taken by the Prosecution, he was either not asked where the ammunition had come from when he was interviewed, or that he forgot to mention it, but he maintained that the ammunition came directly from the Accused.<sup>10722</sup>

### The Accused

<sup>10718</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21432-21433; Transcript 5 December 2008, p. 21788.

<sup>10719</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21433-21434.

<sup>10720</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21434-21436.

<sup>10721</sup> Dauda Aruna Fornie, Transcript 10 December 2008, pp. 22020-22021.

<sup>10722</sup> Dauda Aruna Fornie, Transcript 10 December 2008, pp. 22021-22025.

4850. The Accused denied knowing Memunatu Deen or Fonti Kanu. He stated that a man named Musa Cissé was his Chief of Protocol, but Cissé was a Liberian, not a Gambian. He did not know who Cissé hosted at his house.<sup>10723</sup> The Accused denied that Musa Cissé was his liaison with the RUF, explaining that Benjamin Yeaten and Musa Cissé had roughly the same rank and were unlikely to have replaced one another.<sup>10724</sup>

### Deliberations

4851. In support of its allegation that Memunatu Deen and Fonti Kanu brought ammunition from the Accused to Daru in late 1997, the Prosecution relies solely on the evidence of Dauda Aruna Fornie. Fornie testified that in late 1997 Memunatu Deen told him that she went to Monrovia with Fonti Kanu to bring ammunition from the Accused.

4852. The Trial Chamber notes that while Fornie testified that he himself went with Bockarie to Daru to pick up the shipment of supplies brought by Deen and Kanu, and testified to transporting those supplies to Kenema, he stated that he did not go into the “ammo dump” in Daru, and that he was told by Deen and Bockarie what the supplies consisted of. Further, the critical part of his evidence that this materiel was supplied by the Accused is uncorroborated hearsay. The Trial Chamber recalls its previous finding that it had no general reservations concerning Dauda Aruna Fornie’s testimony.<sup>10725</sup> However, there are reasons to treat Fornie’s evidence in relation to this particular incident with caution. The Trial Chamber notes that in none of his prior statements, and specifically in two prior statements in which Fornie described a shipment brought by Fonti Kanu and Memunatu Deen in 1997 and Fonti Kanu generally being involved in obtaining ammunition for the AFRC and RUF, did Fornie refer to a link to the Accused. Fornie gave several possible explanations for the lack of any mention in his prior statement a month before the witness was due to testify that the ammunition had come from the Accused. While the witness may have forgotten to mention it, or the Prosecution may not have asked about it, because it is uncorroborated hearsay rather than direct evidence, the Trial Chamber cannot rely solely on Fornie’s testimony under these circumstances.

### Findings

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<sup>10723</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29171-29178.

<sup>10724</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29179-29181.

<sup>10725</sup> Credibility Assessment, Dauda Aruna Fornie, paras 346-358.

4853. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the shipment of ammunition brought by Memunatu Deen and Fonti Kanu to Sierra Leone in 1997 was sent by the Accused.

(b) During Sam Bockarie's Leadership (February 1998-December 1999)

(i) Alleged deliveries of materiel from the Accused to Sierra Leone

Submissions of the Parties

4854. The Prosecution submits that, from the ECOMOG Intervention in February 1998 to Bockarie's departure from Sierra Leone in December 1999, the Accused regularly instructed subordinates, including Daniel Tamba (a.k.a. Jungle), Sampson Weah (a.k.a. Sampson) and Joseph (a.k.a. Zigzag) Marzah, to deliver materiel to the RUF/AFRC forces on request by Bockarie.<sup>10726</sup> In support of its allegations, the Prosecution relies on evidence from witnesses TF1-585, Dauda Aruna Fornie, TF1-567, Abu Keita, TF1-516, Augustine Mallah, Dennis Koker, Perry Kamara, Mohamed Kabbah, TF1-371, Jabaty Jaward, Isaac Mongor, Joseph Marzah, TF1-579, Varmuyan Sherif, Albert Saidu, TF1-362, Komba Sumana, TF1-590, Alimamy Bobson Sesay, TF1-375, and Exhibits P-066 and P-067.

4855. The Defence acknowledges that the "evidence favours the conclusion" that supplies arrived in Buedu via Tamba, Marzah and others.<sup>10727</sup> However, the Defence submits that these individuals were supplying the RUF of their own accord, in a "private enterprise that was mutually beneficial to themselves, but unknown to President Taylor".<sup>10728</sup> The Defence contends that witnesses who attributed such supplies to the Accused are unreliable and have little basis for their testimony that materials were provided by or on behalf of the Accused.<sup>10729</sup>

4856. The Defence also points to evidence that the quantity of supplies brought from Liberia were relatively small, comprised ammunition and not arms, and "certainly not enough to satisfy the RUF's needs or substantially support any offensives".<sup>10730</sup> The Defence

<sup>10726</sup> Prosecution Final Trial Brief, para. 239; see also para. 1117 ("In 1999, the trips made by Tamba, Marzah and others, with the assistance of Yeaten, continued").

<sup>10727</sup> Defence Final Trial Brief, para. 1103.

<sup>10728</sup> Defence Final Trial Brief, para. 1091.

<sup>10729</sup> Defence Final Trial Brief, para. 1080.

<sup>10730</sup> Defence Final Trial Brief, paras 1101-1103.



contends that until late 1998, when the major shipment from Burkina Faso arrived, the RUF “struggled to obtain sufficient arms and ammunition”.<sup>10731</sup>

4857. The Defence relies on the testimony of TF1-371, DCT-008, Issa Sesay, the Accused and Moses Blah to support its contentions.

## Evidence

### Prosecution Witness TF1-585

4858. Witness TF1-585, a radio operator who retreated with Bockarie after the Intervention to Buedu,<sup>10732</sup> testified that Jungle frequently brought supplies to Buedu, including arms and ammunition, food and clothing.<sup>10733</sup> She estimated that Jungle came every two or three weeks throughout 1998 into mid-1999, whenever Bockarie requested military equipment,<sup>10734</sup> and that Jungle’s movements were not a secret in Buedu.<sup>10735</sup>

4859. Jungle’s driver, Alpha Jalloh, told her that he and Jungle picked up the arms and ammunition from White Flower at night and took them to Yeaten’s house, and then they were loaded into trucks for Buedu.<sup>10736</sup> The escorts travelled at night, using the road through Foya airfield.<sup>10737</sup> Jungle was typically accompanied by other SSS personnel, specifically Junior and Sampson.<sup>10738</sup> TF1-585 testified that Sampson, Junior and Jungle were constantly together (in the witness’s words, “always in company”). The three men wore uniforms which were dark coloured and had “SSS” written on the back.<sup>10739</sup>

4860. TF1-585 also testified that at one point in late 1999, Bockarie told her that Jungle would arrive in Buedu with five trucks with food and materiel. All of the trucks came from Monrovia and were destined for Buedu. TF1-585 saw the trucks arrive at Foya and boarded

<sup>10731</sup> Defence Final Trial Brief, para. 1063.

<sup>10732</sup> TF1-585, Transcript 5 September 2008, pp. 15608-15610.

<sup>10733</sup> TF1-585, Transcript 8 September 2008, pp. 15652, 15655.

<sup>10734</sup> TF1-585, Transcript 8 September 2008, pp. 15682.

<sup>10735</sup> TF1-585, Transcript 9 September 2008, p. 15794-15795 (CS).

<sup>10736</sup> TF1-585, Transcript 8 September 2008, p. 15658; Transcript 9 September 2008, p. 15794 (CS).

<sup>10737</sup> TF1-585, Transcript 8 September 2008, p. 15660.

<sup>10738</sup> TF1-585, Transcript 8 September 2008, pp. 15659, 15664.

<sup>10739</sup> TF1-585, Transcript 8 September 2008, pp. 15638-15639.

one on its return to Monrovia. The trucks contained food, used clothing, arms and ammunition.<sup>10740</sup>

Prosecution Witness Dauda Aruna Fornie

4861. Dauda Aruna Fornie, a radio operator, worked in Buedu from early 1998 until late April 1999 when he left to attend the peace talks in Lomé.<sup>10741</sup> Fornie testified that throughout this period, Bockarie, through his radio operators, would contact Benjamin Yeaten or Taylor to request military supplies.<sup>10742</sup> Yeaten's radio operator, Sunlight, would then respond that Bockarie should wait while Yeaten consulted with "Zero-Four-Seven", which Fornie understood to refer to Taylor.<sup>10743</sup> Sunlight would then call back and tell Bockarie that he could come to Monrovia or Bockarie should send a team to receive the supplies.<sup>10744</sup> Other times, Sunlight would inform Bockarie that Yeaten would despatch Jungle, Zigzag Marzah or Liberian Mosquito with materials to Sierra Leone,<sup>10745</sup> and these men would bring ammunition, fuel or food.<sup>10746</sup> Fornie knew these individuals to be working under Yeaten in the SSS.<sup>10747</sup> Fornie testified that visits from Jungle and Zigzag Marzah in 1998 were very frequent.<sup>10748</sup>

Prosecution Witness TF1-567

4862. Witness TF1-567, an RUF member, testified that when he was based in Balahun (from after the Intervention to around September 1998),<sup>10749</sup> on one occasion he travelled to Buedu, where he encountered Bockarie, Jungle, Zigzag Marzah, Junior Vandi and others.<sup>10750</sup> Bockarie introduced these men as "the Liberian brothers sent by Charles Taylor".<sup>10751</sup> TF1-567 testified that the men were wearing "blue/black" overalls with the

<sup>10740</sup> TF1-585, Transcript 8 September 2008, pp. 15663, 15778-15782; Transcript 9 September 2008, pp. 15778-15782.

<sup>10741</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21457-21458, 21615.

<sup>10742</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21479.

<sup>10743</sup> The Accused has testified that "Zero-Four-Seven" or "047" was one of the code names used for him by radio operators. Accused, Transcript 16 September 2009, p. 28992.

<sup>10744</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21527, 21489-21492.

<sup>10745</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21489-21492.

<sup>10746</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21492.

<sup>10747</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21491.

<sup>10748</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21492.

<sup>10749</sup> TF1-567, Transcript 2 July 2008, pp. 12894-12895.

<sup>10750</sup> TF1-567, Transcript 2 July 2008, p. 12903.

<sup>10751</sup> TF1-567, Transcript 2 July 2008, p. 12903.

words “SOD police” written near the pocket. He was subsequently told by Jungle that “SOD” referred to the Special Operations Division, and that this Division was a police branch that served directly under Taylor.<sup>10752</sup>

4863. The witness heard Bockarie order men under his command to unload ammunition from the vehicle in which the Liberians had arrived.<sup>10753</sup> TF1-567 observed “RPG boxes and AK rounds” in the truck. Bockarie advised the Liberians to return that same night so as to avoid civilians becoming aware of their presence.<sup>10754</sup>

4864. TF1-567 testified that this incident occurred at the same time that Bockarie returned from Monrovia after he had been given Koroma’s diamonds by Sesay.<sup>10755</sup> However, the witness did not explicitly link Bockarie’s trip with the arrival of the ammunition.

4865. TF1-567 testified that on subsequent trips to Buedu, he saw Sampson, Jungle and others. These men told him that they came to Buedu bringing arms, ammunition, food and other items and that the goods had been provided by Taylor.<sup>10756</sup> On one occasion witness TF1-567 saw the truck used to transport the goods and it was a “ten-tyred”, “military” truck.<sup>10757</sup>

4866. TF1-567 further testified that while he was stationed in Buedu before the Lomé peace talks in July 1999, he used to see Mike Lama, Zigzag Marzah and Jungle bringing weapons to Buedu. He explained that when Jungle and others came with this ammunition “they used to say that it was the Pa, Charles Taylor, who sent the ammunition, he said because when it is time for peace he should prepare for war”. He explained that meant that, as the peace talks were going on, the ammunition should be kept underground.<sup>10758</sup>

#### Prosecution Witness Abu Keita

<sup>10752</sup> TF1-567, Transcript 2 July 2008, pp. 12904-12905.

<sup>10753</sup> TF1-567, Transcript 2 July 2008, pp. 12903-12904.

<sup>10754</sup> TF1-567, Transcript 2 July 2008, p. 12903.

<sup>10755</sup> TF1-567, Transcript 2 July 2008, p. 12905.

<sup>10756</sup> TF1-567, Transcript 2 July 2008, p. 12906.

<sup>10757</sup> TF1-567, Transcript 2 July 2008, p. 12906.

<sup>10758</sup> TF1-567, Transcript 4 July 2008, p. 12966.

4867. Abu Keita, a former member of ULIMO-K assigned by Yeaten to Sierra Leone,<sup>10759</sup> testified that when he first moved to Buedu, some time in September or October 1998,<sup>10760</sup> Yeaten provided him with an AK-47, a pistol, ten boxes of ammunition, a Yaesu radio, and three former NPFL<sup>10761</sup> Liberian bodyguards armed with rifles, all of which he took with him to Buedu.<sup>10762</sup>

4868. Keita testified that Charles Taylor sent him to Buedu, and that Taylor was in charge of the RUF. However, Keita further testified that when he arrived in Buedu, Bockarie told him that there would be only one commander, and that this was not consistent with what Keita had been told in Monrovia. In addition, the men Keita believed would be under his command were taken from him. Thus the witness agreed that it would be fair to say that Bockarie disregarded the commands or directives of Benjamin Yeaten and that those commands and directives were ultimately those of Charles Taylor.<sup>10763</sup>

4869. Keita was able to identify Marzah and Jungle from a photograph<sup>10764</sup> and testified that he saw the two men return and bring further supplies of ammunition, fuel and medicines<sup>10765</sup> “often” during his time with the RUF in Sierra Leone, “when there was any problem”.<sup>10766</sup> He never saw them in uniform on their visits to Sierra Leone.<sup>10767</sup> Keita testified that these men were sent to Sierra Leone by Benjamin Yeaten.<sup>10768</sup>

#### Prosecution Witness TF1-516

<sup>10759</sup> Abu Keita, Transcript 23 January 2008, p. 1970.

<sup>10760</sup> Abu Keita, Transcript 24 January 2008, p. 2117. It is not clear when Keita left Buedu. The witness testified that he was in Buedu during January 1999, but on cross examination said that he was travelling back and forth between Buedu and Makeni at that time: Transcript 23 January 2008, p. 2020; Transcript 24 January 2008, pp. 2140-2142. He was not in Buedu by August 1999, as he was taking part in Operation Mosquito Spray in August 1999. Transcript 23 January 2008, pp. 2045-2048.

<sup>10761</sup> Abu Keita, Transcript 23 January 2008, p. 1982.

<sup>10762</sup> Abu Keita, Transcript 23 January 2008, pp. 1982-1984.

<sup>10763</sup> Abu Keita, Transcript 24 January 2008, pp. 2136-2137.

<sup>10764</sup> Exhibit P-045A, “Photograph - 00038533”, p. 38533; Exhibit P-045B, “Photograph - 00038519”, p. 38519; Abu Keita, Transcript 23 January 2008, p. 1989.

<sup>10765</sup> Abu Keita, Transcript 23 January 2008, pp. 1991-1992.

<sup>10766</sup> Abu Keita, Transcript 23 January 2008, p. 1992.

<sup>10767</sup> Abu Keita, Transcript 23 January 2008, pp. 1991-1992.

<sup>10768</sup> Abu Keita, Transcript 23 January 2008, p. 1991. Keita also testified that within the first few weeks of his arrival in Buedu, Marzah, Sampson and Jungle arrived with fuel, medicine and ammunition, which they gave to Sesay, and after this, Bockarie returned to Buedu, arriving with two trucks, 300 boxes of ammunition, and 150 men who were both Liberian and Sierra Leonean: Abu Keita, Transcript 23 January 2008, pp. 1988, 1993-1995. The Trial Chamber considers that the timing of this shipment may coincide with and refer to the Burkina Faso shipment, and has considered it in that context.

4870. Witness TF1-516, a radio operator stationed in Buedu from the ECOMOG Intervention to mid-1999,<sup>10769</sup> testified that Zigzag Marzah, Jungle and Dopoe Menkarzon commenced bringing arms and ammunition into Sierra Leone shortly after the Intervention in 1998 to Bockarie in Buedu. According to the witness, until then, ULIMO-K had blocked the supply line between the RUF and Liberia.<sup>10770</sup> The witness was not able to be precise about how often these men brought materiel; he testified that it happened regularly and when materiel was needed for operations.<sup>10771</sup> He testified that requests for ammunition from Liberia were never denied, but that on some occasions Bockarie was told to wait.<sup>10772</sup>

4871. According to TF1-516, Bockarie would make a request for ammunition via radio, usually to "Base One". Base One would then respond "[t]he iron bird will come with your food", which the witness understood to mean that a helicopter would bring a shipment of ammunition.<sup>10773</sup> The request would then be transmitted to 020, the radio at the Executive Mansion, which would then notify Buedu when the helicopter would be arriving at Foya and instruct Bockarie to collect it from there.<sup>10774</sup> Sometimes, the instruction would be to expect either Zigzag and Colonel Jungle, or General Dopoe who were en route with materiel to his location in Buedu.<sup>10775</sup> The communications of requests for materiel and notification of its arrival were recorded in encoded form.<sup>10776</sup>

4872. According to the witness, Bockarie went to Monrovia "quite often" and returned with ammunitions. He had a ten-tyred truck he used for this purpose.<sup>10777</sup> Other times Jungle, Dopoe and Zigzag or other Liberians would deliver supplies to Buedu.<sup>10778</sup> The Liberian escorts would not remain in Sierra Leone after delivering the materials, and even while they were there, their movement was "restricted".<sup>10779</sup>

<sup>10769</sup> TF1-516, Transcript 8 April 2008, pp. 6858-6860 (The witness stated that in the rainy season of 1999 (roughly June and July) Issa Sesay ordered the witness to move to Liberia to work for Benjamin Yeaten).

<sup>10770</sup> TF1-516, Transcript 8 April 2008, pp. 6952-6953.

<sup>10771</sup> TF1-516, Transcript 8 April 2008, pp. 6954, 6965.

<sup>10772</sup> TF1-516, Transcript 8 April 2008, p. 6965.

<sup>10773</sup> TF1-516, Transcript 8 April 2008, p. 6949.

<sup>10774</sup> TF1-516, Transcript 9 April 2008, pp. 6949-6951.

<sup>10775</sup> TF1-516, Transcript 9 April 2008, p. 6951.

<sup>10776</sup> TF1-516, Transcript 9 April 2008, p. 6954.

<sup>10777</sup> TF1-516, Transcript 8 April 2008, p. 6955.

<sup>10778</sup> TF1-516, Transcript 8 April 2008, p. 6957.

<sup>10779</sup> TF1-516, Transcript 8 April 2008, p. 6958.

4873. On cross-examination, TF1-516 explained that he was able to deduce when instructions were coming from Yeaten when they originated from the call sign “Base One”, located at Yeaten’s residence in Monrovia, and when instructions were coming from “the President” because they originated from the call sign “020”, located at the Executive Mansion in Monrovia.<sup>10780</sup> Further, although he knew that some of the men bringing supplies, such as Dopoe, took orders from Yeaten, he understood that Yeaten, whom he referred to as “50”,<sup>10781</sup> took orders from Taylor because Yeaten had previously made reference in the context of the military operation in Voinjama that the President was his chief.<sup>10782</sup>

4874. TF1-516 testified that the flying of ammunition to Foya via helicopter only commenced in 1999 when insurgents began attacks on Lofa County. Prior to this, materials were transported by land.<sup>10783</sup> He also stated that the RUF had a “special group of armed men” assigned in Foya to keep security at the airfield,<sup>10784</sup> and that Foya was a strategic point wherein to coordinate meetings with those who were sent from Monrovia and those to be taken to Monrovia from Sierra Leone.<sup>10785</sup> Regardless of how material arrived in Foya, they would be taken into Buedu by road and then turned over to the G-4 Commander. Bockarie would sign documents acknowledging receipt of the shipments.<sup>10786</sup>

4875. TF1-516 was insistent that the radio requests for materiel were only for ammunitions, not arms.<sup>10787</sup>

4876. TF1-516 also attested to being personally involved in arms and ammunitions shipments during the period June 1999 to December 2001 when he was assigned to work for Benjamin Yeaten. On cross-examination, TF1-516 was asked how many times he crossed between Liberia and Sierra Leone during this period. The witness stated that there were “so many instances, so many times I crossed back into Sierra Leone and some of the times they

<sup>10780</sup> TF1-516, Transcript 9 April 2008, p. 7001; Transcript 8 April 2008, pp. 6860-6861, 6921; Transcript 9 April 2008, p. 7021.

<sup>10781</sup> TF1-516, Transcript 8 April 2008, pp. 6858-6860.

<sup>10782</sup> TF1-516, Transcript 9 April 2008, pp. 7001-7002.

<sup>10783</sup> TF1-516, Transcript 8 April 2008, p. 6955.

<sup>10784</sup> TF1-516, Transcript 8 April 2008, p. 6955; corroborated by TF1-338, Transcript 4 September 2008, pp. 15552-15553.

<sup>10785</sup> TF1-516, Transcript 8 April 2008, p. 6956.

<sup>10786</sup> TF1-516, Transcript 8 April 2008, pp. 6957-6958.

<sup>10787</sup> TF1-516, Transcript 8 April 2008, pp. 6949, 6965.

were moving with materials”<sup>10788</sup> but gave no specific information of dates, quantities, types of weapons and ammunition and persons involved in the transfer. The witness mentioned that on one unspecified occasion, when he was under attack in Foya from LURD insurgents, he went to the ferry crossing point with Benjamin Yeaten where they met Issa Sesay. The witness testified that Yeaten left Sesay with some boxes of ammunition which were “drowned” in the river.<sup>10789</sup>

#### Prosecution Witness Augustine Mallah

4877. Augustine Mallah, an RUF security officer, testified that he saw Jungle in Buedu up to three times in 1998.<sup>10790</sup> Mallah travelled to Buedu during the retreat from Freetown after the Intervention and stayed there for two months before being stationed at Baiima.<sup>10791</sup> In his examination-in-chief, he testified that the first two occasions were prior to his assignment to Baiima.<sup>10792</sup> Mallah testified that on the first occasion, Jungle brought arms and ammunition. He told the witness these supplies came from Gbarnga and that he had been instructed by Taylor to bring them.<sup>10793</sup> On the second occasion, Jungle came in a Hilux vehicle. Mallah was present when boxes of ammunition, including “RPG boxes, AK boxes” and “GPMG rounds” and AK-47s were unloaded from under a tarpaulin in the vehicle and placed in Bockarie’s storeroom.<sup>10794</sup> The third occasion was later in the year. Jungle told the witness that he had brought ammunition but Mallah did not see it.<sup>10795</sup> However, on cross-examination, Mallah stated that he “was actually more sure” of seeing Jungle on the second and third occasion.<sup>10796</sup>

4878. Although the witness referred to seeing Jungle in 1999 in examination-in-chief, in cross-examination, he acknowledged that he did not know the movements of Jungle in 1999 because he was not frequently in Buedu during that year.<sup>10797</sup>

<sup>10788</sup> TF1-516, Transcript 10 April 2008, p. 7271.

<sup>10789</sup> TF1-516, Transcript 10 April 2008, pp. 7270-7271.

<sup>10790</sup> Augustine Mallah, Transcript 13 November 2008, p. 20214.

<sup>10791</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20176-20177, 20203-20204, 20208-20209.

<sup>10792</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20214-20215.

<sup>10793</sup> Augustine Mallah, Transcript 13 November 2008, p. 20215.

<sup>10794</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20215-20216; Transcript 17 November 2008, pp. 20424-20425.

<sup>10795</sup> Augustine Mallah, Transcript 13 November 2008, p. 20216.

<sup>10796</sup> Augustine Mallah, Transcript 17 November 2008, p. 20433, see also pp. 20423, 20428, 20430.

<sup>10797</sup> Augustine Mallah, Transcript 17 November 2008, p. 20430.

4879. Mallah testified that it was only some time in 1999 or 2000 that he first heard about “Zigzag” Marzah. He noted that at the time Marzah made trips to Sierra Leone, not all RUF fighters knew of him or saw him, as Marzah was “only concerned about the High Command like Mosquito, his securities or the radio operators who were with them”.<sup>10798</sup> Mallah also stated that Bockarie would not discuss his sources of ammunition openly with the fighters because an enemy might catch a fighter and discover from him where the RUF sourced its supply.<sup>10799</sup>

Prosecution Witness Dennis Koker

4880. Witness Dennis Koker, who was stationed in Buedu during 1998 as a member of the RUF Military Police,<sup>10800</sup> testified that during the rainy season in 1998, there were several incidents in which he saw persons speaking Liberian dialect bringing ammunition to Bockarie in Buedu. When describing the first incident which took place in July 1998, he stated that these men were wearing camouflage fatigue, black caps, and some wore yellow polo shirts with the words “NPFL Navy Rangers”.<sup>10801</sup> According to Koker, there were more than seven people who arrived, and they arrived in a truck, a car and a jeep.<sup>10802</sup>

4881. When they opened the truck, Koker was able to observe what was inside; he recorded the contents and then they put the boxes into the ammunition dump, in an “undercellar” house on Goduku Road.<sup>10803</sup> The container of the truck was roughly 20 feet by 7 feet, without the driver’s cabin.<sup>10804</sup> Koker recalls that off-loaded were propelled grenades, jet-tracer (anti-aircraft) guns, mines the size of a dinner plate which would burn a tank, many sardine cans of .50 calibre AA ammunition for shooting jets, rocket propelled bombs and TNT, a type of bomb which could be fixed free-style on the nozzle of the AK.<sup>10805</sup>

4882. Koker recalled three other occasions when visitors came to Buedu bringing materiel, although on two of these occasions Koker did not directly witness the visits himself. Rather, he knew that people had arrived because he was working at the Military Police (“MP”)

<sup>10798</sup> Augustine Mallah, Transcript 17 November 2008, pp. 20449-20450.

<sup>10799</sup> Augustine Mallah, Transcript 17 November 2008, p. 20450.

<sup>10800</sup> Dennis Koker, Transcript 15 January 2008, p. 1260.

<sup>10801</sup> Dennis Koker, Transcript 15 January 2008, pp. 1280-1281.

<sup>10802</sup> Dennis Koker, Transcript 15 January 2008, p. 1282.

<sup>10803</sup> Dennis Koker, Transcript 15 January 2008, p. 1283.

<sup>10804</sup> Dennis Koker, Transcript 15 January 2008, p. 1282.

<sup>10805</sup> Dennis Koker, Transcript 15 January 2008, pp. 1284-1286.



Office and the guard posts brought documents to the office which detailed the visitors' arrival. The MP Office acted like "immigration" and provided for clearance for persons continuing onto Buedu.<sup>10806</sup>

4883. In the second delivery of materiel that Koker witnessed, also in July 1998, Bockarie himself arrived at night with the materiel, accompanied by Liberians led by General Fayia, commander at Foya.<sup>10807</sup> The witness spoke with Fayia, who told him his name.<sup>10808</sup> He saw them arrive with two large trucks, two minivans and a Range Rover jeep. When the trucks arrived, others spent about four hours off-loading the trucks while Koker listed the items.<sup>10809</sup> Koker remembers seeing and listing the following materiel: many sardine tins of AK ammunitions, G3 guns and ammunitions, many RPGs and mortar bombs, heavy machine guns and ammunition, as well as many mines.<sup>10810</sup>

4884. The witness stated that he believed the arms and ammunitions from these shipments came from Charles Taylor.<sup>10811</sup> His explanation for this belief was that he was told by his "men" that the "arms came from Charles Taylor's men,"<sup>10812</sup> the Liberians told him that the materiel delivered was from Charles Taylor;<sup>10813</sup> and that the Liberians "came from his country to our country, and [Taylor] was the head of that country and so nothing could come from that country without his knowledge because he had securities too".<sup>10814</sup>

#### Prosecution Witness Perry Kamara

4885. Perry Kamara, a senior radio operator working for Denis Mingo (a.k.a. Superman) at Superman Ground<sup>10815</sup> during 1998,<sup>10816</sup> testified that he was aware through the communications network that Bockarie received ammunition. Bockarie would send messages by radio that Jungle was bringing arms and ammunitions from Monrovia to Foya

<sup>10806</sup> Dennis Koker, Transcript 15 January 2008, pp. 1286-1287, 1293-1294.

<sup>10807</sup> Dennis Koker, Transcript 15 January 2008, pp. 1287, 1365-1367.

<sup>10808</sup> Dennis Koker, Transcript 15 January 2008, p. 1288.

<sup>10809</sup> Dennis Koker, Transcript 15 January 2008, pp. 1288-1289.

<sup>10810</sup> Dennis Koker, Transcript 15 January 2008, pp. 1290-1291.

<sup>10811</sup> Dennis Koker, Transcript 15 January 2008, p. 1374.

<sup>10812</sup> Dennis Koker, Transcript 15 January 2008, p. 1374.

<sup>10813</sup> Dennis Koker, Transcript 15 January 2008, p. 1375.

<sup>10814</sup> Dennis Koker, Transcript 15 January 2008, p. 1374.

<sup>10815</sup> Perry Kamara testified that Superman Ground was on the highway from Koidu Town to Guinea: Transcript 5 February 2008, p. 3112.

<sup>10816</sup> Perry Kamara, Transcript 5 February 2008, p. 3115.

in Liberia by helicopter.<sup>10817</sup> Bockarie would then send vehicles to collect the supplies and bring them to Buedu.<sup>10818</sup> Bockarie would message his commanders, including Superman, stating “that he had brought ammunitions from Mr Charles Taylor” and ask his commanders to send men to collect the arms and ammunitions. Superman sent men to receive the ammunitions.<sup>10819</sup>

Prosecution Witness Mohamed Kabbah

4886. Mohamed Kabbah testified that in the period after the Intervention until the attack on Kono in December 1998, the RUF survived on “bits and pieces” of ammunition which Jungle brought in a pick up truck.<sup>10820</sup> Jungle came frequently to Buedu, too frequently to estimate.<sup>10821</sup>

4887. Under sustained questioning from the Defence, Kabbah consistently maintained that he was told by Jungle that the ammunition came from Taylor.<sup>10822</sup> Kabbah testified that he was personally present when Jungle reported to Bockarie that he came from the mansion in Monrovia and in conversations between Bockarie and Jungle where Bockarie would say that he was sending Jungle to Taylor.<sup>10823</sup> Kabbah stated that Jungle “was always with us”,<sup>10824</sup> but denied that he was an RUF member because “[h]e was not trained by the RUF”.<sup>10825</sup> He testified that Jungle was well known as one of Taylor’s “strong men”.

4888. Kabbah explained that he was able to distinguish ammunition brought by Jungle from ammunition purchased from ULIMO (which had been buried and needed to be cleaned in diesel) or ammunition traded through Guinea. Ammunition brought by Jungle was in boxes.<sup>10826</sup>

<sup>10817</sup> Perry Kamara, Transcript 5 February 2008, pp. 3118-3119.

<sup>10818</sup> Perry Kamara, Transcript 5 February 2008, p. 3119.

<sup>10819</sup> Perry Kamara, Transcript 5 February 2008, pp. 3117-3118.

<sup>10820</sup> Mohamed Kabbah, Transcript 17 September 2008, pp. 16422-16424.

<sup>10821</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16140-16142.

<sup>10822</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16428-16431.

<sup>10823</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16165; Transcript 17 September 2008, pp. 16428-16431; see *also* p. 16452.

<sup>10824</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16165; Transcript 16 September 2008, pp. 16381-16382.

<sup>10825</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16428.

<sup>10826</sup> Mohamed Kabbah, Transcript 17 September 2008, pp. 16425.

4889. Kabbah testified at some length as to the quantity of ammunition received from Jungle. Kabbah stated that Jungle “never used to bring enough ammunition” and he typically came with between three and five boxes.<sup>10827</sup> Kabbah testified that in 1998, until the time they recaptured Kono, the RUF was in a “stiff” situation with respect to ammunition, and all they accessed was the “one or two boxes from Jungle that he used to bring”.<sup>10828</sup> Kabbah also repeatedly affirmed that the supplies which the RUF received from Liberia in this period comprised ammunition and not arms; he testified that the RUF had sufficient arms in 1998 to 1999.<sup>10829</sup>

4890. According to Kabbah, Bockarie announced that the operations to retake Kono were necessary because “the struggle had reached a point when these bits and pieces of ammunition that we were getting from Liberia was dwindling”.<sup>10830</sup> Kabbah explained that the RUF needed to begin mining diamonds since the support it had been receiving from Taylor was insufficient:

[W]hat I mean is that you want - you wanted a hundred boxes [of ammunition] and when you go there somebody gives you ten, you will take it because you had no option. So the hundred that we wanted, if we had our diamonds, when we take them we will get our hundred.<sup>10831</sup>

#### Prosecution Witness TF1-371

4891. Witness TF1-371 testified that the RUF received materiel delivered by escorts including Zigzag Marzah, Jungle and Sampson. Each of these men had their own house in Buedu and Marzah also had a girlfriend there.<sup>10832</sup>

4892. As to the quantity of materiel supplied, in cross-examination the witness agreed that from mid-1997 when Bockarie became leader of the RUF, he complained about a lack of assistance from Liberia.<sup>10833</sup> Defence counsel raised with him a prior statement in which he had agreed that Bockarie was complaining because the assistance from Taylor was

<sup>10827</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16141.

<sup>10828</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16396. Kabbah also testified that by “bits and pieces”, he meant two or three boxes of ammunition. Transcript 17 September 2008, p. 16423.

<sup>10829</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16417-16418.

<sup>10830</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16149.

<sup>10831</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16150.

<sup>10832</sup> TF1-371, Transcript 28 January 2008, pp. 2379-2380 (CS). That the men had separate houses in Buedu is also corroborated by Jabaty Jaward. Transcript 10 July 2008, p. 13392.

<sup>10833</sup> TF1-371, Transcript 30 January 2008, p. 2669 (CS).

“somewhat less than substantial” and where the witness had described it as comprising a “small quantity” prior to November 1998.<sup>10834</sup>

4893. The witness disagreed with the proposition put to him that Taylor did not really provide any assistance to the RUF from 1993 until November or December 1998, with the shipment from Burkina Faso. He stated that Taylor’s lack of assistance was remedied after Bockarie made a trip to Liberia in 1998.<sup>10835</sup> He testified that:

There were a series of trips made [to Monrovia]...and initially in June material came in small quantity and...the supplies increased gradually up to the end of that year 1998.<sup>10836</sup>

4894. However, he agreed that the “major substantial amount” came around November or December 1998.<sup>10837</sup> According to the witness, between the three large shipments he recalled in October 1997 (the Magburaka Shipment), November/December 1998 (the Burkina Faso shipment) and March 1999, “Bockarie took regular trips to Monrovia, arms were coming, but they were not really as large, in huge quantities as those three shipments [...]”.<sup>10838</sup>

#### Prosecution Witness Jabaty Jaward

4895. Jabaty Jaward testified that from early March 1998, he was Bockarie’s “store keeper” with responsibility for RUF supplies, including arms and ammunition and food and fuel supplies.<sup>10839</sup> Jaward testified that he believed the supplies in the RUF store came from Liberia.<sup>10840</sup> The basis for Jaward’s belief was that the supplies were escorted by men with names such as Colonel Jungle, Sampson, Mike, Senegalese, Junior, Zigzag Marzah and Pa Sheku.<sup>10841</sup> Jaward was also aware that these men were Liberian, with the exception of Pa Sheku, who was from Guinea.<sup>10842</sup> Jaward also learnt from these escorts the route they typically used to enter Sierra Leone. They used to complain about the condition of the roads, and at times vehicles would break down and Jaward would send transport to pick up the

<sup>10834</sup> TF1-371, Transcript 30 January 2008, p. 2670 (CS).

<sup>10835</sup> TF1-371, Transcript 30 January 2008, p. 2669 (CS).

<sup>10836</sup> TF1-371, Transcript 30 January 2008, pp. 2670-2671 (CS).

<sup>10837</sup> TF1-371, Transcript 30 January 2008, p. 2671 (CS).

<sup>10838</sup> TF1-371, Transcript 31 January 2008, p. 2700 (CS).

<sup>10839</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13378-13383. Jaward was in Daru at the time of the Intervention and arrived in Buedu several weeks thereafter, at the end of February or beginning of March in 1998.

<sup>10840</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13384.

<sup>10841</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13386.

<sup>10842</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13388.

supplies.<sup>10843</sup> The escorts mentioned towns in Liberia through which they passed, including Monrovia.<sup>10844</sup>

4896. According to Jaward, the Liberian escorts worked for Taylor.<sup>10845</sup> He knew this because: first, Jungle was well-known as one of Taylor's SSS; second, Sampson and Junior were also SSS men (a fact the witness came to know subsequently while in Liberia); third, Senegalese dressed in a uniform of Taylor's Special Operational Division; and fourth, the escorts also told the witness that they worked for Taylor.<sup>10846</sup> However, Jaward testified that the escorts told him that their instructions in relation to the transport of arms and ammunition into Sierra Leone came from Benjamin Yeaten.<sup>10847</sup>

4897. Jaward stated that the supplies received from the Liberian escorts included "ammunition of AK and these anti-aircraft weapon ammunition [...] RPG rockets, the weapons themselves".<sup>10848</sup>

4898. Jaward remained storekeeper for Bockarie until Bockarie departed the RUF in December 1999.<sup>10849</sup> He testified that during this period, these supplies arrived from Liberia "once in a while" and that they were "not that much frequent" and it was "not something regular".<sup>10850</sup> The witness testified that there was "no specific schedule" for the arrival of supplies; at times he was informed by Bockarie that Bockarie had made a request "to Monrovia" for supplies on account of pressing needs on the ground.<sup>10851</sup>

4899. Jaward testified in respect of one particular incident in "late 1998" when the RUF was engaged in combat with Guinean troops who were crossing into Sierra Leone near Koindu. When RUF commanders came to Buedu for supplies, the store was empty. According to the witness, Bockarie stated that he had called to "the Papay in Liberia" and that he expected men to arrive shortly with arms and ammunition.<sup>10852</sup> By "the Papay in

<sup>10843</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13385.

<sup>10844</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13385.

<sup>10845</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13387.

<sup>10846</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13387-13388.

<sup>10847</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13389-13390.

<sup>10848</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13392.

<sup>10849</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13390.

<sup>10850</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13390.

<sup>10851</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13390-13391.

<sup>10852</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13391-13392.

Liberia”, the witness understood Bockarie to refer to Taylor.<sup>10853</sup> Jaward testified that subsequently, Sampson, Jungle, Mike and Senegalese arrived with arms and ammunition.<sup>10854</sup>

4900. Jaward would make an inventory of received items and distribute them to the front lines according to Bockarie’s instructions, with quantities being distributed according to the military needs of the commanders.<sup>10855</sup>

#### Prosecution Witness Isaac Mongor

4901. Isaac Mongor, an RUF senior commander, also testified that while in Kono under the command of Superman,<sup>10856</sup> he was under orders from Bockarie not to let go of Kono because that was where they got their diamonds from. There was no ammunition in Kono so Mongor requested ammunition from Buedu. Bockarie told him to be patient because Jungle had gone to Liberia to Taylor to get some.<sup>10857</sup>

4902. Mongor testified that he later received ammunition from Bockarie which was part of a delivery made by Jungle to Buedu. Bockarie sent men to Mongor with ten boxes of AK rounds, but because the men fought the Kamajors along the way, only half that amount reached Mongor.<sup>10858</sup> According to Mongor, each box contained two “sardine tins”, each of which contained 35 packets of ammunition of 20 rounds each, totalling 1400 rounds per box.<sup>10859</sup>

4903. Mongor also testified that after the meeting in Buedu at which the Fitti-Fatta operation was ordered, Superman came to Gandorhun with a quantity of ammunition for the attack. Mongor subsequently spoke with Bockarie who confirmed that Taylor had sent

<sup>10853</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13391.

<sup>10854</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13392.

<sup>10855</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13392-13393.

<sup>10856</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5742-5744.

<sup>10857</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5744-5745.

<sup>10858</sup> Mongor testifies that this was shortly after the Intervention. Isaac Mongor, Transcript 11 March 2008, pp. 5745-5746.

<sup>10859</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5746-5747. The term “sardine tins” was commonly used by witnesses to refer to the metal boxes in which ammunition was stored, which apparently had a lid that rolled back similar to a tin of sardines: see explanation of Issa Sesay, Transcript 8 July 2010, p. 44110.

Jungle with a “small quantity” of ammunition which Bockarie had given to Superman for the Fitti-Fatta operation.<sup>10860</sup>

Prosecution Witness Joseph Marzah

4904. Marzah stated that when ULIMO was disarmed, during “the time Mosquito was there up to Issa Sesay’s administration”, he made 20 to 40 trips to Sierra Leone transporting arms, ammunitions and artillery pieces. Marzah testified that these supplies were brought by Taylor’s friend, a white man, and were kept at Taylor’s residence at White Flower.<sup>10861</sup> Marzah stated that he undertook these trips “on the direct instructions of Charles Taylor” and that “...it was a government that had a constitution that governed the country led by him, Charles Taylor. So, anything we did was by his orders”. Marzah testified that while he would at times transport materiel offloaded from the airport to White Flower, he was sometimes ordered by Taylor to transport it directly to Sierra Leone.<sup>10862</sup>

Prosecution Witness TF1-579

4905. Witness TF1-579 testified to taking materiel to Bockarie in Buedu twice in 1998. The first time was in September around the time of the Roosevelt Johnson incident.<sup>10863</sup> The witness, accompanied by Jungle and Sampson Weah, took ammunition to Bockarie in Buedu using a Toyota pick-up truck, including grenades, rockets, AK rounds and RPGs.<sup>10864</sup>

4906. The witness testified that although he would ordinarily wear his SSS uniform in Monrovia, none of the three men were wearing uniforms on the trip to Buedu.<sup>10865</sup> He explained this as follows:

Q. From what you've told us, when people were involved in shipping ammunition to Sierra Leone they wouldn't wear their uniforms, would they? A. Yes, you wouldn't wear your uniform to go to Sierra Leone to prevent people from knowing that Mr Taylor was involved with the RUF movement.<sup>10866</sup>

<sup>10860</sup> Isaac Mongor, Transcript 11 March 2008, p. 5748. The Prosecution brief also cites Isaac Mongor’s testimony at Transcript 11 March 2008, pp. 5781-5783, but the Trial Chamber is of the opinion that Mongor is there testifying about the lead up to the December 1998 offensives.

<sup>10861</sup> Joseph Marzah, Transcript 12 March 2008, p. 5875.

<sup>10862</sup> Joseph Marzah, Transcript 12 March 2008, pp. 5876-5877.

<sup>10863</sup> TF1-579, Transcript 5 November 2008, pp. 19830-19831.

<sup>10864</sup> TF1-579, Transcript 5 November 2008, pp. 19831-19834.

<sup>10865</sup> TF1-579, Transcript 5 November 2008, pp. 19834-19835.

<sup>10866</sup> TF1-579, Transcript 5 November 2008, pp. 21122, 19834-19835.

4907. Although the men were not wearing their uniforms, there was no difficulty passing through the checkpoints at the border because “all those who were assigned at that checkpoint knew exactly what was going on and they knew the various commanders like Sampson and Jungle and they had the order there that any time that car arrived there they should allow it to pass through”.<sup>10867</sup>

4908. At Buedu, the witness, Sampson and Jungle offloaded the ammunition into a store room in Bockarie’s house. Bockarie told the witness that he was pleased with the delivery as he was “under serious attack”. The witness spent two days in Buedu on this occasion.<sup>10868</sup>

4909. The witness’s second trip to Buedu took place approximately two months after the first, with Zigzag Marzah, Sampson Weah and Jungle. Yeaten provided the ammunition they took to Buedu from a warehouse on the left side of Taylor’s house. According to the witness, Yeaten had a list of items which he presented to the G4 Commander Moses Duoh at that warehouse.<sup>10869</sup> When the group arrived in Buedu, Bockarie met them and said that he was under “very serious attack” and was “already out of ammunition. The witness spent almost a week in Buedu on this occasion.”<sup>10870</sup>

4910. TF1-579 also stated that he saw Sampson, Jungle and Marzah at other times leaving to take supplies to Buedu, although he was not present on those journeys.<sup>10871</sup> He knew this because Sampson was his “best friend” and they, together with Jungle and Zigzag Marzah, all lived at the YWCA, so he was aware when they were leaving for Buedu in Sierra Leone. Also, sometimes before such trips, the witness, Sampson and Marzah would go to a club for a drink, and Sampson and Marzah would take along to the club a pick-up truck loaded already with the ammunition.<sup>10872</sup>

4911. TF1-579 stated that as far as he was aware, only ammunition was carried on these trips, not arms.<sup>10873</sup> He testified that generally, the group travelled in pick-up trucks in which the ammunition was carried. Sometimes the intermediaries would travel in an individual

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<sup>10867</sup> TF1-579, Transcript 5 November 2008, p. 19835.

<sup>10868</sup> TF1-579, Transcript 5 November 2008, pp. 19836-19837.

<sup>10869</sup> TF1-579, Transcript 5 November 2008, pp. 19837-19839.

<sup>10870</sup> TF1-579, Transcript 5 November 2008, pp. 19839-19842.

<sup>10871</sup> TF1-579, Transcript 5 November 2008, pp. 19847-19848.

<sup>10872</sup> TF1-579, Transcript 5 November 2008, pp. 19847-19848.

<sup>10873</sup> TF1-579, Transcript 25 November 2008, p. 21142.





“car” and sometimes in a convoy. The largest convoy TF1-579 witnessed leaving consisted of two pick-up trucks.<sup>10874</sup>

Prosecution Witness Varmuyan Sherif

4912. Varmuyan Sherif testified that during 1998, Taylor had given him a temporary assignment to go to Lofa County and collect arms and ammunitions hidden by former ULIMO-K fighters who resisted disarmament.<sup>10875</sup> Sherif was shown where these arms were hidden by the former fighters. Sherif saw about four pickup-truckloads of arms and ammunition in good condition.<sup>10876</sup> Sherif took three of these truckloads back to Monrovia before Taylor informed him that he should supply the last load directly to Bockarie.<sup>10877</sup>

4913. Sherif met Bockarie in Foya and together they moved to the border where Sherif gave Bockarie the pick-up full of arms comprising AK-47, RPG and other guns. The witness stated that some of the arms were in bags coated with mud.<sup>10878</sup>

4914. Sherif testified that he had to change out of his uniform when travelling to the Sierra Leonean border, explaining:

4915. In case the civilians around see the uniform, you can see the badges here that identify it as executive management. So, I had to change into another clothing so on my way back to Monrovia I had my uniform on again.<sup>10879</sup>

Prosecution Witness Albert Saidu

4916. Albert Saidu explains that whenever Jungle came to the RUF territory, there was a general understanding amongst the RUF that he brought “materials”, arms, ammunitions, food and drugs to the RUF fighters which they used to fight and that those “materials” were sent by Charles Taylor.<sup>10880</sup>

Prosecution Witness TF1-362

<sup>10874</sup> TF1-579, Transcript 25 November 2008, pp. 21138-21141.

<sup>10875</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 820.

<sup>10876</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 821.

<sup>10877</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 851-852.

<sup>10878</sup> Varmuyan Sherif, Transcript 14 January 2008, pp. 1142-1144.

<sup>10879</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 856; See *also* Varmuyan Sherif, Transcript 9 January 2008,

4917. Witness TF1-362 stated that at some point in 1998 or 1999,<sup>10881</sup> she received weapons and ammunition from the ammunition dump that was located at Sam Bockarie's house in Buedu. She testified that Bockarie "used to collect arms and ammunition from Charles Taylor".<sup>10882</sup>

Prosecution Witness Komba Sumana

4918. Komba Sumana testified that in 1998 three soldiers with red hats delivered arms at pass out parade.<sup>10883</sup> He was told by a fellow member of the rebel forces that these men, who spoke Liberian English, were "Charles Taylor's soldiers".<sup>10884</sup> Sumana further added that after the weapons were distributed, Bockarie stated that they were going to "clear" Kono. The troops, including the witness, left the next day. En route, General Issa told the troops that as part of 'Operation No Living Thing,' they would attack Koidu Town. The attack was not successful.<sup>10885</sup> The witness did not ultimately participate in the attack.<sup>10886</sup>

Prosecution Witness TF1-590

4919. Witness TF1-590, a Sierra Leonean refugee who fled to Liberia after the ECOMOG Intervention, testified that in 1998, shipments of arms and ammunitions and other supplies would arrive via a plane at an airfield at Voinjama. Members of the Liberian security and the RUF would take the supplies from this airfield.<sup>10887</sup> On one occasion, the witness saw persons with trucks unloading ammunition boxes from an airplane into RUF vehicles and then drive those vehicles towards Sierra Leone.<sup>10888</sup> It was not a secret when planes arrived

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p. 1143.

<sup>10880</sup> Albert Saidu, Transcript 4 June 2008, pp. 11027-11029.

<sup>10881</sup> TF1-362, Transcript 27 February 2008, pp. 4868, 4916 (CS).

<sup>10882</sup> TF1-362, Transcript 27 February 2008, p. 4909. The exact wording used by the witness in response to the question of whether Bockarie told her about the source of supplies: "He was not specific. He said he can collect - he used to collect arms and ammunition from Charles Taylor".

<sup>10883</sup> Komba Sumana, Transcript 6 October 2008, pp. 17937-17939; Transcript 7 October 2008, pp. 18031-18033.

<sup>10884</sup> Komba Sumana, Transcript 6 October 2008, p. 17938; Transcript 7 October 2008, pp. 18041-18042.

<sup>10885</sup> Komba Sumana, Transcript 6 October 2008, pp. 17940-17943.

<sup>10886</sup> Komba Sumana, Transcript 6 October 2008, pp. 17941-17943.

<sup>10887</sup> TF1-590, Transcript 13 June 2008, p. 11771.

<sup>10888</sup> TF1-590, Transcript 13 June 2008, p. 11772.

and the witness knew of these shipments because those transporting the supplies would frequent his kiosk and talk about the shipments.<sup>10889</sup>

Prosecution Witness Alimamy Bobson Sesay

4920. Alimamy Bobson Sesay testified that in early August 1999, a group of AFRC men, including Johnny Paul Koroma, “Bazzy”, Junior Lion, Bomblast, Major Bonkolonkeh, and the witness himself met with Taylor, Momoh Gibbah and Defence Minister Daniel Chea at the President’s Mansion in Monrovia.<sup>10890</sup> At the meeting, Taylor urged the AFRC and RUF to cooperate, and threatened arrest for failure to do so. Taylor confirmed to them that he supplied food, arms and ammunitions to AFRC/RUF troops so they could overthrow the government of President Ahmed Tejan Kabbah and that he arranged Johnny Paul Koroma’s departure from Kailahun to Liberia and also arranged for the delegation to meet him in Liberia.<sup>10891</sup> Taylor also gave Johnny Paul \$USD 15,000 to spend in Monrovia.<sup>10892</sup>

Prosecution Witness TF1-375

4921. Witness TF1-375, an RUF fighter,<sup>10893</sup> testified that about three weeks after they retreated from Koidu Town, Bockarie contacted Superman via radio to advise that he was sending “guests” from Buedu who had come from Liberia. Superman sent people to receive them at the Moa River, and they returned accompanied by up to eight Liberians. The men had Liberian accents and brought arms and ammunition. TF1-375 testified that one of the Liberians was an SSS officer named “Osebo Demy”, whom he came to know subsequently in Liberia as one of Yeaten’s subordinates in the SSS.<sup>10894</sup>

4922. TF1-375 also testified that during the rainy season of 1998, after Superman and SAJ Musa attacked Kabala, Bockarie called and said that he wanted them to send some of the ammunition and arms that they had captured from Kabala to him so he could send it to the front lines. After this communication, Superman and SAJ Musa and other commanders called a meeting to discuss the request. The distance was too far to send the ammunition to Kailahun, so they wanted to call Sam Bockarie and tell him that they would like to use the

<sup>10889</sup> TF1-590, Transcript 13 June 2008, pp. 11772-11774.

<sup>10890</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8501-8504.

<sup>10891</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8504-8506, 8509.

<sup>10892</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, p. 8506.

<sup>10893</sup> TF1-375, Transcript 23 June 2008, p. 12485.

ammunition to attack Makeni. Superman and SAJ Musa called Bockarie who reasserted that he needed the ammunition and that he would send some people to collect it, which he did.<sup>10895</sup> Superman told these men that he and SAJ Musa were unable to turn over the arms and ammunition to them.<sup>10896</sup>

### The Accused

4923. The Accused denied the allegation of sending arms and ammunitions to the RUF/AFRC via Marzah, Jungle and others.<sup>10897</sup> He contended that he could not have been in control of everything in the SSS, and there were elements within the organisation, including Benjamin Yeaten, which were acting autonomously. He stated that he was busy dealing with diplomatic and political matters, and persons such as Tamba, Sherif and Weah who were bringing arms to Sierra Leone were acting without his knowledge or consent.<sup>10898</sup>

4924. The Accused also testified that during this period Liberia did not import any weapons and had no finances to purchase any, and hence had no arms to send to Sierra Leone; the disarmament in Liberia took place in 1996, thereafter the arms were held by ECOMOG and the UN. The Accused denied he had any access to arms.<sup>10899</sup> He pointed to the fact that ECOWAS had requested that the Security Council lift its arms embargo on Liberia, but was unable to persuade the Security Council to do so.<sup>10900</sup>

4925. The Accused told the Trial Chamber that around June to August 1998,<sup>10901</sup> there was a formal investigation carried out concerning allegations that his government was involved

<sup>10894</sup> TF1-375, Transcript 23 June 2008, pp. 12523-12528.

<sup>10895</sup> TF1-375, Transcript 24 June 2008, pp. 12563-12566.

<sup>10896</sup> TF1-375, Transcript 24 June 2008, pp. 12568-12569.

<sup>10897</sup> Charles Ghankay Taylor, Transcript 6 August 2009, p. 26209; Transcript 14 September 2009, pp. 28727, 28729-28730 (in response to TF1-567's evidence, specifically denying that he sent a ten-tyred truck full of arms and ammunitions); Transcript 1 October 2009, pp. 30100-30103 (in response to Mallah's evidence), 30172-30273 (in response to the evidence of TF1-585); Transcript 27 October 2009, p. 30414 (in response to Isaac Mongor's evidence); Transcript 29 October 2009, pp. 30769-30770 (in response to Sherif's evidence); Transcript 2 November 2009, pp. 30897-30898 (in response to Dennis Koker's evidence, stating that he was not aware of any uniform worn by the Navy Rangers and denying that yellow was a colour used by his fighters); see *also* Transcript 2 February 2010, pp. 34625-34626 (identifying as Navy Rangers persons depicted in Exhibits P-493B and P-493E, which depicts armed personnel wearing yellow t-shirts with "Navy Rangers" written on them); Exhibit P-493B, "Photograph – P0000866"; Exhibit P-493E, "Photograph – P0000869".

<sup>10898</sup> Charles Ghankay Taylor, Transcript 10 August 2009, pp. 26333-26335.

<sup>10899</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26191-26192; Transcript 17 August 2009, pp. 26901-26903.

<sup>10900</sup> Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25414-25415.

<sup>10901</sup> Charles Ghankay Taylor, Transcript 19 November 2009, p. 32180.

in the training of Sierra Leoneans, diamond trafficking and the movement of arms across the border.<sup>10902</sup> That investigation was an internal Liberian investigation,<sup>10903</sup> but it was carried out by a delegation which included the Representative of the UN Secretary-General Downes-Thomas, ECOMOG officers, his Foreign Minister and a US military attaché by the name of Colonel Dempsey.<sup>10904</sup> According to the Accused's recollections, a report of their investigation, primarily authored by Dempsey, concluded that there were indications that a small amount of arms was going across the Liberian border into Sierra Leone, but the source of these arms was unclear.<sup>10905</sup> The Accused's recollection of the report was that Colonel Dempsey stated that the low-level arms supply did not appear to be occurring at any official level.<sup>10906</sup>

4926. Describing the mode in which arms and ammunitions could be accessed by security personnel, the Accused confirmed that formal requests had to be made by SSS personnel for arms and ammunition. Records were kept of arms and ammunition assigned to personnel, and any Secret Service personnel in possession of arms and ammunition had to account for them at every inspection. According to the Accused, the SSS had their own distinct weapons stored at a separate storage facility within their own custody. The primary SSS armoury was at the Executive Mansion. While the Accused could not recall who had day to day control of the armoury, the Director of the SSS had ultimate powers to remove materiel from the armoury or authorise its removal.<sup>10907</sup>

4927. The Accused denied that there was a warehouse attached to his residence in Monrovia,<sup>10908</sup> but admitted that there was an SSS warehouse located next door to White

<sup>10902</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26140-26142; Transcript 19 November 2009, pp. 32180-32183; See also Exhibit D-141, "Presidential Papers, Policies, Speeches, Statements and Record of Activities of the Chief Executive of Liberia, August 2 1997 – December 31 1998", p. 293: "The Liberian Government wishes to draw attention to the statement of the United States Deputy Assistant Secretary of State for Africa, Amb Vicki Huddleston, that there is no evidence that the Liberian Government is involved in aiding the war in Sierra Leone. The Government wishes to also point to the results of an independent investigation conducted by Col. Dempsey, Military Attache at the US Embassy in Monrovia, which found no evidence of the alleged involvement of the Liberian Government in the Sierra Leonean conflict".

<sup>10903</sup> Charles Ghankay Taylor, Transcript 19 November 2009, pp. 32183- 32186.

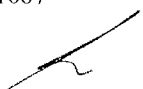
<sup>10904</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26140-26142; Transcript 19 November 2009, pp. 32180-32183.

<sup>10905</sup> Charles Ghankay Taylor, Transcript 6 August 2009, p. 26147; Transcript 18 November 2009, p. 32183.

<sup>10906</sup> Charles Ghankay Taylor, Transcript 19 November 2009, p. 32183.

<sup>10907</sup> Charles Ghankay Taylor, Transcript 31 August 2009, pp. 28007-28009.

<sup>10908</sup> Charles Ghankay Taylor, Transcript 28 October 2009, p. 30629; see also Transcript 31 August 2009, p. 28009 (stating that a certain amount of arms and ammunition was kept at White Flower for the President's security. The Director of the SSS would also have ultimate authority for these supplies).





Flower. According to the Accused, the warehouse was under Benjamin Yeaten's command and he did not have access to the warehouse.<sup>10909</sup>

Defence Witness DCT-008

4928. Witness DCT-008 served as a radio operator from August 1997 to 2003.<sup>10910</sup> He testified that Yeaten and Bockarie were involved in "secret deals" in which Yeaten sold ammunition to Bockarie.<sup>10911</sup> The ammunition deals between Bockarie and Yeaten commenced in late 1998, after Bockarie's first visit to Monrovia,<sup>10912</sup> which DCT-008 placed in September 1998.<sup>10913</sup> Yeaten secured the ammunition by sending people to purchase it from persons in the south-east of Liberia, which had previously been controlled by the Liberian Peace Council, and also from ULIMO-K in LOFA County.<sup>10914</sup> Yeaten used Jungle, Sampson or Zigzag Marzah to transport ammunition at night, either from his residence or that of Cissé.<sup>10915</sup>

4929. DCT-008 testified that Yeaten's relationship with Bockarie was hidden from Taylor.<sup>10916</sup> Yeaten was able to keep the transportation and trade in ammunitions a secret because the persons involved were "high-ranking government officials". The witness noted that Yeaten was the chief of security to the President, "and even his bodyguards, when his bodyguards are driving around, no other security would search their car". Further, Musa Cissé was the chief of protocol to the President, and "[w]henver they saw his vehicle, nobody at any checkpoint would check his car".<sup>10917</sup> He testified that deals such as this by government officials without the knowledge of Taylor were common, since salaries were low and corruption was rife.<sup>10918</sup> According to DCT-008, Yeaten told his "close

<sup>10909</sup> Charles Ghankay Taylor, Transcript 28 October 2009, pp. 30629-30631.

<sup>10910</sup> DCT-008, Transcript 24 August 2010, p. 46949 (PS).

<sup>10911</sup> DCT-008, Transcript 27 August 2010, p. 47388; Transcript 3 September 2010 p. 47935.

<sup>10912</sup> DCT-008, Transcript 27 August 2010, p. 47391; Transcript 3 September 2010 p. 47934

<sup>10913</sup> DCT-008, Transcript 24 August 2010, pp. 47050-47052.

<sup>10914</sup> DCT-008, Transcript 27 August 2010, pp. 47389, 47393; Transcript 7 September 2010, pp. 48086-48087, 48104-48105.

<sup>10915</sup> DCT-008, Transcript 27 August 2010, pp. 47391-47392; Transcript 7 September 2010, p. 48182.

<sup>10916</sup> DCT-008, Transcript 27 August 2010, p. 47386; Transcript 7 September 2010, pp. 48103-48104, 48184-48186, 48216.

<sup>10917</sup> DCT-008, Transcript 27 August 2010, p. 47390.

<sup>10918</sup> DCT-008, Transcript 27 August 2010, p. 47389.

bodyguards” that they should keep the arms deals a secret because he feared being arrested if the President heard about it.<sup>10919</sup>

4930. DCT-008 stated that he was not aware of any trip by Sampson or Jungle to Sierra Leone with arms and ammunition in 1998 to early 1999, with the exception of one trip shortly after Bockarie’s first visit (which he places in September 1998).<sup>10920</sup>

4931. DCT-008 testified that the clandestine transactions between Yeaten, Cissé, Jungle and Bockarie (and Sampson and Marzah) ceased in December 1999 when Bockarie came to seek refuge in Liberia.<sup>10921</sup>

#### Defence Witness Issa Sesay

4932. Issa Sesay testified that the only ammunition that came into Sierra Leone in 1998 was ammunition bought or exchanged from ex-ULIMO fighters and from Guinea.<sup>10922</sup> According to Sesay, during this period the RUF did not receive arms and ammunition from Charles Taylor in Liberia. Sesay said that, being in Kailahun throughout this time, he was in a position to know.<sup>10923</sup>

4933. Sesay denied that Jungle, Marzah and Sampson were runners between the Liberian government and the RUF.<sup>10924</sup> Sesay did not see Sampson in RUF territory and met him only in 2000. Sesay only got to know Marzah in 1999 when Marzah was security accompanying the Liberian Lomé Peace Accord delegation.<sup>10925</sup> Sesay testified that he was good friends with Jungle and was not aware of Jungle being an agent of Charles Taylor.<sup>10926</sup> According to Sesay, Jungle did not bring ammunition from Liberia and Sesay would have known if Jungle had done so.<sup>10927</sup>

#### Defence Witness Yanks Smythe

<sup>10919</sup> DCT-008, Transcript 27 August 2010, p. 47389.

<sup>10920</sup> DCT-008, Transcript 30 August 2010, p. 47420.

<sup>10921</sup> DCT-008, Transcript 27 August 2010, pp. 47395-47396.

<sup>10922</sup> Issa Sesay, Transcript 12 July 2010, pp. 44300-44302.

<sup>10923</sup> Issa Sesay, Transcript 26 July 2010, pp. 44626-44628.

<sup>10924</sup> Issa Sesay, Transcript 29 July 2010, pp. 45072-45074.

<sup>10925</sup> Issa Sesay, Transcript 29 July 2010, pp. 45073-45074.

<sup>10926</sup> Issa Sesay, Transcript 6 July 2010, pp. 43804, 43806-43808.

<sup>10927</sup> Issa Sesay, Transcript 4 August 2010, p. 45405.

4934. Yanks Smythe, who was appointed Assistant Director for Operations for the SSS by Taylor in 1998,<sup>10928</sup> testified that an arms and ammunitions warehouse for the SSS existed in a building next to White Flower. There was a protocol to obtain supplies from the warehouse in which the Director of the SSS would make a request to the President, it would be approved and the Director would get the supplies.<sup>10929</sup> The warehouse was staffed 24 hours a day. The superintendents of the warehouse were Moses Duoh and Aloysius Kai.<sup>10930</sup> However, Smythe conceded that if the director “wanted to obtain a single uniform from the warehouse”, he would not need Presidential approval. Smythe agreed with the proposition from Defence counsel that it was possible that Yeaten could obtain supplies from the White Flower warehouse without informing the President.<sup>10931</sup>

4935. According to Smythe, the arms and ammunition of the Armed Forces of Liberia were kept separately from this warehouse and were held at the Barclay Centre. However, the SSS had another small warehouse at the Executive Mansion containing “small light weapons” to which access was given by the Director. The SS Director could authorise removal of supplies and it was not necessary to notify the President. During the time that he was Assistant Director, the witness was not aware of any supplies being taken from the warehouse at the Executive Mansion and sent to Sierra Leone.<sup>10932</sup>

#### Defence Witness John Vincent

4936. John Vincent, a Liberian member of the RUF from September 1990 to 2000 before leaving to join the Armed Forces of Liberia in 2001, testified that he met Jungle on the way to the Waterworks meeting of 1998, which Vincent placed in July, August or September.<sup>10933</sup> Jungle informed Vincent that he was making regular trips to Buedu and providing Bockarie with ammunition since he was able to easily travel from Sierra Leone to Liberia due to his dual Sierra Leonean and Liberian citizenship.<sup>10934</sup> Vincent did not know

<sup>10928</sup> DCT-179, Transcript 24 February 2010 pp. 35865-35867.

<sup>10929</sup> Yanks Smythe, Transcript 24 February 2010 pp. 35933-35934.

<sup>10930</sup> Yanks Smythe, Transcript 24 February 2010 pp. 35935-35936.

<sup>10931</sup> Yanks Smythe, Transcript 24 February 2010 pp. 35934-35935.

<sup>10932</sup> Yanks Smythe, Transcript 24 February 2010 pp. 35936-35938.

<sup>10933</sup> John Vincent, Transcript 26 March 2010 pp. 38109-38111.

<sup>10934</sup> John Vincent, Transcript 26 March 2010 pp. 38110-38111.





from where in Liberia Jungle obtained supplies but he never heard that these supplies came from Taylor.<sup>10935</sup>

4937. Vincent stated that he first met Zigzag Marzah in Liberia at the end of 2000 or 2001 and never saw Marzah bringing arms and ammunition in 1998 or 1999 to Sam Bockarie.<sup>10936</sup>

Defence Witness Martin George

4938. Martin George, an RUF Commander involved in the capture of Kono in 1998, and Brigade Commander in Kono in 1999,<sup>10937</sup> stated that he had not heard of the RUF receiving any ammunition from Taylor or the NPFL, nor did he himself receive anything from Taylor.<sup>10938</sup>

Prosecution Exhibit P-066

4939. Exhibit P-066 is an unsigned letter, dated 24 June 1998, from “Brigadier Sam Bockarie – CDS RUFSL” to Charles Taylor through his “Chief of Protocall” Alhaji Musa Sesay. The letter begins by describing the RUF’s supply shortages, stating that in the face of ECOMOG led attacks on RUF positions in Koidu and Kailahun, “we do not have rockets or bombs which are badly needed to handle the situation” and that the RUF was “merely managing the small ammunition we have at hand as at now”.<sup>10939</sup>

4940. The letter requests that Musa Sesay meet with “The President” to explain these issues in detail, and states:

We appreciate the assistance we have been receiving and we want you to believe that we have no where else to cry to for help besides you and his Excellency.

We usually receive materials without bombs and not even up to twenty (20) boxes which makes the operation, to capture and defend any strategic point difficult.

[...] we are appealing that you please discuss the matter with His Excellency for his timely intervention of the situation on the ground.<sup>10940</sup>

<sup>10935</sup> John Vincent, Transcript 26 March 2010 p. 38112.

<sup>10936</sup> John Vincent, Transcript 26 March 2010, pp. 38113-38114.

<sup>10937</sup> DCT-062, Transcript 23 April 2010 pp. 39779-39782, 39794-39797.

<sup>10938</sup> DCT-062, Transcript 23 April 2010, pp. 39848-39852.

<sup>10939</sup> Exhibit P-066, “Confidential – RUF Brigade Headquarter – Buedu, ‘Information and Request’, Report from Sam Bockarie to Charles Taylor, 24 June 1998”, ERN. 7833.

<sup>10940</sup> Exhibit P-066, “Confidential – RUF Brigade Headquarter – Buedu, ‘Information and Request’, Report from Sam Bockarie to Charles Taylor, 24 June 1998”, ERN. 7833.

Prosecution Exhibit P-067

4941. Exhibit P-067 is a 1999 report to Foday Sankoh by the Black Guards, authored by Junior Vandí, a Black Guard commander,<sup>10941</sup> which indicates in general terms that throughout 1998 Taylor provided material support to the RUF. After recounting that Bockarie was called to Monrovia by Taylor shortly after the Intervention, Exhibit P-067 states that:

From that point, the President gave huge quantity of logistics (Ammunition) to the High-Command for us to start repelling the ECOMOG advancement or to contain situation.<sup>10942</sup>

4942. Exhibit P-067 indicates that such support continued. After recounting the episode in which Sesay lost a parcel of diamonds in Monrovia, and prior to discussing the Fitti-Fatta mission, the Black Guards state:

Moreso, President Taylor continues to give helping hands with logistics which involves foodstuff and materials.<sup>10943</sup>

Deliberations

4943. The evidence adduced by the Prosecution consistently establishes, and the Defence concedes, that throughout 1998 and 1999 supplies of military equipment arrived in Buedu that were brought by Liberians.<sup>10944</sup> Twenty Prosecution witnesses testified to supplies of materiel being brought by intermediaries and their accounts are complementary in most respects. According to these witnesses, Bockarie would radio requests through to Liberia when he was short of materiel.<sup>10945</sup> Usually one or a combination of Daniel Tamba, Sampson Weah, Joseph Marzah and Dopoe Menkarzon would bring the supplies,<sup>10946</sup> either

<sup>10941</sup> TF1-371, Transcript 28 January 2008, p. 2406 (CS); Vandí authored it and he was a Black Guard commander. TF1-567, Transcript 2 July 2008, p. 12903.

<sup>10942</sup> Exhibit P-067, "RUF People's Army-- Situation Report to Foday Sankoh from the Black Revolutionary Guards", ERN. 9674-9675.

<sup>10943</sup> Exhibit P-067, "RUF People's Army-- Situation Report to Foday Sankoh from the Black Revolutionary Guards", ERN. 9676.

<sup>10944</sup> See Defence Final Trial Brief, para. 1091 ("There is also a significant body of evidence that intermediaries such as Daniel Tamba (Jungle), Joseph Marzah (a.k.a. Zigzag), Sampson Wehyee and others delivered arms and ammunition to the RUF throughout 1998 and perhaps into 1999. ...The Defence submits that essentially these individuals, in conjunction with others, operated a private enterprise that was mutually beneficial to themselves..."), 1103 ("The evidence favours the conclusion that while Tamba and others did make trips from Liberia to Sierra Leone, that they transported ammunition rather than arms...").

<sup>10945</sup> TF1-585, Transcript 8 September 2008, p. 15682; Dauda Aruna Fornie, Transcript 2 December 2008, p. 21479; TF1-516, Transcript 8 April 2008, p. 6949.

<sup>10946</sup> TF1-585, Transcript 8 September 2008, pp. 15652, 15655 (stating that Jungle brought supplies); Dauda

from the Accused's farm in Gbarnga,<sup>10947</sup> or from White Flower in Monrovia.<sup>10948</sup> Evidence indicates that Tamba,<sup>10949</sup> Marzah<sup>10950</sup> and Weah<sup>10951</sup> were employed as the Accused's security personnel. These persons would travel by road during 1998,<sup>10952</sup> and from mid-1999, when insurgents began attacks on Lofa County, ammunition was flown to Foya via helicopter and taken to Buedu by road.<sup>10953</sup> Sometimes the intermediaries would take the supplies as far as Foya and Bockarie would send vehicles to collect them.<sup>10954</sup>

4944. Four Prosecution witnesses (Joseph Marzah, TF1-579, Varmuyan Sherif and Abu Keita) testified to being directly involved in transporting military equipment from Liberia to the RUF/AFRC in Buedu. Sherif and Marzah stated that they took direct instructions from

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Aruna Fornie, Transcript 2 December 2008, pp. 21489-21492 (Sunlight would inform Bockarie that Yeaten would dispatch Jungle, Zigzag Marzah or Liberian Mosquito with materials to Sierra Leone); TF1-567, Transcript 2 July 2008, p. 12903 (encountering Bockarie, Jungle, Zigzag Marzah, Junior Vandi and others unloading ammunition); TF1-516, Transcript 8 April 2008, pp. 6952-6953 (testifying that Zigzag Marzah, Jungle and Dopoe Menkarzon brought arms and ammunition into Sierra Leone shortly after the Intervention in 1998); Augustine Mallah, Transcript 13 November 2008, p. 20214 (testifying that he saw Jungle in Buedu up to three times in 1998); Mohamed Kabbah, Transcript 12 September 2008, pp. 16140-16142 (the RUF survived on "bits and pieces" of ammunition which Jungle brought in a pick up truck); TF1-371, Transcript 28 January 2008, pp. 2379-2380 (CS) (the RUF received materiel delivered by escorts including Zigzag Marzah, Jungle and Sampson).

<sup>10947</sup> TF1-585, Transcript 8 September 2008, pp. 15661-15662; Augustine Mallah, Transcript 13 November 2008, p. 20215.

<sup>10948</sup> TF1-579, Transcript 5 November 2008, pp. 19839-19842; TF1-585, Transcript 8 September 2008, p. 15658; Transcript 9 September 2008, p. 15794 (CS); Joseph Marzah, Transcript 12 March 2008, p. 5875.

<sup>10949</sup> The Trial Chamber has previously found that Daniel Tamba (a.k.a. Jungle) worked for the SSS as a subordinate of Benjamin Yeaten and the Accused throughout the Indictment period. See *supra*, The Role of Intermediaries: Daniel Tamba (a.k.a. Jungle).

<sup>10950</sup> The Trial Chamber has previously expressed doubts concerning Joseph Marzah's claim in his testimony that he was SSS Chief of Operations at the Accused's Executive Mansion. See *supra*, Credibility Assessment, Joseph Marzah, paras 263-268. However, it accepts on the evidence of a number of Prosecution witnesses that Marzah did work for the Accused. TF1-567, Transcript 2 July 2008, p. 12903 (Bockarie introduced Zigzag Marzah and others as "the Liberian brothers sent by Charles Taylor"); Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21489-21492 (Sunlight would inform Bockarie that Yeaten would dispatch Jungle, Zigzag Marzah or Liberian Mosquito with materials to Sierra Leone); Abu Keita, Transcript 23 January 2008, p. 1991 (Keita testified that Marzah and Jungle were sent to Sierra Leone by Benjamin Yeaten).

<sup>10951</sup> Evidence indicates that Sampson Weah was a member of the SSS working under the direction of Benjamin Yeaten. TF1-516, Transcript 9 April 2008, p. 6991 ("Sampson Weah was a brother to Benjamin D Yeaten, but he was assigned to him as well"); TF1-375, Transcript 23 June 2008, p. 12535 ("The cars were driven by Jungle and Sampson Weah. They were both from the SSS"); TF1-579, Transcript 5 November 2008, p. 19831 ("Sampson Weah was a brother to Benjamin Yeaten and he was also an SSS personnel").

<sup>10952</sup> TF1-585, Transcript 8 September 2008, p. 15660; TF1-516, Transcript 8 April 2008, p. 6955; Jabaty Jaward, Transcript 10 July 2008, p. 13385.

<sup>10953</sup> TF1-516, Transcript 8 April 2008, pp. 6955-6958; Perry Kamara, Transcript 5 February 2008, pp. 3118-3119.

<sup>10954</sup> Perry Kamara, Transcript 5 February 2008, p. 3119; Varmuyan Sherif, Transcript 14 January 2008, pp. 1142-1144 (Sherif's account of meeting Bockarie at Foya and moving to Buedu together); TF1-516, Transcript 8 April 2008, p. 6956 (Foya was a strategic point wherein to coordinate meetings with those who were sent from Monrovia and those to be taken to Monrovia from Sierra Leone).

the Accused when they transported those supplies to the RUF.<sup>10955</sup> TF1-579 did not directly state that he believed the Accused to be involved in or sanctioned the delivery of supplies to Buedu in 1998. However, he noted that secrecy measures were required on the trips “to prevent people from knowing that Mr Taylor was involved with the RUF movement”.<sup>10956</sup> He also testified that the G4 Commander at the arms and ammunitions warehouse next to the Accused’s house was aware that supplies of ammunition listed by Benjamin Yeaten were being issued to the witness, Zigzag, Sampson and Jungle.<sup>10957</sup> TF1-579 stated that the intermediaries delivering supplies had no difficulty getting through the border checkpoints, even though AFL soldiers were stationed there.<sup>10958</sup> Keita stated that the Accused sent him to Buedu but that Yeaten provided him one AK-47, a pistol, ten boxes of ammunition, and three former NPFL<sup>10959</sup> Liberian bodyguards armed with rifles to take with him.<sup>10960</sup>

4945. The Trial Chamber recalls its findings that the testimonies of Marzah and TF1-579 must be considered with caution.<sup>10961</sup> Further, the Defence contended that with regard to several trips TF1-579 allegedly participated in from Monrovia to Buedu, in which material was delivered to Bockarie, the witness’s accounts were inconsistent regarding the dates of these shipments, the materiel included in them, and the number of vehicles participating in these shipments.<sup>10962</sup> When confronted with the inconsistencies regarding the dates of these shipments, the witness explained that he remembered it was during the rainy season and that

<sup>10955</sup> Joseph Marzah, Transcript 12 March 2008, pp. 5876-5877 (Marzah stated that he undertook these trips “on the direct instructions of Charles Taylor” and that “...it was a government that had a constitution that governed the country led by him, Charles Taylor. So, anything we did was by his orders”.); Varmuyan Sherif, Transcript 9 January 2008, pp. 851-852 (“[Taylor] called me back and instructed me that whatever arms and ammunition that I am bringing to Monrovia I shouldn't bring them to Monrovia again. I should take them and turn everything over to Sam Bockarie that I had”).

<sup>10956</sup> TF1-579, Transcript 5 November 2008, pp. 21122, 19834-19835 (TF1-579 explained that he would not wear his uniform on trips to Sierra Leone “to prevent people from knowing that Mr Taylor was involved with the RUF movement”).

<sup>10957</sup> TF1-579, Transcript 5 November 2008, pp. 19837-19839.

<sup>10958</sup> TF1-579, Transcript 5 November 2008, p. 19835. See also Arms and Ammunition: Preliminary Issues, Closure of Border/Arms Embargo.

<sup>10959</sup> Abu Keita, Transcript 23 January 2008, p. 1982.

<sup>10960</sup> Abu Keita, Transcript 23 January 2008, pp. 1982-1984.

<sup>10961</sup> Credibility Assessment, Joseph Marzah, paras 263-268; Credibility Assessment, TF1-579, paras 339-345.

<sup>10962</sup> Defence Final Trial Brief, paras 1464-1468; TF1-579, Transcript 5 November 2008, pp. 19831, 19837-19846; Transcript 25 November 2008, pp. 21081, 21083-21087; Transcript 26 November 2008, pp. 21184-21197 (PS).

these events occurred “during action time and we are human beings. It is possible anybody can make mistakes over years”.<sup>10963</sup>

4946. However, thirteen other Prosecution witnesses corroborate the account of TF1-579 and Marzah that the Accused was the source of the materiel supplied by *inter alia* Daniel Tamba, Joseph Marzah and Sampson Weah.<sup>10964</sup> The Defence submits that these witnesses tended to conflate the fact that materiel came across the border from Liberia with the assumption that such materials were necessarily provided by or on behalf of the Accused.<sup>10965</sup> The Defence also contends that the witnesses who testified that the Accused was the source of such shipments only through hearsay cannot be relied upon as corroborative evidence.<sup>10966</sup>

4947. The Trial Chamber finds the first contention of the Defence unconvincing. The Trial Chamber notes that two of the Prosecution witnesses appeared to rely for their belief that the Accused was the source of materiel supplies on a general belief of indeterminate source. However, these witnesses are supported by the majority of witnesses, who provided a concrete foundation for their belief. Of these witnesses, seven testified that they were

<sup>10963</sup> TF1-579, Transcript 25 November 2008, pp. 21085-21087.

<sup>10964</sup> TF1-567, Transcript 2 July 2008, p. 12903 (Bockarie introduced Zigzag Marzah and others as “the Liberian brothers sent by Charles Taylor”); Transcript 4 July 2008, p. 12966 (when Jungle and others came with this ammunition “they used to say that it was the Pa, Charles Taylor, who sent the ammunition, he said because when it is time for peace he should prepare for war”); Dauda Aruna Fornie, Transcript 2 December 2008, p. 21479 (Bockarie, through his radio operators, would contact Benjamin Yeaten or Taylor to request military supplies); TF1-516, Transcript 9 April 2008, pp. 7001-7002 (when instructions concerning ammunition came from Base 1, the witness deduced the fact that it came from Benjamin Yeaten and when those instructions came from call sign 020 he deduced that it was coming from Taylor); Dennis Koker, Transcript 15 January 2008, p. 1374 (Dennis Koker, Transcript 15 January 2008, p. 1374 (Koker was told by his men that the arms came from “Charles Taylor’s men”); Perry Kamara, Transcript 5 February 2008, pp. 3117-3118 (“when this ammunition would come we would get information from Sam Bockarie that he had brought ammunitions from Mr Charles Taylor”); Mohamed Kabbah, Transcript 15 September 2008, pp. 16428-16431; Jabaty Jaward, Transcript 10 July 2008, p. 13387 (the Liberian men bringing arms “also used to express most of their relationships with Charles Taylor’s government in Liberia when they come”); Isaac Mongor, Transcript 11 March 2008, pp. 5744-5745; Albert Saidu, Transcript 4 June 2008, pp. 11027-11029 (whenever Jungle came to the RUF territory, there was a general understanding amongst the RUF that he brought “materials”, arms, ammunitions, food and drugs to the RUF fighters which they used to fight and that those “materials” were sent by Charles Taylor); TF1-362, Transcript 27 February 2008, p. 4909 (In response to the question of whether Bockarie told her about the source of supplies, the witness stated: “He was not specific. He said he can collect - he used to collect arms and ammunition from Charles Taylor”); Komba Sumana, Transcript 7 October 2008, pp. 18041-18042 (three soldiers with red hats delivered arms at pass out parade, and his friend informed him that the men with red hats were Taylor’s soldiers); Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8504-8506, 8509; Varmuyan Sherif, Transcript 9 January 2008, pp. 851-852 (Sherif was shown where these arms were hidden by the former fighters. Sherif saw about four pickup-truckloads of arms and ammunition in good condition. Sherif took three of these truckloads back to Monrovia before Taylor informed him that he should supply the last load directly to Bockarie).

<sup>10965</sup> Defence Final Trial Brief, para. 1080.

explicitly told that the materiel was supplied from the Accused, either from the intermediaries who delivered those supplies or from Bockarie himself.<sup>10967</sup> Other witnesses testified that the intermediaries who delivered the supplies were the Accused's subordinates.<sup>10968</sup>

4948. In relation to the second Defence contention, the Trial Chamber recognises that an important part of the Prosecution's evidence as to the Accused's involvement is hearsay. However, it notes that the hearsay evidence of Prosecution witnesses is corroborated by other evidence from the remaining Prosecution witnesses which also points to the Accused as the source of the supplies. The Trial Chamber places particular weight on TF1-516's evidence that he was privy to radio conversations in which instructions were given from the radio station at the Executive Mansion for the delivery of materiel.<sup>10969</sup> Further, Fornie testified that he was told Yeaten sought instructions from the Accused in relation to Bockarie's request for arms and ammunitions.<sup>10970</sup>

4949. The conclusion that materiel assistance was provided by the Accused is also bolstered by contemporary documentary evidence in the form of Exhibit P-067 and P-066. There is no indication in P-067 as to how its authors knew that the Accused was sending

<sup>10966</sup> Defence Final Trial Brief, para. 1147.

<sup>10967</sup> TF1-567, Transcript 2 July 2008, p. 12906 ("Jungle and others were saying that it was the Papay, Charles Taylor, who used to give the arms and ammunition"); Dennis Koker, Transcript 15 January 2008, p. 1374 (Koker was told by his men that the arms came from "Charles Taylor's men"); Perry Kamara, Transcript 5 February 2008, p. 3118 ("when this ammunition would come we would get information from Sam Bockarie that he had brought ammunitions from Mr Charles Taylor"); Mohamed Kabbah, Transcript 15 September 2008, p. 16429 ("And always when Jungle came he said he came from Charles Taylor from the mansion and when Mosquito sent him he would send him to Charles Taylor"); Jabaty Jaward, Transcript 10 July 2008, p. 13387 ("In addition to that, they also used to express most of their relationships with Charles Taylor's government in Liberia when they come"), pp. 13391-13392 (In late 1998, Bockarie stated that he had called to "the Papay in Liberia" and that he expected men to arrive shortly with arms and ammunition); Isaac Mongor, Transcript 11 March 2008, p. 5745 ("I sent to Buedu for them to send me some ammunition and Mosquito told me to exercise some patience [...] and he told me that Colonel Jungle had gone to Liberia, to Mr Taylor, to get some ammunition, [...] indeed when they brought the ammunition, he sent some ammunition for me in Kono"; TF1-362, Transcript 27 February 2008, p. 4909 (In response to the question of whether Bockarie told her about the source of supplies, the witness stated: "He was not specific. He said he can collect - he used to collect arms and ammunition from Charles Taylor"). The Trial Chamber has not relied on the evidence of Augustine Mallah that Jungle had attributed the source of materiel to the Accused as Mallah later stated that he was not sure of seeing Jungle on that occasion: Augustine Mallah, Transcript 17 November 2008, p. 20433; Transcript 13 November 2008, p. 20215.

<sup>10968</sup> TF1-375, Transcript 23 June 2008, pp. 12523-12528 (TF1-375 testified that about three weeks after they retreated from Koidu Town, up to eight Liberians brought arms and ammunition to Superman. TF1-375 testified that one of the Liberians was an SSS officer named "Osebo Demy", whom he came to know subsequently in Liberia as one of Yeaten's subordinates in the SSS).

<sup>10969</sup> TF1-516, Transcript 9 April 2008, p. 7001 ("So instructions coming from Base 1 - instruction coming from Base 1 - we deduce the fact that it came from Benjamin D. Yeaten and instruction from call sign 020 we deduce the fact that it was coming from the President").

supplies to the RUF. However, the Trial Chamber notes that the Black Guards were intelligence officers who had access to senior commanders. The Trial Chamber is satisfied that Exhibit P-067 is a credible source to support the allegation that the Accused was sending supplies to the RUF. Exhibit P-066 suggests that prior to June 1998 the RUF had been receiving, albeit in a relatively small quantity, materiel from the Accused. The Defence has relied on this document in substantiating its submissions concerning the RUF's shortage of materiel during this time.<sup>10971</sup>

4950. The Defence suggests that Prosecution witnesses have been induced, by staff of the Office of the Prosecutor, to link the Accused with arms shipments, citing specifically TF1-585 and Edna Bangura as examples.<sup>10972</sup> The Trial Chamber has not relied on the evidence of Edna Bangura in determining whether arms shipments to Sierra Leone have been linked to the Accused.<sup>10973</sup> In relation to the evidence of TF1-585, the Defence submits that because TF1-585 had testified that a former RUF operator had spoken to her in Sierra Leone about the Special Court for Sierra Leone seeking witnesses to testify regarding "the things that went on between Liberia and Sierra Leone", "the arms and ammunition that were brought over" and "Taylor's involvement in the Sierra Leone war", she had been encouraged to give testimony concerning arms and ammunition originating from the Accused.<sup>10974</sup>

4951. The Trial Chamber considers that the fact that the witness was told, in general terms, that the Court was seeking witnesses to give evidence on issues relevant to the trial of the Accused, does not undermine her general credibility, and is not outside the ordinary process of evidence gathering by the parties. The Trial Chamber considers TF1-585 to be a credible and reliable witness in relation to Daniel Tamba's visits, given her contact with, and the information she was provided by, Tamba's driver Alpha Jalloh.<sup>10975</sup>

4952. Turning to the Defence submission that in supplying arms and ammunitions to Bockarie during 1998 the individuals involved were operating a private enterprise independent of the Accused,<sup>10976</sup> the Trial Chamber has previously discussed its concerns

<sup>10970</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21527, 21489-21492.

<sup>10971</sup> Defence Final Trial Brief, footnote 2181, p. 272.

<sup>10972</sup> Defence Final Trial Brief, para. 1142.

<sup>10973</sup> TF1-314, Transcript 20 October 2008, pp. 18754-18755.

<sup>10974</sup> TF1-585, Transcript 10 September 2008, pp. 15940-15941.

<sup>10975</sup> TF1-585, Transcript 9 September 2008, pp. 15791-15792 (PS).

<sup>10976</sup> Defence Final Trial Brief, para. 1091.

regarding the general credibility of DCT-008 and the problematic nature of his evidence concerning a “secret” arrangement between Yeaten and Bockarie for Yeaten to sell materiel to Bockarie.<sup>10977</sup>

4953. The Trial Chamber has considered the Defence theory that Yeaten was acting independently of the Accused in a private enterprise. The Trial Chamber considers that this theory is difficult to accept in light of Defence evidence concerning the ability of Yeaten to obtain supplies without the Accused’s knowledge. The Trial Chamber recalls Yanks Smythe’s testimony that at the arms and ammunitions warehouse next to White Flower, it was not possible for the Director of the SSS to obtain any significant amount of supplies without the approval of the President, and it was staffed 24 hours a day by SSS personnel.<sup>10978</sup> While Vincent testified that the SSS had another small warehouse at the Executive Mansion which could be accessed without Presidential approval,<sup>10979</sup> a number of the Prosecution witnesses testified specifically that the arms and ammunitions delivered to Buedu originated from the warehouse next to or near White Flower.<sup>10980</sup> The Accused also testified that formal requests had to be made by SSS personnel for arms and ammunition and strict records were kept of arms and ammunition rounds assigned, making the clandestine removal of materiel difficult.<sup>10981</sup> The Accused’s insistence that he did not have access to the warehouse at White Flower, which was under Benjamin Yeaten’s command, lacks credibility given his evidence that the warehouse was located next door to his residence and that the arms kept there were for the purpose of the President’s own security.<sup>10982</sup>

4954. The Trial Chamber further considers the Defence contention that the individuals transporting arms were involved in a private enterprise which they wished to keep secret incompatible with the consistent evidence by Prosecution witnesses that it was open knowledge amongst the Sierra Leonean rebels that these individuals were bringing arms and ammunitions on behalf of the Accused.<sup>10983</sup> That persons such as Tamba would openly

<sup>10977</sup> Credibility Assessment, DCT-008, paras 373-380.

<sup>10978</sup> Yanks Smythe, Transcript 24 February 2010, pp. 35933-35934.

<sup>10979</sup> Yanks Smythe, Transcript 24 February 2010, pp. 35936-35938.

<sup>10980</sup> TF1-585, Transcript 8 September 2008, p. 15658; Transcript 9 September 2008, p. 15794 (CS); Joseph Marzah, Transcript 12 March 2008, p. 5875; TF1-579, Transcript 5 November 2008, pp. 19837-19839.

<sup>10981</sup> Charles Ghankay Taylor, Transcript 31 August 2009, pp. 28007-28009.

<sup>10982</sup> Charles Ghankay Taylor, Transcript 31 August 2009, p. 28009.

<sup>10983</sup> See Arms and Ammunitions: Allegations of Direct Supply by the Accused. But see Augustine Mallah, Transcript 17 November 2008, p. 20450 (“It was not something that all the RUF needed to know about, that Zigzag Marzah was bringing ammunition, because enemies sometimes might capture any RUF fighter on the



implicate the Accused as the source of supplies is not consistent with the notion that they wished their activities to be kept hidden from the Accused. While the evidence does disclose indications of secrecy measures surrounding the delivery of arms and ammunitions to the RUF by *inter alia* Daniel Tamba, Joseph Marzah and Sampson Weah,<sup>10984</sup> it also suggests that such measures were intended to mask the Accused's involvement from civilians rather than to hide the transactions from the Accused.

4955. The Trial Chamber also recalls its earlier finding that Issa Sesay's evidence on matters beyond the basic facts and sequence of events in the Sierra Leonean civil war must generally be considered with caution.<sup>10985</sup> Despite his claim that he was a close friend of Tamba's, his evidence that during this period Jungle did not bring materiel from Liberia is contradicted even by one of the Defence witnesses, John Vincent, who states that he was aware that Tamba was making regular trips between Buedu and Liberia to transport ammunition in 1998.<sup>10986</sup> In light of the overwhelming evidence by Prosecution witnesses, the Trial Chamber finds that Sesay's denial that Daniel Tamba, Marzah and Sampson were not bringing materiel supplies to the RUF from the Accused is not credible.

4956. The Defence also refers to the lack of a "general picture of arms and ammunitions shipments going from or through Liberia to Sierra Leone at this time" from any of the witnesses, suggesting that the transportation of arms across borders was conducted in a "rather haphazard manner" rather than an "organised, presidentially-directed one".<sup>10987</sup> The Defence cites in particular the fact that Marzah did not know Sherif to be involved in the transportation of arms and ammunition to the RUF, despite the fact that both witnesses were senior figures in the SSS.<sup>10988</sup> The Trial Chamber does not consider the lack of co-operation amongst the intermediaries engaged in supply to be dispositive of the Accused's non-involvement or non-awareness.

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front line and they would want to know where you are getting your ammunition from or from whom, so the high command did not actually expose some of those things to fighters that much").

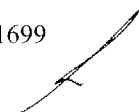
<sup>10984</sup> For example, TF1-567 noted that Bockarie advised the Liberians to avoid civilians becoming aware of their presence: TF1-567, Transcript 2 July 2008, p. 12903. TF1-579 also stated that the intermediaries did not wear their SSS uniforms on trips to Sierra Leone, in order "to prevent people from knowing that Mr Taylor was involved with the RUF movement": TF1-579, Transcript 5 November 2008, pp. 21122, 19834-19835. This was also a practice shared by Varmuyan Sherif: Varmuyan Sherif, Transcript 9 January 2008, p. 856; see *also* Varmuyan Sherif, Transcript 9 January 2008, p. 1143.

<sup>10985</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>10986</sup> John Vincent, Transcript 26 March 2010 pp. 38109-38112.

<sup>10987</sup> Defence Final Trial Brief, paras 1136-1137.

<sup>10988</sup> Defence Final Trial Brief, para. 1136.





4957. Finally, the Trial Chamber notes that Bobson Sesay's evidence that the Accused confirmed at a meeting with AFRC leaders in August 1999 that he had supplied food, arms and ammunitions to the Sierra Leonean rebel troops<sup>10989</sup> also corroborates the various witnesses who testified that they were told the supplies came from the Accused. The Trial Chamber notes that on cross-examination Bobson Sesay was questioned about why it was only in 2007 that he first mentioned to the Prosecution the Accused's comments about providing logistical support, although in various interviews from 2003 he had been asked about support provided by the Accused to the RUF/AFRC. The witness explained that it was not until 2007 that investigators asked him to provide further detail on his knowledge of the provision of arms and ammunition.<sup>10990</sup> He also noted that for a long time he was afraid of repercussions from the Accused, and did not volunteer answers unless he was specifically asked about them.<sup>10991</sup> Recalling that Bobson Sesay is a generally credible witness,<sup>10992</sup> the Trial Chamber considers this a plausible explanation of the omission.

4958. On the strength of the Prosecution case, the Trial Chamber is satisfied that supplies of arms and ammunitions were sent to the RUF/AFRC in Buedu between February 1998 and December 1999 by the Accused, through, *inter alia*, Daniel Tamba, Sampson Weah and Joseph Marzah.

#### Quantity of materiel supplied

4959. The Trial Chamber has heard conflicting evidence from Prosecution witnesses in relation to the quantity of ammunitions or arms supplied. A number of witnesses claimed that the amount of supplies delivered by the intermediaries was significant, amounting to, for example, "ten-tyred" military trucks full of arms and ammunition.<sup>10993</sup> Such evidence is supported by Exhibit P-067, which recorded that the quantity of ammunition given to the

<sup>10989</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, p. 8506

<sup>10990</sup> Alimamy Bobson Sesay, Transcript 25 April 2008, pp. 8597-8598.

<sup>10991</sup> Alimamy Bobson Sesay, Transcript 25 April 2008, pp. 8597, 8599.

<sup>10992</sup> Credibility Assessment, Alimamy Bobson Sesay, paras 285-289.

<sup>10993</sup> Dennis Koker, Transcript 15 January 2008, pp. 1288-1289; TF1-567, Transcript 2 July 2008, p. 12906; TF1-516, Transcript 8 April 2008, p. 6955.

“High-Command” by the “President” was “huge”.<sup>10994</sup> Other witnesses testified that the deliveries were not large and generally brought in pick up trucks.<sup>10995</sup>

4960. The Trial Chamber heard consistent evidence that the RUF was short of ammunition after the ECOMOG Intervention through 1998 until the December 1998 shipment. In addition to TF1-371’s testimony,<sup>10996</sup> TF1-579 testified that the RUF had its own weapons but was short of ammunition.<sup>10997</sup> Isaac Mongor stated that while in Kono in 1998, the RUF had no ammunition.<sup>10998</sup> Karmoh Kanneh recalls discussing in the context of one of the meetings at Waterworks during 1998 the shortage of ammunition in his own area.<sup>10999</sup> Defence witness John Vincent testified that before the Waterworks meeting, the RUF was out of ammunition.<sup>11000</sup> Mohamed Kabbah also testified that Tamba “never used to bring enough ammunition”.<sup>11001</sup> There is also evidence from TF1-375 that when Superman and SAJ Musa refused to hand over the ammunition captured from Kabala to Bockarie, Bockarie told them that he was in need of ammunition and sent someone to recover it.<sup>11002</sup> Exhibit P-066 indicates that the RUF were short of ammunition by June 1998 to repel ECOMOG attacks and that the Accused was not sending supplies of a sufficient quantity to enable the RUF to defend strategic positions.<sup>11003</sup>

4961. The Trial Chamber considers that the weight of the evidence indicates that large amounts of materiel were not delivered to the RUF/AFRC during 1998 and 1999 by, *inter*

<sup>10994</sup> Exhibit P-067, “RUF People’s Army– Situation Report to Foday Sankoh from the Black Revolutionary Guards”, ERN. 9674-9675.

<sup>10995</sup> TF1-371, Transcript 30 January 2008, p. 2670 (CS); Mohamed Kabbah, Transcript 17 September 2008, pp. 16422-16424; TF1-579, Transcript 5 November 2008, pp. 19830-19834; Varmuyan Sherif, Transcript 9 January 2008, p. 855; Augustine Mallah, Transcript 13 November 2008, pp. 20215-20216; Transcript 17 November 2008, pp. 20424-20425.

<sup>10996</sup> TF1-371, Transcript 30 January 2008, pp. 2670-2671 (CS).

<sup>10997</sup> TF1-579, Transcript 25 November 2008, pp. 21138-21141.

<sup>10998</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5744-5745.

<sup>10999</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9416; see *also* Exhibit P-080, “UN Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone”, 12 August 1998, ERN. 12388: “Reported shortages of food and ammunition among the rebels have increased the risk that they could attack ECOMOG convoys and isolated settlements in order to resupply themselves. ...”; Samuel Kargbo, Transcript 22 May 2008, p. 10515: Kargbo testified that after the ECOMOG Intervention, the AFRC and RUF had to abandon the heavy artillery and weapons in Freetown and there was no way for the AFRC to replace the arms that were lost.

<sup>11000</sup> John Vincent, Transcript 31 March 2010, pp. 38418-38419.

<sup>11001</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16141.

<sup>11002</sup> TF1-375, Transcript 24 June 2008, pp. 12567-12569.

<sup>11003</sup> Exhibit P-066, “Confidential – RUF Brigade Headquarter – Buedu, ‘Information and Request’, Report from Sam Bockarie to Charles Taylor, 24 June 1998”, ERN. 7833.

*alia*, Tamba, Marzah and Weah.<sup>11004</sup> The Trial Chamber accepts the evidence of witness TF1-371 that between the three large shipments he recalled in October 1997 (the Magburaka Shipment), November/December 1998 (the Burkina Faso shipment) and in March 1999, supplies of materiel obtained by the RUF were not large.<sup>11005</sup> The Trial Chamber considers that the Accused's evidence that during this period Liberia also faced a shortage of arms<sup>11006</sup> is not inconsistent with the evidence of the majority of the witnesses that arms and ammunitions delivered from Liberia by, *inter alia*, Tamba, Marzah and Weah were few.

4962. The Defence also questioned whether these alleged intermediaries transported arms and ammunition or merely ammunition.<sup>11007</sup> The Trial Chamber notes that Mohamed Kabbah repeatedly affirmed that the supplies which the RUF received from Liberia in this period comprised ammunition and not arms; he testified that the RUF had sufficient arms in 1998 and 1999.<sup>11008</sup> TF1-579 also stated that as far as he was aware, only ammunition was carried on these trips, not arms.<sup>11009</sup>

4963. However, the Trial Chamber considers that Kabbah, a radio operator, was unlikely to have a comprehensive overview of what was brought into Sierra Leone from Liberia. Other witnesses in a better position to be aware of supplies received, including RUF commander Dennis Koker and stores operator Jabaty Jaward, testified to arms also being delivered by Tamba, Sampson and Marzah.<sup>11010</sup> Further, according to Joseph Marzah, when he made transported materiel supplies to Sierra Leone, he carried both arms and ammunitions.<sup>11011</sup>

4964. The weight of the evidence suggests that the military equipment delivered by, *inter alia*, Tamba, Weah and Marzah consisted of both arms and ammunition.

## Findings

<sup>11004</sup> For example, TF1-585, Transcript 8 September 2008, pp. 15663, 15778-15782; Transcript 9 September 2008, pp. 15778-15782 (testifying that five trucks came from Monrovia to Buedu in late 1999).

<sup>11005</sup> TF1-371, Transcript 31 January 2008, p. 2700 (CS).

<sup>11006</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26191-26192; Transcript 17 August 2009, pp. 26901-26903.

<sup>11007</sup> Defence Final Trial Brief, para. 1101.

<sup>11008</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16417-16418.

<sup>11009</sup> TF1-579, Transcript 25 November 2008, p. 21142; TF1-516, Transcript 8 April 2008, pp. 6949, 6965 (testifying that radio requests for materiel were only for ammunitions, not arms).

<sup>11010</sup> See for example, TF1-585, Transcript 8 September 2008, p. 15652; Dennis Koker, Transcript 15 January 2008, pp. 1284-1286; Jabaty Jaward, Transcript 10 July 2008, p. 13392.

<sup>11011</sup> Joseph Marzah, Transcript 12 March 2008, p. 5875.

4965. The Trial Chamber finds that Prosecution has proved beyond reasonable doubt that supplies of arms and ammunition were sent to the RUF/AFRC in Buedu between February 1998 and December 1999 by the Accused, through, *inter alia*, Daniel Tamba (a.k.a. Jungle), Sampson Weah and Joseph (a.k.a. Zigzag) Marzah. However, there is insufficient evidence to establish beyond reasonable doubt that, except for the Burkina Faso shipment of November/December 1998, the amounts of materiel provided by the Accused in 1998 and 1999 through, *inter alia*, Daniel Tamba, Sampson Weah and Joseph Marzah were large.

(ii) Alleged trips by Bockarie to Liberia in 1998

Submissions of the Parties

4966. The Prosecution contends that Bockarie made regular trips to Liberia in 1998,<sup>11012</sup> as a result of which, Bockarie received substantial amounts of arms, ammunition and other assistance from the Accused which were then distributed to front-line commanders.<sup>11013</sup> The Prosecution submits that in return for this materiel, Bockarie delivered diamonds to the Accused.<sup>11014</sup>

4967. The Prosecution concedes that the evidentiary record concerning how many such trips were allegedly made in 1998 and on which dates is imprecise, and attributes this to the recollection of witnesses some ten years on, explaining that “[d]etails regarding the exact number and specific timing of these trips may have been impacted by the passing of time”.<sup>11015</sup> The Prosecution nonetheless submits that “there can be no reasonable doubt that these multiple trips occurred”.<sup>11016</sup> In support of its allegations, the Prosecution adduced evidence from witnesses Dauda Aruna Fornie, Karmoh Kanneh, TF1-585, Albert Saidu, Alice Pyne, Jabaty Jaward, Augustine Mallah, TF1-371, Mohamed Kabbah, Samuel Kargbo, Perry Kamara, TF1-516 and TF1-367.

<sup>11012</sup> Prosecution Final Trial Brief, paras 238-242.

<sup>11013</sup> Prosecution Final Trial Brief, paras 238-242.

<sup>11014</sup> Prosecution Final Trial Brief, para. 242.

<sup>11015</sup> Prosecution Final Trial Brief, para. 242.

<sup>11016</sup> Prosecution Final Trial Brief, para. 242.

4968. The Defence submissions in relation to this allegation centre on the primarily hearsay nature of the evidence and the reliability of the witnesses.<sup>11017</sup> The Defence also adduced evidence from the Accused and Issa Sesay.

### Evidence

#### Prosecution Witness Dauda Aruna Fornie

4969. Dauda Aruna Fornie testified that in the period before the Freetown attack of 6 January 1999, he made six trips to Monrovia.<sup>11018</sup> This section sets out below his evidence as to the three trips prior to the Burkina Faso shipment which, according to Fornie, resulted in Bockarie or other members of the RUF returning with a consignment of arms and ammunitions back to Sierra Leone.<sup>11019</sup>

4970. Fornie testified that his first trip to Monrovia took place shortly after the Intervention. Fornie was based in Kenema in the final two months of the Junta period, assigned to Bockarie as a radio operator. He testified that RUF forces remained in Kenema “keeping the defensive” for roughly a week after the Intervention before retreating to Buedu.<sup>11020</sup> While at Pendembu during the retreat, Bockarie instructed him to contact “the other side”, which the witness understood to refer to Liberia, and to inform “Papay Musa and Benjamin” that the situation in Sierra Leone was out of control and that the RUF needed ammunition to stop the ECOMOG advance.<sup>11021</sup>

4971. Upon Bockarie’s instructions, Fornie contacted a radio station in Monrovia known as “Base 1”<sup>11022</sup> and passed Bockarie’s message to Sunlight, Yeaten’s radio operator.<sup>11023</sup> The next day, before the RUF fighters arrived at Buedu,<sup>11024</sup> Sunlight contacted Fornie with a

<sup>11017</sup> Defence Final Trial Brief, para. 1105.

<sup>11018</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21513.

<sup>11019</sup> Although Fornie testified that he made six trips to Monrovia, he accounts for only five of those trips. Three of these trips are set out below. One of the five trips relates to the Burkina Faso Shipment, which is dealt with in that section: See *supra*, Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Burkina Faso Shipment. Another trip in mid-1998 did not involve the collection of arms and ammunitions. See Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21516, 21519.

<sup>11020</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21436-21440, 21445.

<sup>11021</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21441-21442.

<sup>11022</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21441-21442.

<sup>11023</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21442.

<sup>11024</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21444.





message from Yeaten that Bockarie was to travel to Monrovia on the orders of Taylor.<sup>11025</sup> Fornie testified that the day after arriving at Buedu,<sup>11026</sup> Bockarie departed for Monrovia, accompanied by a group of ten to fifteen people, including the witness.<sup>11027</sup>

4972. According to Fornie, Bockarie and his group were met in Voinjama by Jungle, who travelled onward with them to Gbarnga. Between Gbarnga and Kakata, the group also met Yeaten, whom Jungle identified to the witness as Taylor's SS director.<sup>11028</sup> Upon arrival in Monrovia, the witness was taken to Yeaten's residence in Congo Town.<sup>11029</sup>

4973. Fornie testified that the following morning Bockarie told him that he was going to meet with Taylor.<sup>11030</sup> After Bockarie returned, the group left Monrovia that same evening. On the highway on the outskirts of Monrovia going towards Kakata the group met Jungle and Bockarie's bodyguards with a small "Benz" truck loaded with ammunition, including "AK rounds...grenades, GPMG, RPG, G3 rounds, [and] RPG rockets".<sup>11031</sup> From there the group returned to Buedu along with the loaded truck.<sup>11032</sup>

4974. Fornie stated that during the course of the return trip, Bockarie remarked that Taylor had told him that while Taylor did not have much ammunition, he was ready to support the RUF "to the best of his ability".<sup>11033</sup> Upon their return to Buedu, the bulk of the ammunition was distributed to the "various front lines" within Kailahun and Kono Districts. According to the witness, "that was the ammunition we used to stop the ECOMOG advance into our territory".<sup>11034</sup>

4975. Fornie testified that his second trip to Monrovia occurred around mid-1998.<sup>11035</sup> He stated that upon arrival in Monrovia, he remained in the radio room with Sunlight at Yeaten's house while Bockarie, Yeaten and Rashid went to meet with Taylor.<sup>11036</sup> In the

<sup>11025</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21442-21443.

<sup>11026</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21444-21445.

<sup>11027</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21445-21446.

<sup>11028</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21447.

<sup>11029</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21449-21450.

<sup>11030</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21451.

<sup>11031</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21454.

<sup>11032</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21452-21454.

<sup>11033</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21454-21455.

<sup>11034</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21455-21456.

<sup>11035</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21519.

<sup>11036</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21520-21521.

evening Bockarie and Yeaten returned with two vehicles loaded with ammunition and the group travelled back to Buedu. The witness did not know “where they exactly loaded those ammunitions in the vehicle”. Having said that, the witness confirmed that there were two vehicles loaded with ammunition.<sup>11037</sup>

4976. On the third occasion, also in mid-1998, Fornie travelled to Monrovia in a Hilux van with Victor, Jungle and “Yellow Man”. Bockarie did not come on this trip on account of a meeting he convened with commanders from his various front lines.<sup>11038</sup> Fornie was included on this trip for the purpose of communicating with Bockarie if the need arose.<sup>11039</sup> Fornie testified that his group went to White Flower where Yeaten and other Liberian men loaded ammunition, including “AK rounds” and RPG rockets, into the van.<sup>11040</sup>

4977. The witness explained that Bockarie instructed him to go on these trips since he was familiar with the Liberian communications network<sup>11041</sup> and Fornie knew the purpose of Bockarie’s visits because Bockarie told his radio operators.<sup>11042</sup>

#### Prosecution Witness Karmoh Kanneh

4978. Karmoh Kanneh, a senior RUF Commander,<sup>11043</sup> testified that in 1998 “some months” before the death of Sani Abacha,<sup>11044</sup> Bockarie contacted him from Buedu and instructed Kanneh to assist in collecting some ammunition which “Pa Taylor” was sending to Foya for the RUF.<sup>11045</sup> Kanneh met with Bockarie and they travelled to Foya in three jeeps along with several of Bockarie’s securities and his radio man Elevation.<sup>11046</sup> Kanneh

<sup>11037</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21521.

<sup>11038</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21523-21524; Transcript 3 December 2008, pp. 21535-21537.

<sup>11039</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21538.

<sup>11040</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21535-21537.

<sup>11041</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21513-21514. Fornie testified that in late 1991, he was assigned to join the NPFL Signal Unit training in Bomi Hills. Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21335-21338.

<sup>11042</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21515.

<sup>11043</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9390-9391.

<sup>11044</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9452-9463. Sani Abacha died in June 1998, Admitted fact 11.

<sup>11045</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9448.

<sup>11046</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9448-9449.



was selected because he was a commander in the Kailahun area and because he had a vehicle, a land rover.<sup>11047</sup>

4979. At Foya, a helicopter arrived and five people alighted, unloaded materiel and brought them into Bockarie's vehicles. Bockarie introduced the witness to a man who Bockarie said was Taylor's chief bodyguard, named Benjamin Yeaten. The helicopter had flown in from Monrovia.<sup>11048</sup> The materiel included 40 boxes of AK rounds, 10 boxes of RPG rockets, a few RPG tubes.<sup>11049</sup> In the evening, they left Foya and went to Buedu. At Buedu, the materials were put in the ammunition dump, by Foya Road, near Sam Bockarie's house. Kanneh was given some materials for his own use by Bockarie, which Kanneh took to his base at Baiima.<sup>11050</sup>

#### Prosecution Witness TF1-585

4980. Witness TF1-585, testified that in early 1998, before Johnny Paul Koroma arrived in Buedu, Bockarie travelled to Liberia and was promoted by Taylor to the rank of General. On his return, Bockarie brought with him, among other things, a tactical jeep and some new arms. The arms included brand new AK-47s with new AK rounds (which were in something like sardine tins with rockets).<sup>11051</sup>

4981. TF1-585 testified that while Bockarie travelled to Monrovia "once in a while" in 1998, his trips became more frequent in 1999 (via helicopter from Foya airfield),<sup>11052</sup> when Bockarie would travel to Monrovia as diamonds were brought to him from Kono.<sup>11053</sup>

4982. TF1-585 stated that she was told on another occasion by Bockarie that he had gone to Taylor's farm in Gbarnga, where he arranged for material to be transferred to White Flower. From there it was transferred to Yeaten's house and then escorted overland to Buedu.<sup>11054</sup>

#### Prosecution Witness Albert Saidu

<sup>11047</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9447-9449.

<sup>11048</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9453-9455.

<sup>11049</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9456-9457.

<sup>11050</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9457-9458.

<sup>11051</sup> TF1-585, Transcript 5 September 2008, pp. 15616-15622; Transcript 8 September 2008, p. 15648.

<sup>11052</sup> TF1-585, Transcript 8 September 2008, p. 15683.

4983. Albert Saidu testified that Bockarie's bodyguard Shabado, who was a close friend of Saidu's, told him of two occasions in the second half of 1998 on which he had travelled to Liberia with Bockarie.<sup>11055</sup> In 23 April 1998, when Saidu was summoned to meet with Bockarie and his bodyguards Shabado and Ray in Koindu Town, Bockarie was communicating on his satellite phone.<sup>11056</sup> During Bockarie's conversation on the satellite phone, Shabado told Saidu that they were heading to Liberia to collect "materials" from Taylor, which the witness understood to refer to arms and ammunitions.<sup>11057</sup> Some time after Shabado returned from Liberia, "not long after" fighting commenced against the Guineans in June 1998, he informed the witness that he had brought materiel from Taylor.<sup>11058</sup> Saidu had a further conversation with Shabado around a month after Shabado's return in which Shabado informed him that he had made another trip to Liberia for the same purpose of collecting materiel.<sup>11059</sup> Shabado would also sometimes inform Saidu that Bockarie "had put in for some materials and that materials were on their way".<sup>11060</sup>

#### Prosecution Witness Alice Pyne

4984. Alice Pyne, a radio operator, testified that she travelled to Buedu with Superman and more than 150 others to attend a meeting convened by Bockarie prior to the Fitti-Fatta mission.<sup>11061</sup> Being a radio operator, Pyne did not attend the meeting of commanders.<sup>11062</sup> She testified that following the meeting, she observed Bockarie and his bodyguards departing in vehicles. One of the other radio operators, Sebatu, told her that Bockarie was departing for Foya.<sup>11063</sup> Pyne saw the group return several hours later, with Colonel Jungle, and unload goods at Bockarie's house. She was not able to see the items themselves, but

<sup>11053</sup> TF1-585, Transcript 8 September 2008, pp. 15683-15684.

<sup>11054</sup> TF1-585, Transcript 8 September 2008, pp. 15661-15662.

<sup>11055</sup> Albert Saidu, Transcript 4 June 2008, pp. 11020-11022.

<sup>11056</sup> Albert Saidu, Transcript 5 June 2008, pp. 11038-11041.

<sup>11057</sup> Albert Saidu, Transcript 4 June 2008, pp. 11008-11016.

<sup>11058</sup> Albert Saidu, Transcript 4 June 2008, p. 11021.

<sup>11059</sup> Albert Saidu, Transcript 4 June 2008, pp. 11021-11023.

<sup>11060</sup> Albert Saidu, Transcript 4 June 2008, pp. 11020.

<sup>11061</sup> Alice Pyne, Transcript 18 June 2008, pp. 12191-12193, 12209-12211; Transcript 19 June 2008, p. 12233; Transcript 20 June 2008, pp. 12356-12357.

<sup>11062</sup> Alice Pyne, Transcript 20 June 2008, p. 12357.

<sup>11063</sup> Alice Pyne, Transcript 19 June 2008, pp. 12235-12236.

later they gave Superman arms, ammunition and alcoholic drinks known as “morale boosters” which they said they had brought from Foya.<sup>11064</sup>

Prosecution Witness Jabaty Jaward

4985. Jaward testified that during the time he was in Buedu, from early March 1998 until December 1999, he recalled an occasion in mid-1998 on which Bockarie travelled to Liberia. On Bockarie’s return, Bockarie explained to the witness that he had met Taylor in Liberia. Shortly afterwards, the RUF received a large supply of arms, ammunitions, food, fuel and gasoline in Buedu.<sup>11065</sup> Jaward told the Trial Chamber that “whenever Sam Bockarie went to Monrovia we would expect those supplies from Charles Taylor”.<sup>11066</sup>

Prosecution Witness Augustine Mallah

4986. Augustine Mallah was assigned as an RUF fighter to Baiima from around June to December 1998, but he travelled regularly to Buedu.<sup>11067</sup> He testified that during 1998, Bockarie travelled to Monrovia and Gbarnga.<sup>11068</sup> On one occasion Mallah accompanied him to Foya in a vehicle, from where Bockarie was picked up by helicopter and transported to Monrovia.<sup>11069</sup> Bockarie told him that the purpose of these trips was to secure supplies, including arms, ammunition and medicines, from Taylor.<sup>11070</sup>

4987. While Bockarie did not directly tell Mallah whether any payment was made for the supplies obtained on these trips, Bockarie’s bodyguards told Mallah that on occasion they would travel with diamonds that had been mined in Kono.<sup>11071</sup> The bodyguards told Mallah that typically they would return from Monrovia with ammunition or US dollars.<sup>11072</sup>

Prosecution Witness TF1-371

<sup>11064</sup> Alice Pyne, Transcript 19 June 2008, pp. 12236-12237.

<sup>11065</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13412-13415.

<sup>11066</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13415.

<sup>11067</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20208-20209; Transcript 17 November 2008, pp. 20421-20423.

<sup>11068</sup> Augustine Mallah, Transcript 13 November 2008, p. 20209.

<sup>11069</sup> Augustine Mallah, Transcript 13 November 2008, p. 20209.

<sup>11070</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20210-20211.

<sup>11071</sup> Augustine Mallah, Transcript 13 November 2008, p. 20210.

<sup>11072</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20210, 20218.





4988. Witness TF1-371, who was in Buedu between March 1998 and April 1999,<sup>11073</sup> testified that Bockarie made “a series of trips” to Monrovia throughout “the latter part of 1998”,<sup>11074</sup> “after June, July, August”,<sup>11075</sup> “from 1998 ending to early 1999”.<sup>11076</sup> While he specifically recalled three trips that were essential, there were other trips, the precise number of which he could not recall.<sup>11077</sup>

4989. TF1-371 stated that on these trips Bockarie would take diamonds that had been brought by RUF fighters to Buedu from Kono and Tongo Field, where mining had intensified. Bockarie would return with materials including AK rounds, RPG bombs and hand grenades.<sup>11078</sup> On returning to Buedu, Bockarie was always escorted by members of Taylor’s SSS. In particular, TF1-371 recalled one occasion towards the end of 1998 on which Bockarie was escorted by Dopoe Menkarzon.<sup>11079</sup> TF1-371 knew about these visits since each time Bockarie returned from Monrovia, he would brief his close associates in Buedu on the visit.<sup>11080</sup>

4990. The first trip that Bockarie took to Monrovia occurred at some point after an incident in which Sesay stripped Johnny Paul Koroma of nine plastic bags of diamonds at Buedu.<sup>11081</sup> Bockarie told the witness that he was going to take the diamonds to Monrovia to Taylor to get arms and ammunition. Bockarie left for Monrovia, but he later told the witness that he was unable meet the Accused because of an ECOMOG patrol team in Monrovia.<sup>11082</sup>

4991. One or two weeks later, Bockarie carried some 20 to 30 diamond pieces of various sizes mined from the Kono District and Tongo to Monrovia. Bockarie spent almost a week in Monrovia.<sup>11083</sup> When Bockarie returned to Buedu, he was accompanied by Zigzag Marzah and Sampson, two of Taylor’s security detail. They brought 15 to 20 boxes of AK-47

<sup>11073</sup> TF1-371, Transcript 28 February 2008, p. 2389 (CS).

<sup>11074</sup> TF1-371, Transcript 1 February 2008, p. 2825 (CS).

<sup>11075</sup> TF1-371, Transcript 1 February 2008, p. 2826 (CS).

<sup>11076</sup> TF1-371, Transcript 1 February 2008, p. 2382 (CS) (“[...] from 1998 ending to early 1999 there were a lot of activities, people coming into RUF controlled territories and Mosquito frequenting Monrovia”).

<sup>11077</sup> TF1-371, Transcript 28 January 2008, pp. 2382-2383 (CS).

<sup>11078</sup> TF1-371, Transcript 28 January 2008, pp. 2383-2384 (CS).

<sup>11079</sup> TF1-371, Transcript 28 January 2008, p. 2384 (CS).

<sup>11080</sup> TF1-371, Transcript 28 January 2008, p. 2384 (CS).

<sup>11081</sup> TF1-371, Transcript 28 January 2008, p. 2370 (CS).

<sup>11082</sup> TF1-371, Transcript 28 January 2008, p. 2375 (CS).

<sup>11083</sup> TF1-371, Transcript 28 January 2008, pp. 2375-2377 (CS).

ammunition, RPG bombs, condiments (salt and maghi), rice and cigarettes.<sup>11084</sup> Bockarie briefed Issa Sesay when he returned to Buedu and stated that Taylor had instructed Yeaten to give Bockarie the ammunition.<sup>11085</sup>

4992. TF1-371 stated that on one occasion when Bockarie returned he was “really very excited” about having met Taylor and confirmed that “the diamonds that he took from Johnny Paul Koroma were actually in the possession of Mr Taylor”.<sup>11086</sup> He called his commanders to a meeting, where he reported that Taylor had instructed them to retain Kono and intensify the mining operation there “so as to enable to pay for those materials”.<sup>11087</sup>

#### Prosecution Witness Mohamed Kabbah

4993. Mohamed Kabbah testified that Bockarie travelled regularly to Monrovia in 1998.<sup>11088</sup> The witness was not able to estimate how many times such trips occurred. He informed the Trial Chamber that sometimes Bockarie would go once or twice in a month, and sometimes he would not go for one or two months.<sup>11089</sup> According to Kabbah, each time the RUF was short of arms and ammunition, RUF would contact Monrovia, and either Bockarie would travel to Monrovia and return with ammunition, food and clothing or Jungle would arrive with materiel.<sup>11090</sup>

4994. The witness explained that Bockarie never required travel documents or exemptions from the travel ban to cross the border into Liberia: “[t]he way was open for him”.<sup>11091</sup>

#### Prosecution Witness Samuel Kargbo

4995. Samuel Kargbo, an AFRC insider, testified that at some point in March 1998, he accompanied Issa Sesay, Mike Lamin, CO Lion (a Liberian), an RUF Commander named “Eddie” and others on a trip to Foya. The group remained in Foya until the evening, visiting the residence of a Liberian female police commander and also a bar owned by her.<sup>11092</sup> In

<sup>11084</sup> TF1-371, Transcript 28 January 2008, p. 2378 (CS).

<sup>11085</sup> TF1-371, Transcript 28 January 2008, pp. 2378-2379 (CS).

<sup>11086</sup> TF1-371, Transcript 28 January 2008, pp. 2384-2385 (CS).

<sup>11087</sup> TF1-371, Transcript 28 January 2008, p. 2385 (CS).

<sup>11088</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16137.

<sup>11089</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16347.

<sup>11090</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16138-16139.

<sup>11091</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16137, see *also* p. 16136.

<sup>11092</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10543-10544, 10546; Transcript 3 June 2008, pp. 10795-

cross-examination the witness stated that the group travelled, “choked” together, in one Land Cruiser, with men hanging from the sides.<sup>11093</sup>

4996. On their return, the group stopped along the road to Dawa when they encountered a white Land Cruiser, loaded with ammunition. The witness saw eight men in the Land Cruiser, including Bockarie and Jungle and other SSS men.<sup>11094</sup> The group travelled on to Buedu, where Kargbo assisted in unloading the ammunition from the Land Cruiser. He told the court that he saw RPG bombs, AK rounds, mortar bombs and G3 rounds<sup>11095</sup> and that the quantity of ammunition was sufficient to fill a whole storeroom.<sup>11096</sup> Kargbo testified that he knew the ammunition came from Liberia because Bockarie had said that “Charles Taylor had sent the vehicles to collect us”, and because of the uniforms Jungle and the other SSS men were wearing.<sup>11097</sup> According to Kargbo, this was the first consignment that the AFRC had received after the Intervention.<sup>11098</sup>

4997. Kargbo testified that within one to two weeks after this first incident, around the end of March 1998, nearing April, he travelled to Foya with Bockarie and others.<sup>11099</sup> Mike Lamin and Collins accompanied them and the men travelled in two to three vehicles.<sup>11100</sup> They visited the residence of a Liberian female police commander for food and drink.<sup>11101</sup> On their return, they met Jungle with a vehicle at the side of the road in the bush. The witness was unable to recall whether the vehicle was in Liberia or Sierra Leone.<sup>11102</sup> On Bockarie’s instructions, Kargbo and others unloaded “materials” from Jungle’s vehicle, transferred them to their own vehicle and returned to Buedu.<sup>11103</sup> The materials were similar in type and quantity to those received on the first trip.<sup>11104</sup>

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10796.

<sup>11093</sup> Samuel Kargbo, Transcript 3 June 2008, pp. 10794-10795.

<sup>11094</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10544, 10546; Transcript 3 June 2008, p. 10797.

<sup>11095</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10545-10546.

<sup>11096</sup> Samuel Kargbo, Transcript 22 May 2008, p. 10547; Transcript 3 June 2008, pp. 10799-10800.

<sup>11097</sup> Samuel Kargbo, Transcript 22 May 2008, p. 10545; Transcript 3 June 2008, p. 10798.

<sup>11098</sup> Samuel Kargbo, Transcript 3 June 2008, p. 10798.

<sup>11099</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10547-10548, 10550. The witness testified in his examination-in-chief that the group travelled to Dawa, but on cross-examination corrected this to Foya: Transcript 3 June 2008, p. 10805.

<sup>11100</sup> Samuel Kargbo, Transcript 3 June 2008, pp. 10804-10805.

<sup>11101</sup> Samuel Kargbo, Transcript 22 May 2008, p. 10548; Transcript 3 June 2008, p. 10805.

<sup>11102</sup> Samuel Kargbo, Transcript 3 June 2008, pp. 10807-10811.

<sup>11103</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10548-10549.

<sup>11104</sup> Samuel Kargbo, Transcript 3 June 2008, pp. 10809-10810.

Prosecution Witness Perry Kamara

4998. Perry Kamara testified that the first time the RUF entered Kono after the ECOMOG Intervention they had a message from Bockarie in Buedu, to Denis Mingo (a.k.a. Superman) concerning mining in Koidu Town. The message stated that Taylor had instructed Bockarie not to lose Kono as the diamonds mined from there were to be given to Taylor in return for ammunition. After travelling to Monrovia and returning with ammunition, Bockarie reinforced this message of the importance of holding onto Kono.<sup>11105</sup>

Prosecution Witness Varmuyan Sherif

4999. Varmuyan Sherif testified that soon after the helicopter incident in Monrovia,<sup>11106</sup> Taylor instructed him to collect Sam Bockarie from Sierra Leone.<sup>11107</sup> On the same day, Sherif travelled from Monrovia to Sierra Leone.<sup>11108</sup> Sherif met with Bockarie in Buedu<sup>11109</sup> and travelled back with Bockarie to Monrovia.<sup>11110</sup> After meeting with Taylor, Bockarie showed Sherif money in US dollars and a satellite phone which Taylor had given him so that Bockarie could communicate with Taylor at anytime.<sup>11111</sup>

Prosecution Witness TF1-516

5000. Witness TF1-516 testified to Bockarie returning from a trip to Liberia with a truck full of ammunition not long before the November-December 1998 operation in Kono.<sup>11112</sup>

Prosecution Witness TF1-367

5001. Witness TF1-367 testified that he travelled with Bockarie to Monrovia and returned to Buedu with a truck carrying ammunition which was used for the successful attacks on Kono and Koidu.<sup>11113</sup>

The Accused

<sup>11105</sup> Perry Kamara, Transcript 5 February 2008, p. 3142.

<sup>11106</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 826-828.

<sup>11107</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 829-830.

<sup>11108</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 830.

<sup>11109</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 835-836.

<sup>11110</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 847.

<sup>11111</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 849-850.

<sup>11112</sup> TF1-516, Transcript 8 April 2008, p. 6961.

5002. The Accused denied the allegation that Bockarie travelled to Monrovia to collect ammunition.<sup>11114</sup> The Accused testified that during this period he did not have access to a supply of ammunition in Liberia because much of these military supplies were taken away during disarmament and destroyed.<sup>11115</sup> The Accused denied that Bockarie was a regular visitor to Monrovia, stating that he made three trips between August and December 1998 and came again during the Lomé discussions in 1999, and again in September, November and December 1999.<sup>11116</sup>

5003. In response to Fornie's evidence that in mid-1998, Bockarie and Yeaten went to Monrovia from Buedu in the morning and returned in the evening with two vehicles loaded with ammunition, the Accused stated that in mid-1998, during the rainy season, it was not possible to drive to Monrovia and return to Sierra Leone on the same day.<sup>11117</sup>

5004. The Accused also contested Karmoh Kanneh's account that a military helicopter carrying supplies and five people, including two pilots, landed at Foya Airfield in broad daylight. The Accused stated that he had no helicopter at this time and the first helicopter they got in Liberia in 1999 was an Mi-2 which was not large enough to carry five men and a cargo of materiel.<sup>11118</sup>

5005. In response to TF1-585's evidence, the Accused denied that he supplied Bockarie with arms and ammunitions in early 1998 and that arms were ever taken from Gbarnga and White Flower to Buedu.<sup>11119</sup>

5006. In response to TF1-371's evidence of a trip taken by Bockarie in early 1998 in which Bockarie was unable to meet with the Accused due to an ECOMOG patrol, the Accused

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<sup>11113</sup> TF1-367, Transcript 21 August 2008, pp. 14231-14235.

<sup>11114</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29197-29198 (in response to Fornie's evidence); 1 October 2009, pp. 30106-30107 (in response to Mallah's evidence); Transcript 26 October 2009, pp. 30283-30287 (in response to Jaward's evidence); Transcript 16 September 2009, p. 29089 (in response to Kabbah's evidence); Transcript 2 November 2009, pp. 30840-30842 (in response to Kargbo's evidence).

<sup>11115</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29197-29198, 29200.

<sup>11116</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29093-29097.

<sup>11117</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29229-29231.

<sup>11118</sup> Charles Ghankay Taylor, Transcript 28 October 2009, pp. 30594-30598.

<sup>11119</sup> Charles Ghankay Taylor, Transcript 1 October 2009, pp. 30168-30172.





stated that ECOMOG patrols had nothing to do with the people that he received and needed to see, and would not have prevented Bockarie from meeting with the Accused.<sup>11120</sup>

#### Defence Witness Issa Sesay

5007. Issa Sesay denied that Bockarie went to Monrovia in the early part of 1998, as Kanneh and Fornie testified.<sup>11121</sup> According to Sesay, Bockarie's first contact with Charles Taylor was in September 1998. Bockarie received a message in mid-September 1998 from General Dopoe Menkarzon stating that Bockarie should meet Menkarzon at the border and Menkarzon would take him to see Charles Taylor. Bockarie spent three or four days in Liberia before returning to Buedu.<sup>11122</sup> Sesay acknowledges that Bockarie made trips to Monrovia in September, October and November 1998<sup>11123</sup> but states that only on one of those trips, the November 1998 trip, did Bockarie return with arms and ammunition, which were from Burkina Faso and unconnected to Taylor.<sup>11124</sup>

#### Deliberations

5008. The Trial Chamber notes that Augustine Mallah, TF1-371 and Mohamed Kabbah testified in general terms as to Bockarie making regular trips to Liberia in 1998 and returning with materiel. TF1-585, Dauda Aruna Fornie, TF1-371, Karmoh Kanneh Samuel Kargbo, Alice Pyne, Albert Saidu and Jabaty Jaward testified as to specific trips taken by Bockarie from early 1998 to mid 1998.

5009. The Prosecution cites the testimony of Sherif as to Bockarie's alleged initial visit to Monrovia in February 1998 to support its allegations that Bockarie obtained arms and ammunition from the Accused on his visits to Monrovia.<sup>11125</sup> The Prosecution appears to suggest that this trip is the same as that described by Fornie as taking place shortly after the

<sup>11120</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29552-29556.

<sup>11121</sup> Issa Sesay, Transcript 28 July 2010, pp. 44839-44840; Transcript 11 August 2010, pp. 46069-46070.

<sup>11122</sup> Issa Sesay, Transcript 9 July 2010, pp. 44122-44124.

<sup>11123</sup> Issa Sesay, Transcript 9 July 2010, pp. 44120-44122 (as to the September 1998 trip by Bockarie to Monrovia); Transcript 12 July 2010, pp. 44310-44312 (as to the October 1998 trip by Bockarie to Monrovia to visit Charles Taylor); Transcript 18 August 2010, p. 46640 (as to all three trips).

<sup>11124</sup> Issa Sesay, Transcript 10 August 2010, p. 45900.

<sup>11125</sup> Prosecution Final Trial Brief, paras 243-247, see Varmuyan Sherif, Transcript 9 January 2008, pp. 844-848. Note that Sherif testified that he escorted Bockarie from Koindu to Monrovia to meet the Accused "at the same time – ending of 1998-1999" when LURD invaded Liberia. However, despite his repeated reference to this time frame, his evidence of other events happening at the same time suggests that he is in fact talking about early 1998.





Intervention.<sup>11126</sup> The Trial Chamber notes that in any event, Sherif's testimony involved no factual assertion of supply of military equipment occurring on that visit.<sup>11127</sup> The Trial Chamber does not consider Sherif's evidence as to the February 1998 trip assists in determining the specific question of whether the Accused supplied Bockarie with materiel on the latter's trips to Liberia during 1998.

5010. The Trial Chamber notes that the Prosecution has also relied on the evidence of TF1-516 and TF1-367 as to trips made by Bockarie to Monrovia before the successful attacks in Kono in November-December 1998. The Trial Chamber considers that the timing and size of these shipments coincide with and refer to the Burkina Faso shipment, and has considered such evidence in that context.<sup>11128</sup>

5011. The Defence submits that during Bockarie's trips to Liberia, none of the witnesses saw the Accused give or promise to give arms or ammunition to Bockarie and that those witnesses giving hearsay evidence that the Accused provided arms and ammunition to Bockarie are generally unreliable.<sup>11129</sup> The Defence also points to the lack of evidence, particularly from the Prosecution witnesses closest to the Accused, Moses Blah and Varmuyan Sherif, that during Bockarie's trips to Liberia they saw the Accused give or promise to give arms or ammunition to Bockarie.<sup>11130</sup>

5012. Regarding the Defence's contention as to the predominance of hearsay evidence, the Trial Chamber recognises that much of the evidence relied on by the Prosecution to support its allegation that Bockarie received arms or ammunition from the Accused while in Liberia is hearsay and circumstantial. This is explicable by the fact that many of the witnesses who testified were not personally present at meetings between the Accused and Bockarie and therefore could not have observed their interaction. However, the Trial Chamber considers that direct evidence that the Accused personally provided Bockarie with arms or ammunition is not necessary to establish his involvement in the supply of materiel to Bockarie.

<sup>11126</sup> Prosecution Final Trial Brief, para. 248.

<sup>11127</sup> Sherif testified that after meeting with Taylor, Bockarie only showed Sherif US dollars and a satellite phone which Taylor had given him so that Bockarie could communicate with Taylor at anytime. Varmuyan Sherif, Transcript 9 January 2008, pp. 849-850.

<sup>11128</sup> See *supra*, Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Burkina Faso Shipment.

<sup>11129</sup> Defence Final Trial Brief, para. 1105.

<sup>11130</sup> Defence Final Trial Brief, para. 1105.

5013. On the question of credibility, the Trial Chamber has found Mohamed Kabbah, TF1-585, Dauda Aruna Fornie, Samuel Kargbo, and Alice Pyne to be generally credible<sup>11131</sup> but will consider further issues of credibility that arise in this context.

5014. TF1-585's account of the promotion of Bockarie by the Accused, which allegedly occurred shortly after the ECOMOG Intervention, has been analysed in another section of the judgement.<sup>11132</sup> The Trial Chamber recalls its finding that it had no general reservations concerning the evidence of TF1-585 in relation to that trip. Similarly, the Trial Chamber has accepted Dauda Aruna Fornie's account of establishing contact with Sierra Leone using "Base 1", Yeaten's radio station, on his first trip to Monrovia with Bockarie.<sup>11133</sup>

5015. TF1-371 testified that Bockarie made two trips to Monrovia after Johnny Paul Koroma was stripped of his diamonds. It is not clear from TF1-371's testimony when this event took place. However, the Trial Chamber has heard consistent evidence from other witnesses that the incident in which Koroma was stripped of his diamonds took place shortly after he arrived in Buedu, sometime in February to April 1998,<sup>11134</sup> and is satisfied that it occurred in early 1998.

5016. In response to TF1-371's evidence, the Accused contended that it was unlikely that an ECOMOG patrol prevented Bockarie from meeting with the Accused in Monrovia as they had nothing to do with the people that he received.<sup>11135</sup> The Trial Chamber recalls that TF1-371's evidence was hearsay and he was simply reporting what he was told by Bockarie. In these circumstances, the failure of TF1-371 to explain the precise detail of what occurred on the trip does not undermine the general credibility of his account that Bockarie travelled to Monrovia and brought back a supply of materiel.

<sup>11131</sup> Credibility Assessment, Mohamed Kabbah, paras 334-338; Credibility Assessment, TF1-585, paras 330-333; Credibility Assessment, Dauda Aruna Fornie, paras 346-358; Credibility Assessment, Samuel Kargbo, paras 290-295; Credibility Assessment, Alice Pyne, paras 304-307.

<sup>11132</sup> See *infra*, Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Foday Sankoh.

<sup>11133</sup> See *supra*, Operational Support: Communications, RUF and NPFL Radio Codes and Communications.

<sup>11134</sup> Issa Sesay, Transcript 14 July 2010, p. 44409 (describing the incident as taking place in March 1998); Mohamed Kabbah, Transcript 16 September 2008, pp. 16296-16297 (describing the incident as taking place in March or April 1998); Perry Kamara, Transcript 5 February 2008, p. 3147 (describing the incident as taking place shortly after Koroma's arrival in Buedu); Augustine Mallah, Transcript 13 November 2008, pp. 20195-20196 (describing the incident as taking place in February 1998).

<sup>11135</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29552-29556.

5017. In relation to Samuel Kargbo's account of his second trip with Bockarie, there were inconsistencies in Kargbo's evidence as to whether he first saw Jungle in Liberia or in Sierra Leone.<sup>11136</sup> Further, in a prior statement to the Prosecution, Kargbo said that he took one trip with Mike Lamin to collect ammunition, but did not describe a second trip. Instead, he referred to an incident in which he had been instructed by Issa Sesay to remain in Buedu until Bockarie returned with arms and ammunition. Kargbo maintained that he had told the Prosecution of both trips.<sup>11137</sup> The Trial Chamber notes that TF1-371, who was aware of Mike Lamin's movements at the time, testified that Lamin never accompanied Bockarie on the latter's trips to Liberia in 1998.<sup>11138</sup>

5018. Turning to Alice Pyne's account, the Trial Chamber is concerned that while she testified that she saw Bockarie leaving from and returning to Buedu, in prior statements she had not mentioned her own direct observations of Bockarie's departure and arrival from Buedu. Pyne said firstly that she understood the goods given to Superman had come from Liberia on account of radio conversations she had heard and conversations she had with radio operator Sellay and only later added her presence in Buedu.<sup>11139</sup> She explained that she had no opportunity to correct any mistakes, although Defence counsel pointed out that amendments had been made in other parts of her prior statements.<sup>11140</sup> The Trial Chamber notes that when Pyne was presented with a photograph of Bockarie, she was not able to identify him. Pyne testified that she had seen Bockarie on several occasions but explained that she was "not that used to him" to be able to recognise him.<sup>11141</sup>

5019. In relation to Jaward's evidence, the Trial Chamber observes that aspects of his testimony raised some questions about his role as storekeeper for RUF stores in Buedu. Jaward conceded that the role of storekeeper, which was officially known within the RUF as the "G4" position, was formally assigned to another person at the time: CO Brown, with his deputy Hassan Kamara.<sup>11142</sup> According to Jaward, neither CO Brown nor his deputy was

<sup>11136</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10548-10549; Transcript 3 June 2008, pp. 10808-10810.

<sup>11137</sup> Samuel Kargbo, Transcript 3 June 2008, pp. 10812-10817.

<sup>11138</sup> TF1-371, Transcript 28 January 2008, p. 2384 (CS).

<sup>11139</sup> Alice Pyne, Transcript 19 June 2008, pp. 12318-12322; see also Transcript 19 June 2008, pp. 12326-12327 (inconsistency as to where Pyne met Jungle).

<sup>11140</sup> Alice Pyne, Transcript 19 June 2008, pp. 12322-12324.

<sup>11141</sup> Alice Pyne, Transcript 20 June 2008, pp. 12361-12362; see D-051, "Photograph-P-0000641" and same photo Exhibit P-030, "Photograph-P0001141"; Transcript 20 June 2008, pp. 12442-12444.

<sup>11142</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13394.





involved with the supplies arriving from Liberia, although the witness did not understand why.<sup>11143</sup> In this respect, the Trial Chamber notes the testimony of TF1-516 that materials transported overland from Foya to Buedu were given to the G4 commander.<sup>11144</sup> However, Jaward explained that there were two stores in Buedu, one attached to Bockarie's house, and a larger one a few yards away from Bockarie's house which was established later, in addition to the G4 stores themselves, which were located in Kudorwahun, a village approximately two miles from Buedu.<sup>11145</sup> The Trial Chamber considers that Jaward's position at the stores attached to or near Bockarie's house in Buedu, rather than the main G4 stores, constitutes a plausible explanation of why Jaward was not aware of the G4 commander receiving materials from Liberia.

5020. The Accused challenged the reliability of Karmoh Kanneh's account on the basis that he had no helicopter in Liberia in 1998 with which to send military supplies. However, the Trial Chamber notes, and has addressed elsewhere, the conflicting testimony given by the Accused as to the date on which the Liberian government acquired its own helicopters.<sup>11146</sup> The Trial Chamber further notes that Augustine Mallah stated that the Accused sent a helicopter to transport Bockarie from Foya to Monrovia in 1998.<sup>11147</sup> In light of the inconsistencies in the Accused's testimony and the corroborative evidence of Mallah that the Accused did use helicopters in 1998 in his interactions with Bockarie, the Trial Chamber has no reason to doubt Kanneh's account that Bockarie picked up materiel delivered by helicopter at Foya in 1998.

5021. In light of the foregoing considerations, the Trial Chamber will treat the testimony of Samuel Kargbo and Alice Pyne with caution in relation to Bockarie's trips to Liberia. The Trial Chamber notes, however that their evidence as to Bockarie making a series of trips to Liberia in 1998 from which he returned with materiel is consistently corroborated by many Prosecution witnesses, including Karmoh Kanneh, Albert Saidu, Jabaty Jaward, Augustine Mallah, TF1-371, Mohamed Kabbah, TF1-585, Perry Kamara and Dauda Aruna Fornie. The testimony of Kargbo and Pyne that the Accused was involved in this supply of materiel is

<sup>11143</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13394.

<sup>11144</sup> TF1-516, Transcript 8 April 2008, pp. 6957-6958.

<sup>11145</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13395.

<sup>11146</sup> See *infra*, Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockarie's Leadership (December 1999-January 2002).

<sup>11147</sup> Augustine Mallah, Transcript 13 November 2008, p. 20209.

also corroborated. Mallah was told by Bockarie that the purpose of his trips to Liberia was to secure supplies from the Accused.<sup>11148</sup> Kanneh testified that Bockarie told him “Pa Taylor” was sending ammunition to Foya for the RUF.<sup>11149</sup> Saidu’s testimony was that Bockarie’s bodyguard had informed him that the materiel from Liberia was sourced from the Accused.<sup>11150</sup> Finally, TF1-371 stated on one occasion when Bockarie returned from Liberia with materiel he spoke to his commanders about meeting the Accused and being instructed by the Accused to maintain Kono “to pay for those materials”.<sup>11151</sup> While Jaward did not specifically state that Bockarie said these supplies were sourced from Taylor, Jaward told the Trial Chamber that “whenever Sam Bockarie went to Monrovia we would expect those supplies from Charles Taylor”.<sup>11152</sup> Perry Kamara testified that prior to going to Monrovia, Bockarie sent a message relaying his instructions from the Accused for the RUF to hold onto Kono in early 1998 in order to provide the Accused with diamonds in exchange for arms and ammunition.<sup>11153</sup>

5022. Evidence given by other witnesses is circumstantial but indicates that the Accused knew of and sanctioned the supply of military equipment. TF1-371 testified that on his return from such trips, Bockarie was always escorted by members of the Accused’s SSS.<sup>11154</sup> Kabbah noted that Bockarie never required travel documents or exemptions from the travel ban to cross the border.<sup>11155</sup> Further, the Trial Chamber recalls its findings concerning the role of Daniel Tamba (a.k.a. Jungle) in the Accused’s relationship with the RUF organisation.<sup>11156</sup> The consistent evidence that Tamba was involved in these trips supports the conclusion that the Accused had knowledge of and sanctioned the delivery to Bockarie of materiel to take back to Sierra Leone from Liberia.<sup>11157</sup>

<sup>11148</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20210-20211.

<sup>11149</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9448.

<sup>11150</sup> Albert Saidu, Transcript 4 June 2008, p. 11021.

<sup>11151</sup> TF1-371, Transcript 28 January 2008, p. 2385 (CS).

<sup>11152</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13415.

<sup>11153</sup> Perry Kamara, Transcript 5 February 2008, p. 3142.

<sup>11154</sup> TF1-371, Transcript 28 January 2008, p. 2384 (CS).

<sup>11155</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16136-16137.

<sup>11156</sup> See *The Role of Intermediaries: Daniel Tamba (a.k.a. Jungle)*.

<sup>11157</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21447; Samuel Kargbo, Transcript 22 May 2008, pp. 10544, 10546; Transcript 3 June 2008, p. 10797; TF1-367, Transcript 21 August 2008, pp. 14303-14305; Alice Pyne, Transcript 19 June 2008, pp. 12235-12237.





5023. The Trial Chamber notes that the Accused himself stated that Bockarie could not travel to Liberia, and specifically to Monrovia, without the Accused being aware of it.<sup>11158</sup> In light of the evidence that Bockarie did not require travel documents or exemptions from the travel ban to cross the border,<sup>11159</sup> the Trial Chamber finds that the Accused's assertion that he did not know about these trips and his denial of involvement in the supply of materiel to Bockarie, are not credible.

5024. The Accused also maintained that Bockarie did not travel to Monrovia until the latter half of 1998. Issa Sesay also testified that Bockarie did not meet the Accused until September 1998.<sup>11160</sup> The veracity of this claim has been analysed elsewhere in the Judgement, and the Trial Chamber recalls its finding that the Accused's denial that he met Bockarie in Monrovia in early 1998 lacks credibility.<sup>11161</sup>

5025. The Trial Chamber recalls its earlier finding that Issa Sesay's evidence must generally be considered with caution.<sup>11162</sup> The Trial Chamber notes that the basis for Sesay's knowledge about Bockarie's trips is what Bockarie told him<sup>11163</sup> and Sesay was not based in Buedu for a substantial portion of 1998.<sup>11164</sup> It is conceivable that Sesay was not privy to information concerning other trips that Bockarie may have taken to Monrovia during the course of 1998. For these reasons, the Trial Chamber finds that Issa Sesay's testimony as to whether Bockarie obtained arms or ammunitions from the Accused during his trips to Liberia is not credible.

5026. While the the evidence does not establish the details of each specific trip to which the above witnesses testified, the Trial Chamber is satisfied beyond reasonable doubt, based on the evidence of all ten Prosecution witnesses, that Bockarie made a series of trips to Liberia throughout 1998 from which he returned with materiel. The Trial Chamber is also satisfied beyond reasonable doubt, in light of the consistent evidence from these witnesses

<sup>11158</sup> Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26011-26013, 26030.

<sup>11159</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16137, see *also* p. 16136.

<sup>11160</sup> See Leadership and Command Structure: Accused Relationship with the RUF/AFRC.

<sup>11161</sup> See Leadership and Command Structure: Accused Relationship with the RUF/AFRC.

<sup>11162</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>11163</sup> Issa Sesay, Transcript 18 August 2010, pp. 46641-46644.

<sup>11164</sup> Issa Sesay, Transcript 8 July 2010, p. 44028 (Issa Sesay living near Bockarie in Buedu in March/April 1998); *but see*, Issa Sesay, Transcript 8 July 2010, pp. 43995-43997 (Sesay in Makeni after ECOMOG intervention); Transcript 8 July 2010, pp. 44046-44048 (Sesay left Buedu for Pendembu in late April and remained there until November 1998), 44082-44083 (Sesay in Makeni during December 1998 offensives).

linking the source of the materiel that Bockarie brought back from Liberia to the Accused, that the Accused was involved in the supply of military equipment to Bockarie on Bockarie's trips to Liberia in 1998.

#### Quantity of materiel supplied

5027. The Trial Chamber has heard varying evidence from Prosecution witnesses in relation to the quantity of ammunition or arms supplied. Karmoh Kanneh testified that when he travelled with Bockarie to Foya, the materiel they picked up included 40 boxes of AK rounds, 10 boxes of RPG rockets, a few RPG tubes.<sup>11165</sup> Jaward stated that the supply received after Bockarie met the Accused in Liberia in mid-1998 was "large".<sup>11166</sup> A number of the Prosecution witnesses testified to receiving arms as well as ammunition.<sup>11167</sup>

5028. Although Fornie initially testified that the materiel could be transported in one small "Benz" truck,<sup>11168</sup> in cross-examination Fornie stated that on his return to Sierra Leone from Monrovia with Mosquito they were actually accompanied by three trucks full of ammunition, including a Toyota Hilux and a Land Cruiser jeep, carrying around 80 containers of ammunition.<sup>11169</sup> The witness confirmed the number of containers of ammunition after he was presented with a prior statement in which he had described a "Liberian military truck" carrying 80 containers of ammunition.<sup>11170</sup> The witness admitted that he had not made clear how much ammunition there was in examination-in-chief, but that the questioning in cross-examination had refreshed his memory.<sup>11171</sup> Although the Trial Chamber considers that the witness may not have an accurate recollection of the precise

<sup>11165</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9456-9457.

<sup>11166</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13413-13414 ("We received a large consignment of arms, ammunition, including food supplies, fuel, gasoline, engine oil and other commodities").

<sup>11167</sup> TF1-585, Transcript 5 September 2008, p. 15618 ("Bockarie, said there were documents to the effect, but what he showed us was the combat suit, the tactical jeep, green coloured, and we saw him come with some new arms"); Jabaty Jaward, Transcript 10 July 2008, pp. 13412-13415 ("We received a large consignment of arms, ammunition, including food supplies, fuel, gasoline, engine oil and other commodities"); Augustine Mallah, Transcript 13 November 2008, pp. 20210-20211 ("Well, most of what [Bockarie] told me, and what I saw myself, that is to say he went to Monrovia to Charles Taylor for us to be supplied our needs, that is ammunition, arms, medicines"); Alice Pyne, Transcript 19 June 2008, p. 12237 ("But when I was to return to Superman's ground, the things that they gave to Superman included arms, ammunition, alcoholic drinks which we referred to as morale booster").

<sup>11168</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21454.

<sup>11169</sup> Dauda Aruna Fornie, Transcript 10 December 2008, pp. 22031-22036. The Trial Chamber also notes that according to Fornie, Bockarie had stated the ammunition provided by the Accused was not "much" because the Accused was short on supplies: Dauda Aruna Fornie, Transcript 10 December 2008, p. 21454.

<sup>11170</sup> Dauda Aruna Fornie, Transcript 10 December 2008, pp. 22037-22047.

<sup>11171</sup> Dauda Aruna Fornie, Transcript 10 December 2008, p. 22033.



number of containers of ammunition, the Trial Chamber accepts his later evidence, and his explanation for the inconsistency with his evidence-in-chief, that the shipment of ammunition was large. Samuel Kargbo also testified to a large amount of materiel being brought back on one of his trips to Liberia.<sup>11172</sup>

5029. The Trial Chamber accepts TF1-371's testimony that in between the Magburaka shipment in October 1997, the Burkina Faso shipment in November/December 1998 and a third shipment in March 1999, Bockarie's trips to Monrovia were regular but the shipments he brought back were not as large as those three major shipments.<sup>11173</sup> In the light of consistent evidence, the Trial Chamber finds that the materiel supplied by the Accused to Bockarie on Bockarie's trips to Monrovia during early to mid-1998 were sizeable, although not large in comparison to the Magburaka, Burkina Faso or the March 1999 shipment.

### Findings

5030. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that Bockarie made trips to Liberia in 1998 during which he obtained materiel from the Accused.

5031. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt beyond reasonable doubt that the RUF/AFRC received sizeable amounts of materiel from the Accused in 1998 although not comparable in quantity to the Magburaka shipment, the Burkina Faso shipment and the March 1999 shipment.

### (iii) Alleged trip by Bockarie in January 1999

### Submissions of the Parties

5032. The Prosecution alleges that during the Freetown operation Bockarie travelled to Monrovia on Taylor's instruction to brief and take instruction from Taylor. Bockarie

<sup>11172</sup> Samuel Kargbo, Transcript 22 May 2008, p. 10547; Transcript 3 June 2008, pp. 10799-10800 (testifying that the quantity of ammunition was sufficient to fill a whole storeroom).

<sup>11173</sup> TF1-371, Transcript 31 January 2008, p. 2700 (CS); see also p. 2690 (CS) ("There were three shipments I can recall 1997 to 1999 of arms and ammunition to the RUF and the AFRC from Mr Taylor, three large shipments. I mean major shipments. And of course there were other minor trips of arms, but those were the major").





returned from that trip with ammunition.<sup>11174</sup> The Prosecution adduced evidence from TF1-516 and Abu Keita in relation to this allegation.

5033. The Defence contends that the arms and ammunition used by the AFRC in the Freetown invasion came exclusively from those captured along the way.<sup>11175</sup>

### Evidence

#### Prosecution Witness TF1-516

5034. Witness TF1-516, an RUF radio operator based in Buedu,<sup>11176</sup> testified that during the Freetown invasion Bockarie flew to Monrovia from Foya in a helicopter and returned 72 hours later by air with ammunition. The witness explained that Bockarie told him that he had been called and given instructions by “his chief”, Charles Taylor, through a message sent from Base 1 and reinforced by 020. Those who remained in Buedu were then informed through Base 1 and 020 that Bockarie was returning to Foya by helicopter so they took a communications vehicle and met Bockarie in Foya. They saw what appeared to be bales of jeans being unloaded from the helicopter but became aware when they arrived in Foya that the bales in fact contained ammunitions.<sup>11177</sup>

#### Prosecution Witness Abu Keita

5035. Abu Keita, who was in Buedu during the Freetown offensive,<sup>11178</sup> testified that during that time he travelled with Bockarie to Foya where Bockarie was picked up by Joe Tuah in a helicopter and flown to Monrovia. He spent a day there. The witness stated that he met Bockarie again at Foya; he returned with a new ash-coloured Toyota Land Cruiser pick-up from Charles Taylor which was loaded with some jeans, T-shirts, medicine and bandages.<sup>11179</sup>

### The Accused

<sup>11174</sup> Prosecution Final Trial Brief, paras 173, 267.

<sup>11175</sup> Defence Final Trial Brief, para. 1112.

<sup>11176</sup> TF1-516, Transcript 8 April 2008, pp. 6858-6860 (The witness stated that in the rainy season of 1999 (roughly June and July) Issa Sesay ordered the witness to move to Liberia to work for Benjamin Yeaten).

<sup>11177</sup> TF1-516, Transcript 8 April 2008, pp. 6945-6946, 6962-6965; Transcript 9 April 2008, 6980-6981.

<sup>11178</sup> Abu Keita, Transcript 23 January 2008, p. 2020.

<sup>11179</sup> Abu Keita, Transcript 23 January 2008, pp. 2011-2013, 2023-2024.

5036. In response to TF1-516's testimony, the Accused denied that he was in communication with or visited by Bockarie in January 1999, that he gave him ammunition for the Freetown invasion or that he possessed a helicopter at that time.<sup>11180</sup>

### Deliberations

5037. As a preliminary matter, the Trial Chamber notes that an issue arises in the evidence given by TF1-516 and Abu Keita as to the timing of the alleged visit by Bockarie to Monrovia. TF1-516 expressed uncertainty about the timing of Bockarie's trip on each of the three occasions on which he referred to the trip in his testimony. On the first, he said "really these things happened for quite so long really to have to think to recollect"<sup>11181</sup> and on the second, that "I was not sure really whether it was during the time of the Freetown operation".<sup>11182</sup> Under cross-examination, he then admitted that he had made a mistake and that the incident he described had not taken place during the Freetown invasion and, although he could not recall exactly when it had happened, "the operation in Freetown had long been undertaken".<sup>11183</sup> There are similarly doubts about Abu Keita's evidence that the trip he described took place during the invasion. When first testifying about the trip, he described it as having taken place during the "offensive involving Kono", specifically referring to the attacks on Kono, Makeni, Masingbi and Magburaka, not Freetown. Indeed, these attacks were the specific topic of Counsel's questions to the witness.<sup>11184</sup> Only later did he assert that "during the Freetown invasion he went to Monrovia with that helicopter. He spent a day there. That was the time he came with the Toyota Land Cruiser that I told you about".<sup>11185</sup>

5038. The Trial Chamber considers that the evidence given by the two witnesses strongly suggests that they were not testifying about the same event. As noted above, TF1-516 ultimately placed the event long after the Freetown invasion whereas Abu Keita's testimony was that the event took place before or during the attack. Furthermore, Keita testified only to the arrival of jeans, T-shirts, medicine and bandages, not military equipment. For this reason, the Trial Chamber considers that the evidence of Keita does not corroborate the

<sup>11180</sup> Charles Ghankay Taylor, Transcript 27 October 2009, pp. 30451-30454.

<sup>11181</sup> TF1-516, Transcript 8 April 2008, p. 6945.

<sup>11182</sup> TF1-516, Transcript 8 April 2008, p. 6962.

<sup>11183</sup> TF1-516, Transcript 16 April 2008, pp. 7820-7821.

<sup>11184</sup> Abu Keita, Transcript 23 January 2008, pp. 2011-2013.

testimony of TF1-516, nor does it support the allegation of the Prosecution that Bockarie imported ammunition to Buedu in January 1999.

5039. Nonetheless, in the Trial Chamber's view, TF1-516 gave a credible and consistent account of the event to which he testified. It also recalls its finding that TF1-516 is a generally credible witness.<sup>11186</sup> The candid way in which he repeatedly expressed his doubts as to the timing of the event while maintaining complete consistency as to the event itself are to his credit. The Trial Chamber notes that while the witness saw Bockarie depart from and return to Foya with arms, his testimony as to the Accused's involvement in this shipment is hearsay, based on what he was told by Bockarie. However, the evidence of TF1-516 is also supported by general evidence that Bockarie travelled to Monrovia in 1999 during which the Accused supplied him with materiel.<sup>11187</sup> TF1-371, who was in Buedu between March 1998 and April 1999,<sup>11188</sup> testified that Bockarie made "a series of trips" to Monrovia "from 1998 ending to early 1999"<sup>11189</sup> from which Bockarie would return with materiel from the Accused.<sup>11190</sup> TF1-585 testified that while Bockarie travelled to Monrovia "once in a while" in 1998, his trips became more frequent in 1999, via helicopter from Foya airfield,<sup>11191</sup> and that on these trips Bockarie brought back materiel from the Accused's property to Buedu.<sup>11192</sup>

5040. The Trial Chamber considers TF1-516's account to be reliable, supported by the evidence that Sam Bockarie made trips to Monrovia during 1999 from which he returned with ammunition. For this reason, the Trial Chamber accepts TF1-516's evidence that Bockarie made a trip to Monrovia at an undefined time after the Freetown invasion from which he returned with a supply of ammunition from the Accused.

#### Quantity of materiel supplied

<sup>11185</sup> Abu Keita, Transcript 23 January 2008, pp. 2023-2024.

<sup>11186</sup> Credibility Assessment, TF1-516, paras 275-284.

<sup>11187</sup> See *supra*, Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockarie's Leadership (February 1998-December 1999).

<sup>11188</sup> TF1-371, Transcript 28 February 2008, p. 2389 (CS).

<sup>11189</sup> TF1-371, Transcript 1 February 2008, p. 2382 (CS) ("[...] from 1998 ending to early 1999 there were a lot of activities, people coming into RUF controlled territories and Mosquito frequenting Monrovia").

<sup>11190</sup> TF1-371, Transcript 28 January 2008, pp. 2383-2384 (CS).

<sup>11191</sup> TF1-585, Transcript 8 September 2008, p. 15683.

<sup>11192</sup> TF1-585, Transcript 8 September 2008, pp. 15661-15662.

5041. In relation to the quantity of materiel, the Trial Chamber notes that TF1-516 gave no evidence on the amount of ammunition Bockarie brought back.

5042. In light of the paucity of evidence, the Trial Chamber is unable to draw any conclusions as to the quantity of materiel supplied on this trip.

### Findings

5043. The Trial Chamber finds beyond reasonable doubt that Bockarie made a trip to Liberia at an undefined time after the Freetown invasion during which he obtained arms and ammunitions supplied by the Accused.

#### (iv) Alleged trip by Bockarie in March 1999

### Submissions of the Parties

5044. The Prosecution alleges that in about March 1999, Bockarie went to Monrovia and received a major shipment of materiel from the Accused which was transported from White Flower to Buedu by Zigzag Marzah, Jungle and Mike Lama, who said the materiel was from Charles Taylor.<sup>11193</sup>

5045. The Prosecution submits that “there can be little doubt” that this materiel given to Bockarie in about March 1999 was part of shipment which the Accused obtained through his friend Blaise Compaoré, President of Burkina Faso. It specifically alleges that the shipment was flown into Liberia via Burkina Faso, where the head of Compaoré’s Presidential Guard, Diendere, signed the end-user certificate certifying that the materiel was for the sole use of the Burkina Faso Ministry of Defence.<sup>11194</sup>

5046. The Defence states that “in 1999 the trips by Tamba, Marzah and others, with the assistance of Yeaten, continued”<sup>11195</sup> but submits that the within the context of Yeaten’s “wide ranging military powers and control” the evidence that ammunition came from Taylor is “circumspect”.<sup>11196</sup> The Defence further submits that the Prosecution allegations

<sup>11193</sup> Prosecution Final Trial Brief, para. 268.

<sup>11194</sup> Prosecution Final Trial Brief, para. 269.

<sup>11195</sup> Defence Final Trial Brief para. 1117

<sup>11196</sup> Defence Final Trial Brief paras 1118-1119.

concerning this shipment are based on a spurious assumption that because the Accused was importing arms, he must have given them to the RUF/AFRC.<sup>11197</sup>

5047. In support of its allegations, the Prosecution adduced evidence from TF1-371, Karmoh Kanneh, Stephen Ellis, TF1-585, TF1-539 and TF1-567 as well as Exhibits P-018, P-021A-D, P-031, P-032 and P-035.<sup>11198</sup> The Defence adduced evidence from the Accused, and Exhibit D-448.

### Evidence

#### Prosecution Witness TF1-371

5048. Witness TF1-371, who was in Buedu between March 1998 and April 1999,<sup>11199</sup> testified that between February and March 1999, before the Lomé negotiations began, Sam Bockarie received a “major” shipment of weapons from Monrovia around the time the fighting with LURD intensified. He described it as one of three “major shipments” received by the RUF, along with the Magburaka shipment in October 1997 and Burkina Faso shipment in November/December 1998. Specifically, the witness stated that some time just after the Freetown invasion, Bockarie left Freetown for Monrovia, returning a “week or so later” to Buedu with the consignment in pick-ups and trucks.<sup>11200</sup> On cross-examination, TF1-371 stated that he did not know where this arms shipment originated,<sup>11201</sup> but that it came directly from White Flower.<sup>11202</sup> He also noted that the consignment came after “Mr Taylor asked Sam Bockarie to beef up their troops in Foya and he went to Monrovia and he came with that third consignment”.<sup>11203</sup> TF1-371 also stated that the second and third shipments, of the three major shipments he referred to, were paid for by several consignments of diamonds taken by Bockarie to Taylor.<sup>11204</sup>

#### Prosecution Witness Karmoh Kanneh

<sup>11197</sup> Defence Response to Prosecution Final Trial Brief, para. 42.

<sup>11199</sup> TF1-371, Transcript 28 January 2008, pp. 2363, 2380, 2433 (CS).

<sup>11200</sup> TF1-371, Transcript 31 January 2008, pp. 2700-2703 (CS).

<sup>11201</sup> TF1-371, Transcript 31 January 2008, pp. 2739-2740, 2751 (CS).

<sup>11202</sup> TF1-371, Transcript 31 January 2008, p. 2740 (CS).

<sup>11203</sup> TF1-371, Transcript 31 January 2008, p. 2751 (CS).

<sup>11204</sup> TF1-371, Transcript 31 January 2008, pp. 2704-2705 (CS).

5049. Karmoh Kanneh testified that when ULIMO and LURD forces invaded Lofa, he received instructions from Bockarie to prepare manpower to go and “clear the enemy from that place”. The mission was successful and as a result the Accused invited Bockarie, his bodyguard, Magazine and the witness to Monrovia. Benjamin Yeaten came to Foya to meet them “in [the] same military helicopter with the combat colour”.<sup>11205</sup> They spent three days staying at Benjamin Yeaten’s house “at White Flower”.<sup>11206</sup> Bockarie went with Yeaten to meet with Taylor. The witness testified that Bockarie said Taylor had given him \$USD 10,000 which the witness saw when it was counted at Foya. The witness did not meet President Taylor during this trip but was told by Bockarie when he returned that he had been to Mansion Ground where the “Pa” Taylor had told him to wait and promised to give them morale boosters and some ammunition. The witness then saw this ammunition, AK rounds and RPG rockets, “very close to Benjamin Yeaten’s residence where he used to sleep” at the back of “Pa Taylor’s house”, White Flower. The witness could not recall the quantity of ammunition they received, explaining that they did not go to Monrovia for the purpose of obtaining weapons, although he later described them as “few materials”. He testified that the ammunition was then loaded into a vehicle and driven to the airfield for the helicopter to pick them up and take them to Foya.<sup>11207</sup>

Prosecution Witness TF1-585

5050. Witness TF1-585 testified that less than two weeks after the troops retreated from Freetown in 1999, Bockarie told Eddie Kanneh that he was going to Monrovia for ammunition at Charles Taylor’s invitation. Bockarie returned from Liberia within two days and on the third day Jungle came to Buedu with ammunition.<sup>11208</sup>

Prosecution Witness TF1-567

5051. Witness TF1-567 testified that while he and others were waiting in Buedu to go to the peace talks in Lomé he used to see Zigzag Marzah, Jungle, and Mike Lama bring ammunition there. He said “when Jungle and others came with this ammunition they used to say that it was the Pa, Charles Taylor, who sent the ammunition, he said because when it is

<sup>11205</sup> Karmoh Kanneh, Transcript 9 May 2008, pp 9458-9462.

<sup>11206</sup> Given the proximity of Yeaten’s residence to White Flower, the Trial Chamber understands this witness to mean his residence near White Flower.

<sup>11207</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9458-9459, 9462-9466.

<sup>11208</sup> TF1-585, Transcript 8 September 2008, pp. 15731-15732.

time for peace he should prepare for war. So being that the peace talk was going on, he said they should bring the ammunition to be kept underground”.<sup>11209</sup>

Prosecution Witness TF1-539

5052. Witness TF1-539 testified that some time after hearing of the 6 January 1999 invasion of Freetown, when the witness was in Liberia, Colonel Marzah told the witness to speak with Benjamin Yeaten at Yeaten’s house. Yeaten said to the witness “You said you are an artillery officer” and that he had received a message from Sam Bockarie that the SLA/RUF had captured two Panhard APC tanks, which were anti-personnel carriers, from the Nigerians and a 40 barrel gun from the Guinean contingent in Sierra Leone. Yeaten stated that he had previously seen documents with the witness verifying that he was indeed an artillery officer and told the witness that he believed the witness “would be very, very much useful”.<sup>11210</sup> After Yeaten described the weapons captured, he asked the witness whether he would be able to identify those weapons and ammunition that could be used in them. The witness responded he was able to identify the correct ammunition and thus enable the weapons to be used. The witness also told Yeaten that he could be helpful as an artillery man. Yeaten said that the witness should wait for the arrival of Bockarie from Buedu to prepare for a trip to Burkina Faso to obtain weapons, which would then be used to dislodge ECOMOG from the areas in Sierra Leone still under its control.<sup>11211</sup> These events occurred some time after the January 1999 attack on Freetown and before the Lomé negotiations.<sup>11212</sup>

5053. Bockarie then arrived two days later. The witness was asked by Marzah to identify Bockarie from a group of four men at Benjamin Yeaten’s house, and did so. Bockarie also said that he recognised the witness, although he did not know the witness well. Bockarie and his bodyguards arrived at Yeaten’s house in three Leyland trucks captured from ECOMOG and a black Land Cruiser jeep. A Lebanese man called Mohamed Saleh, a diamond businessman, came with two other Arab nationals that the witness did not recognise.<sup>11213</sup>

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<sup>11209</sup> TF1-567, Transcript 4 July 2008, pp. 12965-12966. The witness did not clarify who he was referring to as “he” but given the context it is apparent he is referring to Charles Taylor. In its Final Trial Brief, the Prosecution also referred the Trial Chamber to evidence given by TF1-567 on 2 July 2008 in support of its submissions, but having reviewed this evidence, it is clear to the Trial Chamber that it related to 1998, not March 1999 and the Trial Chamber has therefore had no regard to this evidence in making its findings.

<sup>11210</sup> TF1-539, Transcript 10 June 2008, pp. 11439-11440.

<sup>11211</sup> TF1-539, Transcript 10 June 2008, pp. 11444-11445.

<sup>11212</sup> TF1-539, Transcript 10 June 2008, p. 11446.

<sup>11213</sup> TF1-539, Transcript 10 June 2008, pp. 11447-11449.



Bockarie conducted a diamond transaction with the Lebanese men.<sup>11214</sup> Bockarie left to go back to Buedu the same night. Ammunition from a store at the back of Yeaten's house was also loaded into the trucks accompanying Bockarie.<sup>11215</sup>

5054. At an undefined point after this, the witness stayed at Marzah's house at YMCA with Marzah for three days. Bockarie came to Monrovia a second time and stayed in Marzah's house for the same three days.<sup>11216</sup> At one point, Marzah and the witness went back to Yeaten's house where Yeaten told them that an arrangement had been made "for all the arms we needed" in order to "go ahead with the mission we had at hand", referring to the dislodging of ECOMOG that Yeaten had previously discussed. Marzah then took the witness to the house of Musa Cissé, the Protocol Officer to President Taylor, and introduced the witness to Cissé. The witness remained at this house for some time.<sup>11217</sup>

5055. In preparation for the trip, Cissé prepared Liberian passports for those people travelling to Burkina Faso including the witness, Bockarie, Eddie Kanneh and Colonel Abdul Razak. The passport issued to the witness was in a Liberian name but had the witness's photograph in it, and the witness received it after Bockarie again arrived in Monrovia.<sup>11218</sup>

5056. Before he left on the Burkina Faso trip, the witness also met the Accused at the Executive Mansion with *inter alia* Zigzag Marzah and Benjamin Yeaten.<sup>11219</sup> The Accused welcomed TF1-539 to Liberia and told him that he would receive further instructions from Musa Cissé. Taylor gave Cissé an envelope which Cissé gave to TF1-539. It contained up to \$USD 1,500.<sup>11220</sup> After leaving the Executive Mansion, the witness ran into Foday Kallon, who was a former SLA Lieutenant.<sup>11221</sup>

5057. The next time the witness saw Bockarie was when they made the trip to Burkina Faso, with Colonel Razak, Cissé Musa, Eddie Kanneh and General Ibrahim.<sup>11222</sup> The group

<sup>11214</sup> TF1-539, Transcript 10 June 2008, pp. 11450-11454.

<sup>11215</sup> TF1-539, Transcript 10 June 2008, pp. 11475-11477.

<sup>11216</sup> TF1-539, Transcript 10 June 2008, pp. 11456, 11458-114659; see also Transcript 10 June 2008, p. 11477.

<sup>11217</sup> TF1-539, Transcript 10 June 2008, pp. 11461-11462.

<sup>11218</sup> TF1-539, Transcript 10 June 2008, pp. 11466

<sup>11219</sup> TF1-539, Transcript 10 June 2008, pp. 11467-11469.

<sup>11220</sup> TF1-539, Transcript 10 June 2008, pp. 11469-11470.

<sup>11221</sup> TF1-539, Transcript 10 June 2008, pp. 11472-11473.

<sup>11222</sup> TF1-539, Transcript 10 June 2008, p. 11478.

travelled to Ouagadougou via Roberts Airfield where they were permitted to pass without any immigration checks. The two pilots of their airplane were both Russians; there were no other crew. The witness explained that he knew they were speaking Russian because he had been trained by Russians while he was working for the Sierra Leonean Army under Strasser.<sup>11223</sup> He confirmed that he does not speak Russian himself.<sup>11224</sup> The witness testified that it was a passenger airplane with yellow, blue and red lines and that it had “something like a baseball logo at the tail”.<sup>11225</sup> When the plane landed in Ouagadougou, two vehicles approached it and the passengers were received by General Sania Samba and another two men in Burkinabe army uniforms. They were taken to the residence of the Liberian Ambassador, a house, which had Liberian speaking staff. Eddie Kanneh and Sam Bockarie left “that very day”, and Kanneh said they were supposed to travel to France. They returned three days later.<sup>11226</sup>

5058. The witness explained that on the fourth day in Ouagadougou, he went to a military warehouse with *inter alia* Sam Bockarie, Eddie Kanneh, Colonel Razak, General Ibrahim and two Burkinabe military personnel and chose ammunition and weapons from there, including some “to use on that Panhard and 40 barrel”, RPG7s and 7.62 millimetre NATO and Warsaw type. They loaded everything onto at least five military trucks which were driven to the airport, while the witness went to the airport via the residence. When the witness arrived at the airport, the trucks were at the plane and the plane was loaded with the ammunition and weapons taken from the warehouse in the “places meant for cargo” and on the passenger seats fastened by the seatbelts.<sup>11227</sup> The witness embarked with Bockarie and the rest of Bockarie’s Sierra Leonean entourage to return to Liberia. Six persons went on the trip to Burkina Faso and came back to Liberia.<sup>11228</sup>

5059. The witness was presented with Exhibits P-021A, B and D, external and internal photographs of an airplane with a red/orange logo on the tail comprising a basketball and the letter “S”. Unidentifiable boxes and bags are tied into the passenger seats. TF1-539 testified that he recognised the plane as the one that the group used to travel from Liberia to Burkina

<sup>11223</sup> TF1-539, Transcript 10 June 2008, pp. 11478-11482, 11488.

<sup>11224</sup> TF1-539, Transcript 12 June 2008, p. 11700.

<sup>11225</sup> TF1-539, Transcript 10 June 2008, p. 11483; Transcript 11 June 2008, p. 11503.

<sup>11226</sup> TF1-539, Transcript 11 June 2008, pp. 11493, 11504

<sup>11227</sup> TF1-539, Transcript 10 June 2008, p. 11483; Transcript 11 June 2008, p. 11503.

<sup>11228</sup> TF1-539, Transcript 11 June 2008, pp. 11493-11499, 11503-11504.

Faso. He also testified to recognising the individuals in Exhibit P-138 as the two Russian pilots of that airplane.<sup>11229</sup>

5060. TF1-539 testified that while they were in Burkina Faso, General Ibrahim had introduced General Sania Samba to the witness as “his boss” at Ouagadougou Airport. Sam Bockarie and Eddie Kanneh, who used to interpret for Bockarie, told TF1-539 that he was going to meet President Blaise Compaoré. Eddie Kanneh later told him that the meeting had taken place but the witness was not present so does not know what was said.<sup>11230</sup>

5061. When the airplane arrived at Roberts Airfield “they” sat for a long time. The witness noted that ECOMOG were at the airport and coming close to the plane. Then Liberian Security personnel, outnumbering ECOMOG arrived. They were the SSS, including Zigzag Marzah and Charles Taylor’s son Chucky. The passengers then came out of the plane and were driven directly to Musa Cissé’s office at the President’s mansion. Sam Bockarie, Musa Cissé, Eddie Kanneh and General Ibrahim then said that they were going to see the President but the witness did not accompany them.<sup>11231</sup> Musa Cissé gave the witness \$USD 2,000.<sup>11232</sup> The witness subsequently learned from Musa Cissé that the cargo had been successfully offloaded.<sup>11233</sup>

5062. A few days later, Bockarie and others loaded three Leyland trucks and a black Land Cruiser with arms and ammunition from the store at Yeaten’s house at the back of White Flower and eventually transferred it all to Buedu along with gymnastic equipment and drums of petrol, diesel and engine oil. The witness’s testimony is not clear as to whether these additional items also came from Burkina Faso. They were accompanied on the journey to Sierra Leone by Colonel Jungle and Colonel Sampson.<sup>11234</sup> En route Bockarie threatened to kill the witness alleging “you, the SLA guys, you are trying to sabotage the operation”. The witness denied Bockarie’s allegation. Upon arriving in Buedu, the witness testified that he was immediately put into a dungeon, a hole underground, with others including Fayia Musa, Palmer and Dr Jalloh so he did not know what happened to the ammunition. Although he later testified that after Mosquito Spray had been cleared and while there was a ceasefire

<sup>11229</sup> TF1-539, Transcript 10 June 2008, pp. 11483-11486.

<sup>11230</sup> TF1-539, Transcript 11 June 2008, pp. 11499-11502.

<sup>11231</sup> TF1-539, Transcript 11 June 2008, pp. 11504-11507, 11509-11510.

<sup>11232</sup> TF1-539, Transcript 11 June 2008, pp. 11510.

<sup>11233</sup> TF1-539, Transcript 11 June 2008, pp. 11511-11512.

with ECOMOG, Issa Sesay took some RPGs and twin barrel ammunition, as well as ammunition for the tank in Kono and 7.62 millimetre NATO and “Warsaw type”. Sesay also took the twin barrel that Bockarie was using to defend his headquarters from the Alpha Jet.<sup>11235</sup>

5063. The witness testified that the trip to Burkina Faso took place around March 1999.<sup>11236</sup> He described hearing over the radio as they returned to Sierra Leone from this trip that Foday Sankoh had just been released for peace talks.<sup>11237</sup>

#### Prosecution Witness Ian Smillie

5064. Ian Smillie, a member of the panel of experts appointed by the Secretary General of the United Nations to investigate and report on the arms trade in Sierra Leone and a co-author of Exhibit P-018,<sup>11238</sup> testified that the Expert Panel had been made aware of, an aircraft a BACIII owned by Mr Leonid Minin. The Experts were unable to access flight records in Liberia but an expert panel member investigated the planes flight records in Spain and talked to a crew member. According to Ian Smillie, these records showed:

“On 16 March the plane was loaded with weapons and flew back to Liberia. On the 17th, it returned to Ouagadougou [...] It flew again from Ouagadougou to Liberia with weapons on the 19th”. That is two flights. [...] “On the 25th the plane flew again from Liberia to Ouagadougou and returned on the same day with weapons. On the 27th the plane flew again to Ouagadougou and from there to Bobo Dioulasso for the weapons that had been trucked there. The aircraft made three flights over the next three days between Bobo Dioulasso and Liberia. On 31 March the plane flew back to Spain”.<sup>11239</sup>

5065. The witness considered these totalled six flights. The crew member told the Panel that the cargo was ammunition and weapons.<sup>11240</sup> The witness produced photographs of the plane taken by one of its crew members at Bobo Dioulasso airport which were given to the

<sup>11234</sup> TF1-539, Transcript 11 June 2008, pp. 11516-11520, 11522-11523; Transcript 12 June 2008, p. 11706.

<sup>11235</sup> TF1-539, Transcript 11 June 2008, pp. 11523, 11535, 11543.

<sup>11236</sup> TF1-539, Transcript 11 June 2008, p. 11509.

<sup>11237</sup> TF1-539, Transcript 11 June 2008, pp. 11521-11522. This occurred in mid April 1999: Exhibit P-313, “United Nations Security Council, Sixth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1999/645, 4 June 1999”, p. 2.

<sup>11238</sup> See Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, p. 3, ERN. 4373, which cites Ian Smillie as one of the co-authors of the Expert Panel Report.

<sup>11239</sup> Ian Smillie, Transcript 7 January 2008, pp. 549-552.

<sup>11240</sup> Ian Smillie, Transcript 7 January 2008, p. 556.

panel. These showed the marking “VPCLM” and a symbol on the tail which the witness stated was from the Seattle Supersonics, a baseball team.<sup>11241</sup>

5066. Taylor told the panel that Minin had come to Liberia wanting to sell the plane as a presidential jet but the price was too high. Taylor had taken a few trips on it. Minin took it back. The witness stated that the BAC111 is an executive jet and could not be used for weapon transfers because of its lack of weight capacity which was why so many trips were required.<sup>11242</sup>

5067. The panel had been made aware of the aircraft by “the Angola Expert Panel” which “had recorded the fact that a large shipment of arms had gone to Burkina Faso”<sup>11243</sup>. He stated that members of the Panel also travelled to Ukraine to verify what had been reported by the Angola panel and received information from the Ukrainian Government that there had been a shipment of 68 tonnes of weapons, the dates and route of the shipment, and verification that the end-user certificate was for Burkina Faso.<sup>11244</sup> Information on the flights was in part obtained from the flight logs of the aircraft in Spain and from airports, Bobo Dioulasso and Ouagadougou but no flight records were made available to the panel in Liberia.<sup>11245</sup> Smillie stated that the panel members also spoke to one of the crew members.<sup>11246</sup>

### The Accused

5068. The Accused said that he did not know about the arms and ammunition brought on the plane and denied “in the most emphatic way” the existence of the March 1999 arms shipment<sup>11247</sup> or his involvement in such a shipment.<sup>11248</sup> According to him, at that time he was busy dealing with preparations for Lomé.<sup>11249</sup> The Accused conceded that the BAC-111 plane mentioned in Exhibit P-018<sup>11250</sup> was indeed in his possession for an unspecified

<sup>11241</sup> Ian Smillie, Transcript 7 January 2008, p. 554.

<sup>11242</sup> Ian Smillie, Transcript 7 January 2008, p. 556.

<sup>11243</sup> Ian Smillie, Transcript 7 January 2008, p. 550.

<sup>11244</sup> Ian Smillie, Transcript 7 January 2008, p. 558.

<sup>11245</sup> Ian Smillie, Transcript 7 January 2008, p. 550.

<sup>11246</sup> Ian Smillie, Transcript 7 January 2008, p. 550.

<sup>11247</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28955-28958.

<sup>11248</sup> Charles Ghankay Taylor, Transcript 25 August 2009, pp. 27673-27674.

<sup>11249</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28956-28957.

<sup>11250</sup> Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, paras 203-211, ERN. 4405-4406.

period between 1998 and 1999, but was used only as a presidential jet and not for the purpose of transporting arms. However, he stated that “we” could not afford it and did not retain it.<sup>11251</sup>

#### Prosecution Exhibit P-018

5069. Exhibit P-018 is the report of the Panel of Experts established by Security Council Resolution 1306-S/2000/1195, dated 20 December 2000 on the link between trade in diamonds and trade in arms in Sierra Leone. The panel noted that the RUF had no access to the sea so weapons and materiel could only be imported by air and road, most of the landing strips in areas under RUF control were not operational and there was a “total lack of governmental oversight in Sierra Leone airspace”<sup>11252</sup> Virtually all of the weapons shipped into RUF territory are trans-shipped through at least two other countries between their point of origin and RUF territory in Sierra Leone. In virtually all cases, the last transit point before shipment into Sierra Leone was Liberia.<sup>11253</sup> Relevantly, the Report states that a shipment of 68 tons of weapons arrived at Ouagadougou, Burkina Faso, on 13 March 1999 and was then transported within a matter of days to Liberia.<sup>11254</sup> The weapons included 715 boxes of weapons and cartridges, 408 boxes of cartridge powder, anti-tank weapons, surface-to-air missiles, and RPGs and RPG launchers.<sup>11255</sup> The weapons supplier was a Ukrainian state-owned company called Ukrspetsexport.<sup>11256</sup> The weapons were sold to a Gibraltar-based company representing the Ministry of Defence of Burkina Faso. The end-user certificate dated 10 February 1999 and signed by Lieutenant-Colonel Gilbert Diendéré (Head of the Presidential Guard of Burkina Faso) came from the Burkina Faso Ministry and authorised the Gibraltar-based company to purchase the weapons for the sole use of the Ministry of

<sup>11251</sup> Charles Ghankay Taylor, Transcript 25 August 2009, pp. 27672-27673.

<sup>11252</sup> Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, para 198-201, ERN. 4405

<sup>11253</sup> See Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, para 202 ERN. 4405

<sup>11254</sup> The panel states that this shipment has been “well documented” See Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, para 204, ERN. 4405

<sup>11255</sup> Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, para. 203, ERN. 4405.

<sup>11256</sup> Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, para. 204, ERN. 4405.

Defence of Burkina Faso and certified that Burkina Faso would be the final destination of the cargo and the end-user of the weaponry.<sup>11257</sup>

5070. The report states that “[t]he weapons in question, however, were not retained in Burkina Faso. They were temporarily off-loaded in Ouagadougou and some were trucked to Bobo Dioulasso. The bulk of them were then trans-shipped within a matter days to Liberia”.<sup>11258</sup> The report also states that “[t]he authorities of Burkina Faso, in correspondence with the United Nations Sanctions Committee on Sierra Leone, denied allegations that the weapons had been re-exported to a third country, Liberia, and during a visit to Burkina Faso the Panel was shown weapons that were purportedly in that shipment”.<sup>11259</sup>

5071. Nevertheless, the Report states that “most” of the weapons were flown to Liberia aboard a BAC-111 plane in a series of flights between 15 March and 31 March 1999. The report details the aircraft’s flights from Ibiza in Spain to Liberia on 8 March 1999 and subsequent trips to Ouagadougou, and its return to Liberia with weapons between 15 and 31 March 1999. It states that the aircraft was owned by the Israeli businessman of Ukrainian origin, Leonid Minin, “a business partner and confidant of Liberian President Charles Taylor” who is “identified in the police records of several countries and has a history of involvement in criminal activities”.<sup>11260</sup> According to the Report, Minin offered the aircraft mentioned above for sale to Charles Taylor as a Presidential jet, and for a period between 1998 and 1999, it was used for this purpose as well as to transport arms. Finally, the Report claims that a second plane, an Antonov operated by the Liberian company named Weasua, had been reported by eye witnesses to have flown part of the cargo to Liberia from Bobo Dioulasso.<sup>11261</sup>

#### Prosecution Exhibit Exhibits P-021A-D

<sup>11257</sup> Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, paras 204-205, ERN. 4405-4406.

<sup>11258</sup> Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, para. 207, ERN. 4406.

<sup>11259</sup> Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, para. 206, ERN. 4406.

<sup>11260</sup> Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, paras 208-209, ERN. 4406.

<sup>11261</sup> Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, para. 210, ERN. 4406.

5072. Exhibits P-021A-D are photographs of the interior and exterior of aircraft. P-021A<sup>11262</sup> shows the interior of an aircraft loaded with boxes strapped to seats and in the spaces in front of the seats. There are no markings on the boxes indicating the content of the boxes. P-021D<sup>11263</sup> is similar except that the photographer is facing the front rather than back of an aircraft. Similar boxes and plastic bags on seats are visible. P-021B<sup>11264</sup> shows the exterior of an airplane with red, orange and black stripes along the visible side, a logo comprising an “S” shape and basketball on the tail and the letters “VPCLM” on the engine. Finally, P-021C<sup>11265</sup> is a picture of a building with the words Bobo-Dioulasso written on the front elevation. Only one wing of an airplane is visible in this photograph.

5073. Exhibits P-021A-D were admitted into evidence through Ian Smillie, who brought them to The Hague at the time of his testimony. He stated that panel members had received the photographs from one of the crew members of the plane described in P-018 in October or November 2000, but he refused to give the name of the individual in order to maintain his/her protection. The information on the date of the photographs came from his colleagues on the Panel. The Trial Chamber notes that there is no indication on the photographs themselves when they were taken. Smillie stated that it was he who wrote “March 1999” on the back of the photographs.<sup>11266</sup> P-021B shows the registration VPCLM, which, Smillie testified, is registered in the Cayman Islands to Leonard Minin. Smillie testified that Taylor had told him that Minin had come to Liberia with the aircraft wanting to sell it as a Presidential jet but that Taylor had told Minin that it was too expensive for Liberia. Taylor had taken a few trips on it, but Minin had taken it back.<sup>11267</sup>

#### Prosecution Exhibit P-032

5074. Exhibit P-032 is a report dated 17 October 2001 of the Panel of Experts established pursuant to Security Council Resolution 1343 (2001) concerning the compliance by the Government of Liberia with its arms embargo and links between Liberia and the conflict in Sierra Leone.<sup>11268</sup> The report describes the involvement of arms dealer Leonid Efimovic

<sup>11262</sup> Exhibit P-021A, “Photograph P-0001171”.

<sup>11263</sup> Exhibit P-021D, “Photograph P-0001174”.

<sup>11264</sup> Exhibit P-021B, “Photograph P-0001172”.

<sup>11265</sup> Exhibit P-021C, “Photograph P-0001173”.

<sup>11266</sup> Ian Smillie, Transcript 7 January 2008, p. 554; Transcript 8 January 2008, pp. 655-657.

<sup>11267</sup> Ian Smillie, Transcript 7 January 2008, p. 555.

<sup>11268</sup> See Exhibit P-022, “United Nations Security Resolution 1343 (2001) Adopted on 7 March 2001”, paras 19-



Minin in facilitating a number of arms shipments entering Liberia during the period when Liberia was under an arms embargo. The report states that Minin's private jet made several trips between the airports of Ouagadougou and Bobo Dioulasso and Monrovia to transport a total of 68 tons of small arms from Burkina Faso to Monrovia in March 1999.<sup>11269</sup>

Prosecution Exhibits P-031, P-035 and Stephen Ellis

5075. Exhibit P-035 is an IRIN news update dated 8 April 1999 adduced through witness Stephen Ellis concerning the involvement of Liberia and Burkina Faso in an arms shipment to the RUF. It states that ECOMOG's force commander in Sierra Leone, General Felix Mujakperuo, has issued a press statement describing events leading up to an alleged delivery of arms to the RUF. Exhibit P-035 notes:

According to the statement, faxed to IRIN by ECOMOG, a Ukrainian registered cargo aircraft, Antonov 124, carrying 68 tons of arms arrived in Ouagadougou on 14 March 1999, and was parked at the presidential wing of the airport. The pilot was told to continue on to Monrovia to deliver the cargo but he refused to do this on the grounds that it was not the initial arrangement, Mujakperuo said.

On 15 March, a smaller aircraft with Ukrainian crew members landed at Robertsville International airport in Liberia, accompanied by a Liberia Special Security Services Director, the statement said. Its cargo, it added, was taken to Gbanga [sic] and then to the Sierra Leone border for delivery to the RUF and to the Guinea border for rebels in Guinea.<sup>11270</sup>

5076. According to Exhibit P-035, the ECOMOG press statement reported that this process continued with additional aircraft and Bockarie "has indicated receipt of the arms from Liberia in recent conversations with some of his commanders".<sup>11271</sup>

5077. Exhibit P-031 is an expert report dated 5 October 2006 prepared by and adduced through witness Stephen Ellis. It cites Exhibit P-035 for its statement that General Felix Mujakperou in April 1999, "publicly accused President Taylor of supplying arms to the RUF by means of Ukrainian-registered aircraft and crews".<sup>11272</sup> Ellis affirmed this statement in his testimony.<sup>11273</sup>

Defence Exhibit D-448

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20, ERN. 100009.

<sup>11269</sup> Exhibit P-032, "Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)", Para 19, Concerning Liberia para. 212, ERN. 4480.

<sup>11270</sup> Exhibit P-035, "IRIN update 438 of events in West Africa, 8 April 1999", ERN. 21259.

<sup>11271</sup> Exhibit P-035, "IRIN update 438 of events in West Africa, 8 April 1999", ERN. 21259.

<sup>11272</sup> Exhibit P-031, "Report for the Special Court for Sierra Leone, 'Charles Taylor and the War in Sierra

5078. Exhibit D-448 is a situation report dated 14 April 1999 from Felix Downes-Thomas to Prendergast at United Nations, New York covering the period 13 to 14 April 1999. It reports that Liberian Defence Minister Daniel Chea “has announced the deployment of additional troops on Liberia’s border with Sierra Leone in response to a recent threat by ECOMOG’s [...] Maj. Gen. Felix Mujakpero to attack RUF rebels’ supply routes in Liberia”. It further reports Chea’s request for disciplinary action against Mujakpero by ECOMOG by way of an apology for the commander’s threats and for the UN to deploy military observers on the Liberia-Sierra Leone border to investigate allegations that Liberia was supplying arms to the RUF rebels.<sup>11274</sup>

### Deliberations

5079. The central contention of the Prosecution is that the shipment or part thereof from Ouagadougou, referred to in Exhibit P-018 as arriving in Liberia a few days after 13 March 1999, was transported to Sierra Leone and provided to the RUF. The Trial Chamber notes that while the evidence of TF1-539 and the report of the ECOMOG press statement in Exhibit P-035 support the allegation that this March 1999 Burkina Faso shipment was the same shipment that made its way to Sierra Leone, Exhibit P-018, P-032 and Ian Smillie do not state that the shipment referred to in Exhibit P-018 was transferred to Sierra Leone.

5080. With regard to the testimony of TF1-539, the Trial Chamber recalls its previous finding that his evidence must be viewed with caution.<sup>11275</sup> The Trial Chamber noted in particular the implausibility of his account that days after being accused of espionage, Marzah took the witness to the Executive Mansion to meet the Accused, where the Accused offered the witness encouraging words, and passed on a gift of \$USD 1,500 to him. The Defence also makes a number of specific challenges to the credibility of TF1-539’s account of the alleged shipment in March 1999. Specifically, it points out that (1) TF1-539 had no good answer as to why he would be brought along to Burkina Faso to identify ammunition when General Ibrahim was an expert at such identification and was also present on the

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Leone’, Report of Stephen Ellis and Corrigenda”, ERN. 22613.

<sup>11273</sup> Stephen Ellis, Transcript 16 January 2008, p. 1472; Transcript 17 January 2008, p. 1474.

<sup>11274</sup> Exhibit D-448, “RSG/MVA/CLN-127, Outgoing Code Cable: Daily SitRep – Covering Period from 1401h 13 April 1999 to 1400h 14 April 1999, From Downes-Thomas, RSG, UNOL, Monrovia to Prendergast, United Nations, New York, April 14 1999”, para. 1, ERN. 29703.

<sup>11275</sup> Credibility Assessment, TF1-539 paras 296-303.

journey and (2) he gave inconsistent testimony about the consignment papers for the ammunition and whose signature was on those papers.<sup>11276</sup>

5081. In relation to the first of the challenges raised by the Defence, the Trial Chamber notes that the witness did not say he was brought for the specific purpose of identifying ammunition; he said that before being asked to go on the mission, Yeaten questioned him about his knowledge of the ammunition needed for named weapons.<sup>11277</sup> Further the Defence is, in effect, asking the witness to speculate on how those planning the trip made their decisions about who or what they needed.<sup>11278</sup>

5082. Concerning the second issue raised by the Defence, the witness testified under cross-examination that he was given several ‘documents’ to hold for the consignment. The witness testified that he saw one document, the one on top that was signed by Musa Cissé which referred to a consignment of gym equipment.<sup>11279</sup> Prior statements relating to Yeaten and the Accused’s signatures were put to him in cross-examination in which he had said that the signatures of Charles Taylor and Benjamin Yeaten were on the papers he was given to hold and also that he had not seen any signatures on the consignment papers. However it was apparent in the course of his testimony that the witness had corrected that statement and made clear that Taylor’s signature was not on the document. The witness emphasised that he had not said that he saw Yeaten’s, only Cissé’s signature.<sup>11280</sup> The Trial Chamber is satisfied that there was more than one interview and that the witness did correct earlier statements; while there was an inconsistency concerning whether Yeaten’s signature was on the consignment notes the Trial Chamber notes the logic of TF1- 539’s sworn testimony that he saw the top document only and accepts his evidence that Cissé’s signature alone was on it.

5083. The Trial Chamber notes that aspects of TF1-539’s account to this Chamber, in particular the description of the passenger plane with “something like a baseball logo at the

<sup>11276</sup> Defence Final Trial Brief, paras. 1457, 1458, citing TF1-539, Transcript 12 June 2008, pp. 11690-11691.

<sup>11277</sup> TF1-539, Transcript 10 June 2008, p. 11444 (“Q. Sir, after Benjamin described to you the weapons that were captured, told you the weapons that were captured, what else was said? A. He asked me whether I will be able to identify those weapons and the ammunition that could be used in them and then after the 40 barrel he also asked me about the Panhard and then I told him, yes, I will be able to identify them and I believe that if they were there and I was able to identify them we will be able to use the weapons”).

<sup>11278</sup> TF1-539 himself stated “If they did not need me, they wouldn’t have used me to be part of that trip”. TF1-539, Transcript 12 June 2008, p. 11691.

<sup>11279</sup> TF1-539, Transcript 12 June 2008 p. 11706.

<sup>11280</sup> TF1-539, Transcript 12 June 2008, pp. 11706-11711.

tail”<sup>11281</sup> is commensurate with the plane depicted in Exhibit P-021B,<sup>11282</sup> which according to Smillie was a photograph of the flight described in P-018.<sup>11283</sup> However, in the interview a month before his testimony before the Trial Chamber, the witness stated that “[t]he flight was a cargo flight with the entrance at the tail end”. TF1-539 explained that he said during interviews that the plane carried cargo but had passenger seats, which is consistent with Exhibit P-018 and his evidence-in-chief. He also testified that he mentioned the colours and a logo on the plane prior to being shown the photograph but that was not recorded.<sup>11284</sup> The Trial Chamber is satisfied that the evidence of TF1-539 concerning the loading of arms and ammunition collected in Burkina Faso and transported by plane to Monrovia is amply corroborated by the evidence in Exhibit P-018 and has not been undermined by the issues raised by the Defence.

5084. It is apparent from Exhibits P-018 and P-032 that the cargo of materiel was too large to be taken directly to Monrovia and had to be flown in a series of flights over the course of the last two weeks of March 1999 in aircraft owned by the Israeli businessman of Ukrainian origin, Leonid Minin.<sup>11285</sup> TF1-539 described the flight that was taking cargo directly from Ouagadougou to Monrovia. He did not say that he accompanied any other flights nor did he purport to have knowledge of other flights.<sup>11286</sup> The Trial Chamber considers Exhibits P-018, P-032, and P-021A-D are based on relevant, reliable and independent documentation and statements and finds that tons of weapons and ammunition originating in Ukraine were shipped to Burkina Faso from where most, but not necessarily all, were transferred in six flights in a BAC-111 aircraft owned by Leonid Minin. The Trial Chamber further finds on the evidence of the Accused and P-018 that the same BAC-111 aeroplane was within the control of the Accused in 1998-1999.

5085. According to TF1-539, from the time between the arrival of the plane in Monrovia to Burkina Faso and their return to Sierra Leone, there was only a lapse of several days.<sup>11287</sup>

<sup>11281</sup> TF1-539, Transcript 10 June 2008, p. 11483; Transcript 11 June 2008, p. 11503.

<sup>11282</sup> Exhibit P-021B, “Photograph P-0001172”.

<sup>11283</sup> Ian Smillie, Transcript 7 January 2008, p. 554; Transcript 8 January 2008, pp. 655-657.

<sup>11284</sup> TF1-539, Transcript 12 June 2008, pp. 11704-11705.

<sup>11285</sup> Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, paras 208-209, ERN. 4406; Exhibit P-032, “Report of the Panel of Experts pursuant to Security Council Resolution 1343 (2001)” para. 212, ERN. 4480.

<sup>11286</sup> TF1-539, Transcript 11 June 2008, pp. 11493-11499, 11503-11504.

<sup>11287</sup> TF1-539, Transcript 11 June 2008, pp. 11516-11520, 11522-11523; Transcript 12 June 2008, p. 11706.

The Trial Chamber notes that in his testimony, TF1-539 gives two different time frames for when this shipment occurred. In examination-in-chief, TF1-539 testified that it took place around March 1999,<sup>11288</sup> after the Freetown Invasion.<sup>11289</sup> On cross-examination, the witness testified that the trip to Burkina Faso took place towards the end of 1998, two weeks after he had been arrested by Zigzag Marzah,<sup>11290</sup> although the witness had previously testified to the arrest occurring after he learnt of the Freetown invasion.<sup>11291</sup> In a prior statement, which he subsequently disavowed, he had stated that it took place in May 1998.<sup>11292</sup> During re-examination, he reverted to 1999,<sup>11293</sup> and acknowledged that his memory for dates is poor.<sup>11294</sup> Furthermore, the Trial Chamber notes that it has considered in another context TF1-539's evidence concerning his encounter with Foday Kallon in Monrovia during his preparations for the mission to Burkina Faso as corroborative of events occurring in late 1998.<sup>11295</sup> The Trial Chamber considers that a witness who had an admitted difficulty with dates and whose testimony concerning the events surrounding the shipment has been found to describe events occurring in late 1998 may have confused an alleged March 1999 shipment from Burkina Faso with the well-established occurrence of the November/December 1998 shipment from Burkina Faso. In this regard, the Trial Chamber notes that TF1-539's account of the trip to Burkina Faso, including the presence of "General Ibrahim", Musa Cissé and Eddie Kanneh on the trip, and the transport of the materiel from White Flower to Buedu by *inter alia*, Jungle and Sampson, correspond to the details of the November/December 1998 shipment.<sup>11296</sup> In light of this, the Trial Chamber is unable to find that TF1-539's evidence substantiates a separate shipment from Burkina Faso in March 1999.

<sup>11288</sup> TF1-539, Transcript 11 June 2008, p. 11509.

<sup>11289</sup> TF1-539, Transcript 11 June 2008, pp. 11506-11508.

<sup>11290</sup> TF1-539, Transcript 12 June 2008, p. 11690.

<sup>11291</sup> TF1-539, Transcript 10 June 2008, pp. 11403-11404, 11697 (where the witness describes learning of the Freetown Invasion from the BBC before his arrest), 11423-11429 (where the witness describes his arrest).

<sup>11292</sup> TF1-539, Transcript 12 June 2008, p. 11697.

<sup>11293</sup> TF1-539, Transcript 12 June 2008, p. 11720.

<sup>11294</sup> TF1-539, Transcript 12 June 2008, p. 11722.

<sup>11295</sup> See *supra*, Provision of Military Personnel: Repatriation of Sierra Leoneans (finding the witness's testimony that he met Foday Kallon in Monrovia in late 1998 after the meeting at the Executive Mansion in preparation for the Burkina Faso shipment, is consistent with the testimonies of Alimamy Bobson Sesay and Issa Sesay on events in late 1998).

<sup>11296</sup> See *supra*, Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Burkina Faso Shipment

5086. Turning to Exhibit P-035, the Trial Chamber recalls that when Exhibit P-035 was admitted into evidence, Defence counsel submitted that as simply a “press release”, P-035 had limited probative value.<sup>11297</sup> The Trial Chamber notes firstly that the Exhibit is not itself a “press release”, but a report from a news service of a press statement allegedly made by ECOMOG Commander General Mujakperou. The Trial Chamber also notes that Stephen Ellis did not confirm any more than what was stated in his expert report, that General Mujakperou had, in April 1999, publicly accused the Accused of supplying arms to the RUF by means of Ukrainian-registered aircraft and crews.<sup>11298</sup> Further, the Trial Chamber notes that the description of the flight in P-035 differs from that of TF1-539 and P-018 and was attributed to General Mujakperou shortly after the flights occurred without the benefit of evidence or detailed research by him. In light of these considerations, the Trial Chamber is of the opinion that Exhibit P-035 is, by itself or in conjunction with the evidence of Stephen Ellis, of limited weight in establishing the truth of the facts asserted concerning the transfer of a shipment of materiel from Ouagadougou to Monrovia and to Sierra Leone.

5087. The Prosecution also relies on Exhibit D-448 in April 1999 contending that the reference in the UN cable by the ECOMOG commander in Sierra Leone to attacking RUF supply routes in Liberia was “no doubt in reference to Taylor’s March shipment to the rebels”.<sup>11299</sup> The Trial Chamber rejects this argument, considering that the reference to a “recent threat” to attack undefined supply lines lacks the necessary precision to draw any reliable inferences.

5088. The Trial Chamber then turns to consider the evidence of the remaining witnesses who testified as to the arrival of a shipment of materiel in Sierra Leone in the first half of 1999. The Trial Chamber notes that none of these witnesses testified that the origins of materiel brought was Burkina Faso, although they agreed that it came from Monrovia.<sup>11300</sup>

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<sup>11297</sup> Defence Objections to tender of the document, Transcript 18 January 2008, p. 1636.

<sup>11298</sup> Exhibit P-031, “Expert Report, ‘Charles Taylor and the War in Sierra Leone’, Report of Stephen Ellis and Corrigenda”, ERN. 22613; Stephen Ellis, Transcript 16 January 2008, ERN. 1472. See *also* Stephen Ellis, Transcript 17 January 2008, p. 1474.

<sup>11299</sup> Prosecution Final Trial Brief, para. 269.

<sup>11300</sup> TF1-371, Transcript 31 January 2008, p. 2751 (CS) (TF1-371 consistently stated that he did not know where the March 1999 arms shipment originated, although he said it was transported from Monrovia); TF1-585, Transcript 8 September 2008, pp. 15731-15732 (TF1-585 referred to the shipment as originating from Monrovia).

5089. TF1-371 testified that between February and March 1999, before the Lomé negotiations began, Bockarie received a “major” shipment of weapons from Monrovia,<sup>11301</sup> which came directly from White Flower.<sup>11302</sup> While TF1-371 described it as one of three “major shipments” received by the RUF, along with the Magburaka shipment in October 1997 and Burkina Faso shipment in November/December 1998, the Trial Chamber notes that his testimony concerning the March 1999 shipment was not as detailed as that relating to the other shipments. TF1-371 failed to mention the alleged March 1999 shipment in an earlier interview in February 2006 and could not explain his failure to do so except for stating that it was “human nature” to forget events that had not occurred “for years”. In another prior interview on November 2005 the witness had testified to there being three major shipments, including one in April 1998 and the Magburaka Shipment but did not mention the alleged March 1999 shipment explicitly. The witness also acknowledged that he had forgotten the March 1999 shipment in these interviews.<sup>11303</sup> However, the Trial Chamber accepts his sworn evidence that there was a major shipment before the Lomé peace talks and that Bockarie travelled to Monrovia and returned “after a week or so” with a consignment in trucks and pick-ups.<sup>11304</sup> The Trial Chamber notes that TF1-371 was in a position to know of the arrival of arms and ammunitions shipments and recalls its finding that TF1-371 is a generally credible witness.<sup>11305</sup>

5090. Karmoh Kanneh also describes a shipment as originating from Monrovia.<sup>11306</sup> The Trial Chamber notes that while Kanneh testified that this event took place between March and April 1998, the context of his account suggests that he is mistaken and the events he described relate to a time in early 1999. He stated that the shipment arrived when LURD forces invaded Lofa, which occurred in the first half of 1999. Further, the witness stated that this was the second arms shipment into Sierra Leone from Liberia that he witnessed, the first one having occurred in the first half of 1998. He also states that the materiel was transported by air to Foya. Kanneh attributed the shipment to the Accused, who gave Bockarie and the

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<sup>11301</sup> TF1-371, Transcript 31 January 2008, pp. 2700-2703 (CS).

<sup>11302</sup> TF1-371, Transcript 31 January 2008, p. 2740 (CS).

<sup>11303</sup> TF1-371, Transcript 31 January 2008, pp. 2705-2709 (CS).

<sup>11304</sup> TF1-371, Transcript 31 January 2008, pp. 2700-2703 (CS).

<sup>11305</sup> Credibility Assessment, TF1-371, paras 220-226.

<sup>11306</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9458-9459, 9462-9466.

witness the ammunition after Bockarie assisted the Accused in “clearing the enemy” from Lofa county.<sup>11307</sup>

5091. TF1-567’s testimony does not actually cite a specific shipment. Rather, the way TF1-567 phrased his evidence — “I used to see them bring ammunition”<sup>11308</sup> — suggests he was referring to multiple occasions over the period of time he was stationed in Buedu. He stated that when they delivered this ammunition, Marzah, Jungle, and Mike Lama told him that it was the Accused who sent it.<sup>11309</sup> However, the Trial Chamber considers that TF1-567’s testimony generally supports the arrival of a shipment of arms and ammunitions sent by the Accused to the RUF around this time.

5092. The Trial Chamber notes the different accounts of the timing of the shipments described by these witnesses.<sup>11310</sup> However, given that these witnesses identify the time of the arrival of the shipment in Buedu with known events viz after the Freetown invasion and the LURD attacks in Lofa county, and that they were living in a remote area coupled with the lapse of time the Trial Chamber finds that their evidence corroborate TF1-371’s evidence that these events occurred around March 1999.

5093. TF1-567 and Kanneh indicated that the shipment originated from the Accused. Although TF1-371 did not state explicitly that the shipment was sent by the Accused, he noted that the consignment came after “Mr Taylor asked Sam Bockarie to beef up their troops in Foya and he went to Monrovia and [...] came with that third consignment”.<sup>11311</sup> TF1-371 also stated that this shipment was paid for by several consignments of diamonds taken by Bockarie to Taylor.<sup>11312</sup> Similarly, TF1-585 testified that Bockarie went to Monrovia for ammunition at Charles Taylor’s invitation.<sup>11313</sup> The Trial Chamber accepts that the evidence of both these witnesses indicated that the shipment originated from the

<sup>11307</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9458-9459, 9462-9466.

<sup>11308</sup> TF1-567, Transcript 4 July 2008, p. 12966 (“whilst we were in Buedu I used to see Zigzag Marzah, Jungle, Mike Lama. I used to see them bring ammunition there”).

<sup>11309</sup> TF1-567, Transcript 4 July 2008, p. 12966.

<sup>11310</sup> TF1-371, Transcript 31 January 2008, pp. 2700, 2703 (CS) (between February and March 1999); TF1-585, Transcript 8 September 2008, pp. 15731-15732 (within two weeks of the retreat from Freetown); Karmoh Kanneh, Transcript 9 May 2008, pp. 9458-9459 (when ULIMO and LURD forces invaded Lofa).

<sup>11311</sup> TF1-371, Transcript 31 January 2008, p. 2751 (CS).

<sup>11312</sup> TF1-371, Transcript 31 January 2008, pp. 2704-2705 (CS).

<sup>11313</sup> TF1-585, Transcript 8 September 2008, pp. 15731-15732 (CS).







Accused. The Trial Chamber also recalls that it had no general reservations concerning the evidence of TF1-371, TF1-567, TF1-585 and Karmoh Kanneh.<sup>11314</sup>

5094. On the evidence of TF1-371, TF1-567, TF1-585 and Karmoh Kanneh, the Trial Chamber is satisfied that on Bockarie's trip to Monrovia around March 1999, he brought back a shipment of materiel supplied by the Accused.

5095. In relation to the quantity of the shipment, TF1-371 testified that the shipment was "large" and "major" and was physically transported to Buedu by "pick-ups and trucks".<sup>11315</sup> The Trial Chamber notes that while Karmoh Kanneh described the materiel that Bockarie as "few", he initially could not recall the quantity of ammunition they received.<sup>11316</sup> In these circumstances, the Trial Chamber accepts TF1-371's testimony that the shipment was large.

### Findings

5096. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that on Bockarie's trip to Monrovia around March 1999, he brought back a large shipment of materiel supplied by the Accused.

#### (v) Alleged trip by Bockarie in August to October 1999

### Submissions of the Parties

5097. The Prosecution submits that when Bockarie travelled to Monrovia as part of the Lomé delegation, at some point in August to October 1999, he returned to Sierra Leone with a helicopter of materiel supplied by the Accused.<sup>11317</sup> The Prosecution relies on the evidence of TF1-567 in respect of its allegation.<sup>11318</sup>

5098. The Defence makes no specific submissions in relation to the allegation that Bockarie brought materiel from Liberia to Sierra Leone in August to October 1999. The Defence adduced evidence from the Accused and Exhibit D-302.

<sup>11314</sup> Credibility Assessment, TF1-371, paras 220-226; Credibility Assessment, TF1-567, paras 313-317; Credibility Assessment, TF1-585, paras 330-333; Credibility Assessment, Karmoh Kanneh, The Role of Intermediaries, para. 2704.

<sup>11315</sup> TF1-371, Transcript 31 January 2008, pp. 2700, 2703 (CS).

<sup>11316</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9458-9459, 9462-9466.

<sup>11317</sup> Prosecution Final Trial Brief, para. 272.

<sup>11318</sup> The Prosecution also cites evidence from the Accused and Issa Sesay but these relate to the presence of



EvidenceProsecution Witness TF1-567

5099. Witness TF1-567, who went with Sam Bockarie to Monrovia during the Lomé peace talks,<sup>11319</sup> testified that following Johnny Paul Koroma's and Foday Sankoh's departure for Freetown in October 1999, Bockarie and Benjamin Yeaten went to meet with the Accused. After the meeting Bockarie relayed to the witness that the Accused had told him that he should try to return to Sierra Leone. The next day Bockarie, TF1-567 and Benjamin Yeaten went to Spriggs Field, where the witness boarded a helicopter with Bockarie which was loaded with up to 15 "sardine" tins of AK rounds and an "RPG bomb with the TNT".<sup>11320</sup> Yeaten explained to Bockarie that this materiel was given to him "by my dad, Charles Taylor" to take to Buedu for the purpose of "keeping security" while Sankoh was in Freetown.<sup>11321</sup> The helicopter was painted in camouflage colour like military uniforms – a green, black and dark brown mix – and belonged to the Accused.<sup>11322</sup>

The Accused

5100. The Accused denied that the trip described by TF1-567 in 1999 occurred. Specifically, he asserted that only white UN helicopters were being used to ferry RUF members back to Sierra Leone. Furthermore, he stated that the Liberian Government did not own a camouflage helicopter in October 1999, saying that it only acquired one in 2000. The Accused also specifically denied providing any arms or ammunition to the RUF at this stage, which would have contravened the peace agreement.<sup>11323</sup>

Exhibit D-302

5101. Exhibit D-302 is the Liberian government's reaction to the UN Panel of Experts Report, dated January 2001, and was adduced through the Accused. In response to

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Bockarie in Monrovia rather than to the specific allegation regarding ammunitions.

<sup>11319</sup> TF1-567, Transcript 4 July 2008, pp. 12974-12976.

<sup>11320</sup> TF1-567, Transcript 4 July 2008, pp. 12982-12983.

<sup>11321</sup> TF1-567, Transcript 4 July 2008, p. 12983.

<sup>11322</sup> TF1-567, Transcript 4 July 2008, pp. 12983-12984.

<sup>11323</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28764-28767.





allegations in the Panel of Experts Report that the Liberian government was delivering arms to the RUF in Sierra Leone via Mi-2 and Mi-17 helicopters, Exhibit D-302 states:<sup>11324</sup>

The Government admits that it does have two (2) Mi 2 civilian helicopters, which were acquired almost a year ago, and two (2) Mi 8 civilian transport helicopters purchased locally five months ago. [...]

The Mi2's are used exclusively for civilian purposes. [...] Paragraph 202 states that the RUF has "been supplied with weapons by helicopter on a sporadic basis before 1997 and on a regular basis since then". It is a fact easily verifiable - that until a year ago there were no Government owned or operated helicopter-s in Liberia. The only helicopters in Liberia were operated by the United Nations.

### Deliberations

5102. It is not disputed that Sam Bockarie was in Monrovia in September 1999<sup>11325</sup> as part of the delegation to Lomé. According to TF1-567, Bockarie did not return to Sierra Leone until after Foday Sankoh's departure for Freetown in October 1999.<sup>11326</sup> According to Issa Sesay, Bockarie was still in Monrovia on 26 September 1999.<sup>11327</sup> The Trial Chamber accepts that Bockarie did not return to Sierra Leone until late September or October 1999. The issue is whether in Bockarie's return journey to Sierra Leone he took with him materiel supplied by the Accused.

5103. The Trial Chamber first recalls its finding that TF1-567 is a credible witness.<sup>11328</sup> When TF1-567's evidence as to this alleged supply of materiel was put to the Accused, the Accused maintained that it would not have been possible for him to have transported materiel in a camouflage coloured helicopter, as the Liberian Government did not own a camouflage helicopter in October 1999, and only acquired one in 2000.<sup>11329</sup>

5104. The Trial Chamber notes that TF1-567 is not the only witness to testify to camouflage-coloured helicopters being used to transport materiel to the RUF during 1999.

<sup>11324</sup> Exhibit D-302, "Preliminary Reaction of the Government of Liberia to the report of the Panel of Experts appointed pursuant to UN Security Council Resolution 1306 (2000) paragraph 19 in relation to Sierra Leone, Monrovia, Liberia, 10 January 2001- DCT 1 (64 pages)", paras 95-96.

<sup>11325</sup> Charles Ghankay Taylor, Transcript 25 November 2008, p. 32441 (Bockarie in Liberia in September 1999); Issa Sesay, Transcript 12 July 2010, pp. 44255-44256 (Bockarie still in Monrovia on 26 September 1999).

<sup>11326</sup> TF1-567, Transcript 4 July 2008, pp. 12982-12983. Foday Sankoh left Monrovia for Freetown in October 1999. Charles Ghankay Taylor, Transcript 14 September 2009, p. 26818; Exhibit D-222, "Code Cable to Prendergast, United Nations, New York, from Downes-Thomas, RSG, UNOL, Sankoh and Koroma's Departure from Monrovia and Return to Freetown, 3 October 1999", para. 1.

<sup>11327</sup> Issa Sesay, Transcript 12 July 2010, pp. 44255-44256.

<sup>11328</sup> Credibility Assessment, TF1-567, paras 313-317.

<sup>11329</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28764-28767.





Karmoh Kanneh testified about returning from Monrovia to Foya with Bockarie in a “combat colour” helicopter when ULIMO and LURD forces invaded Lofa.<sup>11330</sup>

5105. The Trial Chamber also notes that the Accused gave conflicting testimony as to the date at which the Liberian government acquired its own helicopters. First he stated that the Liberian authorities first obtained helicopters in 2000.<sup>11331</sup> According to the Accused, the first helicopters acquired were Mi-2s,<sup>11332</sup> military, camouflage-coloured<sup>11333</sup> helicopters used by the ATU,<sup>11334</sup> and in 2000, he used them to transport Issa Sesay from Lofa to Monrovia for the purpose of peace negotiations.<sup>11335</sup> However, later in his testimony, the Accused stated that the Liberian government was in possession of Mi-2 helicopters from the beginning of 1999,<sup>11336</sup> and confirmed that when Johnny Paul Koroma travelled to Monrovia in August 1999, he was transported by a Liberian, government owned, Mi-2 helicopter.<sup>11337</sup> He then affirmed on cross-examination that the Liberian government had one Mi-2 helicopter as of 1999, and two Mi-2 helicopters as of the end of 1999.<sup>11338</sup>

5106. The Accused’s testimony is partly contradicted by Exhibit D-302, the Liberian government’s reaction to the UN Panel of Expert Report published in January 2001. Exhibit D-302 asserts that the Liberian government only had two Mi-2 civilian helicopters from January 2000 which it used exclusively for civilian purposes,<sup>11339</sup> in contrast to the Accused’s testimony that the government-owned Mi-2s in 2000 were military helicopters used by the ATU.

5107. The Trial Chamber further notes the evidence of TF1-516 that the Accused was using ATU and SSS helicopters in 1999. TF1-516 testified that the SSS helicopters were

<sup>11330</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9461-9463.

<sup>11331</sup> Charles Ghankay Taylor, Transcript 25 August 2009, p. 27664.

<sup>11332</sup> Charles Ghankay Taylor, Transcript 25 August 2009, p. 27667.

<sup>11333</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28803(PS); Transcript 19 August 2009, p. 27121.

<sup>11334</sup> Charles Ghankay Taylor, Transcript 25 August 2009, p. 27655.

<sup>11335</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28803 (PS); Transcript 19 August 2009, p. 27121.

<sup>11336</sup> Charles Ghankay Taylor, Transcript 28 October 2009, p. 30605; see *also* Transcript 16 September 2009, p. 29032 (“We don’t get a helicopter until about 1999”).

<sup>11337</sup> Charles Ghankay Taylor, Transcript 2 November 2009, p. 30847.

<sup>11338</sup> Charles Ghankay Taylor, Transcript 20 January 2010, pp. 33723-33724.

<sup>11339</sup> Exhibit D-302, “Preliminary Reaction of the Government of Liberia to the report of the Panel of Experts appointed pursuant to UN Security Council Resolution 1306 (2000) paragraph 19 in relation to Sierra Leone, Monrovia, Liberia, 10 January 2001– DCT 1 (64 pages)”, paras 95-96.

primarily transport helicopters while the ATU helicopters were used to bomb enemy targets.<sup>11340</sup> In light of the evidence of Karmoh Kanneh, TF1-516 and TF1-567, together with the conflicting testimony of the Accused, the Trial Chamber considers that the Accused's claim that he did not have a camouflage helicopter in September or October 1999 is not credible.

5108. The Trial Chamber finds that TF1-567's account is reliable, supported by the evidence that Sam Bockarie made trips to Monrovia during 1999 from which he returned with ammunition. For this reason, the Trial Chamber accepts TF1-567's evidence that Bockarie did make a trip to Monrovia at an undefined time after the Freetown invasion from which he returned with a supply of ammunition.

5109. In relation to the quantity of materiel, the Trial Chamber notes TF1-567 testified that the helicopter transporting the materiel was loaded with up to 15 "sardine" tins of AK rounds and an "RPG bomb with the TNT".<sup>11341</sup>

#### Findings

5110. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that Bockarie made a trip to Monrovia as part of the Lomé delegation and returned to Sierra Leone in or around late September to October 1999 with a helicopter of materiel supplied by the Accused.

(vi) Alleged shipment from Niger on 22 December 1998 and brought back by Fornie

#### Submissions of the Parties

5111. The Prosecution contends that in addition to the Burkina Faso Shipment, on 22 December 1998 the Accused received a large shipment of arms and ammunition from Niger.<sup>11342</sup> The Prosecution alleges that this shipment was sent by the Accused to Bockarie while the rebel forces were still in Freetown, following a request from Gullit (a.k.a. Alex Tamba Brima). Specifically, it submits that Bockarie sent Fornie and other securities to

<sup>11340</sup> TF1-516, Transcript 8 April 2008, p. 6970.

<sup>11341</sup> TF1-567, Transcript 4 July 2008, pp. 12982-12983.

<sup>11342</sup> Prosecution Final Trial Brief, para. 265.

Monrovia where they obtained ammunition from the Accused's White Flower residential complex that was brought back to Sierra Leone and sent on to the RUF troops at Waterloo fighting to enter the city.<sup>11343</sup> The Prosecution adduced evidence from Fornie and Exhibit P-018 to support its allegations. The Prosecution further cites in support of this allegation the evidence of the Accused that Niger was a transshipment point for weapons that he had purchased in violation of sanctions against Liberia.<sup>11344</sup>

5112. The Defence cites Exhibit P-018 as an example of a conclusory determination that weapons shipments to Liberia necessarily were connected to the Accused and to the hostilities in Sierra Leone.<sup>11345</sup> The Defence also submits that Fornie is lying, premised on what it suggests is the illogicality that at the time of the alleged trip, the RUF had already obtained a significant amount of ammunition during its December offensive against ECOMOG which, it submits, dwarfed the amounts collected from White Flower. In these circumstances, it argues that Bockarie would not need 25 boxes from Liberia to send to Gullit, if he already had over 100 boxes of ammunition captured from ECOMOG. The Defence posits that, if Bockarie did resupply Gullit, he did so from his own supply.<sup>11346</sup> The Defence also contends more generally that the arms and ammunition used by the AFRC in the Freetown invasion came exclusively from those captured along the way.<sup>11347</sup> To support this contention, it cites evidence from Issa Sesay and the Accused.

### Evidence

#### Prosecution Witness Dauda Aruna Fornie

5113. Dauda Aruna Fornie testified that two days after the 6 January attack on Freetown, Gullit was requesting ammunition from Sam Bockarie so Bockarie contacted Benjamin Yeaten requesting ammunition. Bockarie was too busy co-ordinating the front lines and so he sent Fornie and two others to Monrovia where they were met by Yeaten. Yeaten took

<sup>11343</sup> Prosecution Final Trial Brief, paras 12, 266.

<sup>11344</sup> Charles Ghankay Taylor, Transcript 28 January 2010, pp. 34431-34433.

<sup>11345</sup> Defence Final Trial Brief, para. 1080, footnote 3104.

<sup>11346</sup> Defence Final Trial Brief, para. 1115.

<sup>11347</sup> Defence Final Trial Brief, para. 1112.





them to White Flower where they retrieved approximately 25 boxes of ammunition and some RPGs and grenades and returned to Buedu, all within 36 hours.<sup>11348</sup>

5114. Fornie testified that the ammunition he brought back to Buedu immediately after the Freetown invasion was despatched directly to Kono where Peter Vandi received it and sent it directly on to Issa Sesay in Makeni who despatched it to Rambo and others in the Waterloo area. The ammunition reached Rambo approximately 3 days after Fornie came with them to Buedu. The witness explained that he knew all this because it was written down in the message log book.<sup>11349</sup>

#### Prosecution Exhibit P-018

5115. Exhibit P-018 is the report by the Panel of Experts established by Security Council Resolution 1306-S/2000/1195, dated 20 December 2000. The Report documented a shipment of weapons and related equipment in December 1998 which moved from Niamey Airport in Niger to Liberia in two separate trips on a BAC-111 airplane owned by an Israeli businessman of Ukrainian origin named Leonid Menin. On the second trip the panel found that the plane carried “a consignment of weapons, probably from existing stocks of the armed forces of Niger”, and were loaded onto Liberian military vehicles. The Report noted that a “few days after these events, the RUF rebels started a major offensive that eventually resulted in the destructive January 1999 raid on Freetown”.<sup>11350</sup>

5116. The Prosecution tendered Exhibit P-18 through Ian Smillie who, as an expert witness on the diamond trade and West Africa, was appointed to the panel of experts who created the report.<sup>11351</sup>

#### The Accused

5117. The Accused denied the allegations that he or Sam Bockarie brought back arms from Burkina Faso on the 22 December 1998 for the January 6 invasion.<sup>11352</sup> The Accused admitted that in 2001 his government bribed officials from other countries in order to

<sup>11348</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21522, 21594-21595.

<sup>11349</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21595-21596.

<sup>11350</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306-S/2000/1195, Adopted on 20 December 2000”, paras 208, 211, ERN. 4406.

<sup>11351</sup> Ian Smillie, Transcript 7 January 2008, pp. 505-508.

<sup>11352</sup> Charles Ghankay Taylor, Transcript 18 February 2010, pp. 35406-35415.

transport arms and ammunition through that country.<sup>11353</sup> Niger was one of the transshipment points for weapons that he had purchased in violation of sanctions. However, the Accused denied that the weapons he obtained from such shipments were used to reinforce the RUF and its allies in December 1998 or January 1999.<sup>11354</sup>

5118. The Accused also stated that he did not send ammunition to Freetown in January 1999; at that time he was in the final stages of the programme of burning arms, which ended in July 1999, and had no arms to supply.<sup>11355</sup>

#### Defence Witness Issa Sesay

5119. Issa Sesay testified that he was in Makeni at the time of the Freetown invasion in January 1999.<sup>11356</sup> During the Freetown invasion, Gullit called Bockarie after they had captured the State House and their troops were at the Congo Cross Bridge. Gullit asked Bockarie to send reinforcements and ammunition.<sup>11357</sup>

5120. During the Freetown invasion, Sesay denied knowledge of Bockarie telephoning Benjamin Yeaten.<sup>11358</sup> Sesay denied hearing that Benjamin Yeaten had given instructions to Bockarie, via satellite phone, for Gullit to send the politicians from Pademba Road Prison to Buedu for safety. Sesay repeated his earlier account where he went to Waterloo to collect Gibril Massaquoi and the politicians.<sup>11359</sup> Sesay denied any involvement by Benjamin Yeaten or Taylor in the invasion of Freetown on 6 January 1999.<sup>11360</sup>

#### Deliberations

5121. The Trial Chamber understands the Prosecution's case to be that the Accused supplied Bockarie with ammunition during the Freetown invasion with materiel from the Niger shipment. However, the Trial Chamber notes that Fornie made no reference in his evidence to a shipment arriving from Niger, and Exhibit P-018 connects these events only

<sup>11353</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32496-32498; Transcript 26 November 2009, pp. 32528-32529; Transcript 14 January 2010, pp. 33353-33355.

<sup>11354</sup> Charles Ghankay Taylor, Transcript 28 January 2010, pp. 34433-34434.

<sup>11355</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29270-29271; Transcript 27 October 2009, pp. 30452-30453.

<sup>11356</sup> Issa Sesay, Transcript 11 August 2010, pp. 46073-46074.

<sup>11357</sup> Issa Sesay, Transcript 9 July 2010, p. 44162.

<sup>11358</sup> Issa Sesay, Transcript 11 August 2010, p. 46077.

<sup>11359</sup> Issa Sesay, Transcript 11 August 2010, pp. 46077-46078.



by temporal proximity. Further, the two accounts are not commensurate: Exhibit P-18 implies that the Niger shipment precipitated the commencement of the Freetown invasion, while Fornie's account is that they received ammunition from the Accused two days after that invasion began. For these reasons, the Trial Chamber considers that the Prosecution has not established that the Niger shipment was taken to Sierra Leone.

5122. Nonetheless, the Trial Chamber will examine whether Dauda Aruna Fornie's evidence can sustain an independent allegation that a shipment from the Accused to Bockarie was brought from Liberia to Sierra Leone while rebel forces were still in Freetown in January 1999.

5123. Concerning Fornie's evidence that Gullit communicated to Bockarie during the Freetown invasion that he was short of ammunition, it is an adjudicated fact that at some point during the operation, following heavy assaults from ECOMOG, Gullit's troops were running out of ammunition, forcing them to retreat from Freetown.<sup>11361</sup> It is not disputed that Gullit contacted Bockarie when he was at the State House to inform him of the capture of the city and to ask for reinforcements.<sup>11362</sup> It is likely that at that point, facing shortages of ammunition, he would have also asked for further supplies.

5124. The Defence contends that even if Gullit requested ammunition, as the RUF had already obtained a significant amount of ammunition during its December offensive against ECOMOG, it is implausible that Bockarie would have sent Fornie to bring back 25 boxes of materiel rather than supplying Gullit's forces from the large stockpiles of captured materiel.<sup>11363</sup>

5125. The Trial Chamber notes the evidence concerning the capture of significant amounts of materiel during the December 1998 offensives.<sup>11364</sup> However, the Trial Chamber

<sup>11360</sup> Issa Sesay, Transcript 11 August 2010, pp. 46078-46079.

<sup>11361</sup> Decision on Judicial Notice, 23 March 2009, Annex A, Fact, Fact 15.

<sup>11362</sup> Defence Final Trial Brief, paras 617, 633; TF1-371, Transcript 28 January 2008, p. 2427 (CS) (Gullit's forces called for reinforcements from the State House); Foday Lansana, Transcript 22 February 2008, p. 4560 (When Gullit captured the Statehouse in Freetown and advanced on Pademba Road Prison he reported this to Sam Bockarie); Alimamy Bobson Sesay, Transcript 22 April 2008, p. 8288 (Gullit also called Issa Sesay and Superman when he captured the State House); Alice Pyne, Transcript 19 June 2008, pp. 12274-12275 (On 6 January 1999, the witness heard radio operators who had gone to Freetown as part of the group that left Rosos announce over the radio network that they had entered Freetown. She also heard Gullit himself communicating to Bockarie that they had captured Freetown)

<sup>11363</sup> Defence Final Trial Brief, para. 1115.

<sup>11364</sup> See *supra*, Arms and Ammunition: Other Sources of Materiel, Captured Materiel.

considers that the fact that Bockarie had captured a large amount of materiel during December 1998 does not preclude the necessity of further supplies, especially considering that during the Freetown invasion, Bockarie's commanders continued to launch offensives on the Segbwema-Daru axis, towards Kenema, as well as on the Makeni-Freetown axis.<sup>11365</sup>

5126. The Trial Chamber recalls its finding that Dauda Aruna Fornie is a generally credible witness.<sup>11366</sup> The Trial Chamber also recalls its previous findings in that during the Freetown operation, Bockarie was in regular communication with Yeaten and the Accused concerning operational issues relating to the Kono-Freetown attack in late December 1998 to January 1999. The Trial Chamber there accepted Dauda Aruna Fornie's evidence that he was often in the radio room with Bockarie during the conversations with Yeaten.<sup>11367</sup> The Trial Chamber also notes that Fornie gave first hand evidence of going to Monrovia and retrieving ammunition from White Flower, assisted by Benjamin Yeaten,<sup>11368</sup> and has no reason to doubt his evidence as to the trip. While Fornie did not directly testify as to the ammunition originating from the Accused, the Trial Chamber considers that his evidence that it came from White Flower and was facilitated by Benjamin Yeaten, the Accused's subordinate,<sup>11369</sup> to be sufficient to establish that the Accused either sanctioned or was aware of the supply to Fornie.

5127. The Trial Chamber notes that the Accused also stated that he did not send ammunition to Freetown in January 1999; at that time he was in the final stages of the programme of burning arms, which ended in July 1999, and had no arms to supply.<sup>11370</sup> However, the Trial Chamber recalls that the Accused had previously testified that the programme of the destruction of arms in Liberia ended in October 1999,<sup>11371</sup> and this is supported by documentary evidence.<sup>11372</sup> The Trial Chamber also recalls its previous conclusion that in spite of the disarmament process, Liberia had the capacity to supply arms

<sup>11365</sup> See *supra*, Military Operations: The Freetown Invasion, The Implementation of the Plan.

<sup>11366</sup> Credibility Assessment, Dauda Aruna Fornie, paras 346-358.

<sup>11367</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21609-21610; See *supra*, Military Operations: The Freetown Invasion, Allegation that the Accused Directed the Freetown Invasion.

<sup>11368</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21522; 21594-21595.

<sup>11369</sup> See *supra*, The Role of Intermediaries: Benjamin Yeaten.

<sup>11370</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29270-29271; Transcript 27 October 2009, pp. 30452-30453.

<sup>11371</sup> Charles Ghankay Taylor, Transcript 17 August 2009, pp. 26902-26903.

<sup>11372</sup> Exhibit D-369, "Statement Attributable to the Spokesman of the Secretary-General: Weapons Disposal in Liberia, New York, 18 October 1999 – DCT 338 (2 pages)", p.1 (welcoming the completion of the weapons

and ammunitions to the rebel groups in Sierra Leone from its own supplies, and to facilitate larger arms shipments through third countries.<sup>11373</sup>

5128. In light of the direct evidence of Dauda Aruna Fornie, which the Trial Chamber considers to be credible, the Trial Chamber is satisfied that during the Freetown invasion, Fornie travelled to Liberia to bring back ammunition and arms supplied by the Accused during the Freetown invasion.

5129. Concerning the destination of the shipment, the Trial Chamber also accepts Fornie's testimony that ammunition he brought back to Buedu was ultimately despatched to Rambo and others in the Waterloo area, noting that Fornie testified that he knew the destination of the ammunition he brought back to Buedu because it was written down in the message log book.<sup>11374</sup> The Trial Chamber will further assess the use of this shipment in the section of the Judgement dealing with the use of materiel supplied or facilitated by the Accused.

### Findings

5130. The Prosecution has proved beyond reasonable doubt that during the Freetown invasion in January 1999, Dauda Aruna Fornie and others transported materiel provided by the Accused from Liberia to Sierra Leone.

#### (c) During Issa Sesay's Leadership (December 1999-January 2002)

##### (i) Alleged deliveries from the Accused

#### Submissions of the Parties

5131. The Prosecution submits that during Issa Sesay's reign as Interim Leader, the Accused continued to send arms and ammunition to the RUF on request by Sesay,<sup>11375</sup> via the Accused's subordinates, including Joseph (a.k.a. Zigzag) Marzah, Daniel Tamba (a.k.a. Jungle), Sampson Weah, Dopoe Menkarzon, Roland Duoh (a.k.a. Amphibian Father) and Christopher Varmoh (a.k.a. Liberian Mosquito).<sup>11376</sup> The Prosecution cites the evidence of

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destruction programme in Liberia which commenced on 25 July 1999).

<sup>11373</sup> See *supra*, Arms and Ammunition: Preliminary Issues, Shortage of Materiel in Liberia.

<sup>11374</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21595-21596.

<sup>11375</sup> Prosecution Final Trial Brief, para. 274.

<sup>11376</sup> Prosecution Final Trial Brief, para. 276.



TF1-516 to support its contention that the transport of arms and ammunition from the Accused to the RUF continued beyond Bockarie's departure from the RUF in December 1999. It has also adduced relevant evidence from Varmuyan Sherif, Joseph Marzah, TF1-567 and Exhibits P-099A and P-099B.

5132. The Defence submits that due to a lack of military operations in 2000 and 2001, and "evidence of few atrocities against civilians", the RUF had no need to obtain large quantities of arms and ammunition. The arms and ammunitions it did obtain were captured from ECOMOG soldiers, or taken from UN peacekeepers in May 2000.<sup>11377</sup>

5133. The Defence also submits that by December 1999, Daniel Tamba had left Sierra Leone and the RUF, with Bockarie, and that once back in Liberia, he went on to fight under Benjamin Yeaten against the LURD insurgency.<sup>11378</sup> It relies on the evidence of Jabaty Jaward, Issa Sesay, DCT-008 and the Accused.

## Evidence

### Prosecution Witness TF1-516

5134. According to Witness TF1-516, the practice of making requests via radio to Yeaten for materiel remained the same when Issa Sesay took over command of the RUF, although Sesay was now in Kono rather than Buedu.<sup>11379</sup> TF1-516 testified that the same persons involved in the transport of materiel when Bockarie was leader, including Zigzag, Jungle, Sampson Weah, and Dopoe, were also involved in transport of materiel to Sesay, with the addition of Roland Duoh and Liberian Mosquito.<sup>11380</sup>

5135. The witness stated that in early 2001, Momoh Gibba brought a supply of rifles to Benjamin Yeaten's house. After some time, the rifles were flown to Foya. Issa Sesay himself took part of the materiel to Kono. The remainder was distributed to RUF combatants who were to participate in an operation in Guinea.<sup>11381</sup> The witness saw the arrival of the

<sup>11377</sup> Defence Final Trial Brief, paras 1128-1130.

<sup>11378</sup> Defence Final Trial Brief, para. 1117.

<sup>11379</sup> TF1-516, Transcript 9 April 2008, pp. 7010-7011.

<sup>11380</sup> TF1-516, Transcript 8 April 2008, pp. 6956-6958, 7011.

<sup>11381</sup> TF1-516, Transcript 8 April 2008, p. 6959.

rifles at Yeaten's house when he was at the radio station "Base One", and he travelled with the rifles to Foya.<sup>11382</sup>

5136. TF1-516 stated that Roland Duoh (a.k.a. Amphibian Father)<sup>11383</sup> came to be based in Buedu in 2001 when Foya fell to the LURD. During the period when troops based in Buedu were fighting the LURD in Liberia, ammunition and supplies first arrived by helicopter to a village called Tuba in Liberia. At some point, this was no longer possible due to attacks by LURD, and Roland Duoh began to transport ammunition by truck from Vahun to Buedu.<sup>11384</sup>

5137. The witness stated that the supplies were used by Liberian soldiers and RUF in Buedu in efforts to regain control of Foya.<sup>11385</sup> At one point, the witness was assigned by Yeaten to support Duoh, and the witness travelled with Duoh from Vahun to Buedu, transporting ammunition. At the time it was difficult to make the trip with materiel because UN peacekeepers were monitoring the border to prevent such movements as disarmament in Sierra Leone had already begun.<sup>11386</sup>

#### Prosecution Witness Varmuyan Sherif

5138. Varmuyan Sherif testified that together with RUF, he fought against LURD. The RUF contingent operated in Foya, Kolahun and Voinjama and reported directly to Benjamin Yeaten.<sup>11387</sup> At this time, Taylor provided arms to Benjamin Yeaten and in return Yeaten distributed them among the groups that fought in Lofa County.<sup>11388</sup> Taylor would call the chiefs of staff directly to White Flower and give them the ammunition which was then transported in cars to the chiefs' respective locations.<sup>11389</sup>

5139. According to Sherif, Roland Duoh was a commander for the navy and was the Security Director at the OTC, the Oriental Logging Company at Buchanan which Taylor had

<sup>11382</sup> TF1-516, Transcript 8 April 2008, p. 6997.

<sup>11383</sup> TF1-516, Transcript 9 April 2008, p. 6996.

<sup>11384</sup> TF1-516, Transcript 9 April 2008, pp. 6994-6995, 7088-7089.

<sup>11385</sup> TF1-516, Transcript 9 April 2008, pp. 6994-6995.

<sup>11386</sup> TF1-516, Transcript 9 April 2008, pp. 7094-7095.

<sup>11387</sup> Varmuyan Sherif, Transcript 10 January 2008, p. 898.

<sup>11388</sup> Varmuyan Sherif, Transcript 10 January 2008, p. 899.

<sup>11389</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 906-908.

exclusive rights over.<sup>11390</sup> He had also been a junior commando.<sup>11391</sup> Roland Duoh himself would transport the ammunition to Foya from James Spring Field.<sup>11392</sup> Sherif transported the arms to White Flower at Congo Town and sometimes stored them at the back of his house ready to be taken to the front line.<sup>11393</sup> He received arms and ammunition totalling not less than 250 bags of AK 47, 50 RPG bomb and he sometimes received 300 arms for the army division from Taylor himself at his residence.<sup>11394</sup>

#### Prosecution Witness Joseph Marzah

5140. Joseph Marzah testified that he was only involved in the transportation of arms from the point when ULIMO disarmed, during “the time Mosquito was there up to Issa Sesay’s administration”.<sup>11395</sup> He also stated, in response to a question as to whether he took any orders from Taylor concerning Issa Sesay, “[w]hen Issa Sesay was there I received orders to ammos for him [sic]”.<sup>11396</sup> Marzah also stated that Taylor ordered him to execute Issa Sesay because Sesay had “connived” with UN personnel to disarm.<sup>11397</sup> Taylor told Marzah that he had sent for Issa Sesay to receive ammunition at Buedu.<sup>11398</sup> Marzah then crossed over from Kono to Mile Five River and crossed by ferry to Pedembu, Kailahun District where he spent almost two weeks waiting to execute Issa Sesay. Taylor then called him stating that Issa Sesay “had already connived” and would no longer receive supplies from Taylor.<sup>11399</sup> According to Marzah, this occurred around the end of 2002, after the process of RUF disarmament had begun, although he was not quite sure of the date.<sup>11400</sup>

#### Prosecution Witness TF1-567

5141. Witness TF1-567 testified that when LURD was in control of Lofa County in 2000, Taylor would use helicopters to transport arms and ammunition to Foya, which would then be trucked into Sierra Leone. He noted that if Benjamin Yeaten was not at Foya, “if there

<sup>11390</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 877; Transcript 10 January 2008, pp. 894-895.

<sup>11391</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 877.

<sup>11392</sup> Varmuyan Sherif, Transcript 10 January 2008, p. 907.

<sup>11393</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 905-906.

<sup>11394</sup> Varmuyan Sherif, Transcript 10 January 2008, p. 908.

<sup>11395</sup> Joseph Marzah, Transcript 12 March 2008, p. 5875.

<sup>11396</sup> Joseph Marzah, Transcript 12 March 2008, p. 5895.

<sup>11397</sup> Joseph Marzah, Transcript 12 March 2008, p. 5897.

<sup>11398</sup> Joseph Marzah, Transcript 12 March 2008, p. 5896.

<sup>11399</sup> Joseph Marzah, Transcript 12 March 2008, pp. 5896-5898.

<sup>11400</sup> Joseph Marzah, Transcript 12 March 2008, p. 5899.

was another commander there like a commander who was called Amphibian Father, he will be there to organise to see that the ammunition moves across to meet Issa Sesay in Sierra Leone".<sup>11401</sup>

Prosecution Witness Jabaty Jaward

5142. According to Jabaty Jaward, in December 1999, Jungle and others accompanied Bockarie when he left Buedu for Monrovia.<sup>11402</sup> Jungle said to the witness that he and the other members of Bockarie's company were going to stay in Liberia for the meantime, as Bockarie had been removed from membership of the RUF. Jungle also told the witness that Bockarie warned those that would stay with him in Monrovia not to return to Sierra Leone as Issa Sesay would do harm to them because they were Bockarie loyalists.<sup>11403</sup>

The Accused

5143. In response to TF1-516's evidence, the Accused denied that Dopoe Menkarzon, Christopher Varmoh and Roland Duoh ever transported ammunition from Liberia to Sierra Leone. The Accused stated that Duoh, Menkarzon and Varmoh were senior personnel who would never carry supplies of ammunition across the border.<sup>11404</sup> In particular, Duoh was one of the most senior generals in the Liberian forces, the chief of staff of the Navy division, a colleague of Benjamin Yeaten and served as Assistant Secretary of Defence to the government of Ellen Johnson-Sirleaf.<sup>11405</sup> The Accused acknowledged that when LURD began their attacks, he appointed Roland Duoh to lead units against LURD.<sup>11406</sup>

5144. The Accused also acknowledged that Christopher "Vambos", whom he referred to as the "Mosquito" in Liberia, knew Bockarie during the period when the NPFL had cooperated with the RUF and had assisted the Accused in contacting Bockarie in early 1998.<sup>11407</sup>

Defence Witness Issa Sesay

<sup>11401</sup> TF1-567, Transcript 7 July 2008, p. 13109.

<sup>11402</sup> Jabaty Jaward, Transcript 14 July 2008, pp. 13569-13570.

<sup>11403</sup> Jabaty Jaward, Transcript 14 July 2008, p. 13445.

<sup>11404</sup> Charles Ghankay Taylor, Transcript 27 October 2009, pp. 30454-30455.

<sup>11405</sup> Charles Ghankay Taylor, Transcript 27 October 2009, pp. 30454-30455.

<sup>11406</sup> Charles Ghankay Taylor, Transcript 18 November 2009, pp. 32045-32046.

<sup>11407</sup> Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24337-24338.

5145. According to Issa Sesay, in 2001 it was not necessary for the RUF to trade diamonds for arms and ammunition. They had a supply of arms and ammunition captured from ECOMOG and government sources in December 1998.<sup>11408</sup> The RUF still had arms and ammunition in 2000 to 2001 left from what they had captured from previously.<sup>11409</sup> Further, Sesay testified that during 2001, the RUF had already disarmed in some areas: Kambia District, Lunsar and Tonkolili and they were disarming in Kono.<sup>11410</sup>

5146. Sesay also testified that from December 1999, when Bockarie withdrew from the RUF, Jungle did not come back to Sierra Leone until the end of disarmament by the RUF.<sup>11411</sup>

Defence Witness DCT-008

5147. Witness DCT-008 testified that he did not hear about Yeaten sending Sampson, Jungle, Dopoe or Zigzag Marzah into Sierra Leone after Bockarie's departure in late 1999. He likewise never saw any of those, or anyone else, depart for Sierra Leone.<sup>11412</sup>

Prosecution Exhibits P-099A and P-099B

5148. Exhibit P-099A is a redacted version of a composition book of handwritten radio communication between Benjamin Yeaten and Issa Sesay. Exhibit P-099B is a redacted copy of Exhibit P-099A. It records a message from "Gen 50 (SSS Director, Lib)" to Issa Sesay on 30 September 2001. In the message, Gen 50 informs Sesay that pursuant to a telephone conversation the day before, he has despatched:

10 boxes of AK rounds, 10 boxes of RPG rockets (All with TNTs) for smooth operation. Colonel Gbovay is en route together with one of your men (Major Takpor) assigned at Foya Airfield.<sup>11413</sup>

5149. On the next page, the Exhibit records a message from General "Issah" Sesay from "Gen 50" dated 22 October 2001 stating:

<sup>11408</sup> Issa Sesay, Transcript 28 July 2010, pp. 44809-44810, 47195.

<sup>11409</sup> Issa Sesay, Transcript 26 August 2010, pp. 47193-47195.

<sup>11410</sup> Issa Sesay, Transcript 26 August 2010, pp. 47193-47195.

<sup>11411</sup> Issa Sesay, Transcript 29 July 2010, p. 45078 (PS); Transcript 1 September 2010, p. 47229.

<sup>11412</sup> DCT-008, Transcript 28 August 2010, p. 47624.

<sup>11413</sup> Exhibit P-099A, (confidential); see Exhibit P-099B, "Composition Book of Handwritten Radio Communication Between Benjamin Yeaten and Issa Sesay - 00019148 - 00019193 - Redacted Version - Public", ERN 19181.



Be info that your men headed by Col [illegible] have retreated from Guinea leaving no security at the border. This man appear not to be under control. I have learnt that there has been a serious fighting going on in Foya Airfield between Col [illegible] and some AFL commanders.<sup>11414</sup>

5150. Exhibit P-099A was adduced through radio operator TF1-516, who testified that his task from mid-1999 was to receive messages from, and transmit messages to, RUF leaders in Sierra Leone, specifically Sam Bockarie and Issa Sesay, on behalf of Benjamin Yeaten.<sup>11415</sup> He affirmed that the Exhibit belonged to him.<sup>11416</sup> TF1-516 testified that “50” was a code name for Benjamin Yeaten.<sup>11417</sup> TF1-516 testified that the messages dated 30 September 2001 and 22 October 2001 was received from Base 1, and was to be relayed to Issa Sesay’s radio station in Buedu.<sup>11418</sup> He explained that this was the period when “we were in Buedu and the forces, Amphibian Father and others, fought hard to retake Foya, so they were still in Foya together with the RUF fighters who were there”. He testified that the message was received in code, transcribed and remained in the book until handed over to the OTP.<sup>11419</sup>

5151. The Defence challenged the reliability of the Exhibit at Trial, noting that although labelled as a 96-page exercise book, it contained only 44 pages.<sup>11420</sup> The witness explained that the two radio messages recorded had long been written on two pages in an older composition book. He then tore out of that book a number of pages. The book was then reproduced into a new composition book, what is now Exhibits P-99A and P-99B, by Rebecca, a girl staying with the witness who wanted to be trained in signal communication, in 2001.<sup>11421</sup> The witness himself added some notes to the new notebook.<sup>11422</sup>

### Deliberations

5152. The Trial Chamber recalls that the majority of the witnesses who testified to seeing, *inter alia*, Tamba, Marzah and Weah deliver supplies to the RUF largely limit their evidence

<sup>11414</sup> Exhibit P-099A, (confidential); see Exhibit P-099B, “Composition Book of Handwritten Radio Communication Between Benjamin Yeaten and Issa Sesay - 00019148 - 00019193 - Redacted Version – Public”, ERN 19182.

<sup>11415</sup> TF1-516, Transcript 8 April 2008, p. 6862.

<sup>11416</sup> TF1-516, Transcript 8 April 2008, pp. 6864-6865.

<sup>11417</sup> TF1-516, Transcript 8 April 2008, pp. 6858-6860.

<sup>11418</sup> TF1-516, Transcript 9 April 2008, pp. 7109-7111.

<sup>11419</sup> TF1-516, Transcript 9 April 2008, pp. 7112-7113.

<sup>11420</sup> TF1-516, Transcript 10 April 2008, p. 7218.

<sup>11421</sup> TF1-516, Transcript 10 April 2008, pp. 7218-7221.

<sup>11422</sup> TF1-516, Transcript 10 April 2008, pp. 7261-7262.

to the years 1998 to 1999. Only Joseph Marzah and TF1-516 directly testified as to the continuation of the delivery of supplies by these persons after Bockarie left the RUF in December 1999.<sup>11423</sup>

5153. The Trial Chamber recalls its findings that the testimony of Joseph Marzah should be treated with caution.<sup>11424</sup> The Trial Chamber also has doubts concerning his evidence as to delivering materiel during Issa Sesay's reign as leader. While Marzah indicates that he received instructions to deliver arms and ammunitions "[w]hen Issa Sesay was there",<sup>11425</sup> he does not give evidence of any particular instance in which he successfully carried out these orders. Marzah only testified to Taylor sending for Sesay under the pretense of supplying materiel as a ruse for Marzah to carry out the execution of Sesay around the end of 2002. Marzah's account of this incident is confusing and unclear and he was not cross-examined on his testimony as to the event.

5154. To the extent of Marzah's continued involvement in the supply of materiel to the RUF in 2000 to 2001, Marzah's account is corroborated by TF1-516. The Trial Chamber had no general reservation about the credibility of TF1-516.<sup>11426</sup> In the Trial Chamber's view, TF1-516 gave a credible and consistent account. As the basis for his knowledge, TF1-516 testifies that as radio operator, he facilitated direct conversations between Sesay and Yeaten in which Sesay requested materiel. TF1-516 testified that from mid-1999<sup>11427</sup> to January 2001,<sup>11428</sup> he had been assigned by Sesay to Monrovia to work for Yeaten as a radio operator.<sup>11429</sup> The Trial Chamber considers that TF1-516's assignment by Issa Sesay as Yeaten's radio operator during this time, and living in Benjamin Yeaten's compound,<sup>11430</sup> makes him a reliable witness as to whether requests for materiel were made and satisfied, how they were satisfied and Yeaten's daily activities in general. Hence, while the Trial Chamber is sceptical as to Marzah's account of being ordered to execute Issa Sesay, it

<sup>11423</sup> However, some witnesses testify as to the continued involvement of Jungle and Marzah in facilitating Issa Sesay's trips to Liberia. see Abu Keita, Transcript 23 January 2008, pp. 2030-2032; TF1-371, Transcript 29 January 2008, p. 2458 (CS).

<sup>11424</sup> Credibility Assessment, Joseph Marzah, paras 263-268.

<sup>11425</sup> Joseph Marzah, Transcript 12 March 2008, p. 5895.

<sup>11426</sup> Credibility Assessment, TF1-516, paras 275-284.

<sup>11427</sup> TF1-516, Transcript 10 April 2008, pp. 7168-7169.

<sup>11428</sup> TF1-516, Transcript 9 April 2008, p. 7066.

<sup>11429</sup> TF1-516, Transcript 9 April 2008, p. 7009 (The witness describes his duties while working for Benjamin Yeaten).

<sup>11430</sup> TF1-516, Transcript 15 April 2008, p. 7638.

accepts his evidence, which is corroborated by TF1-516, as to being involved in the transportation of materiel after December 1999.

5155. For their submission that Tamba had by this time permanently left the RUF, the Defence relies primarily on the evidence of DCT-008 and Jabaty Jaward. The Trial Chamber is not satisfied that the evidence of these two witnesses is probative of this assertion. DCT-008 merely states that he did not hear about Jungle returning to Sierra Leone after Bockarie's departure in late 1999, which is not inconsistent with the possibility that Jungle did resume his role, absent the knowledge of DCT-008. Similarly Jaward's evidence that Jungle decided to stay with Bockarie in Liberia does not preclude the possibility that he undertook further assignments to deliver materiel.<sup>11431</sup>

5156. Two witnesses, Varmuyan Sherif and TF1-567, corroborated TF1-516's account that Roland Duoh (a.k.a. Amphibian Father) was involved in the delivery of arms and ammunitions to the RUF on the instructions of the Accused. According to TF1-567, the Accused sent materiel to the RUF because the RUF was assisting Liberia in repelling the LURD forces. Duoh, along with Benjamin Yeaten and other Liberian commanders, would ensure that the ammunition moved across the border.<sup>11432</sup> Varmuyan Sherif also testified that Duoh was involved in the transport of ammunition to repel the LURD insurgents, but his evidence did not specify whether Duoh was transporting ammunition to the Liberian groups fighting in Lofa County or to the RUF contingents supporting them.<sup>11433</sup> Nonetheless, in light of the three witnesses who testified as to Roland Duoh's involvement in ensuring the transportation of arms and ammunition to repel the LURD during this period, the Trial Chamber does not consider credible the Accused's assertion, uncorroborated by other evidence, that Duoh was too senior to be involved in such tasks.

5157. Similarly, the Trial Chamber does not consider credible the Accused's assertion that Christopher Varmoh was too senior to be involved in such tasks. The Trial Chamber notes also that although there is no specific corroboration of TF1-516's evidence that Varmoh was involved in supply of materiel in 2000 and 2001, according to TF1-371, Varmoh was one of the Liberians accompanying Bockarie when he returned with the supply of arms and

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<sup>11431</sup> See *supra*, The Role of Intermediaries: Daniel Tamba (a.k.a. Jungle).

<sup>11432</sup> TF1-567, Transcript 7 July 2008, p. 13109.

<sup>11433</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 906-908.

ammunitions from the Burkina Faso shipment in November/December 1998, along with Marzah, Weah and Tamba.<sup>11434</sup>

5158. The Trial Chamber has also had regard to Exhibit P-099A, documenting a radio message from Benjamin Yeaten to Issa Sesay in September 2001 stating that he had despatched ammunition, via Colonel Gbovay and one of Sesay's men.<sup>11435</sup> The radio messages indicate that Sesay's forces were at this time cooperating with Yeaten in relation to operations in Liberia and Guinea.<sup>11436</sup> In a separate part of the Judgement, the Trial Chamber has satisfied itself of the reliability of Exhibit P-099A.<sup>11437</sup> The Trial Chamber considers this contemporary documentary evidence to be particularly valuable corroboration of the oral evidence concerning continued delivery of materiel during Sesay's administration as leader.

5159. On the basis of TF1-516's and Joseph Marzah's testimony, and the contemporary documentary evidence in Exhibit P-99A as to the supply of materiel by the Accused and the Accused's subordinates to Sesay for the purpose of operations outside of Sierra Leone,<sup>11438</sup> the Trial Chamber is satisfied that that the Accused did send supplies to the RUF via persons such as Benjamin Yeaten and Roland Duoh during 2000 to 2001.

#### Quantity of materiel supplied

5160. As to the quantity of materiel, the Trial Chamber notes that TF1-516, Joseph Marzah and TF1-567 did not give any evidence as to the amount of ammunition sent or the frequency with which it was sent. According to Varmuyan Sherif, while fighting the LURD with the RUF, he received arms and ammunitions totalling not less than 250 bags of AK 47,

<sup>11434</sup> TF1-371, Transcript 28 January 2008, pp. 2404-2405 (CS).

<sup>11435</sup> Exhibit P-099A, (confidential); see Exhibit P-099B, "Composition Book of Handwritten Radio Communication Between Benjamin Yeaten and Issa Sesay - 00019148 - 00019193 - Redacted Version -- Public", ERN 19181.

<sup>11436</sup> Exhibit P-099A, (confidential); see Exhibit P-099B, "Composition Book of Handwritten Radio Communication Between Benjamin Yeaten and Issa Sesay - 00019148 - 00019193 - Redacted Version -- Public", ERN 19182.

<sup>11437</sup> See *supra*, Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Operations Outside of Sierra Leone.

<sup>11438</sup> In addition to the testimony of TF1-567 and Varmuyan Sherif, see *also* TF1-338, Transcript 2 September 2008, pp. 15163-15164, 15218 (CS).

50 RPG bomb and sometimes received 300 arms for army division from the Accused himself at his residence.<sup>11439</sup>

5161. However, the Trial Chamber recalls its finding that from 2000 to 2001, there were few military engagements by the RUF in Sierra Leone itself and also that there was little evidence of crimes within the scope of the Indictment committed during this period.<sup>11440</sup> Notably, even TF1-516 does not give evidence that any of the ammunition transported by alleged intermediaries during this period was used in Sierra Leone. According to all three witnesses, the supplies were used by Liberian soldiers and RUF in Buedu in efforts to regain control of Foya.<sup>11441</sup> TF1-516 testified that some materiel was also supplied to the RUF by Yeaten to be used in an operation in Guinea.<sup>11442</sup>

5162. The Trial Chamber is not satisfied that large amounts of materiel were delivered to the RUF during 2000 and 2001.

### Findings

5163. The Prosecution has proved beyond reasonable doubt that the Accused continued to deliver arms and ammunition to the RUF in 2000 and 2001 via, *inter alia*, Joseph (a.k.a. Zigzag) Marzah, Daniel Tamba (a.k.a. Jungle), Sampson Weah, Dopoe Menkarzon, Roland Duoh (a.k.a. Amphibian Father) and Christopher Varmoh (a.k.a. Liberian Mosquito). However, There is insufficient evidence to establish beyond reasonable doubt that the amounts of materiel delivered were large.

#### (ii) Alleged trip by Issa Sesay to Liberia in May 2000

### Submissions of the Parties

5164. The Prosecution contends that the Accused began provisioning Issa Sesay before Sesay became interim leader of the RUF, when the Accused called him to Monrovia to explain the arrest of Sankoh in May 2000.<sup>11443</sup> The Prosecution submits that at this meeting

<sup>11439</sup> Varmuyan Sherif, Transcript 10 January 2008, p. 908.

<sup>11440</sup> See Factual and Legal Findings on Alleged Crimes.

<sup>11441</sup> TF1-516, Transcript 9 April 2008, pp. 6994–6995; Varmuyan Sherif, Transcript 10 January 2008, p. 899; TF1-567, Transcript 7 July 2008, p. 13109.

<sup>11442</sup> TF1-516, Transcript 8 April 2008, p. 6959.

<sup>11443</sup> Prosecution Final Trial Brief, paras 274-275.

in Monrovia Sesay complained to the Accused that the UNAMSIL and pro-Government forces were still attacking the RUF. The Accused instructed Sesay to appoint a person to go to Belle Fasama, Liberia<sup>11444</sup> with the Accused's subordinate, Assistant Director of the SSS for intelligence Joe Tuah, to retrieve materiel that the Accused had hidden there. Some of the materiel was later transported from Foya to Sesay's base in Koidu, Sierra Leone. The remainder of the retrieved materiel was stored in Foya where the RUF would return for refill.<sup>11445</sup> The Prosecution adduced evidence in relation to this allegation from witnesses TF1-338, Abu Keita, TF1-567 and Perry Kamara.

5165. The Defence makes no specific submission as to the alleged May 2000 shipment but challenges the credibility of a number of the witnesses who testify to a shipment at this time. It also adduced evidence from witnesses Issa Sesay, the Accused and Exhibit D-302.

### Evidence

#### Prosecution Witness TF1-338

5166. TF1-338, an RUF member, testified regarding several trips taken by Issa Sesay to meet with Taylor, after which Taylor provided Sesay with a supply of arms and ammunition.

5167. The first trip took place in May 2000.<sup>11446</sup> TF1-338 testified that Issa Sesay told the witness that he had been summoned to Monrovia to brief Taylor on Foday Sankoh's arrest.<sup>11447</sup> Sesay travelled with a "delegation" of RUF members to Liberia. They took a UN vehicle from Koidu Town to Foya and were flown by a "Weasua" branded helicopter to Monrovia. On arrival, Sesay stayed at the RUF guesthouse at Congo town and he was driven by Benjamin Yeaten to the Executive Mansion to meet Taylor.<sup>11448</sup> After Sesay complained to Taylor at the meeting that UNAMSIL and pro-Government forces were still attacking the RUF, Taylor instructed Joe Tuah to retrieve materiel from Belle Fasama, Liberia.<sup>11449</sup> This materiel, which included AK-47 rounds, G3 rounds, RPG rockets and some rifles,<sup>11450</sup> was

<sup>11444</sup> Charles Taylor confirmed that there is a location called Belle Fasama in Lofa county, Liberia: Charles Ghankay Taylor, Transcript 2 November 2009, p. 30871.

<sup>11445</sup> Prosecution Final Trial Brief, paras 274-275.

<sup>11446</sup> TF1-338, Transcript 1 September 2008, p. 15128.

<sup>11447</sup> TF1-338, Transcript 1 September 2008, pp. 15128-15129.

<sup>11448</sup> TF1-338, Transcript 1 September 2008, p. 15130.

<sup>11449</sup> TF1-338, Transcript 1 September 2008, pp. 15133-15134; Transcript 2 September 2008, pp. 15206-15207 (PS).

<sup>11450</sup> TF1-338, Transcript 1 September 2008, pp. 15135-15136; Transcript 2 September 2008, pp. 15207-15208

transported back to the Executive Mansion in an eight-tyre truck and then flown to Foya.<sup>11451</sup> Some of that materiel was later transported from Foya to Sesay's base in Kono, Koidu Town, while the remainder was stored in Foya.<sup>11452</sup>

5168. TF1-338 also testified that Issa Sesay took a second trip to Monrovia, at the end of May 2000, to discuss with Taylor the release of the UN Peacekeepers.<sup>11453</sup>

Prosecution Witness Abu Keita

5169. Abu Keita testified that in May 2000, following the arrest of the peacekeepers, Marzah and Jungle arrived in Makeni and took Issa Sesay to Liberia. When Sesay returned to Sierra Leone, he had a satellite phone and fifty boxes of ammunition, which he said had been issued to him by Charles Taylor. Sesay called a meeting at the Makeni police headquarters, and announced to his commanders that "Charles Taylor said we should release the peacekeepers over to him in Liberia". The peacekeepers were driven to the border and handed over to Benjamin Yeaten and then Joe Tuah in Foya.<sup>11454</sup>

Prosecution Witness TF1-567

5170. Witness TF1-567 testified that while in Liberia, he heard that the RUF had captured a large number of UN peacekeepers. On learning of the capture of the soldiers, the Accused summoned Issa Sesay to Monrovia. In Monrovia, Taylor met with Sesay and Bockarie in an unsuccessful attempt to reconcile the two men. Taylor requested Issa Sesay to release the captured peacekeepers, because it would be a great help to Taylor.<sup>11455</sup> When Sesay returned to Sierra Leone, the peacekeepers were brought to Foya and from Foya, airlifted to Spriggs Payne Field.<sup>11456</sup> Sesay left Monrovia on Taylor's helicopter, which also contained a supply of ammunition provided by the Accused. The witness stated that he accompanied Sesay during Sesay's time in Monrovia, travelled with him to Spriggs Payne field and saw the

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(PS).

<sup>11451</sup> TF1-338, Transcript 1 September 2008, p. 15136; Transcript 2 September 2008, pp. 15207-15209 (PS).

<sup>11452</sup> TF1-338, Transcript 1 September 2008, p. 15136.

<sup>11453</sup> TF1-338, Transcript 2 September 2008, p. 15142.

<sup>11454</sup> Abu Keita, Transcript 23 January 2008, pp. 2031-2032.

<sup>11455</sup> TF1-567, Transcript 7 July 2008, pp. 13037-13040.

<sup>11456</sup> TF1-567, Transcript 7 July 2008, p. 13040.

materiel himself in the helicopter. It is not clear whether the witness accompanied Sesay back to Sierra Leone.<sup>11457</sup>

#### Prosecution Witness Perry Kamara

5171. Perry Kamara testified that Taylor negotiated the release of the peacekeepers arrested by Issa Sesay in May 2000 in return for a supply of ammunition. Kamara stated that Taylor requested Sesay to bring the detained personnel to Liberia<sup>11458</sup> and sent a helicopter, loaded with ammunition, to Foya to collect them.<sup>11459</sup> Kamara testified that, according to Issa Sesay, Taylor said the RUF should expect further military action as a result of having “molested” UN personnel and should keep the ammunition from the helicopter to defend themselves.<sup>11460</sup>

5172. Kamara testified that the helicopter sent to pick up these individuals in Foya was Taylor’s helicopter rather than a UN helicopter. He was also in Makeni, not in Foya when these peacekeepers were picked up and did not personally witness the helicopter coming to Foya. However, there was a message to the effect that the helicopter had come to Foya to receive the UN personnel.<sup>11461</sup>

#### The Accused

5173. The Accused admitted that he met with Issa Sesay in May 2000, in regards to the release of the hostage peacekeepers, on 26 July 2000, on 21 August 2000, and in later months a few times before the end of the year. According to the Accused, Sesay came in times of crisis.<sup>11462</sup> The Accused denied that he ever gave Sesay any materiel during his trips to and from Monrovia, refuting in particular TF1-338’s evidence that he met with Issa Sesay at 10.00pm to 11.00pm as he did not meet with leaders at that time.<sup>11463</sup>

<sup>11457</sup> TF1-567, Transcript 7 July 2008, p. 13040.

<sup>11458</sup> Perry Kamara, Transcript 6 February 2008, p. 3269.

<sup>11459</sup> Perry Kamara, Transcript 6 February 2008, p. 3270; Transcript 7 February 2008, p. 3395.

<sup>11460</sup> Perry Kamara, Transcript 6 February 2008, p. 3271.

<sup>11461</sup> Perry Kamara, Transcript 7 February 2008, pp. 3395-3396.

<sup>11462</sup> Charles Ghankay Taylor, Transcript 19 August 2009, p. 27172; Transcript 14 September 2009, p. 28783 (stating that from August to December 2000, Issa Sesay visited Monrovia once or twice as everybody was busy with disarmament).

<sup>11463</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27173-27176; see *also* Transcript 28 October 2009, pp. 30607-30608 (in response to Karmoh Kanneh’s evidence); Transcript 22 September 2009, pp. 29420-29422 (in response to Abu Keita’s evidence); Transcript 14 September 2009, p. 28838 (in response to TF1-567’s



5174. The Accused noted in particular with respect to the evidence that he had provided Issa Sesay with ammunition before or after the release of the peacekeepers, that it would make no sense that he would give Sesay ammunition in the midst of an international crisis in which Liberia and Sierra Leone were being internationally monitored and in which there was a large UN and international press presence.<sup>11464</sup> Taylor further stated in relation to witnesses who testified that Sesay flew back and forth between Foya and Spriggs Payne Airport, that at that time the airport was crowded with international diplomats, UN military personnel and media, making it very difficult for him to have loaded a helicopter with ammunition unobserved.<sup>11465</sup>

5175. In response to TF1-567's evidence that Issa Sesay left the meeting with the Accused in May 2000 with a helicopter load of materiel, the Accused noted that the type of helicopter used in Liberia in around this time was an Mi-2 helicopter. According to the Accused, Mi-2 aircraft are very small military helicopters and it was not feasible to use these helicopters to carry passengers as well as a cargo of ammunition.<sup>11466</sup>

5176. However, later in his testimony, the Accused stated that the Liberian government was in possession of Mi-2 helicopters from the beginning of 1999,<sup>11467</sup> and acquired a larger model of aircraft known as Mi-8 in 2000 when the Liberian civil war intensified.<sup>11468</sup>

#### Defence Witness Issa Sesay

5177. Issa Sesay acknowledged that he did go to Monrovia in late May 2000 to discuss the UN hostage incident<sup>11469</sup> but denied returning with supplies of materiel. According to Sesay, this was the first time he spoke to Taylor.<sup>11470</sup>

5178. In response to TF1-338's evidence, Issa Sesay denied ever receiving instructions from Taylor to brief him regarding Sankoh's arrest.<sup>11471</sup> Further, Sesay denied travelling

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evidence); Transcript 16 September 2009, pp. 29045-29047 (in response to Perry Kamara's evidence).

<sup>11464</sup> Charles Ghankay Taylor, Transcript 19 August 2009, p. 27120.

<sup>11465</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29420-29422.

<sup>11466</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27119-27120; see *also* Transcript 14 September 2009, pp. 28803-28804 (PS); Transcript 28 October 2009, pp. 30596-30597.

<sup>11467</sup> Charles Ghankay Taylor, Transcript 28 October 2009, p. 30605.

<sup>11468</sup> Charles Ghankay Taylor, Transcript 28 October 2009, p. 30606.

<sup>11469</sup> Issa Sesay, Transcript 11 August 2010, p. 46026.

<sup>11470</sup> Issa Sesay, Transcript 5 July 2010, p. 43594.

<sup>11471</sup> Issa Sesay, Transcript 2 August 2010, p. 45212.

from Foya to Monrovia in a Weasua helicopter and stated that for all the meetings, he was collected in an ATU helicopter from Foya.<sup>11472</sup>

5179. Sesay also maintained that he only made one trip to Monrovia to visit Taylor in May 2000 and that was to arrange the release of the UNAMSIL personnel in Kono.<sup>11473</sup>

5180. In response to Abu Keita's evidence, Sesay denied that Marzah and Jungle came for him in Makeni to go to Liberia. Sesay testified that instead Benjamin Yeaten arrived by helicopter in Pendembu asking the commander, Dennis Lansana, for Sesay. Yeaten said to pass a message to Sesay that President Taylor wanted to see him urgently.<sup>11474</sup> Sesay drove through Kono to Kailahun and crossed the border to Foya, where a helicopter was despatched to pick him up. According to Sesay, Abu Keita did not come along with Sesay but instead stayed in Makeni.<sup>11475</sup> Sesay denied receiving 50 boxes of ammunition from Taylor, stating that he was only given \$USD 5,000 to cover the costs of transportation of the captured UNAMSIL personnel.<sup>11476</sup>

5181. In relation to TF1-567's evidence, Sesay denied Taylor asked for the release of the UN peacekeepers to increase Taylor's international standing. Sesay understood the release of the UN personnel to be in the interest of ECOWAS as guarantors of the Lomé Accord and neither Taylor nor Benjamin Yeaten gave him ammunition on the trip.<sup>11477</sup>

#### Prosecution Exhibit P-0457

5182. Exhibit P-0457 is an undated print-out from a website entitled "Asia Trading Post Online: Russian Helicopter Sales" advertising used and new Russian helicopters. It describes and provides specifications for a number of helicopter models. In relation to the Mi-2, it states: "The standard passenger version of Mi-2 helicopter has seating for 1 pilot and 8 passengers. The interior can be quickly converted for transport of 700kg of

<sup>11472</sup> Issa Sesay, Transcript 2 August 2010, pp. 45213-45214.

<sup>11473</sup> Issa Sesay, Transcript 2 August 2010, pp. 45232-45234.

<sup>11474</sup> Issa Sesay, Transcript 6 August 2010, p. 45599.

<sup>11475</sup> Issa Sesay, Transcript 6 August 2010, p. 45600.

<sup>11476</sup> Issa Sesay, Transcript 6 August 2010, p. 45601.

<sup>11477</sup> Issa Sesay, Transcript 11 August 2010, pp. 46030-46031.

cargo”.<sup>11478</sup> Exhibit P-0457 was adduced by the Prosecution through cross-examination of the Accused.

### Defence Exhibit D-302

5183. Exhibit D-302 is the Liberian government’s reaction to the UN Panel of Experts Report, dated January 2001, and was adduced through the Accused. In response to allegations in the Panel of Experts Report that the Liberian government was delivering arms to the RUF in Sierra Leone via Mi-2 and Mi-17 helicopters, Exhibit D-302 states:<sup>11479</sup>

The Government admits that it does have two (2) Mi 2 civilian helicopters, which were acquired almost a year ago, and two (2) Mi 8 civilian transport helicopters purchased locally five months ago. [...]

The Mi2s are used exclusively for civilian purposes. Government’s purchase of the Mi-8s was necessitated by the intensification in the fighting occasioned by the third invasion of insurgents from Guinea. They were used to transport supplies and to bring wounded and displaced civilians to Monrovia who had been caught up in the fighting. [...]

And it is equally important to note that although the Mi-2’s were acquired about a year ago, they do not have the range or capacity to fly armaments or related material from Monrovia to the Sierra Leonean border; only the Mi-8’s have this capability and they were only acquired a few months ago.

### Deliberations

5184. TF1-338, Abu Keita, TF1-567 and Perry Kamara testified to a trip by Issa Sesay to Liberia in or around May 2000, after which Sesay returned with supplies of materiel, purportedly from the Accused. The Trial Chamber has previously found that it had no general reservation about the evidence of these witnesses.<sup>11480</sup> The Trial Chamber notes that it has addressed the issue of whether the Accused instructed Issa Sesay to release the UNAMSIL peacekeepers in another section of the Judgement.<sup>11481</sup>

5185. TF1-338’s evidence is the most detailed account of what occurred during the alleged May 2000 trip. Contrary to Issa Sesay’s own testimony before this Trial Chamber, TF1-338 stated that Sesay took two trips in May 2000 to Monrovia, with the first occurring some time after Sankoh’s arrest, and the second just before the release by the RUF of the UN

<sup>11478</sup> Exhibit P-457, “Excerpts from: Asia Trading Post Online, Russian Helicopter Sales”, p. 2.

<sup>11479</sup> Exhibit D-302, “Preliminary Reaction of the Government of Liberia to the report of the Panel of Experts appointed pursuant to UN Security Council Resolution 1306 (2000) paragraph 19 in relation to Sierra Leone, Monrovia, Liberia, 10 January 2001– DCT 1 (64 pages)”, paras 95-97.

<sup>11480</sup> Credibility Assessment, TF1-338, paras 318-329; Credibility Assessment, Abu Keita, paras 213-219; Credibility Assessment, TF1-567, paras 313-317.

<sup>11481</sup> See *supra*, Peace Process: Release of UNAMSIL Peacekeepers (2000).

peacekeepers. The Trial Chamber has previously discussed its concerns regarding the general credibility of Issa Sesay and considers that his evidence requires corroboration.<sup>11482</sup> The Trial Chamber notes that Sesay himself provided contradictory accounts about his travel to Monrovia in May 2000. At his own trial, Sesay said that he travelled to Monrovia twice in May 2000,<sup>11483</sup> while in the proceedings before this Trial Chamber, Sesay testified he went only once because while he did go to Liberia a second time in May, he did not travel further than Foya, where he released the hostages.<sup>11484</sup> The Trial Chamber considers that Sesay's explanation of this inconsistency is not credible in light of the detail with which he testified to his two trips to Monrovia in his own trial.

5186. However, two inconsistencies emerge in TF1-338's account of the two trips in May 2000. TF1-338 stated that at Issa Sesay's first meeting with the Accused, the Accused criticised the RUF for releasing a British member of the military observer mission to the Indian contingent of UNAMSIL, stating that the RUF could have used the man as a "bargaining chip",<sup>11485</sup> yet according to TF1-338 it was not until after Sesay's second trip to Monrovia in May 2000 that the peacekeepers were ultimately released.<sup>11486</sup> The witness was not questioned again on the release of the British military observer referred to in the first trip. However, the Trial Chamber observes that other witnesses have testified to the separate arrest by the RUF of a smaller Indian contingent of peacekeepers and military observers in addition to the 500 Zambian peacekeepers at Makeni.<sup>11487</sup> The Trial Chamber considers that the release of the British military observer referred to in the witness's account of the first trip may be explained by the existence of two contingents of peacekeepers that were captured by the RUF, members of one of which were released prior to the other.<sup>11488</sup>

5187. Additionally, the Defence highlights TF1-338's contradiction where he told the Prosecution in prior statements that he first met the Accused in November, but then testified

<sup>11482</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>11483</sup> Issa Sesay, Transcript 23 August 2010, pp. 46895-46896 (Defence counsel reads from Issa Sesay's testimony in the RUF Trial on 25 May 2007, pp. 87-88).

<sup>11484</sup> Issa Sesay, Transcript 2 August 2010, pp. 45232-45234; Transcript 23 August 2010, p. 46897.

<sup>11485</sup> TF1-338, Transcript 1 September 2008, p. 15131.

<sup>11486</sup> TF1-338, Transcript 2 September 2008, p. 15142.

<sup>11487</sup> DCT-292, Transcript 2 June 2010, pp. 41970-41972; Martin George also testified that he affected the arrest of a group of "MILOBs", military observers separately to the 500 UNAMSIL peacekeepers, Transcript 28 April 2010, pp. 40192-40194.

<sup>11488</sup> TF1-338, Transcript 2 September 2008, p. 15142.

that he first met him in May 2000.<sup>11489</sup> TF1-338 testified that he originally told the Prosecution that he first met the Accused in May, but that they incorrectly recorded it as November.<sup>11490</sup> On cross-examination, the Defence pointed out that when given an opportunity to correct the date later, the witness did not correct it, although he made a number of other corrections to the same interview record.<sup>11491</sup>

5188. The Trial Chamber notes that TF1-338 testified with direct knowledge and in significant detail about the trip in a manner which lent his account credibility. He testified concerning statements made by Taylor concerning Sankoh's arrest, his criticisms of the RUF officers for releasing a British member of the military observer mission whom Taylor felt the RUF could have used as a "bargaining chip" for Sankoh's release,<sup>11492</sup> the route and various modes of transportation of the materiel brought by Tuah.<sup>11493</sup> In light of these considerations, the Trial Chamber considers that TF1-338 gave a credible and consistent account of the events to which he testified and accepts his explanation as to the incorrect recording in prior statements of the date of his first meeting with the Accused in May 2000.

5189. The Trial Chamber observes that the accounts by other witnesses as to this May 2000 trip diverge in some respects from TF1-338 and from each other. According to TF1-567, Sesay was provided with a helicopter loaded with ammunition when he returned from Monrovia to Foya after the meeting with Taylor to discuss the peacekeepers.<sup>11494</sup> According to Abu Keita, Sesay was escorted to Liberia by Joseph (a.k.a. Zigzag) Marzah and Daniel Tamba (a.k.a. Jungle), and brought back a satellite phone as well as fifty boxes of ammunition, two elements which do not appear in the other three accounts. Abu Keita made no mention of a helicopter. Perry Kamara also testified that the Accused sent a helicopter, loaded with ammunition, to Foya,<sup>11495</sup> but, unlike other witnesses, Kamara omitted any account of a trip by Sesay to see the Accused to discuss the release of the peacekeepers<sup>11496</sup>

<sup>11489</sup> Defence Final Trial Brief, para. 1223 citing TF1-338, Transcript 4 September 2008, p. 15476 (PS).

<sup>11490</sup> TF1-338, Transcript 4 September 2008, p. 15476 (PS).

<sup>11491</sup> TF1-338, Transcript 4 September 2008, pp. 15477-15486 (PS).

<sup>11492</sup> TF1-338, Transcript 1 September 2008, pp. 15130-15132.

<sup>11493</sup> TF1-338, Transcript 1 September 2008, pp. 15128-15132.

<sup>11494</sup> TF1-567, Transcript 7 July 2008, p. 13040.

<sup>11495</sup> Perry Kamara, Transcript 6 February 2008, p. 3270; Transcript 7 February 2008, p. 3395.

<sup>11496</sup> Perry Kamara, Transcript 6 February 2008, p. 3270.

and was the only witness to have described materiel from the Accused arriving in the same helicopter that had come to Foya to pick up the released UN personnel.<sup>11497</sup>

5190. The Defence contends that Kamara should not be believed because he claimed that the helicopter sent to pick up the peacekeepers was the Accused's rather than a UN helicopter.<sup>11498</sup> The Trial Chamber does not consider this to undermine Kamara's account. It notes that even Issa Sesay did not state that the helicopter that transported the peacekeepers was a UN helicopter. Sesay testified that it was owned by the Liberian government.<sup>11499</sup>

5191. However, that the Accused supplied Sesay with a helicopter loaded with materiel before the release of the peacekeepers is on the whole consistent amongst all the accounts. The Trial Chamber notes that Keita testified to being in Makeni when Issa Sesay arrived with ammunition. In these circumstances, the failure of Keita to make mention of a helicopter delivery at Foya is explicable by reference to Keita only witnessing the event from Sesay's arrival at Makeni. The Trial Chamber accepts that TF1-338, TF1-567, Perry Kamara and Keita's accounts are sufficiently similar to be corroborative.

5192. As to the Accused's argument that he would have been unable to send materiel via helicopter to the RUF undetected at this time, the Trial Chamber notes that there is no specific corroborating evidence that Spriggs Payne airfield was at this time filled with international personnel. TF1-597 testified that he knew of an ECOMOG presence at Spriggs Payne but does not provide a time period for this presence.<sup>11500</sup> However, the testimony of TF1-338 and TF1-567 is that materiel was flown to Foya in Liberia, not into Sierra Leone, and internal flights would likely not have attracted the attention that cross-border flights would have. Further, the Accused himself testified that in 2000 to 2001, LURD was attacking Liberia in Lofa County.<sup>11501</sup> As other witnesses testified, materiel was regularly flown to Foya at this time to supply contingents resisting the LURD.<sup>11502</sup> In those

<sup>11497</sup> See Arms and Ammunition: Allegations of Direct Supply by the Accused, During Issa Sesay's Leadership (December 1999-January 2002).

<sup>11498</sup> Defence Final Trial Brief, paras 898, 1127.

<sup>11499</sup> Issa Sesay, Transcript 26 July 2010, pp. 44538-44539.

<sup>11500</sup> TF1-579, Transcript 25 November 2008, pp. 21108-21110.

<sup>11501</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28803.

<sup>11502</sup> TF1-516, Transcript 9 April 2008, p. 7025 (TF1-516 testified that on one occasion, he saw Momoh Gibba and Benjamin Yeaten load rifles onto an aircraft at James Spriggs Airport which was flown to Foya); Varmuyan Sherif, Transcript 10 January 2008, p. 907 (Roland Duoh would transport the ammunition to Foya from James Spring Field to fight the LURD insurgents); TF1-567, Transcript 7 July 2008, p. 13109 (when LURD was in control of Lofa County in 2000, Taylor would use helicopters to transport arms and ammunitions to Foya, which

circumstances, the Trial Chamber considers it was possible for the Accused to send materiel to Foya without arousing suspicions that he was dealing with the RUF. In light of these considerations, the Trial Chamber does not accept the Accused's evidence that he could not have sent the RUF materiel at this time.

5193. As to the Accused's argument that the Liberian government in May 2000 had no helicopters which were capable of carrying a cargo of ammunition and passengers, the Trial Chamber recalls its previous concerns regarding the inconsistencies in the Accused's testimony as to the dates at which the Liberian government first acquired particular types of helicopters. The Accused's evidence was first that in 2000, the Liberian government only had available Mi-2 helicopters, which did not have the range or capacity to fly armaments or other materiel from Monrovia to the Sierra Leonean border.<sup>11503</sup> However, later in his testimony, the Accused stated that the Liberian government acquired larger sized Mi-8 helicopters in 2000.<sup>11504</sup> In light of the conflicting testimony of the Accused, the Trial Chamber considers that the Accused's claim that he did not have a larger-sized helicopter in May 2000 is not credible.

5194. Based on TF1-338's account, which the Trial Chamber finds to be credible, the Trial Chamber is satisfied that the Accused provided Issa Sesay with a helicopter loaded with materiel when Sesay travelled to Liberia in May 2000.

### Findings

5195. The Trial Chamber finds beyond reasonable doubt that Issa Sesay made a trip to Liberia in May 2000 in which he obtained arms and ammunitions from the Accused.

#### (iii) Alleged trips by Issa Sesay in second half of 2000 to 2001

### Submissions of the Parties

5196. The Prosecution alleges that Sesay continued to travel to Monrovia to meet with and obtain materiel supply from the Accused in exchange for diamonds up to December

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would then be trucked into Sierra Leone).

<sup>11503</sup> Charles Ghankay Taylor, Transcript 26 August 2009, p. 27808; Transcript 28 October 2009, pp. 30596-30597.

<sup>11504</sup> Charles Ghankay Taylor, Transcript 28 October 2009, p. 30606.

2001.<sup>11505</sup> The Prosecution submits that at the end of 2000, Sesay travelled to Monrovia and provided diamonds to Taylor, whereupon Yeaten and Sesay went to Camp Schefflein to obtain large quantities of materiel, boots and uniforms which were transported by helicopter to Foya.<sup>11506</sup> It further submits that Sesay also travelled to Monrovia to meet with the Accused in early 2001, and at the end of 2001, when, in return for diamonds, the Accused provided Sesay with arms and ammunition.<sup>11507</sup> The Prosecution adduced evidence in relation to this allegation from witnesses TF1-338, Karmoh Kanneh and TF1-371.

5197. The Defence submits that due to a lack of military operations in 2000 and 2001, and “evidence of few atrocities against civilians”, the RUF had no need to obtain large quantities of arms and ammunitions. The arms and ammunitions it did obtain were captured from ECOMOG soldiers, or taken from UN peacekeepers in May 2000.<sup>11508</sup>

## Evidence

### Prosecution Witness TF1-338

5198. Witness TF1-338 testified that at the end of 2000,<sup>11509</sup> Issa Sesay went again to see Taylor at the Executive Mansion, delivering a parcel of diamonds.<sup>11510</sup> The witness stated that Sesay “expected that the diamonds presented to Mr Taylor were for arms and ammunition and food”,<sup>11511</sup> and told Taylor that the RUF lacked “materials” and “enemies were threatening their positions”.<sup>11512</sup> Taylor told Sesay that the diamonds were to remain in Taylor’s safekeeping until Foday Sankoh’s return, but he would speak to Benjamin Yeaten concerning the shortage of materiel.<sup>11513</sup> After the meeting, Sesay travelled with Yeaten to Camp Schefflein, a barracks in Monrovia, where they collected uniforms, boots, AK 47 rounds in large quantities, G3 rounds and RPG rockets, some of which were loaded on the ATU helicopter and transported to Foya and to Sierra Leone.<sup>11514</sup> Issa Sesay took some of

<sup>11505</sup> Prosecution Final Trial Brief, paras 278-279.

<sup>11506</sup> Prosecution Final Trial Brief, para. 278.

<sup>11507</sup> Prosecution Final Trial Brief, para. 279.

<sup>11508</sup> Prosecution Final Trial Brief, para. 279.

<sup>11509</sup> TF1-338, Transcript 2 September 2008, p. 15156.

<sup>11510</sup> TF1-338, Transcript 2 September 2008, pp. 15156-15158.

<sup>11511</sup> TF1-338, Transcript 2 September 2008, p. 15157.

<sup>11512</sup> TF1-338, Transcript 2 September 2008, p. 15161.

<sup>11513</sup> TF1-338, Transcript 2 September 2008, p. 15162.

<sup>11514</sup> TF1-338, Transcript 2 September 2008, pp. 15162-15163.



these supplies to Koidu Town. Some of this materiel was used in the mission in Guinea, and some remained in Liberia for RUF forces assisting in the fight against LURD rebels. Some was used in Sierra Leone to fight against the Kamajors and UNAMSIL.<sup>11515</sup>

5199. Another trip took place in early 2001.<sup>11516</sup> After Issa Sesay handed Taylor another parcel of diamonds,<sup>11517</sup> Sesay briefed Taylor concerning the remaining threat posed by Kamajors. The next day, Issa Sesay boarded an ATU helicopter loaded with arms and ammunition (AK rifles, G3 rifles, G3 rounds and RPG rockets, diesel, bags of rice) to Foya and then returned to Sierra Leone by road. These ammunitions and arms were used to attack Kamajors and UNAMSIL peacekeepers and the remainder were stored in Koidu town.<sup>11518</sup>

5200. TF1-338 also testified to a trip by Issa Sesay to Monrovia in 2001 at Benjamin Yeaten's invitation. On this trip, Benjamin Yeaten told Sesay that Charles Taylor wanted Sesay to use the materiel Taylor had given him to attack Guinea.<sup>11519</sup> Issa Sesay then planned attacks at Pamelap and Kissidougou. The attacks were carried out successfully at the end of 2001.<sup>11520</sup>

#### Prosecution Witness Karmoh Kanneh

5201. Karmoh Kanneh testified that in the second half of 2000,<sup>11521</sup> he met Issa Sesay in Monrovia and they returned to Sierra Leone together with a supply of arms and ammunition. He travelled to Monrovia after a successful mission as Brigade commander in Kolahun as a result of which RUF and Liberian forces captured Voinjama from the LURD.<sup>11522</sup> Kanneh reported the success of the mission to Benjamin Yeaten, who took him to Monrovia to meet Taylor because Yeaten was so happy with the outcome. They took vehicles to Foya and then flew by helicopter from Foya to Monrovia. Kanneh and Yeaten then went to White Flower.

<sup>11515</sup> TF1-338, Transcript 2 September 2008, pp. 15163-15164; Transcript 2 September 2008, p. 15218 (CS).

<sup>11516</sup> TF1-338, Transcript 2 September 2008, p. 15164.

<sup>11517</sup> TF1-338, Transcript 2 September 2008, p. 15165.

<sup>11518</sup> TF1-338, Transcript 2 September 2008, pp. 15166-15167.

<sup>11519</sup> TF1-338, Transcript 1 September 2008, p. 15177; Transcript 2 September 2008, pp. 15217-15218 (CS).

<sup>11520</sup> TF1-338, Transcript 1 September 2008, p. 15179; Transcript 2 September 2008, p. 15218 (CS).

<sup>11521</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9509-9511.

<sup>11522</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9473-9477.

They were met at Benjamin Yeaten's place at the back of the President's house by Issa Sesay.<sup>11523</sup>

5202. Kanneh was in Monrovia for about four to five days but his meeting with the President was ultimately cancelled.<sup>11524</sup> Kanneh was staying at Benjamin Yeaten's house, and would hear Benjamin Yeaten and Issa Sesay say they were going to meet Taylor at the mansion. They met with Taylor twice. Kanneh did not find out what was discussed in those meetings.<sup>11525</sup>

5203. Kanneh saw military equipment at the back of Taylor's house, including AK rounds, RPG rockets, new AK machine guns, RPG tubes and grenades.<sup>11526</sup> Kanneh saw the materiel at the back of White Flower being loaded into two vehicles – a van and a jeep – by “ATU boys”, Zigzag Marzah and the Director's bodyguards. Once the van and jeep were loaded, a second jeep arrived and Kanneh, Issa Sesay and Benjamin Yeaten and his securities travelled in this second jeep to the centre of town, to the same field where the helicopter would land.<sup>11527</sup>

5204. Upon arrival at the field, the materiel was transferred to the helicopter. Kanneh was concerned about this amount of weapons going to Sierra Leone because there was a ceasefire, but he did not ask because he was just a junior man.<sup>11528</sup> Issa Sesay, and some soldiers, as well as the witness, boarded the helicopter and flew to Foya. Benjamin Yeaten stayed behind.<sup>11529</sup> Upon landing in Foya, they met vehicles which had come from Kailahun and loaded the materiel into the vehicles. They waited until evening to travel because Issa Sesay was afraid that they would be seen by UNAMSIL travelling with arms.<sup>11530</sup>

5205. That night, they moved to Pendembu where Kanneh stayed. The others continued on their journey. Kanneh did not ask why that materiel was brought to Sierra Leone but later

<sup>11523</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9482-9486.

<sup>11524</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9478-9482.

<sup>11525</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9497-9498.

<sup>11526</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9498-9500.

<sup>11527</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9503-9504.

<sup>11528</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9504-9505.

<sup>11529</sup> Karmoh Kanneh, Transcript 12 May 2008, p. 9505.

<sup>11530</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9505-9506.

on, Issa Sesay visited Kanneh on his base in Pendembu and told Kanneh that Taylor had given the materiel for the RUF to attack Guinea from Sierra Leone.<sup>11531</sup>

5206. According to Kanneh, the operation to attack Guinea took place some time in 2001. Kanneh did not participate because he was in Pendembu. He did not personally see the materiel brought from Monrovia being used in the operation.<sup>11532</sup>

Prosecution Witness TF1-371

5207. Witness TF1-371 testified that at some point in 2001, Issa Sesay told Mike Lamin about money expected from the Accused in exchange for diamonds. Jungle and Lamin travelled to Monrovia.<sup>11533</sup> Issa Sesay, Morris Kallon and Mike Lamin met with the Accused at midnight at his White Flower residence. The Accused inquired about the disarmament process, and Issa Sesay said they had disarmed about 40 percent. Issa Sesay told the Accused that they needed about \$USD 100,000 for the men, and the Accused instructed Benjamin Yeaten to give the RUF members \$USD 50,000 to pay for the items that Issa requested.<sup>11534</sup>

5208. According to TF1-371, Sesay told him that he was sending most of the diamonds mined by the RUF to buy food and pay for arms because there was still fighting against UNAMSIL.<sup>11535</sup> One time Benjamin Yeaten gave the RUF ammunition to attack the government of President Lansana Conte in Guinea.<sup>11536</sup>

Defence Witness Issa Sesay

5209. Issa Sesay testified that as interim leader, he made five to six trips to Liberia but maintained that he never brought ammunition back with him to the RUF.<sup>11537</sup> He denied ever receiving instructions from Taylor to brief him regarding Sankoh's arrest.<sup>11538</sup> Further, Sesay denied ever travelling from Foya to Monrovia in a Weasua helicopter and stated that for all

<sup>11531</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9506-9507.

<sup>11532</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9516-9517.

<sup>11533</sup> TF1-371, Transcript 29 January 2008, p. 2458 (CS).

<sup>11534</sup> TF1-371, Transcript 29 January 2008, pp. 2453-2454 (CS).

<sup>11535</sup> TF1-371, Transcript 1 February 2008, pp. 2926-2927 (CS).

<sup>11536</sup> TF1-371, Transcript 29 January 2008, pp. 2457-2458 (CS).

<sup>11537</sup> Issa Sesay, Transcript 11 August 2010, p. 46002.

<sup>11538</sup> Issa Sesay, Transcript 2 August 2010, p. 45212.

the meetings, he was collected in an ATU helicopter from Foya.<sup>11539</sup> Issa Sesay's testimony also challenged that of TF1-338 concerning these trips.

5210. In response to Karmoh Kanneh's evidence that on one trip to Liberia to collect arms in the second half of 2000, he and Sesay waited until evening to travel with ammunitions from Monrovia because UNAMSIL was patrolling the area,<sup>11540</sup> Sesay maintained that from September to December 2000 there were no UNAMSIL personnel in Kailahun.

5211. In response to the evidence of TF1-371, Sesay denied that he told TF1-371 about trips that he had made to Monrovia with diamonds.<sup>11541</sup>

### Deliberations

5212. The Trial Chamber recalls its findings as to the credibility of the witnesses relied on by the Prosecution and Defence.<sup>11542</sup> While the Trial Chamber had no general reservation about TF1-371, TF1-338 and Karmoh Kanneh's evidence, the Trial Chamber has previously discussed its concerns regarding the general credibility of Issa Sesay and considers that his evidence must not be relied upon without corroboration.

5213. TF1-338 and Karmoh Kanneh both testified in relation to specific trips in the second half of 2000. According to TF1-338, Sesay went to see Taylor again at the end of 2000,<sup>11543</sup> and in early 2001,<sup>11544</sup> during which he obtained materiel. While TF1-338 also testified as to a fourth trip by Sesay to Liberia to see Benjamin Yeaten some time close to the end of 2001,<sup>11545</sup> he said that no materiel was obtained during this trip. Karmoh Kanneh also testified that in the second half of 2000,<sup>11546</sup> he met Issa Sesay in Monrovia and they returned to Sierra Leone together with a supply of arms and ammunition.

5214. Kanneh's and TF1-338's accounts of the trip in late 2000 are too divergent to be accounts of the same trip. In both accounts Sesay met with Taylor and flew from Monrovia

<sup>11539</sup> Issa Sesay, Transcript 2 August 2010, pp. 45213-45214.

<sup>11540</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9505-9506.

<sup>11541</sup> Issa Sesay, Transcript 30 July 2010, pp. 45098-45099.

<sup>11542</sup> Credibility Assessment, TF1-338, paras 318-329; Credibility Assessment, TF1-371, paras 220-226; Credibility Assessment, Issa Sesay, paras 359-372; Credibility Assessment, Karmoh Kanneh, The Role of Intermediaries, para. 2704.

<sup>11543</sup> TF1-338, Transcript 2 September 2008, p. 15156.

<sup>11544</sup> TF1-338, Transcript 2 September 2008, p. 15164.

<sup>11545</sup> TF1-338, Transcript 1 September 2008, p. 15177; Transcript 2 September 2008, pp. 15217-15218 (CS).





to Foya with a helicopter loaded with arms and ammunition. However, according to TF1-338, Sesay and Yeaten together went to Camp Schefflein to pick up a large supply of arms and ammunition,<sup>11547</sup> while in Kanneh's account, the military equipment that was loaded into the helicopter came from the back of Taylor's house.<sup>11548</sup>

5215. The Trial Chamber notes that on cross-examination, Kanneh admitted that this trip in the second half of 2000 took place when disarmament was underway and Kanneh was involved in monitoring the ceasefire and disarmament process. When asked why he would be involved in the collection of arms and ammunitions at this point, Kanneh consistently maintained that he did not travel to Monrovia intending to pick up materiel and was surprised when Sesay brought back a supply with him on their way back to Sierra Leone.<sup>11549</sup> This explanation comports with Kanneh's testimony that Issa Sesay instructed the RUF to delay disarmament in Kailahun in order to carry out operations in Guinea,<sup>11550</sup> and the Trial Chamber does not consider that this is a discrepancy in the witness's account.

5216. On cross-examination, the Defence pointed out a number of other inconsistencies between TF1-338's evidence as to Issa Sesay's trips to Monrovia and his prior statements to the Prosecution,<sup>11551</sup> but were not able to seriously challenge his account of the May 2000 trip. The Trial Chamber considers that the level of detail that the witness was able to provide concerning the meetings between Issa Sesay and the Accused lends his account credibility. The Trial Chamber notes that aspects of his evidence are also corroborated by TF1-516.<sup>11552</sup>

5217. The Trial Chamber accepts that Kanneh's and TF1-338's accounts of Sesay's journeys to Liberia consistently establish that Sesay travelled by helicopter from Foya to Monrovia and flew back with supplies of ammunition loaded onto the helicopter. Their testimony that Sesay obtained materiel from Liberia during this period, sometimes in exchange for diamonds, is also supported by the evidence of TF1-371 that Sesay had been

<sup>11546</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9509-9511.

<sup>11547</sup> TF1-338, Transcript 2 September 2008, pp. 15162-15163.

<sup>11548</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9498-9500.

<sup>11549</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9608-9612.

<sup>11550</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9511-9513, 9547-9548.

<sup>11551</sup> TF1-338, Transcript 3 September 2008, pp. 15388-15390 (PS) (The Defence pointed out that before this Chamber, TF1-338 stated that Issa Sesay did not take diamonds to the Accused until some time in late 2000 or early 2001 although, in a prior statement, he told the Prosecution that Sesay had taken diamonds to see the Accused when they met concerning Foday Sankoh's arrest in June 2000. TF1-338 maintained that he had not told the Prosecution about any exchange of diamonds on this trip, or that the trip was in June).

<sup>11552</sup> TF1-516, Transcript 8 April 2008, pp. 6947-6951.





given materiel by Benjamin Yeaten to carry out operations in Guinea.<sup>11553</sup> The Trial Chamber notes that while none of these witnesses directly mentioned that Taylor supplied arms and ammunitions to Issa Sesay, their accounts strongly implicate his involvement. TF1-338 testified that on Sesay's trip at the end of 2000 Taylor told Sesay he would speak to Yeaten concerning Sesay's need for materiel, and Sesay then travelled with Yeaten to collect materiel from Camp Schefflein.<sup>11554</sup> Similarly, Kanneh testified that Yeaten and Issa Sesay met with Taylor twice<sup>11555</sup> before picking up military equipment at the back of Taylor's house.<sup>11556</sup>

5218. TF1-371 testified only as to Yeaten's involvement in supplying ammunition. The Trial Chamber recalls its finding that the Defence arguments and the evidence of DCT-008 do not in themselves establish that Yeaten was engaged in the trade of arms and ammunition for the RUF independently and without the knowledge of the Accused.<sup>11557</sup> In this instance, the Defence has not pointed to any evidence indicating that Yeaten was acting outside the scope of his authority as the Accused's subordinate. Given the general evidence that he was subject to Taylor's authority, and that many of Yeaten's dealings with the RUF were conducted with the involvement of the Accused<sup>11558</sup> the Trial Chamber is not satisfied that in the specific instance described by TF1-371, Yeaten was acting without the approval or knowledge of the Accused.

5219. Based on Kanneh and TF1-338's account, which the Trial Chamber finds to be credible, as well as the corroborative value of TF1-371's evidence and the Trial Chamber's previous findings concerning the relationship between Benjamin Yeaten and the Accused, the Trial Chamber is satisfied that the Accused supplied Issa Sesay with military equipment when he travelled to Liberia in the second half of 2000 and early 2001.

#### Quantity of materiel supplied

5220. The Trial Chamber notes that nearly all of the witnesses who testified that Sesay brought materiel back from Liberia to Sierra Leone agreed that the materiel was transported

<sup>11553</sup> TF1-371, Transcript 29 January 2008, pp. 2457-2458 (CS).

<sup>11554</sup> TF1-338, Transcript 2 September 2008, p. 15162.

<sup>11555</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9497-9498.

<sup>11556</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9498-9500.

<sup>11557</sup> See *supra*, The Role of Intermediaries: Benjamin Yeaten.

<sup>11558</sup> See *supra*, The Role of Intermediaries: Benjamin Yeaten.

by helicopter from Monrovia to Foya before being taken across the border.<sup>11559</sup> This is consistent with the testimony of other witnesses that ammunition supplies were flown to Foya via helicopter from 1999 when insurgent attacks on Lofa County made the roads impassable.<sup>11560</sup> The witnesses' evidence as to the quantity of materiel brought to Sierra Leone varies. TF1-338 states that in May 2000, the materiel was transported in an eight-tyre truck. Kanneh states that in 2000, two vehicles – a van and a jeep – were required to transport the materiel to the airport on that trip.<sup>11561</sup> However, according to Abu Keita, the materiel brought back by Sesay totalled only 50 boxes of ammunition.<sup>11562</sup> None of the witnesses testified that the helicopters made repeat flights solely to pick up military equipment.

5221. Some evidence was adduced before the Trial Chamber as to the size of the helicopters involved in the transport of materiel. The Accused stated that the type of helicopter used in Liberia around this time was too small to carry passengers as well as a cargo of ammunition.<sup>11563</sup> The Prosecution put to the Accused during cross-examination the possibility that even if a Mi-2 was carrying passengers it would still have weight capacity to carry cargo. It sought to rely on the statement in Exhibit P-0457 that the interior of a Mi-2 could “be quickly converted for transport of 700 kilos of cargo”. The Trial Chamber considers, and as it also noted during the trial,<sup>11564</sup> that it is not evident from the statement in Exhibit P-0457 that once converted to transport cargo a Mi-2 helicopter was still capable of carrying the same number of passengers, or indeed any number of passengers. However,

<sup>11559</sup> TF1-338, Transcript 1 September 2008, p. 15136; Transcript 2 September 2008, pp. 15207-15209 (PS) (materiel was transported back to the Executive Mansion in an eight-tyre truck and then flown to Foya on the chopper); Transcript 2 September 2008, pp. 15162-15163; TF1-567, Transcript 7 July 2008, p. 13040; Perry Kamara, Transcript 6 February 2008, p. 3270; Transcript 7 February 2008, p. 3395; Karmoh Kanneh, Transcript 12 May 2008, pp. 9504-9505; *but see* Abu Keita, Transcript 23 January 2008, pp. 2031-2032, who did not see the materiel arrive in Foya.

<sup>11560</sup> TF1-516, Transcript 8 April 2008, p. 6955; TF1-567, Transcript 7 July 2008, p. 13109 (“If the road was not clear, that was the reason why Charles Taylor had helicopters. We would load the arms and ammunition there and then they will fly it straight to Foya”).

<sup>11561</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9503-9504.

<sup>11562</sup> Abu Keita, Transcript 23 January 2008, pp. 2031-2032.

<sup>11563</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27119-27120; Transcript 26 August 2009, pp. 27806-27808 (The Accused explains that Liberian Government received two Mi-2 civilian helicopters in 2000 which could not carry more than 10 people, and could not have been used to transport arms).

<sup>11564</sup> Charles Ghankay Taylor, Transcript 20 January 2010, pp. 33723-33730.

as the Trial Chamber has found, the contradictory testimony of the Accused undermines his claim that he did not have a larger-sized helicopter in 2000.<sup>11565</sup>

5222. The only other witness to testify to the size of helicopters was TF1-516, who noted that of the three types of helicopters used to transport materiel in Liberia during 1999 to 2000, SSS helicopters were of a smaller size than the ATU helicopters, and could only transport, at most, five persons.<sup>11566</sup>

5223. In light of the lack of evidence, the Trial Chamber is unable to draw any conclusions as to the quantity of any of the supplies of arms or ammunition brought back by Issa Sesay on his trips to Liberia.

### Findings

5224. The Trial Chamber finds beyond reasonable doubt that Issa Sesay made at least two trips to Liberia in the second half of 2000 and in early 2001 during which he obtained arms and ammunition supplied by the Accused. However, there is insufficient evidence to establish the quantity of materiel received by Sesay from the Accused on his trips to Liberia during 2000 and 2001.

#### (iv) Alleged trips by Issa Sesay's subordinates

### Submissions of the Parties

5225. The Prosecution submits that during Issa Sesay's reign as Interim Leader, his subordinates also transported materiel provided by the Accused from Liberia to Sierra Leone.<sup>11567</sup> The Prosecution relies on the account of Albert Saidu that Issa Sesay in 2000 sent him to deliver a letter to Yeaten in Vahun requesting ammunition and medicine, which was immediately provided, and also on the evidence of TF1-375 and TF1-567 that they were personally involved in the transportation of arms and ammunition during this period.

### Evidence

#### Prosecution Witness Albert Saidu

<sup>11565</sup> See *supra*, Arms and Ammunition: Allegations of Direct Supply by the Accused, During Issa Sesay's Leadership (December 1999-January 2002).



5226. Albert Saidu, an RUF adjutant,<sup>11568</sup> testified that at one point in 2000, Sesay asked him to deliver a letter to Benjamin Yeaten, whom the witness referred to as “General 50”, in Vahun. This occurred shortly after Sesay was notified of CDF attacks against the RUF at Segbwema.<sup>11569</sup> Saidu travelled by motorcycle with another member of the RUF, Prince Kosia, to Vahun, met with Yeaten and gave him the letter. The following morning, Yeaten provided him with two vehicles (a Land Rover and a Hilux pick-up truck) loaded with ammunition and fuel, and referred to these supplies as “the things you have come for”. Yeaten’s men drove the vehicles to Bomaru where the ammunition was off-loaded and taken to Pendembu and Kono.<sup>11570</sup> Later, Saidu was asked by Issa Sesay to meet the first brigadier commander Dennis at Pendembu, who distributed to Saidu and another Commando at Segbwema fifty AK-47 rifles that they brought back to Segbwema and kept until the final disarmament in 2001.<sup>11571</sup> According to Saidu, they experienced no further attacks by the CDF and did not use the rifles.<sup>11572</sup>

Prosecution Witness TF1-567

5227. Witness TF1-567 testified that while he was in Monrovia during 2000, he began transporting weapons over a period of about a year.<sup>11573</sup> If Issa Sesay wanted arms and ammunition, he would pass on the message to Benjamin Yeaten who would then pass it on to Taylor. According to TF1-567, Yeaten would tell him that “his dad had said he would solve the problem”, and then Yeaten would give ammunition to the witness. Sometimes TF1-567 would bring the ammunition to Sesay while at other times, Sesay would come pick it up in Monrovia. The witness collected the ammunition “many times”.<sup>11574</sup> The witness would pick up the ammunition from a weapons depot near the Executive Mansion where the ATU were based, named Proton, sometimes from a house at the side of White Flower<sup>11575</sup>

<sup>11566</sup> TF1-516, Transcript 8 April 2008, pp. 6968-6970.

<sup>11567</sup> Prosecution Final Trial Brief, paras 276-277, 279.

<sup>11568</sup> Albert Saidu, Transcript 3 June 2008, pp. 10887-10888; Transcript 4 June 2008, p. 10895.

<sup>11569</sup> Albert Saidu, Transcript 5 June 2008, pp. 11105-11106.

<sup>11570</sup> Albert Saidu, Transcript 5 June 2008, pp. 11107-11110.

<sup>11571</sup> Albert Saidu, Transcript 5 June 2008, pp. 11110-11111.

<sup>11572</sup> Albert Saidu, Transcript 5 June 2008, pp. 11111-11112.

<sup>11573</sup> TF1-567, Transcript 7 July 2008, pp. 13110-13112.

<sup>11574</sup> TF1-567, Transcript 4 July 2008, pp. 12991-12992.

<sup>11575</sup> TF1-567, Transcript 4 July 2008, p. 12995.

and sometimes from Taylor's farm, which was located in a village on the way to Gbarnga.<sup>11576</sup> The witness stated that he always travelled to Proton at night.<sup>11577</sup>

5228. Similarly, the witness would travel to White Flower at night. Yeaten would often go with the witness to White Flower to get ammunition. If Yeaten was not there, the witness would get ammunition from G4 Moses or Kai. The witness did not know how many times he went to White Flower.<sup>11578</sup>

5229. The witness did not recall how many times he went to Taylor's farm, but said he did go there several times. The witness had a pickup truck given to him by Issa Sesay and from the farm he would take the materiel straight to Issa Sesay in Sierra Leone. He would be accompanied by two Liberian SS men. The witness drove to Sierra Leone with ammunition in the pickup truck throughout 2000 and 2001, when Issa Sesay was head of the RUF.<sup>11579</sup>

5230. On two occasions, TF1-567 went to Roberts International Airport in the early hours of the morning and witnessed arms shipments arriving in Monrovia by air. The witness states that the first consignment went to White Flower in mid-2000 and the second went to an ATU warehouse.<sup>11580</sup> The witness believed that the particular consignment which was taken to White Flower ended up in Sierra Leone because before that consignment arrived, the warehouse at White Flower was quite empty; about one month after the consignment arrived, Issa Sesay requested ammunition which Yeaten supplied from the White Flower warehouse.<sup>11581</sup>

5231. TF1-567 testified that after the LURD forces gained control of Lofa County in 2000, arms and ammunition shipments were either transported by road, or if Yeaten was at Foya, flown to Foya and then taken across the border by road. He explained that these shipments were transportable by road because the RUF and Taylor's troops cleared the road of LURD forces between Voinjama, Kolahun and Foya.<sup>11582</sup>

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<sup>11576</sup> TF1-567, Transcript 4 July 2008, p. 12996.

<sup>11577</sup> TF1-567, Transcript 4 July 2008, pp. 12993-12994.

<sup>11578</sup> TF1-567, Transcript 4 July 2008, pp. 12995-12996.

<sup>11579</sup> TF1-567, Transcript 4 July 2008, pp. 12996-13000.

<sup>11580</sup> TF1-567, Transcript 7 July 2008, pp. 13112-13113.

<sup>11581</sup> TF1-567, Transcript 7 July 2008, pp. 13114-13116.

<sup>11582</sup> TF1-567, Transcript 7 July 2008, pp. 13108-13109.



5232. From 1999 to 2001, TF1-567 witnessed “a large amount” of arms and ammunition transported from Liberia to Sierra Leone. While it was not a scheduled occurrence, any time Issa Sesay needed ammunition he sent a message to the witness who in turn passed it onto Taylor. Sometimes this could happen four times a month.<sup>11583</sup>

5233. On cross-examination, the witness acknowledged that he never heard Taylor directly instructing any person to take materiel from Sierra Leone and his attribution of those arms and ammunition to Taylor was based on information from third parties. However, he insisted that he knew that all weapons coming from Yeaten ultimately had approval of Taylor because that was what Yeaten told him.<sup>11584</sup>

Prosecution Witness TF1-375

5234. Witness TF1-375 testified that he was involved in transporting arms and ammunition to Sierra Leone from Liberia on four occasions.<sup>11585</sup> The first time, in 2000, the witness carried ammunition (including AK rounds, RPG rockets, and GMG rounds) from White Flower to Koindu on the instructions of Benjamin Yeaten. The ammunition was loaded into a Land Cruiser pick-up and the witness turned this materiel over to Issa Sesay’s bodyguard, Bob George, when he arrived at Koindu.<sup>11586</sup>

5235. Also in 2000, the witness took ammunition from White Flower to Foya, and then to Buedu where he gave the ammunition to a man named “CO Fembeh”. The ammunition included AK rounds, GMG and RPG rockets.<sup>11587</sup>

5236. The third time was in early 2001. On the instructions of Yeaten, the witness collected ammunition from White Flower, with some ATU officers, in an ATU Land Rover Defender and took it to Issa Sesay in Kono.<sup>11588</sup>

5237. The fourth time, in 2001, TF1-375 was instructed by Yeaten to go to Monrovia to collect ammunition from the armoury dump and from White Flower. The witness turned over the ammunition to Issa Sesay’s bodyguard, Boise, at Mende Buima.<sup>11589</sup>

<sup>11583</sup> TF1-567, Transcript 7 July 2008, pp. 13109-13110.

<sup>11584</sup> TF1-567, Transcript 7 July 2008, pp. 13097-13098.

<sup>11585</sup> TF1-375, Transcript 24 June 2008, p. 12659.

<sup>11586</sup> TF1-375, Transcript 24 June 2008, pp. 12659-12660.

<sup>11587</sup> TF1-375, Transcript 24 June 2008, pp. 12660-12662.

<sup>11588</sup> TF1-375, Transcript 24 June 2008, pp. 12662-12663.





The Accused

5238. The Accused testified that he did not provide arms to Issa Sesay during 2000 to 2001. The Accused denied any knowledge of the four alleged arms movements described in the evidence of TF1-375.<sup>11590</sup> He also denied that materiel was ever picked up from White Flower, as TF1-375 claimed, distinguishing between the building referred to as White Flower, which was his residence, and the area surrounding White Flower on which there were other buildings from which materiel could have been picked up without his knowledge.<sup>11591</sup>

5239. In response to the evidence of TF1-567, he denied providing materiel to the RUF on the basis that he had no access to materiel to give, these supplies having been destroyed at the end of 1999 during the disarmament process.<sup>11592</sup> He also denied receiving messages from Issa Sesay through TF1-567, as TF1-567 claimed, saying he did not contact or know of Sesay until May 2000.<sup>11593</sup> He also categorically denied that arms and ammunitions were kept at the Executive Mansion, although the ATU stored materiel at the barracks at the Executive Mansion Ground.<sup>11594</sup> The Accused also denied that arms and ammunitions were stored at his farm near Gbarnga, as his farm “was not a military post”.<sup>11595</sup>

5240. In response to the evidence of Albert Saidu, the Accused denied any knowledge of the vehicles, ammunition and fuel given by Yeaten to Saidu.<sup>11596</sup>

Defence Witness Issa Sesay

5241. Issa Sesay denied dealing with Benjamin Yeaten regarding the supply of ammunition as during the time he met with Benjamin Yeaten the war in Sierra Leone had ceased so there was no need for ammunition.<sup>11597</sup> He denied that any of his subordinates, including TF1-375 and TF1-567, brought any supplies of arms or ammunition from Liberia to Sierra Leone.<sup>11598</sup>

<sup>11589</sup> TF1-375, Transcript 24 June 2008, pp. 12663-12664.

<sup>11590</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28886-28887.

<sup>11591</sup> Charles Ghankay Taylor, Transcript 15 September 2009, p. 28884.

<sup>11592</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28786.

<sup>11593</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28781-28782.

<sup>11594</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28789.

<sup>11595</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28799-28800.

<sup>11596</sup> Charles Ghankay Taylor, Transcript 26 October 2009, pp. 30238-30239.

<sup>11597</sup> Issa Sesay, Transcript 11 August 2010, p. 46001.

<sup>11598</sup> Issa Sesay, Transcript 11 August 2010, p. 46002.

While Sesay confirmed that “Boy George” and “Boys” were his bodyguards and “CO Fembeh” was an RUF member, he stated that none of them were in the locations where and at the time at which TF1-375 claimed to have handed them supplies of materiel.<sup>11599</sup> He also stated that TF1-567 did not procure or keep custody of ammunition while in Monrovia, nor did TF1-567 have contact with Benjamin Yeaten.<sup>11600</sup>

### Deliberations

5242. Concerning TF1-375’s evidence on his personal involvement in arms and ammunition transportation, the Trial Chamber recalls its previous conclusion that TF1-375’s evidence should not be relied upon without corroboration, considering in particular the witness’s tendency to exaggerate his own importance within the RUF and SSS.<sup>11601</sup> Given the lack of any supporting evidence for TF1-375’s account, the Trial Chamber considers that TF1-375’s evidence as to his role in materiel transportation is another example of such exaggeration in a manner which is not confirmed or corroborated. The Trial Chamber is not satisfied that he transported arms and ammunitions from White Flower to Sierra Leone on the instructions of Yeaten.

5243. The Trial Chamber notes that the testimonies of TF1-567 and Albert Saidu are unusual in that they testify as to transportation of materiel by road during this period, when other witnesses have testified that, during this period, materiel was largely flown from Monrovia to Foya due to LURD attacks.<sup>11602</sup> The Trial Chamber notes that while Saidu testified on direct examination that from 1999, LURD rebels fought in Lofa County attempting to cut off the RUF supply route,<sup>11603</sup> in cross-examination, Saidu insisted that LURD rebels made no attempt to affect cross-border supply.<sup>11604</sup> Saidu was not asked, and did not explain how Yeaten’s men were able to drive two vehicles full of supplies from Monrovia to Bomaru in Sierra Leone unimpeded, nor did he refer to any difficulty in transporting these supplies.<sup>11605</sup> However, TF1-567 explained that he was able to transport supplies by road during 2000 and 2001 while LURD was in occupation of Lofa County

<sup>11599</sup> Issa Sesay, Transcript 11 August 2010, pp. 46002, 46004, 46005.

<sup>11600</sup> Issa Sesay, Transcript 11 August 2010, pp. 46033-46034.

<sup>11601</sup> Credibility Assessment, TF1-375, paras 308-312.

<sup>11602</sup> TF1-516, Transcript 8 April 2008, p. 6955.

<sup>11603</sup> Albert Saidu, Transcript 5 June 2008, p. 11199.

<sup>11604</sup> Albert Saidu, Transcript 6 June 2008, pp. 11221-11222.

<sup>11605</sup> Albert Saidu, Transcript 5 June 2008, pp. 11107-11110.





because RUF and Liberian troops cleared the road of LURD forces between Voinjama, Kolahun and Foya.<sup>11606</sup> The Trial Chamber considers that this is a plausible explanation of how cross-border arms and ammunitions shipments were sustained while LURD was in occupation of Lofa County, not contradicted by other witnesses. The Trial Chamber accepts TF1-567's evidence, which corroborates Saidu's testimony that supplies could be taken by road at this time.

5244. The Trial Chamber considers that Saidu's testimony as to the receipt of ammunition and medicines from Benjamin Yeaten following a request from Sesay to be clear and consistent. Further, the Trial Chamber recalls its finding that Albert Saidu is a generally credible witness.<sup>11607</sup> In cross-examination Saidu was questioned concerning a number of inconsistencies and omissions,<sup>11608</sup> but he did not depart in any significant way from his account given on direct examination or in his prior statements to the Prosecution. The Trial Chamber notes that Issa Sesay himself was not questioned on Saidu's evidence.<sup>11609</sup>

5245. In light of the Trial Chamber's satisfaction as to the credibility of his account and the corroborative value of TF1-567's evidence as to the transportation of materiel by road, the Trial Chamber finds that Albert Saidu did bring back ammunition and medicine from Yeaten in 2000 in response to a request from Issa Sesay.

5246. Similarly, concerning TF1-567, the Trial Chamber notes that no other witness corroborates his involvement in the transport of materiel. However, the Trial Chamber recalls that it had no general reservation about the credibility of TF1-567<sup>11610</sup> and has no particular reservation concerning TF1-567's account as to the transportation of materiel. The witness maintained his position on cross-examination and was able to provide explanations for apparent inconsistencies, such as the ability to transport materiel across Lofa County

<sup>11606</sup> TF1-567, Transcript 7 July 2008, pp. 13108-13109.

<sup>11607</sup> Credibility Assessment, Albert Saidu, Pre-Indictment period (1988-1996), para. 2384.

<sup>11608</sup> Albert Saidu, Transcript 9 June 2008, pp. 11265-11269, 11275-11277 (The witness was questioned as to why one of his prior statements referred to arms and ammunitions being provided by Yeaten while another statement referred to ammunitions and medicine. The witness maintained that only ammunitions and medicine were provided); Transcript 9 June 2008, pp. 11265-11269 (The witness admitted that he had not ever served directly under Issa Sesay, but that he had been ordered to deliver the letter to Liberia by another member of the RUF, Gbessey Ngobeh. When asked why he was selected to deliver such an important letter, he explained that he did not know and any other member of the RUF could have been selected. The Defence pointed out that in a prior statement to the Prosecution he had not referred to travelling with "Prince Kosia" on the trip but he explained that this was because he was not asked).

<sup>11609</sup> Albert Saidu, Transcript 5 June 2008, pp. 11107-11110.

<sup>11610</sup> Credibility Assessment, TF1-567, paras 313-317.

when it was occupied by LURD forces. The witness's careful explanation of how he knew details such as whether the particular consignment coming into Monrovia by air was taken to Sierra Leone also lends his account credibility.<sup>11611</sup>

5247. In light of the Trial Chamber's satisfaction as to the credibility of his account, the Trial Chamber is therefore satisfied that TF1-567 was, on Yeaten's instructions, involved in the transportation of materiel to Issa Sesay in Sierra Leone.

#### Quantity of materiel supplied

5248. In relation to quantity of materiel brought by Saidu and TF1-567, Saidu testified that he returned with two vehicles (a Land Rover and a Hilux pick-up truck) loaded with ammunitions and fuel on his trip to Liberia. He also testified that later he received 50 AK-47 rifles,<sup>11612</sup> although it is not clear whether these rifles came from the same shipment that he returned with from Liberia. In any event according to Saidu, they did not use the rifles as there was little further fighting.<sup>11613</sup>

5249. TF1-567 did not state the amount of materiel he transported during 2000 and 2001. The Trial Chamber notes that he testified to transporting the materiel in a pickup truck,<sup>11614</sup> that he was involved in transporting weapons over a period of about a year<sup>11615</sup> and collected ammunition "many times".<sup>11616</sup>

#### Findings

5250. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that during Issa Sesay's reign as Interim Leader of the RUF, TF1-567 was involved in the transportation of materiel frequently over the course of one year and that materiel was provided by the Accused from Liberia to the RUF in Sierra Leone.

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<sup>11611</sup> TF1-567, Transcript 7 July 2008, pp. 13312-13116.

<sup>11612</sup> Albert Saidu, Transcript 5 June 2008, pp. 11110-11111.

<sup>11613</sup> Albert Saidu, Transcript 5 June 2008, pp. 11111-11112.

<sup>11614</sup> TF1-567, Transcript 4 July 2008, pp. 12996-13000.

<sup>11615</sup> TF1-567, Transcript 7 July 2008, pp. 13110-13112.

<sup>11616</sup> TF1-567, Transcript 4 July 2008, pp. 12991-12992.

5251. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in 2000, Albert Saidu brought back two vehicles of ammunition and medicine from Yeaten in response to a request from Issa Sesay.

5252. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that during Issa Sesay's reign as Interim Leader of the RUF, TF1-375 was involved in the transportation of materiel to Sierra Leone from Liberia on four occasions.

### 3. Allegations that the Accused Facilitated Supplies

#### (a) Supplies from ULIMO

##### (i) Alleged Facilitation after the Abidjan Peace Accords

#### Submissions of the Parties

5253. The Prosecution alleges that the evidence "strongly suggests" that Taylor provided money and guidance to Foday Sankoh in 1996 to obtain materiel from ULIMO. The Prosecution suggests that in order to provide materiel to the RUF and AFRC/RUF during the time the border was not easily accessible to him, one of Taylor's options was "no doubt" obtaining that materiel from ULIMO/ex-ULIMO fighters. Therefore, the Prosecution submits, Taylor "would have included that option in the meetings he had with members of the RUF external delegation, and one can reasonably conclude, with Sankoh".<sup>11617</sup>

5254. The Prosecution claims that during Sankoh's trip to Sierra Leone in November 1996, Sankoh gave Bockarie instructions to obtain materiel from ULIMO, and that Bockarie reported that he used \$USD 7,000, "presumably given to him by Sankoh on that trip", to purchase that materiel. The Prosecution submits that "it is no coincidence" that the money and the instructions came to Bockarie well after Taylor's contacts with the RUF in Côte d'Ivoire, including his meeting with them in Abidjan in about December 1995, when he gave them some 10 million CFA francs. The Prosecution argues that securing materiel from ex-ULIMO fighters provided a two-pronged benefit to Taylor – "disarm ex-ULIMO fighters who could be potential enemies and/or send them to fight alongside the AFRC/RUF and

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<sup>11617</sup> Prosecution Final Trial Brief, para. 220.



supply his Liberian forces and his proxy Sierra Leone forces, the AFRC/RUF, with that materiel, thus conserving some of his own stores".<sup>11618</sup>

5255. The Prosecution further alleges that the Accused was in a long-term cooperative relationship with Alhaji Kromah, who became the leader of ULIMO-K, and that they were working together on various matters from as early as 1993. The Prosecution submits that a Memorandum of Understanding entered into by Taylor and Kromah in November 1995 led to Taylor once again having access to the border with Sierra Leone.<sup>11619</sup>

5256. The Defence denies the Prosecution's allegation and submits that there is no evidence suggesting that the Accused was involved in the arms trade between the RUF and ULIMO in Liberia.<sup>11620</sup> The Defence accepts that Sankoh gave Bockarie \$USD 7000 to buy ammunition from ULIMO, but submits that this is not linked to Taylor in any way other than by the suggestion that it was Jungle who carried the money from Sankoh to Bockarie. In this regard, the Defence submits that Jungle was not with the RUF on Taylor's behalf.<sup>11621</sup> The Defence also challenges the Prosecution's allegation that the Accused and Alhaji Kromah were in a long-term cooperative relationship and submits that this is simply a Prosecution assumption, since there is no evidence on this point.<sup>11622</sup>

## Evidence

### Prosecution Witness TF1-168

5257. Witness TF1-168, an RUF member, testified that when Foday Sankoh was in the Côte d'Ivoire for the peace negotiations he received \$USD 500,000 in May 1996 from the Libyan ambassador to Ghana, Mohamed Talibi. This assistance came after Sankoh went to Libya to ask for it in order to transform his movement into a political party. After Sam Bockarie told Sankoh that he could get ammunition from ULIMO fighters along the Sierra Leone-Liberian border and that he needed money in order to do that, Sankoh sent \$USD

<sup>11618</sup> Prosecution Final Trial Brief, para. 220.

<sup>11619</sup> Prosecution Final Trial Brief, paras 221-222.

<sup>11620</sup> Defence Final Trial Brief, para. 1040-1041; Defence Response to Prosecution Final Trial Brief, paras 40-41.

<sup>11621</sup> Defence Final Trial Brief, para. 1039.

<sup>11622</sup> Defence Response to Prosecution Final Trial Brief, paras 40-43.

7,000 with Daniel Tamba (a.k.a. Jungle) to Bockarie. Out of that amount, \$USD 2,000 was for food and \$USD 5,000 was for ammunition.<sup>11623</sup>

Prosecution Witness TF1-338

5258. Witness TF1-338, an RUF member, testified that in 1997 after Foday Sankoh returned from Abidjan he gave “some money” to Bockarie when they were in Giema. Sankoh told Bockarie to use the money to purchase arms and ammunition from ULIMO since he had heard that ULIMO were disarming and had a large cache of arms with them. The witness went to Foya with Bockarie, Kennedy, Lion, Sam Kolleh and others to negotiate for arms and ammunition from ULIMO. The materiel was bought from Farrah Aidid and Musa Sidibay, called Jungle. The witness stated that this happened in 1997 but could not recall the particular time.<sup>11624</sup>

Prosecution Witness TF1-371

5259. Witness TF1-371, an RUF member, testified that in 1997 the RUF purchased arms and ammunition from ULIMO through Varmuyan Sherif. Abu Keita was also “involved”. The first sum of money came from Sankoh who sent Bockarie \$USD 7,000. Bockarie also got 40,000 Liberian dollars although the witness did not know from where the money came from.<sup>11625</sup>

Prosecution Witness TF1-367

5260. Witness TF1-367, an RUF member, testified that the RUF purchased ammunition from ULIMO in 1997 until “Johnny Paul called us”, referring to when Johnny Paul Koromoa invited the RUF to Freetown.<sup>11626</sup> The witness stated that the first purchase was made with \$USD 7,000 Bockarie had provided. Bockarie said that the money was given to him by Sankoh “to maintain the ground”. Sankoh had given the \$USD 7,000 to Bockarie upon his return to Buedu from the peace talks in the Côte d’Ivoire.<sup>11627</sup> Bockarie would change the currency and provide funds for the ammunition purchases out of the \$USD 7,000

<sup>11623</sup> TF1-168, Transcript 22 January 2009, pp. 23283-23285 (CS); Transcript 26 January 2009, pp. 23537-23540 (CS).

<sup>11624</sup> TF1-338, Transcript 3 September 2008, pp. 15275-15277.

<sup>11625</sup> TF1-371, Transcript 31 January 2008, pp. 2696-2697 (CS).

<sup>11626</sup> TF1-367, Transcript 29 August 2008, pp. 14964-14966, 14967-14969.

<sup>11627</sup> TF1-367, Transcript 20 August 2008, pp. 14156-14158.

lump sum. The witness could not recall how much out of that sum was actually used to purchase the ammunition.<sup>11628</sup>

Prosecution Witness Mohamed Kabbah

5261. Witness Mohamed Kabbah testified that prior to the Junta taking power, in 1996, the RUF was trading for ammunition with ULIMO at the border.<sup>11629</sup>

The Accused

5262. The Accused denied that he had anything to do with providing Bockarie with the \$7000 he used to buy arms and ammunition from ULIMO, asserting that there is no evidence whatsoever of his involvement.<sup>11630</sup>

5263. The Accused acknowledged that the NPFL and ULIMO worked together to resolve a dispute regarding governmental posts after the signing of the Cotonou Agreement on 25 July 1993. It was eventually agreed that the NPFL would receive the posts of Foreign Affairs and the Ministry of Justice while ULIMO would get the post of Finance.<sup>11631</sup>

5264. The Accused also acknowledged that he himself signed the Akosombo Agreement on 12 September 1994, signed also by Alhaji Kromah for ULIMO. That agreement established the Council of Five, in which one member of the NPFL, ULIMO and AFL were to be appointed while one other member was to be chosen by the Liberian National Conference, and another one to be jointly appointed by the NPFL and ULIMO. The Accused also agreed that ULIMO and the NPFL jointly appointed the Honourable Tamba Tailor as a representative in the Council of Five.<sup>11632</sup>

5265. The Accused recalled that Mr George Boley of ECOWAS mediated between the NPFL and ULIMO-K of Alhaji Kromah. He acknowledged that the NPFL and ULIMO-K signed a memorandum of understanding on 30 November 1995 to cease all hostilities. They

<sup>11628</sup> See TF1-367, Transcript 1 September 2008, pp. 15013-15019.

<sup>11629</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16425.

<sup>11630</sup> Charles Ghankay Taylor, Transcript 23 July 2009, pp. 25139-25140.

<sup>11631</sup> Charles Ghankay Taylor, Transcript 14 January 2010, pp. 33316-33317.

<sup>11632</sup> Charles Ghankay Taylor, Transcript 14 January 2010, pp. 33317-33321.

then cooperated to ensure free movement of civilians and commercial activity in their respective controlled territories.<sup>11633</sup>

5266. The Accused denied acting in concert with ULIMO-K in 1996 against Roosevelt Johnson of ULIMO-J. He asserted that it was the Liberian government who arrested Johnson, which included the NPFL, ULIMO-K and ULIMO-J which at that time was headed by Kai Karyee,. Taylor asserted he was not involved in ULIMO's internal fights and stated that it was the government who temporarily recognized Karyee as the head of ULIMO-J so that his faction could implement the peace plan.<sup>11634</sup>

Defence Witness Charles Ngebeh

5267. Witness Charles Ngebeh testified that before the RUF retreated from Zogoda in 1996, Bockarie established a relationship with ULIMO in Foya, who by then were disarming in 1996, 1997. Bockarie would go with other officers to negotiate for ammunition with the ULIMO commander in Foya. Bockarie and the other officers who would then travel with the ammunition back to Buedu. The witness stated that this was in 1996/1997. According to the witness, the ammunition was mainly bartered for "single barrels" and goods, although sometimes it was done with money. The witness went with Bockarie on one occasion to purchase ammunition and arms from ULIMO. On that occasion they went with single barrels to make the exchange for ammunition. Bockarie also had US dollars with him.<sup>11635</sup>

Defence Witness Issa Sesay

5268. Witness Issa Sesay testified that in late November, before signing the peace accord in Abidjan, Sankoh gave Sam Bockarie \$USD 7,000 in the presence of Issa Sesay, Peter Vandi and Lawrence Womandia in Buedu. Sankoh told Bockarie to try very hard to establish a relationship with ULIMO in order to buy ammunition to defend Kailahun.<sup>11636</sup> After Sankoh returned to Abidjan, Bockarie sent him a message that he had met ULIMO members and that "it had gone through".<sup>11637</sup>

<sup>11633</sup> Charles Ghankay Taylor, Transcript 14 January 2010, pp. 33321-33324.

<sup>11634</sup> Charles Ghankay Taylor, Transcript 14 January 2010, pp. 33324-33328; Transcript 17 November 2009, pp. 31877-31880.

<sup>11635</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37848-37852.

<sup>11636</sup> Issa Sesay, Transcript 6 July 2010, pp. 43769-43770, 43774-43775.

<sup>11637</sup> Issa Sesay, Transcript 6 July 2010, p. 43796.

5269. The day Sankoh left for Abidjan, Issa Sesay, Matthew Sesay, Peter Vandi, Lawrence Womandia and Sam Bockarie went back to Giema. Two days later, in late November, Bockarie said he was going to the border, to Foya, to meet with ULIMO. Bockarie then went to Foya with his bodyguards, Matthew Sesay (a.k.a. Kennedy), a Vanguard named Big Daddy and CO Sellay. Bockarie was there for about a week.<sup>11638</sup> Upon their return they told Issa Sesay that ULIMO thought Bockarie had come to surrender. ULIMO's commander in Foya contacted ULIMO's headquarters in Voinjama. ULIMO generals, Abu Keita and Sherif, then came to Foya with their bodyguards. The ULIMO commanders sent 20 to 25 ULIMO men to accompany Bockarie and his delegation back to Giema. They said it was for the men to see the RUF-controlled-territory in order to "feel safe with the RUF". Bockarie returned with the delegation to Giema in December.<sup>11639</sup> Issa Sesay was there during the 5 days the ULIMO members stayed in Giema and were establishing a relationship with the RUF.<sup>11640</sup>

5270. Then, in late December, the ULIMO members returned to Foya with Bockarie, Matthew Sesay and Bockarie's bodyguards. Bockarie stayed in Foya for 3 days. He then explained to the men that he was interested in buying ammunition and they were willing to sell their ammunition to Bockarie. Abu Keita and Sherif then brought ammunition which was bought by Bockarie. Bockarie returned to Kailahun with ammunition which included 45 RPG rockets, 15 "sardine tins" of AK rounds and there were "open ones" which were in rice bags, about ten sardine tins of G3 rounds, and eight to ten sardine tins of GMG rounds.<sup>11641</sup>

5271. When Keita and Sherif brought the ammunition from Voinjama, the commander on the ground told Mosquito that he too had some ammunition that he would like to sell separately, without the other commanders knowing. Bockarie told the commander to wait and that he would come to buy it later from Koindu. Bockarie then introduced Kennedy to Sherif, Keita, the commander in Foya and all the other men, telling them that if they wanted to sell their consignments they should bring them to Koindu, and if they meet Kennedy there, Kennedy would send a message to him, to Bockarie.<sup>11642</sup>

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<sup>11638</sup> Issa Sesay, Transcript 6 July 2010, pp. 43779-43781, 43786-43787.

<sup>11639</sup> Issa Sesay, Transcript 6 July 2010, pp. 43781-43783, 43787.

<sup>11640</sup> Issa Sesay, Transcript 6 July 2010, pp. 43783-43784.

<sup>11641</sup> Issa Sesay, Transcript 6 July 2010, pp. 43784-43785, 43787.

<sup>11642</sup> Issa Sesay, Transcript 6 July 2010, pp. 43785-43786.

5272. Kennedy was then posted by Bockarie to Koindu, as Koindu was close to the border, for Kennedy to be able to receive the men and pay them for the ammunition. When the ammunition was stocked and accumulated they would transport it to Buedu. Kennedy was based in Koindu for this purpose from December 1996 until the AFRC overthrow in May 1997.<sup>11643</sup>

5273. Keita, Sherif and others came to Koindu with ammunition in their pick-ups on two to three occasions. Some ULIMO members from Foya Tinkia towards Masabulahun would themselves bring ammunition to Buedu and Bockarie would buy it from them.<sup>11644</sup> The ULIMO fighters and their commanders would sell the ammunition to the RUF and get what they requested for it. These transactions were not controlled by Keita or Sherif. Keita and others used to sell their ammunition from the headquarters, and soldiers from lower ranks would sell their own ammunition.<sup>11645</sup>

5274. Because of the frequent attacks by government troops and the Kamajors on RUF positions, the money given by Sankoh for materiel was not sufficient. Therefore, these purchases from ULIMO were also financed by selling civilians' harvest.<sup>11646</sup> Bockarie would send Peter Vandi to sell the civilians' products in the trading areas. Peter Vandi would bring the money to Bockarie, who would then send it to Kennedy in Koindu. Kennedy would purchase ammunition from the Mandekoma border area. Some money would stay with Bockarie as he would buy materiel from Dawa customs area.<sup>11647</sup> ULIMO men would also ask for different commodities in exchange for the ammunition, including single barrel guns, generators, tape recorders. There came a time when it became rampant.<sup>11648</sup>

5275. The trade with ULIMO began in late December 1996 and continued until the AFRC coup, and after the AFRC took power and continued up to 1998.<sup>11649</sup> Between December 1996 and May 1997 ECOMOG was deployed in Liberia in order to carry out the

<sup>11643</sup> Issa Sesay, Transcript 6 July 2010, pp. 43787-43788.

<sup>11644</sup> Issa Sesay, Transcript 6 July 2010, pp. 43788.

<sup>11645</sup> Issa Sesay, Transcript 6 July 2010, pp. 43793-43794.

<sup>11646</sup> Issa Sesay, Transcript 6 July 2010, pp. 43788-437889. The civilians agreed to give their harvest to the RUF in exchange for the RUF defending them, instead of having to become refugees in Liberia.

<sup>11647</sup> Issa Sesay, Transcript 6 July 2010, pp. 43792-43793.

<sup>11648</sup> Issa Sesay, Transcript 6 July 2010, p. 43793-43795.

<sup>11649</sup> Issa Sesay, Transcript 6 July 2010, p. 43787.

disarmament process.<sup>11650</sup> It was impossible to have contact with Charles Taylor at this time, as ULIMO was controlling the entire Lofa County.<sup>11651</sup>

Defence Witness Fayia Musa

5276. Witness Fayia Musa testified that when Sankoh was in Abidjan, he started getting support from leaders in Africa. The first came from the Libyan government. Mohammed Talibi, who worked at the Libyan embassy in Ghana, gave Sankoh \$USD 500,000 in Abidjan. The money was given in a carton. A letter in the carton stated that this money was meant for Sankoh to help civilians living in RUF-held-territory and to buy food, medicines and “other important things for your civilians back home”. The letter also congratulated Sankoh for allowing the peace negotiations to get started.<sup>11652</sup> Out of the \$USD 500,000, Sankoh sent \$USD 7,000 to Mosquito to buy arms and ammunition from ULIMO at the border. By then, they had succeeded in breaking “the barricade” between them and the ULIMO members at the border in Lofa County.<sup>11653</sup> The witness thought that the \$USD 7,000 was delivered to Bockarie through one of the radio operators,<sup>11654</sup> then recalled that it was Colonel Jungle who transferred the \$USD 7,000 to Bockarie along with a radio operator who brought Bockarie a satellite phone.<sup>11655</sup> The information that \$USD 7,000 was given to purchase war materiel was conveyed to RUF members by the RUF external delegation in Abidjan, as the delegation was angry that money given for humanitarian purposes had been used either for arms or was expropriated by Sankoh for himself.<sup>11656</sup> They never saw the rest of the money. Sankoh used it and the 10 million CFA francs given to the delegation by Charles Taylor in December 1995 to buy flight tickets, and “squandered” the rest of the money. By July 1996 Sankoh told Musa that he had no money.<sup>11657</sup>

Defence Witness Sam Kolley

5277. Defence witness Sam Kolley testified that at the end of 1996 Mosquito went with Kennedy, Lion and others to Foya in Liberia to get arms but mainly ammunition from

<sup>11650</sup> Issa Sesay, Transcript 6 July 2010, p. 43792.

<sup>11651</sup> Issa Sesay, Transcript 6 July 2010, p. 43795.

<sup>11652</sup> Fayia Musa, Transcript 14 April 2010, pp. 39019-39020. 39022-39023.

<sup>11653</sup> Fayia Musa, Transcript 14 April 2010, pp. 39020-39021.

<sup>11654</sup> Fayia Musa, Transcript 14 April 2010, p. 39023.

<sup>11655</sup> Fayia Musa, Transcript 14 April 2010, pp. 39026-39027.

<sup>11656</sup> Fayia Musa, Transcript 14 April 2010, pp. 39023-39024.

<sup>11657</sup> Fayia Muse, Transcript 14 April 2010, pp. 39033-39034.

ULIMO. Bockarie told ULIMO, his former enemies, that he did not come to attack but rather to establish relations with them. ULIMO agreed to establish a relationship and then provided the RUF with a sufficient amount of ammunition and a few arms.<sup>11658</sup> Kolleh was in charge of transporting the materiel to Sierra Leone.<sup>11659</sup>

5278. On their way by from the mission, Bockarie told the group who went with him to pick up the materiel that it was Sankoh who told him to ask for ULIMO's assistance since he had a dream to connect with ULIMO. Bockarie himself was fearful of going to ULIMO since they were former enemies.<sup>11660</sup> Kolleh did not know how Sankoh knew that it was safe for Bockarie to approach ULIMO.<sup>11661</sup>

5279. From this operation they brought "plenty" of ammunition in sardine pans, boxes and rice bags. Bockarie purchased the ammunition with US dollars taken in ambushes, some diamonds, gold watches and clothing, and a single barrel shotgun. Mr Kolleh did not see the transfer of money.<sup>11662</sup>

5280. After this occasion, some ULIMO fighters brought ammunition individually to Mosquito, saying that they were not part of the arrangement between Bockarie and their commanders.<sup>11663</sup>

#### Prosecution Exhibit P-425

5281. The Prosecution cites Prosecution Exhibit P-425, a report made by the United Nations Secretary General to the Security Council about the situation in Liberia, dated 18 December 1995. According to this report, the NPFL headed by Taylor and ULIMO-K headed by Alhaji Kromah signed a Memorandum of Understanding to end all hostilities which resulted in opening the roads to Lofa County through Bong County. It further states

<sup>11658</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48409-48410.

<sup>11659</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48411-48413, 48427. Kolleh gathered over 100 people, both civilians and armed men, to transport the materiel overnight from Nyandehun in Liberia to Sierra Leone.

<sup>11660</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48410-48412.

<sup>11661</sup> Sam Kolleh, Transcript 4 November 2010, p. 48762.

<sup>11662</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48423, 48425-48427.

<sup>11663</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48424-48425.



that the factions have increased delivery of humanitarian assistance to the newly accessible areas.<sup>11664</sup>

Prosecution Exhibit P-611

5282. Prosecution Exhibit P-611, "Interview of Sam Koroma, November 18 2003", is Sam Kolleh's interview with the Prosecution in 2003.<sup>11665</sup> The interview includes a statement by Kolleh that after the retreat from Zogoda in 1996, Bockarie went to Foya to establish relations with ULIMO-K.<sup>11666</sup>

Defence Exhibit D-009

5283. Defence Exhibit D-009 is a salute report from Sam Bockarie to "the Leader of the Revolution", i.e. Foday Sankoh, authored on 26 September 1999. In his report, Bockarie writes that after Sankoh left for Abidjan in 1996 he, Bockarie, had made contacts with ULIMO upon Sankoh's instructions. Bockarie stated that he was first arrested by ULIMO but then convinced them to release him and was able to establish a relationship with them. He had used the \$USD 7,000 Sankoh had given him to purchase "vitaly needed materials that gave us the stance to fight and challenge the SLPP government until they were ousted by the AFRC coup. The efforts of the civilians most [sic] be highlighted as they provided Agricultural Produce which I traded for materials during the same period".<sup>11667</sup>

Defence Exhibit D-015

5284. Defence Exhibit D-015 is a letter from Foday Sankoh to Mohamed Talibi, Libyan Arab People's Jamahiriya, Accra, Ghana, dated 26 June 1996. Sankoh thanks Talibi for \$USD 500,000 given to him to purchase materiel to pursue "the military mission", but asks for an additional \$USD 1,500,000 as requested by his "business partners".<sup>11668</sup>

<sup>11664</sup> Exhibit P-425, "14<sup>th</sup> Progress Report of the Secretary General on UNOMIL, 18 December 1995, S/1995/1042, paras 6-7.

<sup>11665</sup> The witness identified himself at the time as "Sam Koroma". See Sam Kolleh, Transcript 4 November 2010, pp. 48701-48706.

<sup>11666</sup> Exhibit P-611, "Interview of Sam Koroma, November 18 2003", pp. 95-99.

<sup>11667</sup> Exhibit D-009, "RUF Defence Headquarters, Salute report to the Leader of the Revolution, RUF/SL, from Major General Sam Bockarie", p. 1, ERN 9658.

<sup>11668</sup> Exhibit D-015, RUF - Follow up request from Foday Sankoh, Leader, RUF/SL to Brother Mohamed Talibi, Libyan Arab People's Jamahiriya, Accra, Ghana, 26 June 1996.

Defence Exhibit D-084<sup>11669</sup>

5285. Defence Exhibit D-084 is a Salute Report from Issa Sesay to Foday Sankoh, dated 27 September 1999. In his report, Sesay states that after Sankoh left for Abidjan to sign the peace accord, Bockarie (a.k.a. Mosquito) was able to establish relations with ULIMO. With the \$USD 7,000 Sankoh had given them they purchased materials from ULIMO which helped them resist enemy advances in the Kailahun District.<sup>11670</sup>

Defence Exhibit D-385

5286. The Prosecution cites Defence Exhibit D-385. This Exhibit is an ECOWAS journal which documents agreements, decisions and resolutions made in relation to the Liberian crisis under the auspices of ECOWAS. It includes the Cotonou Agreement between the Interim Government of National Unity, the NPFL and ULIMO,<sup>11671</sup> the Akosombo Agreement between the AFL, NPFL and ULIMO,<sup>11672</sup> and the ECOMOG field commander's report on the attack of "government forces", NPFL and ULIMO fighters, on the premises of General Johnson in 1996.<sup>11673</sup>

Defence Exhibit D-470

5287. Defence Exhibit D-470 is a photograph of Sam Bockarie and other men. Sam Kolleh testified that he took this picture in December 1996 at Dawa crossing after the night operation in which they brought materiel from ULIMO.<sup>11674</sup> Kolleh recognized in the picture Sam Bockarie,<sup>11675</sup> Simeon who was a medic, Haji and Devuyama who were bodyguards, and Stewart who was an officer.<sup>11676</sup>

Deliberations

<sup>11669</sup> Authenticity Assessment of Specific Documents; Credibility Assessment, Issa Sesay, paras. 359-372.

<sup>11670</sup> Exhibit D-084, RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL to the Leader of the Revolution, dated 27 September 1999, p. 00007757.

<sup>11671</sup> Exhibit D-385, "ECOWAS Official Journal, Vol. 22 (Special Edition)", pp. 27-34.

<sup>11672</sup> Exhibit D-385, "ECOWAS Official Journal, Vol. 22 (Special Edition)", pp. 58-64.

<sup>11673</sup> Exhibit D-385, "ECOWAS Official Journal, Vol. 22 (Special Edition)", pp. 88-89, paras 40-43. The fighting resulted in severe and widespread devastation and looting in Monrovia.

<sup>11674</sup> Exhibit D-470; Sam Kolleh, Transcript 1 November 2010, pp. 48413-48415, 48423-48424. The picture includes some bodyguards and some officers. These men are only part of the group who went to collect materiel.

<sup>11675</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48418-48420.

<sup>11676</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48421-48423.

5288. Evidence not contested by the parties shows that Sankoh either gave or sent Bockarie \$USD 7,000 to purchase materiel from ULIMO, and that this money was used to purchase ammunition and arms from ULIMO members from around November 1996 until the AFRC coup in May 1997.

5289. The Prosecution contends that "it is no coincidence" that Sankoh's instructions to Bockarie to purchase materiel from ULIMO and the \$USD 7,000 given to Bockarie came after the Accused met the RUF external delegation in Abidjan in about December 1995, at which time Taylor gave them 10 million CFA francs.

5290. However, the only Prosecution witness who testified about the origin of this money, TF1-168, testified that it came from \$USD 500,000 given to Sankoh in Abidjan by the Libyan Ambassador to Ghana, Mr Mohammed Talibi. Similarly, Defence witness Fayia Musa testified that Mohammed Talibi, an employee at the Libyan Embassy in Ghana, gave \$USD 500,000 to Sankoh in Abidjan, and that out of that sum Sankoh sent Bockarie \$USD 7,000 to purchase military materiel from ULIMO. Exhibit D-015, written by Sankoh, corroborates that he received \$USD 500,000 from Mohammed Talibi for materiel purchases. No evidence was introduced to establish that the \$USD 7,000 came from Taylor or that it was Taylor who told Sankoh or Bockarie to purchase materiel from ULIMO. The Trial Chamber recalls that it had no general reservations regarding the credibility of either TF1-168 or Fayia Musa.<sup>11677</sup>

5291. Prosecution witnesses TF1-338 and TF1-367 and Defence witness Issa Sesay testified that Sankoh gave Bockarie the US dollars in Sierra Leone, before returning to Abidjan for the peace negotiations. However, Prosecution witness TF1-168 and Defence witness Fayia Musa testified that Sankoh sent the \$USD 7,000 to Bockarie through Daniel Tamba (a.k.a. Jungle). TF1-371 testified that Sankoh sent the money to Bockarie, but he did not name Tamba as the one who transferred it. Even if Tamba was involved in the transaction, as stated by some witnesses, the Trial Chamber notes that it was in the role of a courier to transfer the money from Sankoh to Bockarie.

5292. The Prosecution submits that the Accused had good relations with Alhaji Kromah of ULIMO-K. However, no evidence was introduced to suggest that the Accused was involved

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<sup>11677</sup> Credibility Assessment, TF1-168, Pre-Indictment period (1988-1996), para. 2328; Credibility Assessment, Fayia Musa, Pre-Indictment period (1988-1996), para. 2557.

in facilitating the relationship between the RUF and ULIMO prior to his inauguration, or that it was the Accused who facilitated a relationship between Sankoh or Bockarie and Kromah. The evidence rather shows that it was Bockarie who facilitated the relationship between the RUF and ULIMO.<sup>11678</sup>

### Findings

5293. The Trial Chamber finds that Sankoh gave Bockarie \$USD 7,000 which was used to purchase arms and ammunition from ULIMO from around late 1996. The Prosecution failed to prove beyond reasonable doubt that the Accused was involved in the arms and ammunition transactions between the RUF and ULIMO between November 1996 and May 1997.

#### (ii) Alleged Facilitation through Varmuyan Sherif

### Submissions of the Parties

5294. The Prosecution submits that after he became President, the Accused tasked Varmuyan Sherif at the end of 1997/early 1998 with encouraging former ULIMO fighters to sell weapons directly to the RUF and with opening “a corridor” between Lofa County and RUF held territories in Sierra Leone so that the RUF could purchase arms and ammunition from former ULIMO fighters. According to the Prosecution, the Accused devised this plan in order to provide materiel for the RUF and in order to diminish the possibility that such materiel would be used by potential Liberian dissidents against Taylor’s rule. The Prosecution contends that to further advance his plan, the Accused provided Sam Bockarie with money to purchase materiel from former ULIMO members, and made his subordinate commanders available to assist the AFRC/RUF to obtain the materiel from Lofa County.<sup>11679</sup>

<sup>11678</sup> TF1-168, Transcript 22 January 2009, pp. 23283-23285 (CS); Transcript 26 January 2009, pp. 23537-23540: Bockarie told Sankoh that he could get ammunition from ULIMO fighters along the Sierra Leone-Liberian border; DCT-146, Transcript 23 March 2010, pp. 37848-37853: before the RUF retreated from Zogoda in 1996, Bockarie established a relationship with ULIMO in Foya; Issa Sesay, Transcript 6 July 2010, pp. 43769-43770, 43774-43775: Bockarie went to Foya to facilitate a relationship with ULIMO and was almost arrested; Sam Kolley, Transcript 1 November 2010, pp. 48412-48413; Bockarie went to Foya to establish a relationship with ULIMO; Exhibit D-009, “RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie”, p.1: Bockarie wrote to Sankoh that after Sankoh left for Abidjan in 1996 he, Bockarie, had made contacts with ULIMO upon Sankoh’s instructions.

<sup>11679</sup> Prosecution Final Trial Brief, paras 7, 236-237.

5295. The Defence does not dispute that the RUF continued transacting with ULIMO during the Junta period and after the Intervention. However, the Defence submits that the only witness to implicate the Accused in these transactions is Varmuyan Sherif. Moreover, the Defence argues that since there is evidence that the transactions between the RUF and ULIMO had been going on for years prior to the Accused's alleged instruction to Varmuyan Sherif, it is unclear why the Accused would need to "kick-start" an already established relationship. The Defence submits that Sherif himself had been a part of the trade between the RUF and ULIMO, doing so independently of the Accused, and it is therefore unlikely that the Accused sent him to engage in a trade which he had been doing independently.<sup>11680</sup>

### Evidence

#### Prosecution Witness Varmuyan Sherif

5296. Witness Varmuyan Sherif testified that after the Intervention,<sup>11681</sup> Taylor instructed him to open a corridor between Lofa County and RUF held territories, so that former ULIMO fighters would feel free to provide arms and ammunition to the RUF. Sherif then went to Lofa County, to Voinjama, Kolahun and Foya districts, and met with the former fighters there. Sherif let them understand that they were free to sell arms and ammunition to the RUF if they wanted to, and that the RUF should have free access to Foya, Kolahun and Voinjama.<sup>11682</sup>

5297. Sherif stated that he was then tasked with ensuring that RUF members were moving freely and that former ULIMO-K fighters who wanted to go to Sierra Leone felt free to do so. He therefore went on a monitoring mission to Foya.<sup>11683</sup> Sherif observed that former ULIMO fighters were taking hidden arms to Sam Bockarie in RUF held territories, and that Bockarie sent Superman, one of his senior commanders at the time, to travel to Voinjama and the surrounding area to buy arms and ammunition and bring them to Sierra Leone.<sup>11684</sup> Sherif stated that after he fulfilled the mission he received from the Accused, former combatants were selling their arms and ammunition individually. At first, after the

<sup>11680</sup> Defence Final Trial Brief, paras 1056, 1089.

<sup>11681</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 825-826. Sherif describes a helicopter incident following the Intervention, after which he escorted Bockarie on a trip to Monrovia. After his trip with Bockarie, Sherif was tasked with opening a corridor.

<sup>11682</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 852-853.

<sup>11683</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 864.

ECOMOG Intervention in 1998, weapons were being taken to Sierra Leone on a weekly basis, but afterwards Bockarie “took control” over the entire Lofa area. The fighters carried weapons in bags or in any way they could. Sherif was told that fighters were being paid \$USD 200-300 per weapon. Some weapons were exchanged for looted goods.<sup>11685</sup>

5298. Sherif further testified that Taylor told him that he gave “some money” to Sam Bockarie and that Bockarie would obtain arms and ammunition from Lofa County through his commanders or by himself.<sup>11686</sup>

Prosecution Witness Dauda Aruna Fornie

5299. Witness Dauda Aruna Fornie testified that in mid-1998 he travelled to Voinjama to collect ammunition from Liberian ex-fighters who had buried their arms in the ground. After the commander responsible for that area assembled the ammunition, he would contact Mosquito. Mosquito would then send people to go and collect it. Such transactions started in early 1998 and occurred in Voinjama, Vahun and Foya, along the border area. Bockarie would send people, such as Kennedy and Sellay to make the transactions.<sup>11687</sup> Mosquito would mainly send Sellay for these transactions.<sup>11688</sup> Bockarie would give them “money like US dollars”, which he obtained from Taylor during his trips to Monrovia. Mosquito told the witness that Taylor would give Mosquito \$USD 10,000-20,000. Bockarie would say that “the Pa” had given him “something here”, and would sometimes give the witness \$USD 50 or \$USD 100 out of what Taylor had given him.<sup>11689</sup> The money for the purchases was not given directly to Fornie. Mosquito would give the money to the person who went to make the purchase. Fornie was on the ground at one point when Mosquito gave Sellay up to \$USD 8,000 and told him to “go and hustle” for ammunition.<sup>11690</sup> The witness then said that he saw Mosquito giving Kennedy money to go and meet Sellay. Sellay was a Liberian who was

<sup>11684</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 891-892.

<sup>11685</sup> Varmuyan Sherif, Transcript 14 January 2008, pp. 1136-1137.

<sup>11686</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 1016-1017; Transcript 14 January 2008, p. 1137. Sherif stated that no money was given to him by Taylor to make the purchases from ULIMO for Taylor.

<sup>11687</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21524-21526, 21529; Transcript 3 December 2008, pp. 21538-21539.

<sup>11688</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21529; Transcript 3 December 2008, pp. 21539-21540.

<sup>11689</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21526-21527.

<sup>11690</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21527-21528.

from the Voinjama area and used to be an NPFL commander. That is why Mosquito made Sellay “the leader”<sup>11691</sup> or “the foreman”.<sup>11692</sup>

5300. On cross-examination the witness explained that he only went to collect materials from Sellay, that he was not engaged in making the transaction, and that Sellay was the one who bought the materiel from the ex-combatants. Fornie stated that he never knew the people with whom the transactions were being made as he was not the one who made the transactions.<sup>11693</sup> The witness further stated on cross-examination that he was present when Bockarie gave money to the group who went to go and buy materiel, that he did not receive the money himself and that he did not make the purchase himself, as he collected the materiel from Sellay and not from the ex-combatants.<sup>11694</sup>

Prosecution Witness TF1-371

5301. Witness TF1-371 testified that around 1997 the RUF purchased arms and ammunition from ULIMO. Initially the money came from Foday Sankoh. Bockarie also received 40,000 Liberian dollars but the witness did not know from where. Sam Bockarie told the witness that he transacted directly with Varmuyan Sherif. The witness himself was involved in two such purchases; one in 1997 and another one in 1998. The witness explained that the transactions with ULIMO were a “minor enterprise”.<sup>11695</sup>

Prosecution Witness TF1-367

5302. Witness TF1-367 testified that upon Bockarie’s orders, he received from Superman 56 million Leones which was stolen from a bank in Koidu Town.<sup>11696</sup> The witness then went to Buedu and handed the money over to Bockarie. He also gave Bockarie another 200

<sup>11691</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21446; Transcript 3 December 2008, pp. 21539-21541. The witness was asked whether he had seen the cash transaction during the one trip he attended and answered that he had not. He only had cash for his lunch meal.

<sup>11692</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21539

<sup>11693</sup> Dauda Aruna Fornie, Transcript 4 December 2008, pp. 21771-21772; Transcript 5 December 2008, pp. 21776-21777. The witness insisted that he did not know from whom the weapons were bought, although in a prior statement it is recorded that he named “former NPFL and ULIMO-K fighters” as the ones from who they were buying ammunition from. See Dauda Aruna Fornie, Transcript 5 December 2008, pp. 21780-21781.

<sup>11694</sup> Dauda Aruna Fornie, Transcript 5 December 2008, pp. 21776-21777, 21783-21784.

<sup>11695</sup> TF1-371, Transcript 31 January 2008, pp. 2696-2700.

<sup>11696</sup> TF1-367, Transcript 20 August 2008, pp. 14141-14145, 14151.

million Leones, which was given to him by the AFRC prior to the retreat from Freetown to give to the RUF in 1997, and a 12 carat diamond.<sup>11697</sup>

5303. Approximately two months after the bank robbery, and after the RUF retreated from Freetown, Bockarie took 25 million Leones out of that money and travelled with the witness and his bodyguards to Foya in Liberia. There they met an NPFL police officer called Ma Mary who took them to the Guinean border to exchange the currency into Guinean francs. From there the witness, Bockarie and Bockarie's bodyguards travelled to Voinjama. From there, Bockarie and his bodyguards proceeded to Monrovia, while the witness stayed in Voinjama to purchase ammunition from former ULIMO soldiers, upon Bockarie's orders. Although ULIMO was supposed to be disarmed, some ULIMO soldiers did not hand over their materiel and hid it in the bush.<sup>11698</sup>

5304. In Voinjama, the witness was assisted by Colonel Kundi and an NPFL police commander to track former ULIMO fighters. When the witness would get a sufficient amount of materiel, he would contact the headquarters in Buedu with radio equipment which the NPFL police officer gave him. He would then inform the commanders in Buedu, usually Bockarie but Issa Sesay or Kallon in Bockarie's absence, and they would send a vehicle to pick him up from the border. The witness and the police commander's bodyguard, Captain Junior, would then go to load the police officer's car, a police jeep, with materiel the witness had purchased and assembled in one place. The two would then go back to Voinjama. They would then load the materiel onto the vehicle which was sent from Buedu and go back to Sierra Leone.<sup>11699</sup>

5305. The witness took these trips after they retreated from Freetown and before Sam Bockarie had travelled to Monrovia to meet Charles Taylor. All in all, the witness attended two to four trips to Lofa County to purchase ammunition. Bockarie escorted the witness during his first trip to meet Ma Mary, and for the other trips the witness went on his own.

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<sup>11697</sup> TF1-367, Transcript 20 August 2008, pp. 14145-14147.

<sup>11698</sup> TF1-367, Transcript 20 August 2008, pp. 14148-14151; Transcript 29 August 2008, pp. 14965-14966, 14968-14969. The witness distinguishes between his trips to Voinjama to purchase materials, which occurred after they retreated from Freetown, from his purchases from ULIMO before the AFRC called the RUF to join them in Freetown which he made from Foya at the border. The witness stated that the first group he met was "Kundi at the border line in Foya".

<sup>11699</sup> TF1-367, Transcript 20 August 2008, pp. 14152-14156.



The witness would usually stay there for about two weeks, locating the hidden materiel and cajoling the ex-fighters in order to convince them to sell their materiel.<sup>11700</sup>

5306. Other than funding the purchases from ULIMO with the stolen money from Koidu Town and the money given to the witness in Freetown, the RUF also used money they received from selling goods and agricultural products to the Guineans at the border.<sup>11701</sup>

#### Prosecution Witness Jabaty Jaward

5307. Witness Jabaty Jaward was confronted on cross-examination with a prior statement in which it is recorded that he had told his investigators that he knew Varmuyan Sherif in 1996 “when he was fighting for the ULIMO-K”. Jaward explained that he knew about Varmuyan Sherif in 1996, during the time the RUF was making contacts for arms and ammunition with ULIMO-K fighters along the Liberian border. This was during the disarmament process in Liberia. The witness stated that he never knew of Sherif making a direct transaction at the time nor saw Sherif with weapons to sell, but his name was mentioned among the various commanders within ULIMO at that time along the border.<sup>11702</sup>

#### The Accused

5308. The Accused denied that he ordered, “in effect”, a free zone in Lofa in order enable trade of arms and ammunition at the border. He denied knowing that such a trade occurred, calling the ULIMO men “crooked”. The Accused questioned why he would tell ULIMO to sell their weapons when his own security and police forces had no arms at the time. He stated that when he found out after he was elected that ULIMO had hidden arms, in August 1997, he called Sherif who was “more senior there”. Taylor then asked Sherif what he can do about it, and Sherif answered that to prove his loyalty to Taylor’s government he will go to Lofa and bring “whatever” he could find.<sup>11703</sup>

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<sup>11700</sup> TF1-367, Transcript 20 August 2008, pp. 14155-14156.

<sup>11701</sup> TF1-367, Transcript 29 August 2008, pp. 14961-14964.

<sup>11702</sup> Jabaty Jaward, Transcript 15 July 2008. pp. 13762-13765.

<sup>11703</sup> Charles Ghankay Taylor, Transcript 29 October 2009, pp. 30754-30758, 30760-30761.

5309. The Accused also stated that in late 1998, although he was the President of Liberia, people like Sherif, a former general of ULIMO-K, had “real control” and influence over former ULIMO-K members in Lofa.<sup>11704</sup>

Defence Witness Issa Sesay

5310. Witness Issa Sesay testified that after the RUF retreated from Freetown, in February 1998 and until the Freetown invasion in January 1999, Bockarie sent an RUF member to Kolahun to buy buried ammunition from ULIMO.<sup>11705</sup> Sesay also testified that he first met Sherif around April 1997, when Sherif sold ammunition to Bockarie. At that time Sherif was acting as a ULIMO general. He was not working for the Liberian government, as this was before the Liberian elections.<sup>11706</sup> After those two times, Sesay saw Sherif in 2000 going to Monrovia. Sesay heard in 1998 that Sherif was working with Taylor’s government.<sup>11707</sup>

Defence Exhibit D-009

5311. Defence Exhibit D-009 is a salute report from Sam Bockarie to “the Leader of the Revolution”, i.e. Foday Sankoh, authored on 26 September 1999. In his report, Bockarie writes that he established a “Defence Headquarters” in Kailahun immediately after Freetown fell. Bockarie then writes that “back at the headquarters I renewed my contact with ULIMO and tried to secure materials from them. It was out of these materials that I gave Superman a good quantity to attack and capture Kono”.<sup>11708</sup>

Deliberations

5312. The Prosecution contends that the Accused instructed Varmuyan Sherif to encourage ULIMO fighters along the Sierra Leone-Liberian border to sell arms and ammunition to the RUF, that Sherif fulfilled his assignment, and that as result of that a large number of former ULIMO fighters sold their arms and ammunition to the RUF.<sup>11709</sup> Furthermore, the

<sup>11704</sup> Charles Ghankay Taylor, Transcript 29 October 2009, pp. 30758-30760.

<sup>11705</sup> Issa Sesay, Transcript 20 July 2010, pp. 44626-44627.

<sup>11706</sup> Issa Sesay, Transcript 6 July 2010, pp. 43790-43791.

<sup>11707</sup> Issa Sesay, Transcript 6 July 2010, pp. 43791-43792.

<sup>11708</sup> Exhibit D-009, “RUF Defence Headquarters, Salute report to the Leader of the Revolution, RUF/SL, from Major General Sam Bockarie”, pp. 4-5, ERN 9661-9662.

<sup>11709</sup> Prosecution Final Trial Brief, para. 236.

Prosecution submits that the Accused provided money to the RUF in order to purchase the arms and ammunition from ULIMO.<sup>11710</sup>

5313. The Prosecution relies on the testimony of Varmuyan Sherif that after the ECOMOG Intervention the Accused instructed him to “open a corridor” between ex-ULIMO fighters in Lofa County and RUF-held-territories.<sup>11711</sup> After he fulfilled his mission, Sherif observed that ex-ULIMO fighters were selling their arms and ammunition individually.<sup>11712</sup>

5314. The Trial Chamber finds that the Defence’s characterization of Sherif’s actions is inaccurate. The Defence argues that it is unclear why the Accused would send Sherif to “kick-start” an already established relationship, as the RUF was already making purchases from ULIMO prior to Sherif’s alleged assignment.<sup>11713</sup> The Trial Chamber agrees, as it has found,<sup>11714</sup> that the RUF was trading with ULIMO from around November 1996 and until May 1997, when the AFRC took power over Sierra Leone.

5315. However, the extent of the trade between the RUF and ULIMO before the Junta period was minor, compared to the trade which occurred after the fall of the Junta in February 1998. Prosecution witness TF1-367, who was involved in the transactions with ULIMO stated that the trade before “Johnny Paul called” the RUF, meaning before the Junta period, was at the border from Foya. The witness distinguished the trading with ULIMO after the fall of the Junta, which occurred in February 1998, stating that during that period the RUF/AFRC would go into Liberia, to Voinjama. TF1-367 described how he would stay for about two weeks in Voinjama making these purchases, as he had to “cajole” the ex-ULIMO fighters.<sup>11715</sup> The Trial Chamber notes that TF1-367 was confused in regards to dates, as he, for example, placed the retreat from Freetown in 1997,<sup>11716</sup> instead of 1998.

5316. Moreover, the evidence shows that during the Junta period, between May 1997 and February 1998, there was almost no trade between the Junta and ULIMO, and that the trade was renewed after the ECOMOG Intervention. Prosecution witness Dauda Aruna Fornie

<sup>11710</sup> Prosecution Final Trial Brief, para. 237.

<sup>11711</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 852-853.

<sup>11712</sup> Varmuyan Sherif, Transcript 14 January 2008, pp. 1136-1137.

<sup>11713</sup> Defence Final Trial Brief, paras 1056, 1089.

<sup>11714</sup> Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Supplies from ULIMO.

<sup>11715</sup> TF1-367, Transcript 20 August 2008, pp. 14148-14151; TF1-367, Transcript 29 August 2008, pp. 14965-14966, 14968-14969.

<sup>11716</sup> TF1-367, Transcript 20 August 2008, pp. 14145-14147.

testified that the transactions with the ex-Liberian fighters in areas in Lofa County in Liberia started in early 1998.<sup>11717</sup> Prosecution witness TF1-367 described two time periods for the transactions with ULIMO; the first being before the Junta period and the second after the RUF retreated from Freetown.<sup>11718</sup> In Exhibit D-009, Bockarie describes how he renewed his contacts with ULIMO after Freetown fell.<sup>11719</sup> Defence witness Issa Sesay testified that after the RUF retreated from Freetown, in February 1998 and until the Freetown invasion in January 1999, Bockarie sent an RUF member to Kolahun to buy buried ammunition from ULIMO.<sup>11720</sup>

5317. The break in the trade between the RUF and ULIMO, and the reason for the Accused to send Sherif in order to renew the trade, can be explained by the two major political events which transpired during these time periods; the Junta coup which brought the relocation of the RUF headquarters from Kailahun District to Kenema District and Freetown, and the re-establishment of the headquarters in Kailahun District close to the border after the ECOMOG Intervention; and the inauguration of the Accused as the president of Liberia in August 1997.

5318. The Accused denied that he ordered Sherif to facilitate a free-zone in Lofa County in order to enable the trade of arms and ammunition at the border. The Accused asserted instead that his own police and security forces had no arms of their own, and that he would have requested the arms for his own forces.<sup>11721</sup> However, the Trial Chamber has found that the Accused ordered Sherif to bring arms and ammunition from ex-ULIMO fighters to Monrovia, that the first three shipments were brought to Monrovia, but that the Accused told Sherif to give the fourth shipment of materiel from ULIMO to Bockarie, and that Sherif did so.<sup>11722</sup> The Accused then ordered Sherif to open the “corridor” to make sure that a trade between the RUF/AFRC and ULIMO takes place without the need of the Accused interfering as an intermediary.

<sup>11717</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21524-21526, 21529; Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21538-21539.

<sup>11718</sup> TF1-367, Transcript 29 August 2008, pp. 14965-14966, 14968-14969.

<sup>11719</sup> Exhibit D-009, “RUF Defence Headquarters, Salute report to the Leader of the Revolution, RUF/SL, from Major General Sam Bockarie”, pp. 4-5, ERN 9661-9662..

<sup>11720</sup> Issa Sesay, Transcript 20 July 2010, pp. 44626-44627.

<sup>11721</sup> Charles Ghankay Taylor, Transcript 29 October 2009, pp. 30754-30758, 30760-30761.

<sup>11722</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockarie’s Leadership (February 1998-December 1999).

5319. The Accused also stated that in late 1998 Sherif, a former general of ULIMO-K, had “real control” and influence over former ULIMO-K members in Lofa, as opposed to the Accused who was in charge of Lofa County only as the Liberian president.<sup>11723</sup> Indeed, Sherif himself agreed that after his election the Accused had “very little influence” in the Lofa County area until towards the end of 1998, when he began to deploy armed forces there,<sup>11724</sup> and that in 1998 former combatants were selling arms and ammunition to the RUF because they had no other form of income.<sup>11725</sup> The Trial Chamber therefore finds that the Accused did not have influence over former ULIMO combatants in Lofa County. In the Trial Chamber’s opinion, that is the reason the Accused sent Varmuyan Sherif to Lofa County, as Sherif did have influence over the ex-ULIMO combatants, and was therefore in a position to ensure that the trade between the RUF and ULIMO continued freely.

5320. The Defence submits that Sherif himself had been a part of the trade between the RUF and ULIMO, doing so independently of the Accused, and that it is therefore unlikely that the Accused sent Sherif to engage in a trade which he had been doing independently.<sup>11726</sup> Moreover, the Defence submits that Varmuyan Sherif is an accomplice witness who sought to mask his longstanding involvement in selling arms and ammunition to the RUF as a member of ULIMO by attributing his activities to the Accused,<sup>11727</sup> that he tailored his evidence to support the Prosecution’s case, and that his testimony should be treated with caution.<sup>11728</sup>

5321. Indeed, Prosecution witness TF1-371 testified that Bockarie told him that he transacted directly with Varmuyan Sherif, and that the trade with ULIMO took place in 1997.<sup>11729</sup> This evidence is supported by the testimony of Defence witness Issa Sesay who testified that the RUF was transacting with Varmuyan Sherif and Abu Keita as part of the trade with ULIMO before the Junta period.<sup>11730</sup> Prosecution witness Jabaty Jaward testified on cross-examination that he heard Sherif’s name in connection with these transactions, as a ULIMO commander during that time, although he said he did not know of direct

<sup>11723</sup> Charles Ghankay Taylor, Transcript 29 October 2009, pp. 30758-30760.

<sup>11724</sup> Varmuyan Sherif, Transcript 14 January 2008, pp. 1138-1139.

<sup>11725</sup> Varmuyan Sherif, Transcript 11 January 2008, p. 1083.

<sup>11726</sup> Defence Final Trial Brief, paras 1056, 1089.

<sup>11727</sup> Defence Final Trial Brief, paras 1089, 1137, 1383-1384.

<sup>11728</sup> Defence Final Trial Brief, paras 1089-1090.

<sup>11729</sup> TF1-371, Transcript 31 January 2008, pp. 2696-2700.

<sup>11730</sup> Issa Sesay, Transcript 6 July 2010, pp. 43784-43787.

transactions made by Sherif.<sup>11731</sup> Sherif himself stated that the trade between the RUF and ULIMO began in 1997,<sup>11732</sup> but did not say that, and was not asked whether, he himself was involved in the trade.

5322. The Trial Chamber accepts that Sherif himself was involved in the transactions between the RUF and ULIMO before the Accused ordered him to “open a corridor” between Lofa County and RUF-held-territories. However, the Trial Chamber does not find this inconsistent with the premise that after he was elected as president, the Accused wanted to ensure the continuing existence of a trade between the RUF/AFRC and ex-ULIMO fighters, and therefore tasked Sherif with ensuring it on the Accused’s behalf.

5323. The Defence argues that it is only Sherif who implicates the Accused in the transactions between the RUF/AFRC and ULIMO, but the Trial Chamber considers that as the order was given from the Accused to Sherif, this is not surprising and does not undermine his credibility.

5324. With regard to other matters relating to the credibility of Sherif, the Trial Chamber notes that Sherif acknowledged that he and his family disliked the Accused due to the deaths of his family members, but accepts his explanation that he told his family that he was working for the Accused out of respect for the electoral wishes of the Liberian people.<sup>11733</sup> Moreover, while Sherif testified that he was imprisoned for six months by the Accused, he also testified that the Accused was the one who released him from prison, apologized to him and promoted him to Deputy Chief of Staff of the Army Division.<sup>11734</sup> Sherif was surprised when he was told on cross-examination that payments he received from the Prosecution totalled \$USD 2,575,<sup>11735</sup> and stated that he did not need financial support since the Accused had given him \$USD 10,000.<sup>11736</sup> The Trial Chamber does not find the amount given to Sherif by the Prosecution to be excessive, in particular given that he did not need financial support. The Trial Chamber notes that the Defence led evidence suggesting that Sherif had developed a mental illness in late 1998/early 1999, but the two witnesses who testified to

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<sup>11731</sup> Jabaty Jaward, Transcript 15 July 2008, pp. 13762-13765.

<sup>11732</sup> Varmuyan Sherif, Transcript 10 January 2008, p. 1018.

<sup>11733</sup> Varmuyan Sherif, Transcript 10 January 2008, p. 956; Transcript 11 January 2008, pp. 1047-1049.

<sup>11734</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 895-896.

<sup>11735</sup> Varmuyan Sherif, Transcript 14 January 2008, pp. 1121-1126, 1146-1147.

<sup>11736</sup> Varmuyan Sherif, Transcript 11 January 2008, p. 1068.

this had heard it from others and did not provide details.<sup>11737</sup> Sherif himself admitted that he “acted crazy” in order to avoid being involved in attacks in Sierra Leone and Guinea, where his ancestors had come from.<sup>11738</sup> The Trial Chamber therefore does not find this suggestion to be substantiated. In light of these considerations, the Trial Chamber finds Sherif to be generally credible.

5325. With regard to the source of funding for these transactions, Prosecution Witness Dauda Aruna Fornie testified that starting in early 1998, Bockarie would give US dollars to the persons he sent to make the transactions at “the border”. He also testified that Bockarie would bring \$USD 10,000 to \$USD 20,000 from the Accused, following his trips to Monrovia. Fornie testified that he only went on one of these trips, and when asked repeatedly who the materiel was purchased from, he was unable to say, mentioning only Liberian ex-fighters without reference to ULIMO. He explained that he was not the one making the transactions and was therefore not able to say with whom they were made.<sup>11739</sup> When asked whether he had seen the money for these purchases, Fornie stated that he once saw Bockarie hand \$USD 8,000 to Sellay telling him to buy ammunition.<sup>11740</sup> Subsequently Fornie said that what he saw was Bockarie giving money to Mathew Sesay (a.k.a. Kennedy) for him to take to Sellay.<sup>11741</sup> On cross-examination he stated that he was present when Bockarie gave money to the group who went to go and buy materiel.<sup>11742</sup> Varmuyan Sherif also testified that the Accused told him that he gave money to Bockarie in order to purchase arms and ammunition from ULIMO.<sup>11743</sup>

5326. Prosecution witness TF1-367 testified that the RUF used money stolen from a bank in Koidu Town and money given to the witness from the AFRC to help the RUF make the purchases from ULIMO after the Intervention, as well as money they got from selling goods and agricultural products at the Guinean border.<sup>11744</sup>

<sup>11737</sup> Yanks Smythe, Transcript 24 February 2010, pp. 35910, 35916-3517; DCT-008, Transcript 31 August 2010, p. 47530.

<sup>11738</sup> Varmuyan Sherif, Transcript 14 January 2008, pp. 1192-1193.

<sup>11739</sup> Dauda Aruna Fornie, Transcript 5 December 2008, pp. 21776-21777.

<sup>11740</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21524-21530.

<sup>11741</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21539-21541.

<sup>11742</sup> Dauda Aruna Fornie, Transcript 5 December 2008, pp. 21783-21784.

<sup>11743</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 1016-1017; Transcript 14 January 2008, p. 1137

<sup>11744</sup> TF1-367, Transcript 20 August 2008, pp. 14141-14151; Transcript 28 August 2008, pp. 14961-14964.

5327. The Trial Chamber notes that TF1-367 did not mention the Accused as a source of funding for these transactions in his testimony, while Fornie did not mention the sources of funding mentioned by TF1-367. The Trial Chamber is of the view that there were several sources for the money used to make the purchases from ULIMO, and that one of these sources was the Accused. The Trial Chamber has discussed the financial support given by the Accused to the RUF or RUF/AFRC, including financial support for arms and ammunition, in a different section of the Judgement.<sup>11745</sup>

5328. The Trial Chamber notes that TF1-367 described in his testimony the assistance of an NPFL police commander to track former ULIMO fighters, as well as his assistance with radio communications to inform headquarters in Buedu to send a vehicle when he had acquired a sufficient amount of materiel.<sup>11746</sup>

### Findings

5329. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused sent Varmuyan Sherif to open a corridor to facilitate the existing trade of the purchase and sale of arms and ammunition between the RUF and ULIMO between Lofa County and RUF-held-territories after 14 February 1998, that Sherif fulfilled his assignment, as result of which members of ULIMO who were supposed to disarm and surrender their arms to the UN, instead sold or bartered them to the RUF.

5330. The Trial Chamber also finds that the prosecution has proved beyond reasonable doubt that the Accused provided financial support to the RUF/AFRC in order to facilitate their purchases of arms and ammunition from ex-ULIMO combatants.

### (b) Supplies from ECOMOG

### Submissions of the Parties

5331. The Prosecution submits that in late 1996, the Accused attempted to obtain a large supply of materiel from ECOMOG to re-provision a large group of RUF who were trapped near the Pujehun District/Liberia border and were out of ammunition. Taylor was not convinced that Foday Sankoh could be trusted to use money given directly to him to

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<sup>11745</sup> Operational Support: Support and Training, Financial Support.

<sup>11746</sup> TF1-367, Transcript 20 August 2008, pp. 14152-14155.



purchase this materiel so he devised a means of supplying these RUF which allowed him to keep Sankoh only peripherally involved in the arrangement. Taylor used his connections with ECOMOG and one of his senior NPFL Special Forces commanders, Saye Boayou, to strike a deal for this materiel. Taylor sent Boayou to Côte d'Ivoire to meet with Sankoh. Sankoh then sent DCT-292, a member of the RUF external delegation, with Boayou to meet a senior ECOMOG official whom Boayou knew and who would supply the ammunition. During the travel from the Côte d'Ivoire border to Monrovia, Boayou and DCT-292 passed easily through the NPFL checkpoints. Saye Boayou was in charge of this transaction, from setting up the meetings with the ECOMOG official, to handing over the money and arranging the transfer of the ammunition to the RUF at the border. However, the attempt was unsuccessful and the RUF forces in Pujehun were forced to cross over into Liberia.<sup>11747</sup>

5332. The Defence argues that there is no evidence to support the Prosecution's assertion that the Accused was involved in the alleged transaction.<sup>11748</sup>

### Evidence

#### Prosecution Witness TF1-371

5333. Witness TF1-371 testified that after the retreat from Zogoda in Kailahun District in 1996, the RUF forces in Pujehun were under attack and were having problems acquiring ammunition. The witness heard a radio conversation between Foday Sankoh, who was in Abidjan, and Mike Lamin, one of the commanders on the ground, Sankoh told Lamin to tell the commanders there to be patient since he had sent Jonathan Kposowa and Joseph Brown with \$USD 42,000 to Liberia to try to meet with Taylor to explore whether the NPFL could help the RUF get ammunition. The RUF forces in Pujehun waited but the ammunition never arrived. They therefore had to retreat to Liberia.<sup>11749</sup>

5334. After Lamin retreated to Liberia, the witness heard him inform Sankoh via radio communication that the ammunition had not arrived and that they had to retreat. Sankoh invited him to come meet him in Abidjan. When the two met in Abidjan, Sankoh informed him that Jonathan Kposowa could not have met Taylor since Kposowa had been arrested by

<sup>11747</sup> Prosecution Final Trial Brief, para. 219.

<sup>11748</sup> Defence Response to Prosecution Final Trial Brief, para. 43.

<sup>11749</sup> TF1-371, Transcript 25 January 2008, pp. 2276-2278 (CS); Transcript 29 January 2008, p. 2462 (CS).

some of Taylor's Special Forces and these Special Forces had taken the money. Afterwards, Jonathan Kposowa stayed in Monrovia because he was afraid to meet Sankoh.<sup>11750</sup>

Prosecution Witness Augustine Mallah

5335. Witness Augustine Mallah testified that after the Kamajors and the SLA mounted an assault on Zogoda in 1996, a group of RUF rebels led by Mike Lamin withdrew to the Pujehun District of Sierra Leone and joined another RUF group stationed there. The SLA and the Kamajors advanced to Pujehun and maintained continuous pressure on the RUF. Mallah testified that, in Pujehun, he heard Mike Lamin communicating with Foday Sankoh over the radio. Foday Sankoh informed Lamin that he had sent his secretary Kposowa to the Accused in Gbarnga to ask for his help in obtaining arms and ammunition. However, they never received this ammunition.<sup>11751</sup>

Prosecution Witness Isaac Mongor

5336. Witness Isaac Mongor testified that when Sankoh returned from Abidjan, Sankoh told him and the rest of the RUF commanders that he had sent Jonathan Kposowa to convert money, which Mongor believed was from someone in Ghana, and with that money purchase ammunition. Sankoh explained that the ammunition was not purchased since Kposowa had used the money for himself.<sup>11752</sup>

The Accused

5337. Taylor testified that during the fighting in Liberia the NPFL had bought weapons from ECOMOG.<sup>11753</sup>

5338. However, he stated that he never received Jonathan Kposowa or Joseph Brown, and that Sankoh never gave him, Taylor, money for materiel.<sup>11754</sup>

Defence Witness DCT-292

<sup>11750</sup> TF1-371, Transcript 25 January 2008, pp. 2278-2281 (CS).

<sup>11751</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20111-20114.

<sup>11752</sup> Isaac Mongor, Transcript 3 April 2008, p. 6625; Transcript 4 April 2008, pp. 6636-6640.

<sup>11753</sup> Charles Ghankay Taylor, Transcript 3 August 2009, pp. 25784-25785.

<sup>11754</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29532-29533 (PS).

5339. Witness DCT-292, a senior member of the RUF, testified that in Côte d'Ivoire, in around November 1996, Foday Sankoh gave Jonathan Kposowa \$USD 20,000 and instructed him to go to Liberia to purchase arms and ammunition from an ECOMOG commander and then to deliver the purchased materiel to Mike Lamin.<sup>11755</sup> Kposowa was to go with Saye Boayou, a member of the NPFL Special Forces, who was supposed to hand over the money to the ECOMOG commander. When Kposowa reached Duala, he met the contact person, who was the ECOMOG commander's chief security officer. He told Kposowa that the amount of money that they had brought was too little to arrange the transaction. Kposowa went to Foday Sankoh in Côte d'Ivoire, who gave him an additional \$USD 10,000. Kposowa then returned to Liberia, this time with Joseph Brown, and handed the money over to the ECOMOG official via Boayou, who had remained in Liberia. Kposowa waited a month in Liberia to receive the arms and ammunition, but did not receive anything. After he informed Sankoh, Sankoh accused him of embezzling the money.<sup>11756</sup>

Defence Witness John Vincent

5340. Witness John Vincent, a Liberian Vanguard, testified that in 1990, Saye Boayue was deployed as the commander of the NPFL in Bong Mines.<sup>11757</sup>

Defence Witness Joseph Dehmie

5341. Witness Joseph Dehmie, an NPFL senior radio operator, testified that in March-April 1990, Saye Bonayue was the NPFL commander in Bong Mines.<sup>11758</sup>

Defence witness DCT-025

5342. Witness DCT-025 testified that Joseph Brown and Jonathan Kposowa were part of the group that accompanied Sankoh to Abidjan. At the time this attempted purchase took place, Joseph Brown was in the hospital, and therefore could not have participated in it.<sup>11759</sup>

Defence witness Issa Sesay

<sup>11755</sup> DCT-292, Transcript 1 June 2010, pp. 41755-41767.

<sup>11756</sup> DCT-292, Transcript 1 June 2010, pp. 41767-41771, 41773-41774; Transcript 2 June 2010, pp. 41994-41995; Transcript 3 June 2010, pp. 42045-42051.

<sup>11757</sup> John Vincent, Transcript 25 March 2010, pp. 37983-37984.

<sup>11758</sup> Joseph Dehmie, Transcript 19 May 2010, p. 41167.

<sup>11759</sup> DCT-025, Transcript 16 March 2010, pp. 37363-37370 (PS).

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5343. Witness Issa Sesay testified that in 1996 the RUF group in Pujehun needed ammunition. When Sankoh came back to Kailahun District in November 1996, he told Sesay, Sam Bockarie and the others that he had sent Jonathan Kposowa to make contact with ECOMOG in Monrovia to buy ammunition.<sup>11760</sup>

### Deliberations

5344. The Prosecution contends that the Accused sent Saye Boayou to Sankoh to help the RUF get arms and ammunition from ECOMOG, but acknowledges that this attempt failed and the RUF forces in Pujehun were forced to cross over into Liberia.<sup>11761</sup>

5345. Several witnesses testified that Foday Sankoh sent Jonathan Kposowa to obtain ammunition, and that the attempt to purchase ammunition had failed.<sup>11762</sup> However, no Prosecution witness testified that the purchase was to be made with ECOMOG, or that Saye Boayou was involved in the attempted purchase. Prosecution Witness TF1-371 testified that he heard Sankoh tell Lamin that he sent Jonathan Kposowa and Joseph Brown with money to meet Taylor but that he later learned from Sankoh that the meeting did not occur and the money was taken by Taylor's Special Forces.<sup>11763</sup> Prosecution Witnesses Isaac Mongor and Augustine Mallah only testified that Sankoh sent Jonathan Kposowa to obtain ammunition and that the ammunition never arrived.<sup>11764</sup> Neither of them indicated that the ammunition was to be purchased from ECOMOG, or that Saye Boayou was involved in the attempted purchase.

5346. In support of its submission, the Prosecution relies on Defence witness DCT-292's account, which differs greatly from the account of its own witnesses. According to DCT-292, Saye Boayou, a member of the NPFL Special Forces, was sent by Sankoh together with Kposowa to make contacts with ECOMOG in order to purchase materiel. Two Defence witnesses testified that Boayou was the NPFL commander in Bong Mines in 1990,<sup>11765</sup> but

<sup>11760</sup> Issa Sesay, Transcript 17 August 2010, pp. 46516-46522.

<sup>11761</sup> Prosecution Final Trial Brief, para. 219.

<sup>11762</sup> TF1-371, Transcript 25 January 2008, pp. 2276-2281 (CS); Augustine Mallah, Transcript 12 November 2008, pp. 20112-20114; Isaac Mongor, Transcript 3 April 2008, p. 6625; Transcript 4 April 2008, pp. 6636-6640; DCT-292, Transcript 1 June 2010, pp. 41757-41774; Transcript 3 June 2010, pp. 42045-42052; Issa Sesay, Transcript 17 August 2010, pp. 46516-46522.

<sup>11763</sup> TF1-371, Transcript 25 January 2008, pp. 2276-2281 (CS); Transcript 29 January 2008, p. 2462 (CS).

<sup>11764</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20112-20114; Isaac Mongor, Transcript 3 April 2008, p. 6625; Transcript 4 April 2008, pp. 6636-6640.

<sup>11765</sup> John Vincent, Transcript 25 March 2010, pp. 37983-37984; Joseph Dehmie, Transcript 19 May 2010, p.

no evidence was introduced to indicate the role or position of Boayou in 1996, or his relationship with the Accused at that time. While Defence witness DCT-292 testified that Boayou was involved in the failed transaction, he testified that it was Sankoh who sent him on the mission to ECOMOG, without reference to the Accused.

5347. The Prosecution's theory that the Accused devised this transaction in a manner so as to keep Sankoh peripherally involved, since he did not trust Sankoh with money, is incompatible with the evidence given by both Prosecution and Defence witnesses that it was Sankoh who gave the money to Kposowa for the transaction.

### Findings

5348. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the Accused used one of his superior commanders, Saye Boayou, in an attempt to help the RUF purchase arms and ammunition from ECOMOG in November 1996.

### (c) Magburaka shipment

### Submissions of the Parties

5349. The Prosecution submits as follows. After the breakdown of negotiations between the AFRC/RUF Junta and ECOWAS, the former was desperate for arms as they not only faced the threat of military action to force it from power but also suffered from an arms embargo imposed on Sierra Leone by UN Resolution 1132. Taylor met that desperate need by supplying the Junta with arms and ammunition in various shipments that enabled them to hold on to key areas in Sierra Leone for several additional months.<sup>11766</sup> In August 1997 Johnny Paul Koroma sent a delegation to Monrovia with a written request to the Accused for materiel and his assistance in gaining recognition from the ECOWAS States. The delegation met with officials of Taylor's Government,<sup>11767</sup> and were told that their letter was transmitted to the Accused and that Taylor was willing to work with the ECOWAS Committee to recognise the Junta. In addition, Koroma's delegation was assured that Taylor was in touch with their leader; was safely escorted by Taylor's security to the airport; and had their expenses in Monrovia paid for by the Taylor government. On their return to

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41167.

<sup>11766</sup> Prosecution Final Trial Brief, paras 223-225.

<sup>11767</sup> The Prosecution refers to John T. Richardson and Monie Captan the Foreign Minister.

Freetown the delegation briefed Koroma who confirmed that Taylor had spoken with him and assured him of cooperation to ensure the recognition of the Junta Government.<sup>11768</sup>

5350. In Freetown, Taylor's representative, Ibrahim Bah was already there and had met with Bockarie and Koroma. Bah informed Bockarie that he had been given a directive from the Accused to help the Junta get arms and ammunition and asked about mining operations in Kono and whether they had diamonds to pay for the shipment. After he met Bockarie, Bah met with Koroma and said that on the instructions of the Accused 90 carats of diamonds would be needed for the arms shipment and \$USD 90,000 for the flight.<sup>11769</sup> Two or three days later Koroma briefed the Junta Supreme Council that he was in the process of arranging the shipment, and it was agreed to obtain the diamonds and money. Gullit brought the diamonds from Kono. The rough diamonds and \$USD 90,000 were given to Bah who took the cash and diamonds to Monrovia.<sup>11770</sup>

5351. The Prosecution further submits that in September 1997 the Accused took the diamonds and used the opportunity under diplomatic cover of a trip to South Africa, Burkina Faso, Libya, and Niger to arrange the shipment of arms and ammunition to the Junta.<sup>11771</sup> In South Africa the Accused presented some of the Junta diamonds as a gift to supermodel Naomi Campbell.<sup>11772</sup> The "huge" shipment which arrived at Magburaka in October 1997, included arms, ammunition and weapons to bring down aircraft, was distributed between the AFRC and RUF forces and was "central to prolonging the life of the Junta".<sup>11773</sup>

5352. The Defence points out a number of inconsistencies and contradictions in the Prosecution's evidence on the Magburaka arms shipment, characterizing it as "a jigsaw where the pieces just do not fit" and invites the Trial Chamber to reject the Prosecution evidence as unreliable.<sup>11774</sup> The Defence submits that there are inconsistencies over where the shipment came from, how the shipment was paid for, who facilitated the shipment, when

<sup>11768</sup> Prosecution Final Trial Brief, para. 226.

<sup>11769</sup> Prosecution Final Trial Brief, para. 227.

<sup>11770</sup> Prosecution Final Trial Brief, para. 228.

<sup>11771</sup> Prosecution Final Trial Brief, paras 229, 230, 233.

<sup>11772</sup> Prosecution Final Trial Brief, para. 230.

<sup>11773</sup> Prosecution Final Trial Brief, para. 234.

<sup>11774</sup> Defence Final Trial Brief, para. 589.

the shipment took place and who picked it up, what were the contents of the shipment and where the shipment was delivered.<sup>11775</sup>

5353. The Trial Chamber examined the following evidence related to the so-called “Magburaka arms shipment”.

### Evidence

#### Prosecution Witness TF1-371

5354. Witness TF1-371, an RUF member, testified that in August 1997,<sup>11776</sup> Johnny Paul Koroma asked him to be part of a delegation<sup>11777</sup> that carried a letter to President Charles Taylor requesting the latter to assist the Junta Government to gain recognition amongst the ECOWAS States.<sup>11778</sup> On arrival in Monrovia, the delegation was not able to meet President Taylor and instead met with officials of the Liberian Government including one John T. Richardson and Monie Captan, the Foreign Minister. Captan, who received the letter from the delegation, told them that he had passed it on to Taylor who had expressed a willingness to work with the ECOWAS Committee for recognition of the Junta Government and who was already in contact with Johnny Paul Koroma.<sup>11779</sup>

5355. On returning to Freetown the delegation went to brief Johnny Paul Koroma who confirmed that President Taylor had already communicated with him and promised support in securing recognition by ECOWAS.<sup>11780</sup> TF1-371 also attended a meeting in the Cape Sierra Hotel between Sam Bockarie and General Ibrahim Bah at which Bockarie expressed concern at the constant military attacks on the AFRC by the Nigerian ECOMOG troops and the AFRC Junta’s lack of arms and ammunition. Bah responded that Charles Taylor had specifically sent him to negotiate terms with Johnny Paul Koroma that would assist the AFRC to secure arms and ammunition.<sup>11781</sup> Bah suggested that given the quantity of materiel required, 90 carats of diamonds would be required to pay for the arms and

<sup>11775</sup> Defence Final Trial Brief, paras 591-596.

<sup>11776</sup> TF1-371, Transcript 25 January 2008, p. 2301 (CS).

<sup>11777</sup> The delegation was headed by one Frank Karifa Smart and other members included Mike Lamin and Milicent Kamara.

<sup>11778</sup> TF1-371, Transcript 25 January 2008, pp. 2299-2300 (CS).

<sup>11779</sup> TF1-371, Transcript 28 January 2008, pp. 2304-2307 (CS).

<sup>11780</sup> TF1-371, Transcript 28 January 2008, p. 2307 (CS).

<sup>11781</sup> TF1-371, Transcript 28 January 2008, pp. 2308-2309 (CS).

ammunition and \$USD 90,000 to transport them by air, and that he had already made this proposal to Koroma.<sup>11782</sup>

5356. Two or three days later TF1-371 attended an emergency meeting of the AFRC/RUF Supreme Council, also attended by Abu Sankoh, SAJ Musa, Gibril Massaquoi, Morris Kallon, Bazzy Kamara, Eldred Collins, Brigadier Mani and Issay Sesay, at which the imminent threat of an ECOMOG attack was discussed.<sup>11783</sup> Johnny Paul Koroma, who chaired the meeting, announced that he had made arrangements to secure a supply of arms and ammunition that would cost the Junta Government 90 carats of diamonds and \$USD 90,000 for shipment.<sup>11784</sup> Koroma then instructed Cobra, the mining commander in charge of Kono, and Gullit, the Principal Liaison Officer, to bring the requisite amount of diamonds to his residence. The meeting also endorsed SAJ Musa's proposal that \$USD 90,000 required for the air freight be obtained from the Central Bank of Sierra Leone.<sup>11785</sup> Sometime later TF1-371 was at Johnny Paul Koroma's residence when he saw Koroma hand over the requisite diamonds and \$USD 90,000 to Bockarie who in turn handed the diamonds and cash to Ibrahim Bah, after which Bah and Bockarie left Freetown.<sup>11786</sup> TF1-371 denied having seen the letter (Exhibit D-004) before but stated that he was familiar with its contents as they were discussed in the said emergency meeting.<sup>11787</sup>

5357. TF1-371 testified that towards the end of October 1997,<sup>11788</sup> while at Cockerill Military Headquarters, he saw a report from Issa Sesay, Morris Kallon and the Military Intelligence Branch officer that Ibrahim Bah had delivered a shipment of arms and ammunition by plane to the Magburaka airfield.<sup>11789</sup> TF1-371 was further informed that a second arms shipment accompanied by Issa Sesay and Fonti Kanu, a senior SLA officer, was scheduled to arrive later that day, but the delivery was not made because Nigerian ECOMOG jets bombed the runway before the plane could land.<sup>11790</sup> TF1-371 testified that

<sup>11782</sup> TF1-371, Transcript, 28 January 2008, p. 2309 (CS).

<sup>11783</sup> TF1-371, Transcript 28 January 2008, pp. 2310-2311 (CS).

<sup>11784</sup> TF1-371, Transcript 28 January 2008, p. 2312 (CS).

<sup>11785</sup> TF1-371, Transcript 28 January 2008, pp. 2310-2313 (CS).

<sup>11786</sup> TF1-371, Transcript 28 January 2008, pp. 2313-2314, 2374-23755 (CS).

<sup>11787</sup> TF1-371, Transcript 28 January 2008, p. 2318 (CS).

<sup>11788</sup> TF1-371, Transcript 31 January 2008, pp. 2744-2748 (CS).

<sup>11789</sup> TF1-371, Transcript 28 January 2008, p. 2314 (CS).

<sup>11790</sup> TF1-371, Transcript 28 January 2008, pp. 2314-2316 (CS).



he did not know from where the flight had departed<sup>11791</sup> but that he understood from “the organisers of the shipment”<sup>11792</sup> that the flight came from Ouagadougou, Burkina Faso.<sup>11793</sup> The weapons were distributed to the Cockerill Military Headquarters, Koroma’s residence and Issa Sesay’s base in Kenema District.<sup>11794</sup> The witness could not recall the exact quantity<sup>11795</sup> of arms and ammunition purchased but stated that the shipment was “huge” and that approximately 200 AK-47 rifles, one of two 75 calibre machine guns, rocket propelled grenades and 80 boxes of AK-47 ammunition were allocated to the RUF alone.<sup>11796</sup>

Prosecution Witness Isaac Mongor

5358. Witness Isaac Mongor, a senior RUF member, testified that he was present at a meeting at Sam Bockarie’s residence at Hill Station, Freetown, attended by senior RUF members including Issa Sesay, Morris Kallon, Foday Lansana (a.k.a. CO Nya), Gibril Massaquoi and others, at which Ibrahim Bah delivered a message from Charles Taylor urging the RUF “to work together with the AFRC”.<sup>11797</sup> After the said meeting, Ibrahim Bah was taken to the residence of Johnny Paul Koroma on Spur Road to deliver the same message to the AFRC. Mongor was present at the meeting attended by senior AFRC members including Johnny Paul Koroma, SO Williams, Gullit and Bazzy and “all the other authorities” of the AFRC, at which Bah repeated the message from Charles Taylor that the RUF and AFRC should “work hand in hand”, a message that was “well received” by both the RUF and AFRC.<sup>11798</sup> The witness testified that the main topic discussed at the second meeting was the need for ammunition and that the meeting was happy because Bah “would be able to help them get ammunition”.<sup>11799</sup> The witness further stated that after this meeting Koroma and Bah held “a closed-door meeting”, but the contents of these discussions were not disclosed to Mongor.<sup>11800</sup> Koroma later told Mongor that he had been in contact with

<sup>11791</sup> TF1-371, Transcript 31 January 2008, pp. 2700-2701 (CS).

<sup>11792</sup> The witness stated that he was informed by Bah and Issa Sesay that the plane flew from Burkina Faso.

<sup>11793</sup> TF1-371, Transcript 31 January 2008, pp. 2701-2702, 2732-2736 (CS).

<sup>11794</sup> TF1-371, Transcript 28 January 2008, pp. 2316-2317 (CS).

<sup>11795</sup> In cross examination, the witness stated that the sum total of arms and ammunition paid for with the 90 carats of diamonds and \$USD 90,000 comprised two plane loads, although only one plane load was actually delivered at Magburaka. Transcript 31 January 2008, p. 2726.

<sup>11796</sup> TF1-371, Transcript 28 January 2008, pp. 2316-2317 (CS).

<sup>11797</sup> Isaac Mongor, Transcript 11 March 2008, p. 5712.

<sup>11798</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5712-5714.

<sup>11799</sup> Isaac Mongor, Transcript 11 March 2008, p. 5714.

<sup>11800</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5713-5715; Transcript 4 April 2008, pp. 6658-6659.

Taylor and that Taylor had said that he was going to “send something” for the Junta Government.<sup>11801</sup>

5359. Mongor testified that in 1998 shortly before the ECOMOG intervention,<sup>11802</sup> a “small amount of ammunition” was delivered at the Magburaka airstrip and that Koroma sent Mongor, Fonti Kanu, Mike Lamin and other people to collect the delivery.<sup>11803</sup> The delivery consisted of two anti-aircraft guns and some ammunition for the AA gun and GMG rounds.<sup>11804</sup> The witness stated that one of the two anti-aircraft guns was allocated to the AFRC and mounted at Koroma’s residence in Freetown, while the other was allocated to the RUF and taken by Mike Lamin to Bockarie in Kenema.<sup>11805</sup> He said that an Alpha jet bombarded the place after they had already collected these items.<sup>11806</sup> In cross-examination Isaac Mongor testified that he learnt from Johnny Paul Koroma that the Magburaka arms shipment originated from Libya in 1998 and passed through Liberia, through arrangements made by Taylor with the AFRC, and arrived in Magburaka shortly before the ECOMOG intervention.<sup>11807</sup> Mongor confirmed his statement to the investigators that previously the RUF had made arrangements with Ibrahim Bah to ship arms in from Burkina Faso but when they joined the AFRC Johnny Paul Koroma renewed the arms contract by talking directly with Bah.<sup>11808</sup>

Prosecution Witness Samuel Kargbo

5360. Witness Samuel Kargbo, a former SLA and member of the AFRC Supreme Council,<sup>11809</sup> testified that one to two weeks after the 25 May 1997 coup, he overheard a telephone conversation between Johnny Paul Koroma and Charles Taylor pertaining to an arms shipment. In the telephone conversation, Koroma reportedly told Taylor that he was sending him a delegation led by Mike Lamin and that Ibrahim Bah had been recommended by Sam Bockarie to assist the delegation with the procurement of the arms and

<sup>11801</sup> Isaac Mongor, Transcript 11 March 2008, p. 5724.

<sup>11802</sup> Isaac Mongor, Transcript 4 April 2008, pp. 6646-6651.

<sup>11803</sup> Isaac Mongor, Transcript 11 March 2008, p. 5724.

<sup>11804</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5724, 5726-5728; Transcript 4 April 2008, p. 6644.

<sup>11805</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5733-5734.

<sup>11806</sup> Isaac Mongor, Transcript 11 March 2008, p. 5724.

<sup>11807</sup> Isaac Mongor, Transcript 4 April 2008, pp. 6644-6652.

<sup>11808</sup> Isaac Mongor, Transcript 4 April 2008, pp. 6659-6661.

<sup>11809</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10421-10423, 10433-10440; Transcript 2 June 2008, p.10717.

ammunition.<sup>11810</sup> Kargbo stated that he was aware of other telephone calls made by Koroma to other African leaders at various times thereafter, including Presidents Mainassara of Niger, Blaise Compaoré of Burkina Faso and Muammar Gaddafi of Libya, and that the delegation in fact travelled to Liberia, Niger, Burkina Faso and Libya.<sup>11811</sup> Later Kargbo attended a Supreme Council meeting in which Koroma explained that a delegation headed by SYB Rogers was going to take a letter to Charles Taylor asking for political recognition of the AFRC Junta and other things.<sup>11812</sup>

5361. After the first delegation went to Liberia, Koroma told another Supreme Council meeting that Kargbo attended, that he was sending a second delegation to Liberia led by Mike Lamin of the RUF, Lieutenant-Colonel Fonti Kanu of the AFRC and General Ibrahim Bah to purchase arms and ammunition for the Junta. Koroma recommended Lieutenant-Colonel Fonti Kanu to be on the delegation because he was familiar with the military equipment needed by the Junta,<sup>11813</sup> while General Ibrahim Bah was recommended by Sam Bockarie to facilitate the movement of the arms into Sierra Leone.<sup>11814</sup> In the meeting, it was agreed that the arms and ammunition would be paid for with “a parcel”, which the witness understood to mean diamonds.<sup>11815</sup> Between 48 and 78 hours later,<sup>11816</sup> a delegation headed by Mike Lamin and including Fonti Kanu, and General Ibrahim<sup>11817</sup> travelled to Liberia<sup>11818</sup> and between one and two weeks later an arms shipment arrived by plane at Magburaka.<sup>11819</sup> Kargbo estimated that the shipment was delivered about one month before the Conakry Accord (hence on or about 23 September 1997).<sup>11820</sup>

5362. Samuel Kargbo testified that he and others, including Issa Sesay, CO Lion and “Senegalese” were present when the Magburaka shipment arrived.<sup>11821</sup> When the plane landed at night between 7.00pm and 9.00pm, it was already dark and vehicle headlights

<sup>11810</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10455.

<sup>11811</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10445-10446, 10456-10457.

<sup>11812</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10453-10454.

<sup>11813</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10477.

<sup>11814</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10455-10459, 10477.

<sup>11815</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10458.

<sup>11816</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10458.

<sup>11817</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10457.

<sup>11818</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10478.

<sup>11819</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10458-10459; Transcript 2 June 2008, p. 10710.

<sup>11820</sup> Samuel Kargbo, Transcript. 21 May 2008, pp. 10457-10459.

<sup>11821</sup> Samuel Kargbo, Transcript 2 June 2008, p. 10712.

were used to illuminate the airstrip.<sup>11822</sup> According to the witness, a “large quantity” of ammunition comprising AK rounds, G3 rounds, mortar bombs, RPG bombs and stinger missile bombs, was dropped by net from the plane, but the shipment did not include arms.<sup>11823</sup> The shipment was accompanied by Lieutenant-Colonel Fonti Kanu, Mike Lamin and a soldier called Musa wearing a Burkina Faso uniform with an insignia on it.<sup>11824</sup> The ammunition was hurriedly put in vehicles and delivered to Johnny Paul Koroma’s residence in Freetown, from where it was distributed to the AFRC and RUF commanders.<sup>11825</sup> In cross-examination, the witness admitted that he did not know from where the arms shipment originated but concluded based on the presence on the plane of Musa who was wearing a Burkinabe uniform, that the shipment “may have passed through Burkina Faso”.<sup>11826</sup>

5363. Witness Sam Kargbo also testified that after the ECOMOG intervention and the loss of Freetown, the AFRC were unable to bring their heavy artillery with them as they retreated as Waterloo was blocked and there was no way for the heavy artillery to cross over. They left the weapons at Tombo.<sup>11827</sup>

#### Prosecution Witness Augustine Mallah

5364. Witness Augustine Mallah, a former RUF member,<sup>11828</sup> testified that at a meeting held at the Officer’s Mess at the Wilberforce Barracks in Freetown, the Chief of Army Staff told the meeting that Koroma should tell the officers that they were expecting the first consignment of arms, ammunition and medicines since the AFRC coup, due to arrive at the Magburaka Airfield, and that one Major Dumbuya should go there to receive the shipment.<sup>11829</sup> The Chief of Army Staff also told the meeting that the Junta had money in the bank and diamonds from Kono and Tongo to pay for the shipment.<sup>11830</sup> In cross-examination, the witness testified that this meeting occurred “close to October 1997” and

<sup>11822</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10459; Transcript 2 June 2008, pp. 10709, 10747.

<sup>11823</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10479-10482; Transcript 2 June 2008, p. 10718.

<sup>11824</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10479; Transcript 2 June 2008, p. 10710.

<sup>11825</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10479-10482.

<sup>11826</sup> Samuel Kargbo, Transcript 2 June 2008, pp. 10715-10719.

<sup>11827</sup> Samuel Kargbo, Transcript 22 May 2008, p. 10514.

<sup>11828</sup> Augustine Mallah, Transcript 12 November 2008, p. 20073. Mallah was an RUF Junior Commando from 1991 until the disarmament.

<sup>11829</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20152-20154.

<sup>11830</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20152-20154.

that he did not know if Ibrahim Bah made the arrangements for the shipment or from where the shipment originated.<sup>11831</sup>

Prosecution Witness Alimamy Bobson Sesay

5365. Witness Alimamy Bobson Sesay testified about the Magburaka arms shipment in cross-examination. In 1997, about 2 months after the AFRC coup, Hassan Papa Bangura (a.k.a. Bomb Blast) told the witness that the Junta were expecting a consignment of arms and ammunition to arrive at the Magburaka airfield.<sup>11832</sup> The witness and Colonel SO Williams went to Magburaka airfield to collect arms and ammunition. Many other RUF fighters and SLA members, including Denis Mingo and Akim Turay, were present and were deployed in the bushes around the airstrip. Fonti Kanu and Colonel Yapo coordinated the arrival of the shipment.<sup>11833</sup> When the witness arrived at Magburaka, the plane carrying the arms shipment had already landed and the ammunition loaded on trucks.<sup>11834</sup> The witness initially testified that the shipment took place around two months after the AFRC coup (therefore around July 1997)<sup>11835</sup> but later said it was “during the AFRC, but at least they had been in power for some time”.<sup>11836</sup> According to the witness, there were discussions amongst some of the soldiers that the shipment came from Ukraine, while others said that it was from Liberia.<sup>11837</sup> In a previous witness statement, Bobson Sesay told investigators that he was not aware where the shipment came from but other soldiers told him that it originated from Ukraine. The shipment contained sub machine guns (SMGs) and SMG rounds, AK rounds, and an anti-aircraft gun with lasers. When tested at Johnny Paul Koroma’s house on Spur Road, the anti-aircraft lasers were found not to be working.<sup>11838</sup> The witness told the Trial Chamber that the arms were distributed among RUF and SLA members<sup>11839</sup> and that some other arms and ammunition were used to reinforce the fight against ECOMOG forces.<sup>11840</sup>

<sup>11831</sup> Augustine Mallah, Transcript 17 November 2008, pp. 20379-20380.

<sup>11832</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, p. 8686.

<sup>11833</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8686-8691.

<sup>11834</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, p. 8693.

<sup>11835</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, p. 8686.

<sup>11836</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8687, 8701.

<sup>11837</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8687, 8701.

<sup>11838</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8701-8703.

<sup>11839</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8702-8704.

<sup>11840</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, p. 8688.

Prosecution Witness Perry Kamara

5366. Witness Perry Kamara a former RUF Junior Commando<sup>11841</sup> testified that during the AFRC/RUF Junta regime, an airstrip was constructed about 2 to 3 miles from Magburaka. The Junta often used the airstrip for receiving shipment of arms and ammunition by plane which usually landed at night.<sup>11842</sup> On one such occasion “around the end of 1997”,<sup>11843</sup> Issa Sesay instructed him and an RUF Administrator called Alpha, to go and collect their share of ammunition at the Magburaka airstrip.<sup>11844</sup> On arrival at around 5.00am or 6.00am, the witness found that the plane had already delivered the arms and ammunition at night and left. He saw vehicles belonging to the RUF, AFRC, “Bo Brigade” and other groups from Freetown and Kenema, all of whom had come to collect their share.<sup>11845</sup> The witness saw arms and ammunition in boxes being distributed “by groups” between the RUF and AFRC.<sup>11846</sup> He did not know where the shipment came from.<sup>11847</sup>

Prosecution Witness TF1-338

5367. Witness TF1-338, a former RUF member,<sup>11848</sup> testified that during the AFRC/RUF Junta regime, an airstrip was constructed at Mayoroh near Magburaka where the Ukrainians used to deliver arms and ammunition by plane, including G3 rounds, AK-47 rounds and stick grenades. The airplane would not land for fear of the ECOMOG raids and simply dropped off the supplies at the airstrip.<sup>11849</sup> The witness attended a meeting<sup>11850</sup> at the State House towards the end of 1997, at which Johnny Paul Koroma announced that the Ukrainians were helping the Junta to ship arms and ammunition by air through Mayoroh airstrip, near Magburaka.<sup>11851</sup> Koroma further explained that the Ukrainians first tried to send the materiel by sea but were disturbed by ECOMOG jets so decided later to bring it by

<sup>11841</sup> Perry Kamara, Transcript 4 February 2008, pp. 3024-3027.

<sup>11842</sup> Perry Kamara, Transcript 5 February 2008, p. 3091.

<sup>11843</sup> Perry Kamara, Transcript 7 February 2008, p. 3353.

<sup>11844</sup> Perry Kamara, Transcript 5 February 2008, p. 3091; Transcript 7 February 2008, pp. 3352-3353.

<sup>11845</sup> Perry Kamara, Transcript 5 February 2008, p. 3092.

<sup>11846</sup> Perry Kamara, Transcript 5 February 2008, p. 3091.

<sup>11847</sup> Perry Kamara, Transcript 7 February 2008, p. 3353.

<sup>11848</sup> TF1-338, Transcript 1 September 2008, pp. 15084 -15088.

<sup>11849</sup> TF1-338, Transcript 3 September 2008, p. 15282-15283.

<sup>11850</sup> TF1-338 also stated at pp. 15284-15285 that this meeting was attended by AFRC members including Gullit, Five-Five and Abu Sankoh (a.k.a. Zagalo), as well as RUF members including Eldred Collins, Sam Bockarie, Issa Sesay, Morris Kallon, Mike Lamin and Denis Mingo.

<sup>11851</sup> TF1-338, Transcript 3 September 2008, pp. 15283-15285.

air to an airstrip at Mayoroh. A month after this announcement, the arms and ammunition shipment arrived by plane at Mayoroh.<sup>11852</sup> The witness went at night between 8.00pm and 9.00pm with Issa Sesay and Morris Kallon and their bodyguards to the Magburaka airstrip to collect their share of the delivery.<sup>11853</sup> As the plane had not arrived they left and returned later only to find that the plane had dropped off the delivery at night.<sup>11854</sup> Mike Lamin was present at the airstrip when the witness first arrived but the witness did not know whether Lamin was there when he returned the second time.<sup>11855</sup> They arrived after the plane had left but saw the materiel it had dropped on the field, which was AK rounds, G3 rounds, stick grenades and GMG rounds. These were distributed to AFRC/RUF forces in Freetown, Makeni and Magburaka and later used to repel ECOMOG from Freetown.<sup>11856</sup>

#### Prosecution Witness Naomi Campbell

5368. Witness Naomi Campbell testified that in September 1997, she attended a dinner hosted by Mr and Mrs. Nelson Mandela at their Presidential House in Pretoria. The dinner was attended by other prominent personalities including Charles Taylor.<sup>11857</sup> At the table, Taylor had a general conversation with the other guests telling them who he was and where he was from.<sup>11858</sup> After dinner Ms. Campbell retired to her room upstairs in the Presidential Guesthouse but was awoken by two strange black men who upon knocking on her door gave her a pouch saying “a gift for you”.<sup>11859</sup> She did not open the pouch until the next morning when she saw in it a few “small dirty looking stones”.<sup>11860</sup> Campbell did not know who these men were or where they came from and it was only after discussing the incident with Mia Farrow and Carole White at breakfast that she concluded that the stones were diamonds and must have been sent by Charles Taylor. As she did not want the stones, she gave them to

<sup>11852</sup> TF1-338, Transcript 3 September 2008, pp. 15282-15287.

<sup>11853</sup> TF1-338, Transcript 3 September 2008, p. 15285.

<sup>11854</sup> TF1-338, Transcript 3 September 2008, p. 15285.

<sup>11855</sup> TF1-338, Transcript 3 September 2008, pp. 15282-15287.

<sup>11856</sup> TF1-338, Transcript 5 September 2008, pp. 15557-15558.

<sup>11857</sup> Naomi Campbell, Transcript 5 August 2010, p. 45464. The dinner was related to the fund-raising activities of the Mandela Children’s Charity of which Ms. Campbell is an Ambassador. According to the “Blue train Summary of Programme” (Exhibit D-428) the dinner took place on Thursday 25 September 1997 at the Presidential Guest house in Pretoria and was attended by other celebrities.

<sup>11858</sup> Naomi Campbell, Transcript 5 August 2010, pp. 45466-43468.

<sup>11859</sup> Naomi Campbell, Transcript 5 August 2010, p. 45468.

<sup>11860</sup> Naomi Campbell, Transcript 5 August 2010, pp. 45468-45470.

Jeremy Ratcliffe, the head of the Nelson Mandela Children's Fund, "to do something with them" that would benefit the disadvantaged children.<sup>11861</sup>

Prosecution Witness Carole White

5369. Witness Carole White, who attended the same fund-raising function and dinner as Ms. Campbell and spent the night in the same guest house at the Mandela residence on 25 September 1997,<sup>11862</sup> told the Trial Chamber that there were 8 or possibly about 10 people at the dinner that evening.<sup>11863</sup> White testified that she saw Campbell and Taylor laughing and nodding, being charming to each other and "mildly flirting" with each other at the dinner table.<sup>11864</sup> Campbell excitedly told White that Taylor was going to give her diamonds and Taylor responded by smiling and nodding in agreement.<sup>11865</sup> In cross-examination White affirmed that she never actually heard Taylor make any promise to give Campbell diamonds but that he nodded in agreement.<sup>11866</sup> The witness further testified that at the conclusion of the dinner, she was present during a conversation between a Liberian Minister and Campbell concerning the delivery of the diamonds and that she thought Taylor may also have been briefly present.<sup>11867</sup> During the conversation, White learned that the arrangement was for two men to collect the diamonds from Johannesburg and deliver them to the guesthouse.<sup>11868</sup> White told the Trial Chamber that she and Campbell stayed in the lounge area of the guest house from "around 10 o'clock at night" waiting for the men to arrive. After checking outside she and Campbell went to bed.<sup>11869</sup> At about 1.00am in the morning, two men threw pebbles at the window of White's room to get her attention and shouted that "they had something for Campbell".<sup>11870</sup> White then alerted Campbell and the two women met the two men in the lobby, where the men gave Campbell a "quite scruffy paper"<sup>11871</sup> containing five or six uncut diamonds.<sup>11872</sup> That morning Ms. Campbell put the diamonds in a small

<sup>11861</sup> Naomi Campbell, Transcript 5 August 2010, pp. 45468-45475.

<sup>11862</sup> Carole White, Transcript 9 August 2010, pp. 45755-45760. See also Exhibit D-428.

<sup>11863</sup> Carole White, Transcript 9 August 2010, pp. 45809-45810; Transcript 10 August 2010, p. 45852.

<sup>11864</sup> Carole White, Transcript 9 August 2010, p. 45764; Transcript 10 August 2010, p. 45818.

<sup>11865</sup> Carole White, Transcript 9 August 2010, p. 45764.

<sup>11866</sup> Carole White, Transcript 10 August 2010, pp. 45819-45822.

<sup>11867</sup> Carole White, Transcript 9 August 2010, p. 45766.

<sup>11868</sup> Carole White, Transcript 9 August 2010, p. 45767; Transcript 10 August 2010, pp. 45823-45826.

<sup>11869</sup> Carole White, Transcript 9 August 2010, p. 45768.

<sup>11870</sup> Carole White, Transcript 9 August 2010, pp. 45769-45768 In cross-examination, White stated on 10 August pp. 45835-45842 that the men said "they have a gift for Ms. Campbell".

<sup>11871</sup> Carole White, Transcript 9 August 2010, pp. 45857, 45866.

<sup>11872</sup> Carole White, Transcript 9 August 2010, p. 45771-45772.



jewellery pouch.<sup>11873</sup> The following morning White advised Campbell against taking the diamonds out of South Africa as that would be illegal and suggested instead, that the diamonds be donated to the Nelson Mandela Children's Charity. White was present when Campbell handed the diamonds in a pouch to Jeremy Ratcliffe, Chairman of the Nelson Mandela Children's Charity.<sup>11874</sup> White admitted in cross-examination that she is involved in a multi-million dollar suit against Campbell whom she sued for breach of contract, but denied that the suit had any impact on her testimony in Court.<sup>11875</sup>

#### Prosecution Witness Mia Farrow

5370. Witness Mia Farrow testified that she too was invited by Nelson Mandela to attend the Blue Train fund-raising event and, like Campbell, she and the other guests attended the dinner and spent the night at the Presidential Guesthouse.<sup>11876</sup> Farrow told the Trial Chamber that the following morning at breakfast, Campbell excitedly talked of an event the night before in which some men sent by Taylor had knocked on her door and given her a huge diamond, which Campbell said she intended to give to the Nelson Mandela Children's Charity.<sup>11877</sup> Campbell did not show Farrow the gift she had received.<sup>11878</sup> Farrow testified that it was Campbell who suggested that the gift was from Charles Taylor.<sup>11879</sup> She said she did not recall Carole White.<sup>11880</sup> In cross-examination, the witness again said that she did not see the diamond or know where the diamond came from, and that she did not know the reason behind the gift.<sup>11881</sup> Ms Farrow admitted in cross-examination that as a "Goodwill Ambassador" for UNICEF her work focuses mainly on children impacted by armed conflict in Africa<sup>11882</sup> but maintained that her testimony is not impacted by her views or work on the subject.<sup>11883</sup>

#### Defence Exhibit D-424

<sup>11873</sup> Carole White, Transcript 9 August 2010, p. 45868; Transcript 10 August 2010, pp. 45866, 45868.

<sup>11874</sup> Carole White, Transcript 9 August 2010, p. 45773.

<sup>11875</sup> Carole White, Transcript 9 August 2010, pp. 45790-45795; Transcript 10 August 2010, pp. 45850, 45863.

<sup>11876</sup> Mia Farrow, Transcript 9 August 2010, pp. 45650-45653.

<sup>11877</sup> Mia Farrow, Transcript 9 August 2010, pp. 45654-45662.

<sup>11878</sup> Mia Farrow, Transcript 9 August 2010, p. 45654.

<sup>11879</sup> Mia Farrow, Transcript 9 August 2010, pp. 45659-45660.

<sup>11880</sup> Mia Farrow, Transcript 9 August 2010, p. 45659.

<sup>11881</sup> Mia Farrow, Transcript 9 August 2010, p. 45664.

<sup>11882</sup> Farrow mentioned working with children in conflict in Sudan, Chad, Congo, Central African Republic and Uganda.

<sup>11883</sup> Mia Farrow, Transcript 9 August 2010, pp. 45716-45743.

5371. Exhibit D-424 is a photograph of some of the guests that attended the dinner at the Presidential Guesthouse in Pretoria on 25 September 1997. Exhibit D-428 is the “Blue Train Summary of Programme” indicating that a private dinner was hosted by President Mandela at the Presidential Guesthouse, Pretoria on Thursday 25 September 1997.

### The Accused

5372. The Accused denied having any contact or dealings with the AFRC/RUF Junta or receiving a delegation sent by Johnny Paul Koroma in July 1997 as alleged by the Prosecution, as he was inaugurated President of Liberia on 2 August 1997 and not before.<sup>11884</sup> Taylor acknowledged that in early October 1997, a delegation sent by Johnny Paul Koroma carrying a letter (Exhibit D-004) was received by his Foreign Minister. Taylor did not meet the said delegation, nor respond to the request for arms and ammunition in Exhibit D-004. He maintained that Liberia was not in a position to send arms or ammunition to Sierra Leone as requested in Exhibit D-004 because (a) Liberia had totally disarmed and all arms were in UN custody;<sup>11885</sup> (b) Liberia did not recognise the Junta regime in Freetown; (c) ECOWAS States had just delivered an ultimatum to the Junta regime to reinstate President Kabbah or face forceful removal by ECOMOG;<sup>11886</sup> (d) there was a decision (A/DEC/7/8/97) of ECOWAS Member States instituting sanctions and an arms embargo on the Junta regime;<sup>11887</sup> and (e) ECOMOG forces were deployed throughout Liberia including at all major airports to enforce security in the sub-region.<sup>11888</sup> A second delegation from Johnny Paul Koroma was sent to Monrovia after 3 October 1997 but Taylor declined to meet them too as he did not wish to lend credence to the illegal Junta regime.<sup>11889</sup> Taylor denies ever supplying arms to the rebels in Sierra Leone in exchange for diamonds as alleged by the Prosecution.<sup>11890</sup> Taylor denied any involvement in the alleged shipment of arms and ammunition to the AFRC/RUF Junta through Magburaka,<sup>11891</sup> and denied speaking

<sup>11884</sup> Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25431, 25442. Ruth Sandor Perry was President of Liberia before Taylor.

<sup>11885</sup> Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25436, 25443.

<sup>11886</sup> Charles Ghankay Taylor, Transcript 28 July 2009, p. 25438.

<sup>11887</sup> Charles Ghankay Taylor, Transcript 28 July 2009, p. 25452.

<sup>11888</sup> Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25443-25445.

<sup>11889</sup> Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25440-25441; Transcript 23 September 2009, p. 29541.

<sup>11890</sup> Charles Ghankay Taylor, Transcript 3 August 2009, p. 25849.

<sup>11891</sup> Charles Ghankay Taylor, Transcript 14 January 2010, pp. 33356-33360; Transcript 27 October 2009, p. 30440; Transcript 23 September 2009, pp. 29539-29542; Transcript 28 July 2009, p. 25442.

to Johnny Paul Koroma on the phone before the said shipment.<sup>11892</sup> Taylor also denied receiving any money and/or diamonds from Ibrahim Bah on behalf of the Junta in Sierra Leone as payment for arms and ammunition.<sup>11893</sup> He said he was made aware of the shipment in his capacity as a member of the Committee of Five<sup>11894</sup> but denied ordering the RUF to construct an airfield near Magburaka or at Buedu; or having an aircraft capable of carrying arms and ammunition into Sierra Leone.<sup>11895</sup>

5373. The Accused testified that he had nothing to do with the Magburaka arms shipment and was not aware of Ibrahim Bah's presence in Monrovia in relation to such a shipment. He said the shipment could not have originated from Liberia because at that time ECOMOG was in position and the Accused had no weapons and no aircraft.<sup>11896</sup> The Accused denied purchasing arms and ammunition during his multi-State trip in September 1997<sup>11897</sup> and instead testified that the purpose of this trip was so he could receive medical treatment and meet with Nelson Mandela.<sup>11898</sup> The Accused confirmed attending a dinner at Nelson Mandela's residence, at which Naomi Campbell and Mia Farrow were also in attendance<sup>11899</sup> but denied carrying diamonds with him during his trip or sending a diamond to Campbell.<sup>11900</sup> Official records entered into evidence indicate that on 20 September 1997, Taylor commenced a multi-State trip that took him to South Africa, Burkina Faso, Libya, Tunisia and Niger, returning to Liberia on 3 October 1997.<sup>11901</sup>

#### Defence Witness Issa Sesay

5374. Witness Issa Sesay testified that in late June/early July 1997,<sup>11902</sup> Gibril Massaquoi travelled from Nigeria and delivered several letters from Foday Sankoh. Massaquoi delivered two of the letters to Ibrahim Bah and General Diendere, the Chief of Staff of the

<sup>11892</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29546-29549.

<sup>11893</sup> Charles Ghankay Taylor, Transcript 29 September 2009, p. 29788.

<sup>11894</sup> Charles Ghankay Taylor, Transcript 30 July 2009, pp. 25610-25612.

<sup>11895</sup> Charles Ghankay Taylor, Transcript 16 February 2010, pp. 35112-35113.

<sup>11896</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29539-29542.

<sup>11897</sup> Charles Ghankay Taylor, Transcript 14 January 2010, pp. 33332-33338, 33349; Transcript 16 February 2010, pp. 35110-35111; Transcript 17 February 2010, pp. 35219-35223.

<sup>11898</sup> Charles Ghankay Taylor, Transcript 16 February 2010, pp. 35112-35113.

<sup>11899</sup> Charles Ghankay Taylor, Transcript 16 February 2010, pp. 35112-35113.

<sup>11900</sup> Charles Ghankay Taylor, Transcript 14 January 2010, pp. 33339-33340, 33369-33371.

<sup>11901</sup> Exhibit D-141, "Presidential Papers, Policies, Speeches, Statements and Record of Activities of the Chief Executive of Liberia, August 2 1997 – December 31 1998"; Charles Ghankay Taylor, Transcript 14 January 2010.

Burkinabe Army, respectively, in Ouagadougou, while the other two were delivered to Johnny Paul Koroma and Sam Bockarie in Sierra Leone.<sup>11903</sup> In the letter to Bockarie,<sup>11904</sup> Sankoh urged Bockarie to work with Koroma and Ibrahim Bah to ensure that the ammunition Sankoh had purchased and stored in Burkina Faso was delivered to Freetown so that “the AFRC and RUF would be able to defend themselves”.<sup>11905</sup> Sesay explained that Foday Sankoh had purchased the arms and ammunition from Burkina Faso in early 1997 before he was arrested in Nigeria<sup>11906</sup> and left them with General Diendere for safe-keeping.<sup>11907</sup> According to Sesay the arms and ammunition were purchased with funds donated to the RUF by Muammar Gaddafi, the leader of Libya.<sup>11908</sup> Sesay denied that the RUF ever gave Charles Taylor or Ibrahim Bah diamonds in exchange for arms and ammunition,<sup>11909</sup> explaining that at that time “Mr Taylor and Mr Sankoh had no business”.<sup>11910</sup> In July 1997, Johnny Paul Koroma invited Ibrahim Bah, through Sam Bockarie and Gibril Massaquoi, to make arrangements to hire a plane for the purpose of transporting the arms and ammunition from Burkina Faso.<sup>11911</sup> Ibrahim Bah met Johnny Paul Koroma in Freetown, who gave him \$USD 90,000 from the Bank of Sierra Leone in July or August 1997 for hiring a plane.<sup>11912</sup> Bah arranged for the arms shipment which arrived by air at Mayagba airfield near Magburaka between November and December 1997.<sup>11913</sup> Sesay disputed the fact that the AFRC/RUF Supreme Council ever held an emergency meeting at which the issue of paying Ibrahim Bah 90 carats of diamonds for the purchase of arms and

<sup>11902</sup> Issa Sesay, Transcript 7 July 2010, p. 43862.

<sup>11903</sup> Issa Sesay, Transcript 7 July 2010, p. 43855.

<sup>11904</sup> Issa Sesay, Transcript 18 August 2010, pp. 46560-46561 (where Sesay states that Bockarie read the letter out to him.)

<sup>11905</sup> Issa Sesay, Transcript 7 July 2010, pp. 43856-43873; 29 July 2010, p. 44988; Transcript 18 August 2010, p. 46558.

<sup>11906</sup> Issa Sesay, Transcript 7 July 2010, pp. 43872-43873.

<sup>11907</sup> Issa Sesay, Transcript 6 July 2010, p. 43810; Transcript 7 July 2010, pp. 43857, 43874.

<sup>11908</sup> Issa Sesay, Transcript 7 July 2010, pp. 43857, 43874.

<sup>11909</sup> Issa Sesay, Transcript 27 July 2010, p. 44670; Transcript 29 July 2010, pp. 44985, 44996.

<sup>11910</sup> Issa Sesay, Transcript 7 July 2010, p. 43871.

<sup>11911</sup> Issa Sesay, Transcript 6 July 2010, p. 43810.

<sup>11912</sup> Issa Sesay, Transcript 7 July 2010, p. 43860. Sesay explained at p. 43862 that while Foday Sankoh the RUF leader owned the arms and ammunition, Johnny Paul Koroma was to provide \$USD 90,000, the cost of transporting them, as his contribution to the war effort.

<sup>11913</sup> Issa Sesay, Transcript 7 July 2010, pp. 43860-43863. Elsewhere in his testimony, Sesay refers to the airstrip as “Magburaka airfield”.

ammunition was discussed.<sup>11914</sup> He also disputed the fact that Johnny Paul Koroma sent a delegation to Liberia in late 1997.<sup>11915</sup>

5375. When the arms shipment arrived at Magburaka “around November or December 1997”,<sup>11916</sup> Johnny Paul Koroma sent Sesay and other representatives of the AFRC and RUF<sup>11917</sup> to collect their share of the arms and ammunition which arrived on the plane accompanied by Fonti Kanu, Ibrahim Bah and a crew that looked like Russians.<sup>11918</sup> Sesay and SO Williams went by helicopter to Magburaka and spent the night in Makeni. According to Sesay, the plane arrived at Magburaka the next day between 3.00pm and 4.00pm and when it landed Sesay and the others unloaded all the materials from it.<sup>11919</sup> Sesay stated that the plane flew from Burkina Faso directly to Magburaka.<sup>11920</sup> Immediately after the plane left, the ECOMOG Alfa jets bombarded the runway but missed the cargo that had just been offloaded. After the jet left, Sesay and others were able to load the cargo into their trucks.<sup>11921</sup> The plane was supposed to deliver the arms and ammunition in three trips but as a result of the bombardment, only one flight arrived.<sup>11922</sup> Sesay stated that he did not see Samuel Kargbo at Magburaka.<sup>11923</sup> The shipment consisted of two BZT weapons, five “SAM-7s” with their ammunition, AA rounds, GPMG rounds and some G3 rounds but no AK-47 guns or ammunition.<sup>11924</sup> Sesay estimated the quantity of ammunition he collected as two truckloads.<sup>11925</sup> The arms and ammunition were delivered to the residence of Johnny Paul Koroma in Freetown.<sup>11926</sup> Sesay stated that Johnny Paul Koroma distributed the materiel from the Magburaka shipment in 1997. Koroma gave some of the materiel to RY Koroma, who was in charge of distribution of ammunition at Cockerill, and some to Mike

<sup>11914</sup> Issa Sesay, Transcript 7 July 2010, p. 43857.

<sup>11915</sup> Issa Sesay, Transcript 30 July 2010, p. 45130.

<sup>11916</sup> Issa Sesay, Transcript 7 July 2010, p. 43863.

<sup>11917</sup> Sesay named SO Williams, Emilin Dumbuya (a.k.a. Savimbi), Lieutenant AK Jalloh and Akim Turay, Varnicious Vandi (a.k.a. Kailondo) and Daniel Wankay (a.k.a. Rambo), as some of the senior AFRC and RUF officials that went to collect the materiel. Issa Sesay, Transcript 30 July 2010, p. 45130.

<sup>11918</sup> Issa Sesay, Transcript 7 July 2010, p. 43866.

<sup>11919</sup> Issa Sesay, Transcript 30 July 2010, p. 45130.

<sup>11920</sup> Issa Sesay, Transcript 7 July 2010, p. 43875.

<sup>11921</sup> Issa Sesay, Transcript 7 July 2010, p. 43867.

<sup>11922</sup> Issa Sesay, Transcript 7 July 2010, pp. 43867-43875. In cross-examination, Sesay states that the plane was supposed to make two trips, not three. Transcript 18 August 2010, pp. 46628-46629.

<sup>11923</sup> Issa Sesay, Transcript 30 July 2010, p. 45132 (CS).

<sup>11924</sup> Issa Sesay, Transcript 7 July 2010, p. 43863; Transcript 29 July 2010, pp. 45002-45003.

<sup>11925</sup> Issa Sesay, Transcript 7 July 2010, p. 43863.

<sup>11926</sup> Issa Sesay, Transcript 7 July 2010, p. 43867.

Lamin to take to Bockarie. However, when ECOMOG intervened in February 1998, the materiel was left at Johnny Paul's house and captured by ECOMOG forces.<sup>11927</sup>

Defence Exhibit D-015

5376. Exhibit D-015 is a letter, dated 26 June 1996, from Foday Sankoh to Mohammed Talibi, the Libyan Ambassador to Ghana, acknowledging receipt of \$USD 500,000 provided by Libya for purchase of "needed material to pursue the military mission" and requesting a further \$USD 1.5 million for the procurement and airfreight of more arms and ammunitions.<sup>11928</sup>

Prosecution Exhibit P-272

5377. Exhibit P-272 is a letter, dated 4 December 1996, from Foday Sankoh to Mohammed Talibi, the Libyan Ambassador to Ghana, in which he explains that he has paid \$USD 300,000 to his "business partners" for procurement of materiel but needs \$USD 700,000 more to cover the balance. In this letter Sankoh laments the fact that there is some money with the Burkinabe Government for the provision of war materiel but that the said Government "have not shown any keen interest in assisting the RUF as a movement, notwithstanding a recent conversation that Sankoh had with commandant Diendere".<sup>11929</sup>

Defence Exhibit D-004

5378. Exhibit D-004 is a letter, dated 3 October 1997, from Johnny Paul Koroma to Charles Taylor, thanking him for his supportive position at the UN General Assembly. The letter ends with a request that he supply the Junta with arms and ammunition, with an itemised list of the quantity and description of the arms and ammunition requested.<sup>11930</sup>

Deliberations

<sup>11927</sup> Issa Sesay, Transcript 7 July 2010, pp. 43915-43916.

<sup>11928</sup> Exhibit D-015, "RUF - Follow up request from Foday Sankoh, Leader, RUF/SL to Brother Mohamed Talibi, Libyan Arab People's Jamahiriyya, Accra, Ghana, 26 June 1996".

<sup>11929</sup> Exhibit P-272, "Revolutionary United Front of Sierra Leone, Urgent Information, From Cpl. Foday Sankoh, Leader, RUF/SL, To Brother Mohamed Talibi, Peoples Bureau of Libyan Arab Peoples Jamahiriya, Accra, Ghana, 4 December 1996 - 00007797 - 00007798".

<sup>11930</sup> Exhibit D-004, "Letter from Johnny Paul Koroma to Charles Taylor asking for help in the Defence of the Country against ECOMOG, 3 October 1997".

a. Origin of the arms shipment:

5379. Having carefully considered the above evidence, the Trial Chamber makes the following observations. It is not in dispute that a few months before the Magburaka arms shipment arrived in Sierra Leone, Johnny Paul Koroma, the head of the AFRC/RUF Junta in Sierra Leone, sent a delegation to Monrovia, Liberia with a letter to then President Charles Taylor for assistance in gaining recognition amongst the ECOWAS Member States. The exact date of the delegation's visit is in dispute, with Witness TF1-371 who was part of the said delegation, stating that it was in August and the Accused stating that it was in October 1997. It is not in dispute that on arrival in Monrovia, the said delegation was unable to meet Charles Taylor and instead met two of his Government officials, namely John T. Richardson and Monie Captan, to whom the delegation delivered the letter for onward transmission to Taylor. Recalling its finding as to their general credibility,<sup>11931</sup> the Trial Chamber believes the testimony of Witnesses Samuel Kargbo and TF1-371 and finds that the mission of this delegation was a purely diplomatic one seeking political/diplomatic recognition of the Junta regime, and did not involve asking for arms or ammunition from Taylor. The Trial Chamber also believes TF1-371 that the letter Exhibit D-004, dated 3 October 1997, which contains references to arms and ammunition was not the letter carried by this delegation. For these reasons, the Trial Chamber does not consider the visit of this delegation to Monrovia to be relevant to the Magburaka arms transaction.

5380. One witness spoke vaguely of a second delegation sent by Johnny Paul Koroma around September/October 1997 to the Accused, specifically to solicit arms and ammunition. Samuel Kargbo heard Johnny Paul Koroma state at a meeting of the Supreme Council that he was going to send a second delegation to Liberia led by Mike Lamin of the RUF and Lieutenant-Colonel Fonti Kanu of the AFRC to purchase arms and ammunition for the Junta to be facilitated by one General Ibrahim who had been recommended by Sam Bockarie.<sup>11932</sup> According to Kargbo, a couple of days later these three individuals travelled to Liberia around the beginning of September 1997 and the Magburaka arms shipment arrived one or two weeks after, around 23 September 1997. Kargbo, however, admitted that he did not know exactly where the arms shipment originated but surmised that it may have

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<sup>11931</sup> Credibility Assessment, Samuel Kargbo, paras 290-295; Credibility Assessment, TF1-371, paras 220-226.

<sup>11932</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10455-10459.

passed through Burkina Faso.<sup>11933</sup> The Accused himself spoke of a second delegation sent by Johnny Paul Koroma to Monrovia after 3 October 1997 but maintains that he declined to meet them.<sup>11934</sup> The Trial Chamber finds Kargbo's testimony in this regard to be of little probative value in establishing a link between this second delegation and the arms shipment as it not only is circumstantial but is contradicted by another Prosecution witness TF1-371, who insisted that Mike Lamin was never on the delegation that went to Liberia to solicit for arms or ammunition. For those reasons, the Trial Chamber finds that there is insufficient evidence linking the visit of a second delegation to Liberia to the Magburaka arms transaction.

5381. With regard to the Prosecution contention that in September 1997 the Accused took the diamonds and used the opportunity under diplomatic cover of a trip to South Africa, Burkina Faso, Libya and Niger to arrange the shipment of arms and ammunition to the Junta and that while in South Africa the Accused presented some of the Junta diamonds as a gift to supermodel Naomi Campbell, the Trial Chamber makes the following observations regarding the evidence of the three witnesses called by the Prosecution. It is not in dispute that Witnesses Naomi Campbell, Carole White, Mia Farrow and the Accused all attended a private dinner hosted by Nelson Mandela at his Presidential House in Pretoria, South Africa on 25 September 1997. It is what transpired at the dinner and afterwards that is in dispute. Not only did the Accused deny sending Ms. Campbell any diamonds but the evidence of the three Prosecution witnesses as to what transpired at and after the dinner also contains contradictions. White insisted that Campbell and Taylor were "mildly flirtatious" at the dinner table, an assertion refuted by Campbell. White maintained that Campbell told her during the dinner that Taylor was going to give her a diamond and that Taylor nodded affirmatively, an account refuted by Campbell, who insisted that she only had a general conversation with Mr Taylor at the table. White maintained that after the dinner, she overheard a Liberian Minister making arrangements with Campbell for two men to deliver the diamonds from Johannesburg to her room, a conversation denied by Campbell. White further maintained that she and Campbell stayed up late waiting for the diamond couriers who arrived at the Guesthouse after 1.00am. Campbell refuted White's version stating that when the men did arrive she was fast asleep in her bed and was not expecting them. White

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<sup>11933</sup> Samuel Kargbo, Transcript 2 June 2008, pp. 10715-10719.

<sup>11934</sup> Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25440-25441; Transcript 23 September 2009, p. 29541.



told the Court that she was present when the two men delivered the uncut diamonds to Campbell in the lobby of the guesthouse but Campbell insisted the men came to her room and handed her a pouch and that she was alone when that happened. Both White and Farrow maintained that it was Campbell who told them that the diamonds were a gift from Taylor but Campbell refuted their version, claiming that it was White's and Farrow's suggestion that the diamonds must have come from Taylor.

5382. The Trial Chamber found both White and Farrow to be frank and truthful witnesses, not prone to exaggeration and consistent in saying that they did not recall certain details clearly. They were also consistent with respect to the details that they did recall. White was subjected to detailed cross-examination on her direct evidence and on extraneous matters, but she affirmed her testimony and her recall of events remained clear and unembellished. The Trial Chamber notes that Campbell, on the other hand, was a reluctant witness who openly expressed fear of testifying against the Accused.<sup>11935</sup> The Trial Chamber is of the view that Ms. Campbell deliberately omitted certain details out of fear of the Accused. There are differences in the details described by these three witnesses, but the Trial Chamber considers, particularly given the lapse of thirteen years between the events and their recall of these events, that these differences are not significant. All three witnesses testified that the diamonds given to Campbell came from Taylor – White on the basis of what she heard and saw both at the dinner and when the diamonds were delivered, Farrow on the basis of what Campbell told her, and Campbell herself, who said she came to the realization that the diamonds were sent by Taylor.<sup>11936</sup>

5383. In the light of this evidence from all three witnesses, the Trial Chamber does not find the denial of the Accused credible. The evidence establishes beyond reasonable doubt that two men sent by the Accused delivered uncut diamonds to Naomi Campbell on his behalf following a dinner they both attended on 26 September 1997 at the Presidential House of Nelson Mandela in Pretoria, South Africa. Be that as it may, however, the Trial Chamber notes that no evidence has been adduced by the Prosecution with regard to the origin of the diamonds given to Naomi Campbell by the Accused, or to support its allegation that the Accused arranged the shipment of arms and ammunition to the Junta during the course of his

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<sup>11935</sup>The witness described her coming to Court as “a big inconvenience” and expressed concern about “endangering her family” by agreeing to testify. See Naomi Campbell, Transcript 5 August 2010, pp. 45478, 45483, 45506-45507.

<sup>11936</sup> Naomi Campbell, Transcript 5 August 2010, p. 45472.

trip to South Africa, Burkina Faso, Libya and Niger. In the absence of such evidence the Trial Chamber cannot conclude with any degree of certainty that the Magburaka arms shipment originated from South Africa.

5384. Several other witnesses who gave evidence about the Magburaka arms shipment simply did not know exactly where the shipment originated or merely speculated. These include Augustine Mallah,<sup>11937</sup> Alimamy Bobson Sesay,<sup>11938</sup> Samuel Kargbo, who saw a soldier wearing a Burkinabe uniform on board the plane and speculated that it came from Burkina Faso,<sup>11939</sup> TF1-371,<sup>11940</sup> Alimamy Bobson Sesay who said that some soldiers thought the shipment came from Ukraine while others said it came from Liberia, and TF1-338 who heard it said in a meeting that the Ukrainians provided the arms and ammunition.<sup>11941</sup> Isaac Mongor testified that a shipment came to Magburaka in 1998 from Libya, which passed through Liberia and was arranged by the Accused. The Defence challenged his testimony, submitting that Mongor was trying to “disown his previous statement” made to the Prosecution by alleging the arms and ammunition that he previously referred to “were a different shipment from the Magburaka shipment” from Burkina Faso, arranged by Bah with Koroma.<sup>11942</sup> Mongor said he did not remember any arms or ammunition coming from Burkina Faso and denied saying so to investigators, although he was unable to explain why he did not correct his statement. The Trial Chamber has also considered the evidence of Issa Sesay to the effect that the arms shipment was in fact purchased by Foday Sankoh in early 1997 and left with General Diendere, the Chief of Staff of the Burkinabe Army, in Ouagadougou, Burkina Faso.<sup>11943</sup> Sesay claims that he came to know this information via a letter carried by Gibril Massaquoi to Sam Bockarie.<sup>11944</sup> The Trial Chamber has earlier expressed its reservations about the general credibility of Issa Sesay.<sup>11945</sup> In this particular case the Trial Chamber has also taken into account the fact that no other witness spoke of an arrangement whereby Foday Sankoh had an arms cache

<sup>11937</sup> Augustine Mallah, Transcript 17 November 2008, pp. 20379-20380.

<sup>11938</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8687, 8701.

<sup>11939</sup> Samuel Kargbo, Transcript 2 June 2008, pp. 10715-10719.

<sup>11940</sup> TF1-371, Transcript 31 January 2008, pp. 2700-2701 (CS). The witness stated that he personally did not know where the shipment came from but was informed by Ibrahim Bah and Issa Sesay that the plane carrying the arms shipment came from Ouagadougou, Burkina Faso.

<sup>11941</sup> TF1-338, Transcript 3 September 2008, pp. 15282-15285.

<sup>11942</sup> Defence Final Trial Brief, para. 865.

<sup>11943</sup> Issa Sesay, Transcript 6 July 2010, p. 43810; Transcript 7 July 2010, pp. 43857, 43874.

<sup>11944</sup> Issa Sesay, Transcript 18 August 2010, pp. 46560-46561.

<sup>11945</sup> Credibility Assessment, Issa Sesay, paras 359-372.

standing by in Burkina Faso, awaiting transportation to Sierra Leone, notwithstanding that some of the witnesses were senior RUF officials at the time and would have known of the arrangement if it did exist. Furthermore, in his "Salute Report as Battle Field Commander to the Leader of the Revolution, dated 27 September 1999", at page 3 where Sesay speaks about "a document" that Gibril Massaquoi carried from Sankoh in Nigeria and handed to Johnny Paul Koroma, Sesay makes no mention whatsoever of the alleged arms cache lying in Burkina Faso or the need for the RUF and AFRC to secure its transportation to Sierra Leone.<sup>11946</sup> Lastly, the Trial Chamber notes from the evidence of Samuel Kargbo that Lieutenant-Colonel Fonti Kanu was specifically included on the delegation that went to bring the arms shipment because "he was familiar with the military needs of the Junta". This presupposes that the military equipment was not yet purchased and that Fonti would be instrumental in identifying which equipment to purchase. For the above reasons, the Trial Chamber does not believe Sesay's testimony regarding the pre-purchase of the Magburaka arms shipment by Foday Sankoh.

5385. In view of the lack of credible evidence regarding this aspect of the shipment, the Trial Chamber is unable to make a specific finding as to the origin of the Magburaka arms shipment.

b. How was the shipment paid for?

5386. With regard to payment for the shipment, the Trial Chamber has considered the evidence of several witnesses all of whom spoke of a Supreme Council meeting where it was agreed that 90 carats of diamonds would be paid as purchase price and \$USD 90,000 for transportation of the arms shipment. Witness TF1-371 attended an emergency meeting of the AFRC/RUF Supreme Council in September 1997 at which Johnny Paul Koroma, the Chairman, announced that the Junta needed 90 carats of diamonds and \$USD 90,000 to pay for the arms shipment. In that same meeting, Koroma instructed the AFRC mining commander and the Principal Liaison Officer to provide the requisite diamonds, and the Governor of the Bank of Sierra Leone to provide the US dollars. A few days later, TF1-371 was present at Koroma's residence when the latter handed over a parcel of diamonds and \$USD 90,000 to Sam Bockarie who in turn handed the cash and diamonds to Ibrahim Bah.

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<sup>11946</sup> Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999 - 00007756 - 00007768".

In late October, the shipment arrived at Magburaka.<sup>11947</sup> Witness Samuel Kargbo also attended a Supreme Council meeting at which, *inter alia*, it was agreed that the arms and ammunition to be purchased by the Junta would be paid for with “a parcel”, which Kargbo understood to mean diamonds.<sup>11948</sup> Augustine Mallah attended a meeting of senior military officers “close to October 1997” during which the Chief of Army Staff told the gathering that the Junta would pay for the arms shipment with “money in the bank and diamonds from Kono and Tongo”.<sup>11949</sup> The Trial Chamber does not have any general reservations regarding the credibility of Witnesses TF1-371, Kargbo and Mallah.<sup>11950</sup> Defence witness Issa Sesay confirmed that \$USD 90,000 from the Bank of Sierra Leone was used to pay for transportation of the arms shipment although he maintained that the arms were pre-paid for by Foday Sankoh using a donation from the Libyan People’s Jamahiriya, a version rejected by the Trial Chamber.

5387. The Defence also refers to Exhibits D-015 and P-272 to support its contention that the arms delivered to Magburaka were paid for by Sankoh with money from Libya.<sup>11951</sup> The two letters sent by Sankoh to Libyan Ambassador Talibi in 1996 are a request for money for procurement of arms and ammunitions and an acknowledgement of receipt of money, with a request for more money. There is no evidence that these monies were actually expended on arms and ammunition. The Trial Chamber notes that Defence Witness Fayia Musa gave evidence that Sankoh misused the money he received from Libya in 1996 for the RUF on expensive clothes, women and stereo equipment.<sup>11952</sup> Witness TF1-168 also testified that Sankoh spent the money he received on fine clothes and women.<sup>11953</sup> The Trial Chamber considers that the letters cited by the Defence are not probative with regard to the source of funding for the Magburaka shipment

5388. In light of the above evidence, the Trial Chamber finds that the AFRC/RUF Junta spent 90 carats of diamonds on the purchase of the Magburaka arms shipment and \$USD 90,000 on air freighting it from its origin to Magburaka airfield in Sierra Leone.

<sup>11947</sup> TF1-371, Transcript 28 January 2008.

<sup>11948</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10458.

<sup>11949</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20152-20154.

<sup>11950</sup> Credibility Assessment, TF1-371, paras 220-226; Credibility Assessment, Samuel Kargbo, paras 290-295. Credibility Assessment, Augustine Mallah, Pre-Indictment period (1988-1996), para. 2522.

<sup>11951</sup> Defence Final Trial Brief, para. 862-864.

<sup>11952</sup> Fayia Musa, Transcript 16 April 2010, pp. 39203-39204.

<sup>11953</sup> TF1-168, Transcript 23 January 2009, p. 23417.

c. Who facilitated the arms shipment?

5389. With regard to making arrangements for the purchase and shipment of the arms, a number of witnesses testified that Ibrahim Bah visited the Junta in Freetown in September 1997 for this purpose. Witness TF1-371 attended a meeting with Bockarie and Bah at the Cape Sierra Hotel, at which Bah explained that Charles Taylor had specifically sent him to negotiate terms with Johnny Paul Koroma that would assist the AFRC secure arms and ammunition,<sup>11954</sup> and that he had already discussed the costs involved with Johnny Paul Koroma.<sup>11955</sup> Later, TF1-371 was present at a meeting in Koroma's residence where Koroma handed a parcel of diamonds and \$USD 90,000 to Bockarie who in turn handed the cash and diamonds to Bah, after which Bah and Bockarie left Freetown.<sup>11956</sup> Isaac Mongor attended a meeting at the residence of Johnny Paul Koroma at which the main topic discussed was the need for ammunition. Mongor stated that the meeting was happy because Bah, who was present at this meeting, "would be able to help them get ammunition".<sup>11957</sup> After this meeting Koroma and Bah held "a closed-door meeting", but the contents of these discussions were not disclosed to Mongor.<sup>11958</sup> Samuel Kargbo attended a Supreme Council meeting at which he explained that Sam Bockarie had recommended Ibrahim Bah as the person who would facilitate and assist the Junta to purchase arms and ammunition.<sup>11959</sup> Kargbo stated that days later a special delegation that included Ibrahim Bah left for Liberia, and the arms shipment arrived one to two weeks later.<sup>11960</sup> Defence Witness Issa Sesay also testified that Ibrahim Bah came to Freetown to meet Johnny Paul Koroma, but he said that it was to arrange for the transport of arms and ammunition that had already been purchased by Foday Sankoh and left in Burkina Faso for safe-keeping. Numerous witnesses, including Defence Witness Issa Sesay, testified that Fonti Kanu and Ibrahim Bah were on the plane that delivered the Magburaka shipment of arms and ammunition.<sup>11961</sup> In light of the above evidence, the Trial Chamber is satisfied that Ibrahim Bah was the key person who facilitated

<sup>11954</sup> TF1-371, Transcript 28 January 2008, pp. 2308-2309 (CS).

<sup>11955</sup> TF1-371, Transcript 28 January 2008, p. 2309 (CS).

<sup>11956</sup> TF1-371, Transcript 28 January 2008, pp. 2313-2314, 2374-2375 (CS).

<sup>11957</sup> Isaac Mongor, Transcript 11 March 2008, p. 5714.

<sup>11958</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5713-5715; Transcript 4 April 2008, pp. 6658-6659.

<sup>11959</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10455-10459.

<sup>11960</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10458-10459; Transcript 2 June 2008, p. 10710.

<sup>11961</sup> Issa Sesay, Transcript 7 July 2010, p. 43866; TF1-371, Transcript 28 January 2008, p. 2314 (CS); Samuel Kargbo, Transcript 21 May 2008, p. 10479; Transcript 2 June 2008, p. 10710; Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8686-8691.

the purchase and transportation of arms shipment from its place of origin to Magburaka in Sierra Leone.

d. Alleged involvement of the Accused in the supply of the arms shipment:

5390. A number of Prosecution witnesses implicated the Accused in the supply of the Magburaka arms shipment, at the request of Johnny Paul Koroma. Witness TF1-371 stated that while in Monrovia, his delegation had spoken to officials of the Liberian Government who assured them that President Taylor was already in contact with Johnny Paul Koroma.<sup>11962</sup> Upon his return from Monrovia TF1-371 went to brief Johnny Paul Koroma who confirmed that President Taylor had already communicated with him and promised support in securing recognition by ECOWAS.<sup>11963</sup> Subsequently, TF1-371 was at a meeting with Bockarie and Ibrahim Bah at the Cape Sierra Hotel. After Bockarie expressed concern at the constant military attacks on the AFRC by the Nigerian ECOMOG troops and the AFRC Junta's lack of arms and ammunition, Bah responded that Charles Taylor had specifically sent him to negotiate terms with Johnny Paul Koroma that would assist the AFRC secure arms and ammunition.<sup>11964</sup> Isaac Mongor was present at a meeting between Ibrahim Bah and senior RUF officials at Sam Bockarie's residence in Freetown when Bah delivered a message from Charles Taylor urging the RUF "to work together with the AFRC".<sup>11965</sup> Mongor attended a subsequent meeting of senior AFRC officials at the residence of Johnny Paul Koroma on Spur Road at which Ibrahim Bah repeated the message from Charles Taylor that the RUF and AFRC should "work hand in hand", a message that was "well received" by both the RUF and AFRC.<sup>11966</sup> The main topic discussed at this second meeting was the need for ammunition and that the meeting was happy because Bah "would be able to help them get ammunition".<sup>11967</sup> Later Koroma told Mongor that he had been in contact with Taylor and that Taylor had said that he was going to "send something" for the Junta Government.<sup>11968</sup> Samuel Kargbo overheard a telephone conversation between

<sup>11962</sup> TF1-371, Transcript 28 January 2008, pp. 2304-2307 (CS).

<sup>11963</sup> TF1-371, Transcript 28 January 2008, p. 2307 (CS).

<sup>11964</sup> TF1-371, Transcript 28 January 2008, pp. 2308-2309 (CS).

<sup>11965</sup> Isaac Mongor, Transcript 11 March 2008, p. 5712.

<sup>11966</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5712-5714.

<sup>11967</sup> Isaac Mongor, Transcript 11 March 2008, p. 5714.

<sup>11968</sup> Isaac Mongor, Transcript 11 March 2008, p. 5724.





Johnny Paul Koroma and Charles Taylor during which Koroma reportedly told Taylor that he was sending him a delegation led by Mike Lamin and that Ibrahim Bah had been recommended by Sam Bockarie to assist the delegation with the procurement of the arms and ammunition.<sup>11969</sup> Subsequently, Kargbo attended a Supreme Council meeting at which Koroma stated that he was sending a delegation to Liberia led by Mike Lamin of the RUF, Lieutenant-Colonel Fonti Kanu of the AFRC and General Ibrahim Bah to purchase arms and ammunition for the Junta.<sup>11970</sup> This delegation left for Liberia within hours of the meeting. The Prosecution did not adduce evidence regarding the procurement of the arms and ammunition, nor of Taylor's direct involvement in making these arrangements.

5391. In light of the above evidence, the Trial Chamber has carefully considered the Defence evidence and arguments exonerating the Accused, and makes the following observations. Regarding Taylor's denial of contact or dealings with the AFRC/RUF Junta before his inauguration as President of Liberia on 2 August 1997,<sup>11971</sup> the Trial Chamber notes that none of the Prosecution witnesses above alluded to contact between Taylor and the Junta before August 1997. Regarding Taylor's testimony that Liberia was not in a position to send arms or ammunition to Sierra Leone as requested in Exhibit D-004 because (a) Liberia had totally disarmed and all arms were in UN custody;<sup>11972</sup> (b) Liberia did not recognise the Junta regime in Freetown; (c) ECOWAS States had just delivered an ultimatum to the Junta regime to reinstate President Kabbah or face forceful removal by ECOMOG;<sup>11973</sup> (d) there was a decision (A/DEC/7/8/97) of ECOWAS Member States instituting sanctions and an arms embargo on the Junta regime;<sup>11974</sup> and (e) ECOMOG forces were deployed throughout Liberia including at all major airports to enforce security in the sub-region,<sup>11975</sup> the Trial Chamber is of the view that there was nothing to prevent the Accused, using an agent or intermediary like Ibrahim Bah, to covertly or clandestinely assist the Junta to acquire the necessary arms and ammunition. Indeed the covert nature of the arms purchase explains why so few witnesses actually knew of the origin of this shipment.

<sup>11969</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10455.

<sup>11970</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10455-10459, 10477.

<sup>11971</sup> Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25431, 25442. Ruth Sandor Perry was President of Liberia before Taylor.

<sup>11972</sup> Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25436, 25443.

<sup>11973</sup> Charles Ghankay Taylor, Transcript 28 July 2009, p. 25438.

<sup>11974</sup> Charles Ghankay Taylor, Transcript 28 July 2009, p. 25452.

<sup>11975</sup> Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25443-25445.

5392. The Defence further submits that, even if the Trial Chamber were to accept the testimonies of TF1-371 and Samuel Kargbo, the evidence implicating the Accused is circumstantial, and that no link has been established between the testimony relating to the Accused and the shipment to Magburaka.<sup>11976</sup>

5393. The Trial Chamber does not consider the evidence implicating the Accused to be solely circumstantial. TF1-371 had direct knowledge of the transaction. He testified with clarity that the Magburaka shipment was organised by Ibrahim Bah, who had been sent by the Accused to Freetown, where he was given money and diamonds to arrange the shipment, in the presence of the witness, and that the shipment to Magburaka resulted from this transaction.<sup>11977</sup> TF1-371's testimony is corroborated by the testimony of Isaac Mongor and Samuel Kargbo, both of whom testified that Ibrahim Bah came to Freetown on behalf of the Accused and both of them linked the arms transaction to Magburaka as well as to the Accused. While these witnesses recount different meetings, the content of what they heard in these meetings consistently indicates that Ibrahim Bah was acting on behalf of the Accused in arranging the arms deal. TF1-371 testified that following these meetings Bah left Freetown with Bockarie, and Kargbo testified that Bah went from Freetown to Liberia.<sup>11978</sup>

5394. In light of these considerations, the Trial Chamber rejects the evidence of Issa Sesay and accepts the evidence of TF1-371, Mongor and Kargbo that the Accused sent Ibrahim Bah on his behalf to make an arrangement for provision of arms and ammunition, in exchange for 90 carats of diamonds and \$USD 90,000, which was given to Bah by Bockarie and Koroma.

e. Date of delivery of the shipment

5395. With regard to the date of the Magburaka shipment, there are inconsistencies in the testimony of several witnesses. Alimamy Bobson Sesay initially testified that the shipment took place around about two months after the AFRC coup, which would therefore be July 1997, but later said it was after they had been in power for some time. TF1-371 testified it was in October 1997 and Issa Sesay testified that the flight arrived around November or

<sup>11976</sup> Defence Final Trial Brief, para. 1050.

<sup>11977</sup> TF1-371, Transcript 31 January 2008, p. 2701.

<sup>11978</sup> TF1-371, Transcript 28 January 2008, pp. 2313-2314, 2374-23755 (CS); Samuel Kargbo, Transcript 21 May 2008, p. 10478.



December 1997.<sup>11979</sup> Samuel Kargbo testified that the shipment was delivered in late September 1997. Perry Kamara and TF1-338 testified that the shipment took place “around the end of 1997”.<sup>11980</sup> Isaac Mongor stated that the delivery arrived in early 1998 shortly before the ECOMOG intervention.<sup>11981</sup>

5396. The Trial Chamber accepts that a witness recalling events which happened over ten years earlier when there is no evidence that any of them kept precise or formal records can lead to variations in recollections and estimations. The Trial Chamber therefore finds that the Magburaka arms shipment took place sometime between September 1997 and December 1997.

f. Size and contents of the Magburaka shipment

5397. With regard to the size and content of the Magburaka shipment, the Trial Chamber heard varying testimony. TF1-371 was not present for the delivery of the shipment but relied upon a report from Issa Sesay and Morris Kallon who went to Magburaka to collect the RUF share.<sup>11982</sup> He described the RUF share of the delivery as “huge”, including 200 AK-47 rifles, two 75 calibre machine guns, rocket propelled grenades and 80 boxes of AK-47 ammunition. The quantity of arms and ammunition described by the witness did not include those allocated to other factions.<sup>11983</sup> Isaac Mongor who also went to collect the RUF share stated that the delivery consisted of two anti-aircraft guns and some ammunition for the AA gun and GMG rounds.<sup>11984</sup> Samuel Kargbo who went to collect the AFRC share testified that there was a “large quantity” of ammunition comprising AK rounds, G3 rounds, mortar bombs, RPG bombs and stinger missile bombs, but the shipment did not include arms.<sup>11985</sup> Alimamy Bobson Sesay who arrived at Magburaka after the materials had been loaded into trucks testified that the shipment included contained sub machine guns (SMGs) and SMG rounds, AK rounds, an anti-aircraft gun with lasers. When tested at Johnny Paul

<sup>11979</sup> Defence Final Trial Brief, para. 594.

<sup>11980</sup> Perry Kamara, Transcript 5 February 2008, p. 3092; TF1-338, Transcript 3 September 2008, pp. 15282-15287.

<sup>11981</sup> Isaac Mongor, Transcript 4 April 2008, pp. 6646-6651.

<sup>11982</sup> TF1-371, Transcript 28 January 2008, p. 2314 (CS).

<sup>11983</sup> TF1-371, Transcript 28 January 2008, pp. 2316-2317 (CS).

<sup>11984</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5724, 5726-5728; Transcript 4 April 2008, p. 6644.

<sup>11985</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10479-10482; 2 June 2008, p. 10718.





Koroma's house on Spur Road, the anti-aircraft lasers were found not to be working.<sup>11986</sup> Witness TF1-338 who went with senior RUF officials to collect their share arrived after the plane had left but saw the materiel it had dropped on the field, which was AK rounds, G3 rounds, stick grenades and GMG rounds.<sup>11987</sup>

5398. Issa Sesay who went to collect the RUF share of the delivery stated that the shipment consisted of two BZT weapons, five "SAM-7s" with their ammunition, AA rounds, GPMG rounds and some G3 rounds but no AK-47 guns or ammunition.<sup>11988</sup> Sesay estimated the quantity of ammunition he collected as two truckloads.<sup>11989</sup> The Trial Chamber however, doubted Sesay's testimony that the plane landed at 3.00pm to 4.00pm during daylight, or that Sesay and his colleagues had time to offload the cargo, in view of evidence suggesting to the contrary, that the plane hurriedly dropped the cargo mid-air at night for fear of ECOMOG bombardment. Furthermore, Sesay prevaricated when asked to quantify the size of the shipment and denied TF1-371's testimony that the delivery included 200 AK-47 rifles and 80 boxes of ammunition<sup>11990</sup> stating that there were only a few boxes. In cross-examination, however, Sesay indicated that the airplane had a very large capacity and said it was half full. He was evasive when asked why two trucks were required and another plane load expected.<sup>11991</sup> The Trial Chamber finds that the testimony of Issa Sesay was not credible on this issue and that he tried to downplay the quantity of the shipment, while TF1-371's testimony received some corroboration from Samuel Kargbo's testimony that the shipment contained a "large quantity" of ammunition. Isaac Mongor, testified that only a "small amount" of ammunition was delivered, Perry Kamara saw arms and ammunition boxes being distributed by groups, Alimamy Bobson Sesay also testified that a large number of RUF and AFRC received arms and ammunition from the shipment. The evidence of Kargbo, Alimamy Bobson Sesay, and Kamara, who were present, all show that a large group of fighters and a large number of vehicles, including two trucks, awaited the shipment. After it was off-loaded the consignment was distributed quickly among those present before they dispersed.

<sup>11986</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8701-8703.

<sup>11987</sup> TF1-338, Transcript 5 September 2008, pp. 15557-15558.

<sup>11988</sup> Issa Sesay, Transcript 7 July 2010, p. 43863; Transcript 29 July 2010, pp. 45002-45003.

<sup>11989</sup> Issa Sesay, Transcript 7 July 2010, p. 43863.

<sup>11990</sup> Issa Sesay, Transcript 29 July 2010, pp. 45002-45003.

<sup>11991</sup> Issa Sesay, Transcript 27 August 2010, pp. 47357-47358.

5399. There is no evidence that a manifest was produced, signed and recorded or any evidence to suggest that any member of the Junta took an inventory of the contents of the shipment on the airplane or an inventory of what was loaded onto each vehicle. Given that the delivery was made during the night with little lighting and hurriedly loaded on to trucks; and given further that each faction was concerned with collecting their own share of the arms and ammunition, the Trial Chamber accepts that the variation in description of the quantity and content of the shipment is inevitable. In the circumstances there can be no finding of the exact quantity or nature of the materials in the shipment. The Trial Chamber finds however, based on the evidence of witnesses TF1-371, Mongor, Bobson Sesay and Issa Sesay that the shipment was large and contained both arms and ammunition.

g. Distribution of the Magburaka arms and ammunition

5400. Accounts of who was present at Magburaka to pick up the shipment are numerous and varied. From the evidence it is clear that the plane dropped off the cargo under cover of darkness, and that the cargo was hurriedly collected and taken away for fear of an ECOMOG bombardment. Witnesses arrived at different times and some arrived after the plane had left. Furthermore, RUF and AFRC personnel from different locations were positioned at different places around the airstrip, including in the bushes, as they waited to collect their share of the delivery. Samuel Kargbo testified that vehicle lights had to be used to illuminate the runway for the plane, which arrived between 7.00pm and 9.00 pm<sup>11992</sup> Witnesses TF1-338 and Perry Kamara also stated that the plane dropped off the delivery at night.<sup>11993</sup> It is therefore not surprising that the witnesses expressed a fair amount of uncertainty as to who was present and who was not. Given this situation the Trial Chamber accepts that it is inevitable that different witnesses may have seen certain persons at the location and not seen others who were in fact present or that they were mistaken in their identification.<sup>11994</sup> The Trial Chamber notes that the Prosecution makes no submissions as to who was present for the delivery, stating only that “Fonti Kanu was on the plane that brought the shipment to Magburaka”.<sup>11995</sup>

<sup>11992</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10459; Transcript 2 June 2008, pp. 10709, 10747.

<sup>11993</sup> TF1-338, Transcript 3 September 2008, p. 15285.

<sup>11994</sup> *R. v. Turnbull (1976) 3 All E R. 64.*

<sup>11995</sup> Prosecution Final Trial Brief, para. 233.

5401. The Trial Chamber accepts the testimony of the witnesses who said they themselves were present for the arrival of the shipment at Magburaka and considers that the inconsistencies in their testimony as to others who were present result from the circumstances described above. The Trial Chamber is satisfied beyond reasonable doubt that members of both the AFRC and RUF were present at Magburaka for the delivery of the shipment or after it was made. It therefore finds that members of the AFRC/RUF Junta were present for the delivery.

5402. Regarding the distribution or allocation of the arms and ammunition, no documentary record was tendered in evidence. The Trial Chamber considered the evidence of Isaac Mongor, Samuel Kargbo, TF1-338, TF1-371 and Issa Sesay, which witnesses all gave varying accounts. Witness TF1-371 stated that the weapons from the shipment were distributed to the Cockerill Military Headquarters, Koroma's residence and Issa Sesay's base in Kenema District<sup>11996</sup> and that approximately 200 AK-47 rifles, one 75 calibre machine gun, rocket propelled grenades and 80 boxes of AK-47 ammunition were allocated to the RUF alone.<sup>11997</sup> TF1-371 also testified that the AK-47s were distributed amongst the armed guards stationed at the mining operations at Tongo Fields, in addition to the weapons which the guards already had when they joined the Junta.<sup>11998</sup> According to TF1-371, these guards included members of the "Small Boys Units" ("SBU's"), some of whom were as young as 13 years old.<sup>11999</sup> Mongor testified that one of the two anti-aircraft guns was allocated to the AFRC and mounted at Koroma's residence in Freetown, while the other was allocated to the RUF and taken by Mike Lamin to Bockarie in Kenema.<sup>12000</sup> Samuel Kargbo stated that the ammunition was hurriedly put in vehicles and delivered to Johnny Paul Koroma's residence in Freetown, from where it was distributed to the AFRC and RUF commanders.<sup>12001</sup>

5403. Alimamy Bobson Sesay stated that the arms were distributed among RUF and SLA members<sup>12002</sup> and that some other arms and ammunition were used to reinforce the fight against ECOMOG forces.<sup>12003</sup> Perry Kamara stated that on arrival he saw vehicles belonging

<sup>11996</sup> TF1-371, Transcript 28 January 2008, pp. 2316-2317 (CS).

<sup>11997</sup> TF1-371, Transcript 28 January 2008, pp. 2316-2317 (CS).

<sup>11998</sup> TF1-371, Transcript 29 January 2008, p. 2463 (CS).

<sup>11999</sup> TF1-371, Transcript 28 January 2008, p. 2337 (CS).

<sup>12000</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5733-5734.

<sup>12001</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10479-10482.

<sup>12002</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8702-8704.

<sup>12003</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, p. 8688.

to the RUF, AFRC, “Bo Brigade” and other groups from Freetown and Kenema, all of whom had come to collect their share.<sup>12004</sup> The witness saw arms and ammunition in boxes being distributed “by groups” between the RUF and AFRC.<sup>12005</sup> Witness TF1-338 stated that the arms and ammunition were distributed to AFRC/RUF forces in Freetown, Makeni and Magburaka and later used to repel ECOMOG from Freetown.<sup>12006</sup> Issa Sesay stated that the arms and ammunition were delivered at the residence of Johnny Paul Koroma in Freetown<sup>12007</sup> and that Johnny Paul Koroma distributed some of the materiel to RY Koroma, who was in charge of distribution of ammunition at Cockerill, and some to Mike Lamin to take to Bockarie. However, when ECOMOG intervened in February 1998, the materiel was left at Johnny Paul’s house and captured by ECOMOG and SLPP forces.<sup>12008</sup>

5404. The Trial Chamber considers that in fact there is a degree of consistency in the evidence as to where the materiel went following its arrival at Magburaka. A number of witnesses, including TF1-371, TF1-338, Samuel Kargbo, Isaac Mongor and Defence witness Issa Sesay, all indicated in their testimony that at least some of the materiel was taken to Koroma's residence. Some witnesses also indicated other destinations, but the evidence converges to establish that Koroma's residence was a destination for the shipment. The Trial Chamber also finds, based on the testimonies of TF1-338 and TF1-371, that other parts of the shipment were delivered to Cockerill Military Headquarters, Makeni, Magburaka and Kenema. This is consistent with the evidence that shares in the shipment were driven away from Magburaka after the airplane arrived.

5405. The Trial Chamber will assess the use of the Magburaka shipment in the section of the Judgement below dealing with the use of materiel supplied or facilitated by the Accused.<sup>12009</sup>

### Findings

5406. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused sent Ibrahim Bah on his behalf to Freetown to meet with Sam Bockarie and

<sup>12004</sup> Perry Kamara, Transcript 5 February 2008, p. 3092.

<sup>12005</sup> Perry Kamara, Transcript 5 February 2008, p. 3091.

<sup>12006</sup> TF1-338, Transcript 5 September 2008, pp. 15557-15558.

<sup>12007</sup> Issa Sesay, Transcript 7 July 2010, p. 43867.

<sup>12008</sup> Issa Sesay, Transcript 7 July 2010, pp. 43915-43916.

<sup>12009</sup> See Arms and Ammunition: Use of Materiel Supplied or Facilitated by the Accused.





Johnny Paul Koroma to make arrangements for the procurement of arms and ammunition. Bah was given 90 carats of diamonds and \$USD 90,000 to pay for the shipment.

5407. The Trial Chamber finds that the Accused travelled to a number of African countries, including South Africa, from September to 3 October 1997. On September 25 September 1997 he attended a dinner at the Presidential House of Nelson Mandela, which was also attended by Naomi Campbell. Following the dinner two men sent by the Accused delivered diamonds to Naomi Campbell. However, there is insufficient evidence to establish that the Accused made arrangements during the course of these travels for the purchase of arms and ammunition to be shipped to Sierra Leone.

5408. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the shipment of materiel negotiated with Bockarie and Koroma by Ibrahim Bah in Freetown on behalf of the Accused was delivered by plane to Magburaka in Sierra Leone sometime between September and December 1997, and that members of the AFRC/RUF Junta were present for the delivery. There is insufficient evidence to determine where the flight to Magburaka originated.

5409. The Trial Chamber finds beyond reasonable doubt that the shipment of materiel delivered to Magburaka included arms and ammunition, which were distributed among the AFRC/RUF Junta, and that this shipment was very large.

(d) Alleged facilitation of Burkina Faso shipment

Submission of the Parties

5410. The Prosecution submits that one of the largest and most significant shipments of arms and ammunition provided to the AFRC/RUF was that which arrived just prior to the multi-axis operation culminating in the attack on Freetown in January 1999, the operation which inflicted so many crimes and such great suffering on the civilian population of Sierra Leone. Taylor was instrumental in procuring and organising this shipment.<sup>12010</sup> Around October/November 1998, upon Taylor's orders, Bockarie travelled with a delegation, including his security personnel, Rashid, SYB Rogers, Eddie Kanneh, radio operator Dauda

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<sup>12010</sup> Prosecution Final Trial Brief, para. 257.

Aruna Fornie (“DAF”) and others to Monrovia, where Bockarie met with Taylor, and then onward to Burkina Faso.<sup>12011</sup>

5411. It was originally planned that Bockarie would go to Libya to get “materiel”. However, in Monrovia the plan was changed at Taylor’s instruction and Taylor sent Bockarie to Burkina Faso instead, as the materiel had been taken there.<sup>12012</sup> From Monrovia, Taylor then sent Bockarie, Kanneh, Rogers and Womandia on to Burkina Faso to receive the materiel. DAF remained in Monrovia and whilst in Burkina Faso, Bockarie contacted DAF several times to get updates on the frontlines in Sierra Leone. Bockarie and his delegation, accompanied by Taylor’s subordinate Musa Cissé, brought a large quantity of arms and ammunition back with them to Roberts International Airport.<sup>12013</sup>

5412. The Prosecution submits that in late November or early December 1998, AFRC/RUF military commander Sam Bockarie returned from Liberia with unprecedented quantities of ammunition, which had been flown from Burkina Faso to Roberts International Airport in Liberia where Bockarie was waiting. It was unloaded by Taylor’s personnel and then Bockarie took it by truck from Liberia to the rebel’s stronghold in Kailahun, Sierra Leone. Taylor was instrumental in this deal by putting the AFRC/RUF in contact with the Burkinabe authorities, sending Musa Cissé to accompany Bockarie, and arranging the travel and delivery of the weapons through Liberia’s principal airport to AFRC/RUF territory. When Bockarie returned to Sierra Leone from this trip, he informed his top commanders that the ammunition would be used in an offensive planned with Taylor with the goal of taking Freetown and freeing Foday Sankoh.<sup>12014</sup> The Prosecution further submits that within days of this delivery, RUF rebels using the said weaponry were able to launch a major attack on a number of locations in Sierra Leone including Koidu Town (under the command of Issa Sesay) and Makeni (where the RUF were joined by SLA and STF forces) and eventually Freetown, attacks that were planned, facilitated and ordered by the Accused.<sup>12015</sup>

5413. The Prosecution further contends that upon Bockarie’s return to Monrovia from Burkina Faso, the arms and/or ammunition were taken to White Flower, where Taylor kept some of this materiel and sent Jungle, Marzah and others with the remainder on to the

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<sup>12011</sup> Prosecution Final Trial Brief, para. 258.

<sup>12012</sup> Prosecution Final Trial Brief, para. 259, *see also* para. 169.

<sup>12013</sup> Prosecution Final Trial Brief, para. 259.

<sup>12014</sup> Prosecution Final Trial Brief, para. 9.

AFRC/RUF through Bong and Lofa Counties to Buedu.<sup>12016</sup> The materiel brought from Monrovia included AK-47s, G3s, RPG ammunitions, rockets and bombs, ammunition including GMG ammunition, AK-47 rounds, bombs, grenades and mines.<sup>12017</sup> The materiel supplied by Taylor was critical to the success of the multi-axis nationwide operation, and was used to capture Koidu Town and environs and other locations from which the attacking forces were able to supplement their supplies by capturing more materiel. This in turn enabled them to move to other targets and capture them, all along the Freetown axis and the Kenema axis. Some of the materiel was used by Rambo Red Goat's fighters that attacked Freetown.<sup>12018</sup> The Prosecution relies on evidence from witnesses TF1-371, Dauda Aruna Fornie, Issac Mongor, Joseph Marzah, Albert Saidu, Augustine Mallah, Varmuyan Sherif, TF1-516, TF1-567, TFI-338, Karmoh Kanneh, TF1-367, Mohamed Kabbah, Alimamy Bobson Sesay, Jabaty Jaward and Abu Keita and Exhibits P-046, P-063, P-067, P-093, P-370, P-371, P-372, and P-373.

5414. The Defence does not dispute the “abundance of evidence that Bockarie and other key figures in the RUF travelled to Burkina Faso in about November 1998 and that following the trip, the RUF obtained a significant quantity of arms and ammunition”. The Defence submits, however, that “there is not enough corroborative or credible evidence here to conclude that Taylor facilitated or assisted its acquisition”.<sup>12019</sup> The Defence submits further that in November or December 1998, Ibrahim Bah hosted Sam Bockarie when he travelled to Ouagadougou to meet with OAU Chairman Compaoré<sup>12020</sup> and that Bockarie may also have arranged an arms deal there. The Defence submits that the primary and official purpose of this mission was to discuss the peace process in Sierra Leone with President Blaise Compaoré, then chairman of the OAU. From Burkina Faso, Bockarie, Bah and other RUF delegates travelled on to Libya<sup>12021</sup> to request military assistance from Col. Gaddafi.<sup>12022</sup> In Libya, Bockarie met with Gaddafi, who provided USD\$ 50,000 in assistance to the RUF and on returning from Libya, Bockarie passed through Burkina Faso and Monrovia. In early

<sup>12015</sup> Prosecution Final Trial Brief, paras 10-17.

<sup>12016</sup> Prosecution Final Trial Brief, paras 260-261, *see also* para. 169.

<sup>12017</sup> Prosecution Final Trial Brief, para. 261.

<sup>12018</sup> Prosecution Final Trial Brief, para. 264.

<sup>12019</sup> Defence Final Trial Brief, para. 1074.

<sup>12020</sup> The Defence argues in para. 1073 that an earlier plan by the RUF in April 1998 to secure arms and ammunition from Burkinabe General Diendere with the help of Ibrahim Bah, failed when Issa Sesay lost the collateral diamonds that were to be used to pay for the shipment.

<sup>12021</sup> Defence Final Trial Brief, paras 619, 1075.

<sup>12022</sup> Defence Final Trial Brief, para. 1073.



December, Bockarie arrived back in Buedu with arms and ammunition and the materiel was put into the store near his house.

5415. The Defence further submits that while Bockarie's trip may have taken him through Liberia, Burkina Faso and Libya and while he obtained arms and/or ammunitions on that trip, the evidence is "not at all clear as to where exactly, and from which source, he obtained those arms and/or ammunition", and that it is possible the supplies came from multiple sources, including from Libya, Burkina Faso and/or individuals in Liberia.<sup>12023</sup> Furthermore, the evidence regarding the quantity of the arms and ammunition obtained by Bockarie is uncertain.<sup>12024</sup> Lastly, while conceding that materiel obtained from Bockarie's trip to Burkina Faso was used during the attack on Koidu Town in December 1998 and during the attack on Kenema, the Defence submit that none of the materiel was distributed to the AFRC or RUF forces in Koinadugu District.<sup>12025</sup> The Defence further submits that notwithstanding the RUF's importation of arms and ammunition during the period November to December 1998, the most significant source of arms and ammunition for the RUF during this period was from sources within Sierra Leone, in particular from capturing weapons from ECOMOG at locations such as Koidu Town, Kimberlite, Sewafe, Masingbi and Teko Barracks.<sup>12026</sup> The materiel captured by the RUF in its December 1998 offensive was used to secure further targets during that period and not to aid or abet the commission of crimes.<sup>12027</sup> The Defence relies on evidence of the Accused, Issa Sesay, Sam Kolley, John Vincent, Fayia Musa, TF1-168, TF1-338, Isaac Mongor, Abu Keita, Jabaty Jaward, Karmoh Kanneh, Albert Saidu, Dennis Koker, and Exhibits D-084, D-393 and P-067.<sup>12028</sup>

## Evidence

### Prosecution Witness TF1-371

5416. Witness TF1-371 testified that Sam Bockarie made a major trip to Monrovia in November or December 1998.<sup>12029</sup> The witness stated that before the said trip, he attended a

<sup>12023</sup> Defence Final Trial Brief, para. 1076.

<sup>12024</sup> Defence Final Trial Brief, para. 1077.

<sup>12025</sup> Defence Final Trial Brief, para. 1078.

<sup>12026</sup> Defence Final Trial Brief, paras 1068-1071.

<sup>12027</sup> Defence Final Trial Brief, para. 1071.

<sup>12028</sup> Defence Final Trial Brief, para. 1076.

<sup>12029</sup> TF1-371, Transcript 28 January 2008, p. 2402 (CS).

meeting at which Bockarie met with the witness, Issa Sesay, and Kallon<sup>12030</sup> and expressed that he was concerned with expanding the fighting to Kono especially after they suffered the casualty after the aborted attempt of the Fitti-Fatta operation.<sup>12031</sup> Bockarie told the meeting that he was planning to travel to Monrovia with Ibrahim Bah, Eddie Kanneh, SYB Rogers and Lawrence Womandia to meet Taylor's chief of protocol, Musa Cissé and Mr Taylor. Bockarie told the meeting that from Monrovia, the group was to proceed to Ouagadougou in Burkina Faso where Ibrahim Bah was to assist them to get a shipment of ammunition for a major attack.<sup>12032</sup> The witness testified that Bockarie and his entourage returned to Buedu two weeks later, accompanied by Charles Taylor's securities (SSS), namely Zigzag Marzah, Jungle, Sampson and Christopher Varmoh (a.k.a. Liberian Mosquito).<sup>12033</sup>

5417. Bockarie took Eddie Kanneh, SYB Rogers (a.k.a. Pa Rogers), and Lawrence Womandia with him to Monrovia,<sup>12034</sup> where they met with Musa Cissé who had organized a flight for them to travel together with himself and Ibrahim Bah to Ouagadougou.<sup>12035</sup> They returned with a major consignment of arms,<sup>12036</sup> which was transported by plane from Ougadougou to Roberts International Airport in Monrovia, from where it was deposited at White Flower. Thereafter, the Accused ordered his bodyguard Yeaten to take "their supplies" before the RUF was given its own supply, which was then escorted in long-eight-tyre trucks from White Flower to Buedu<sup>12037</sup> by "Charles Taylor's securities" (SSS), namely Marzah, Tamba, Sampson and Varmoh.<sup>12038</sup>

5418. The witness testified that Bockarie and his entourage returned to Buedu two weeks later,<sup>12039</sup> "with truck loads of arms and ammunition" and a brown coloured new pick-up Toyota Land Cruiser that Bockarie said the Accused had given to him.<sup>12040</sup> They came back with "plenty of boxes of AK-47 rounds and boxes of hand grenades, RPG bombs and machine

<sup>12030</sup> TFI-371 does not specify which Kallon but from the context the Trial Chamber considers he is referring to Morris Kallon.

<sup>12031</sup> TFI-371, Transcript 28 January 2008, p. 2402 (CS).

<sup>12032</sup> TFI-371, Transcript 28 January 2008, pp. 2402-2403 (CS).

<sup>12033</sup> TFI-371, Transcript 28 January 2008, p. 2405 (CS); Transcript 31 January 2008, p. 2750 (CS).

<sup>12034</sup> TFI-371, Transcript 28-January 2008, p. 2403 (CS); Transcript 31 January 2008, p. 2750 (CS).

<sup>12035</sup> TFI-371, Transcript 28 January 2008, p. 2403 (CS); Transcript 30 January 2008, p. 2643 (CS); Transcript 31 January 2008, pp. 2702, 2726-2727, 2750, 2762 (CS).

<sup>12036</sup> TFI-371, Transcript 31 January 2008, pp. 2703, 2750 (CS). The witness describes this as the second major shipment that happened in November/December 1998.

<sup>12037</sup> TFI-371, Transcript 31 January 2008, pp. 2702-2703; Transcript 31 January 2008, pp. 2750, 2762 (CS).

<sup>12038</sup> TFI-371, Transcript 28 January 2008, p. 2405 (CS); Transcript 31 January 2008, p. 2750 (CS).

<sup>12039</sup> TFI-371, Transcript 28 January 2008, p. 2403 (CS).

guns, general machine guns, 50 calibre machine guns ammunitions” which were all offloaded and stored in Bockarie’s warehouse in Buedu.<sup>12041</sup> Sam Bockarie also returned to Buedu with \$USD 17,000 which Bockarie said President Compaoré gave to him “as a kind gesture... to buy medication for the combatant”.<sup>12042</sup>

5419. On returning to Buedu, Bockarie convened a forum at Waterworks attended by the witness, at which Bockarie and his entourage briefed the meeting about their mission. The witness confirmed that Exhibit P-063 is a record of the minutes taken at this forum.<sup>12043</sup> TF1-371 testified that immediately after the forum documented in Exhibit P-063, Bockarie convened another meeting of senior RUF and AFRC officers at which he launched ‘Operation No Living Thing’, and distributed the materiel he had brought from Burkina Faso.<sup>12044</sup> The meeting was attended by senior RUF commanders including Issa Sesay, Morris Kallon, Peter Vandi, Isaac Mongor, TF1-371 and AFRC commanders including Akim Turay, Gullit, Leather Boot, Adams and others.<sup>12045</sup> Bockarie told the meeting that he now had sufficient ammunition for the attack on Kenema Town, Koidu Town and Freetown to be known as ‘Operation No living Thing’ which operation was intended to capture Freetown and to force the government to negotiate with the rebels.<sup>12046</sup> Bockarie also brought a map and explained to the commanders the two pronged approach they were to take in order to capture Freetown. Issa Sesay and Kallon who were to lead the first flank were given the mission to attack Koidu, Makeni, Lunsar and to meet the second flank at Masiaka. Akim Turay and Momoh Rogers who were to lead the second flank, were to attack Kenema, Bo and then move to Masiaka. After capturing Masiaka, the combined forces were to attack Waterloo and then enter Freetown.<sup>12047</sup>

5420. Halfway through this meeting, several commanders went to have lunch in Bockarie’s bedroom at which point Bockarie went outside to talk on his satellite phone for 10 to 15 minutes. Bockarie entered his bedroom in excitement and told the attendees that he had been

<sup>12040</sup> TF1-371, Transcript 28 January 2008, p. 2404-2405 (CS). The witness described the trucks that carried the shipment as “long, long, eight tyred trucks”. TF1-371, Transcript 28 January 2008, p. 2702 (CS).

<sup>12041</sup> TF1-371, Transcript 28 January 2008, pp. 2404-2405, 2415 (CS); Transcript 31 January 2008, p. 2761 (CS). The witness also testified that the major substantial amount of support from the Accused came around November to December 1998. TF1-371, Transcript 28 January 2008, p. 2671 (CS).

<sup>12042</sup> TF1-371, Transcript 31 January 2008, pp. 2761-2762 (CS).

<sup>12043</sup> TF1-371, Transcript 28 January 2008, pp. 2405-2410 (CS).

<sup>12044</sup> TF1-371, Transcript 28 January 2008, pp. 2410-2414 (CS).

<sup>12045</sup> TF1-371, Transcript 28 January 2008, pp. 2405, 2410-2411 (CS).

<sup>12046</sup> TF1-371, Transcript 28 January 2008, p. 2411 (CS).

<sup>12047</sup> TF1-371, Transcript 28 January 2008, p. 2411.

talking to the Pa, Mr Taylor, who had instructed him to inform his commanders to undertake “Operation No Living Thing” and by all means capture Freetown so as to force the Government into negotiations; and that any commander who disobeyed that instruction was to be executed. Bockarie also stated that “he didn’t want anyone to misuse those materials that he had... brought because it was extremely difficult for him to get and he had to give account”.<sup>12048</sup>

5421. After the meeting, Bockarie ordered the S4 to distribute the materiel that he had brought back from Monrovia amongst the various RUF commanders.<sup>12049</sup> Commander Akim Turay from Tongo Field was given some materiel and was asked to link up with Momoh Rogers to attack Kenema and also asked the Scorpion Unit led by Abu Keita and other men led by Sekou to link up with the group in Segbwema and capture Kenema.<sup>12050</sup> The next day when Issa Sesay and Morris Kallon left for Koidu, Bockarie gave them the bulk of materiel brought from Monrovia to be used to capture Koidu.<sup>12051</sup> First the arms and ammunition were transported by trucks, and when they came to the Moa River, Augustine Gbao instructed the G5 Commander to order civilians living in Kailahun Town and the surrounding villages to carry it the rest of the way on their heads in tins. The witness escorted the arms and ammunition as far as the Moa River.<sup>12052</sup> The witness testified that there were 30 boxes of materiel, weighing 200-250kg each.<sup>12053</sup>

5422. TF1-371 stated in cross-examination that the arms and ammunition that Bockarie brought from Burkina Faso through Liberia in November/December 1998 were the arms that were used to launch an attack on Kono in December 1998,<sup>12054</sup> and on Freetown in January 1999.<sup>12055</sup>

<sup>12048</sup> TF1-371, Transcript 28 January 2008, pp. 2413-2414 (CS). The witness explained the words “anyone standing in the way” to include civilians, fighters, enemy forces.

<sup>12049</sup> TF1-371, Transcript 28 January 2008, pp. 2413 -2414 (CS).

<sup>12050</sup> TF1-371, Transcript 28 January 2008, pp. 2414-2415 (CS).

<sup>12051</sup> TF1-371, Transcript 28 January 2008, p. 2416 (CS).

<sup>12052</sup> TF1-371, Transcript 31 January 2008, pp. 2416-2417 (CS).

<sup>12053</sup> TF1-371, Transcript 31 January 2008, pp. 2418-2419 (CS).

<sup>12054</sup> TF1-371, Transcript 31 January 2008, p. 2753 (CS)

<sup>12055</sup> TF1-371, Transcript 31 January 2008, pp. 2761-2762 (CS). In cross-examination, the witness stated that Sam Bockarie brought back from Burkina Faso a consignment of arms and \$17,000. That trip was facilitated from Monrovia by Mr Taylor’s protocol Musa Cissé who was on board the flight. The materiel was deposited first at the White Flower before Sam Bockarie was escorted by Taylor’s securities to bring the consignment of the RUF.

5423. TF1-371 testified that Bockarie paid Taylor for the shipment with parcels of diamonds that Bockarie brought to Taylor over the course of multiple trips to Monrovia.<sup>12056</sup> The Defence repeatedly confronted the witness as to whether this shipment was paid for as part of the Magburaka deal struck by the Junta government in around October 1997. However, the witness repeatedly insisted that it was not.<sup>12057</sup>

Prosecution Witness Dauda Aruna Fornie

5424. Witness Dauda Aruna Fornie, an RUF radio operator, testified that on 19 December 1998 he accompanied Bockarie, Rashid, SYB Rogers, Eddie Kanneh, Shabado and other people whom he was unable to recall on a trip to Monrovia.<sup>12058</sup>

5425. Prior to their departure from Buedu, Bockarie told the witness that he had held discussions with Benjamin Yeaten, in which it was intended that Bockarie would travel to Libya to secure ammunition.<sup>12059</sup> However, upon their arrival in Monrovia, the plan changed and the trip was instead diverted to Ouagadougou, Burkina Faso, for reasons unknown to the witness.<sup>12060</sup> Bockarie told the witness after their arrival in Monrovia that the the Papay/CIC Taylor had said that the ammunition had been brought to Burkina Faso where Bockarie was to go and receive it.<sup>12061</sup>

5426. Fornie stated that Bockarie and his group<sup>12062</sup> remained in Monrovia for up to 72 hours prior to departing for Burkina Faso. During this time, Bockarie left for long periods, including overnight, with Yeaten.<sup>12063</sup> Sometimes when they would return, Bockarie would tell the witness that they had briefly met with “the Papay”.<sup>12064</sup>

5427. Fornie testified that he was taken on this trip to act as a radio operator for Bockarie in Monrovia while he was abroad. When Bockarie, Kanneh and SYB Rogers travelled to Burkina Faso, Fornie remained at Base 1, the radio station at Yeaten’s residence in

<sup>12056</sup> TF1-371, Transcript 31 January 2008, pp. 2728-2731 (CS).

<sup>12057</sup> TF1-371, Transcript 31 January 2008, pp. 2728-2772 (CS).

<sup>12058</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21530; Transcript 3 December 2008, pp. 21542, 21545.

<sup>12059</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21542-21544.

<sup>12060</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21545.

<sup>12061</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21542-21543; Transcript 10 December 2008, pp. 22078-22079.

<sup>12062</sup> The group included the witness, Rashid, Shabado and some of Bockarie’s bodyguards with whom he travelled.

<sup>12063</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21545.

Monrovia.<sup>12065</sup> While there, he collected information from the various RUF front lines and passed this information to Bockarie via telephone.<sup>12066</sup> The witness testified that when Bockarie arrived in Ouagadougou he called on the telephone and spoke with Sunlight, Benjamin Yeaten's radio operator, and Sunlight called the witness to the phone so that Bockarie could speak to him directly.<sup>12067</sup> Fornie further testified that he personally spoke with Bockarie about three times on the telephone while he was there.<sup>12068</sup> Bockarie told the witness over the telephone that they had met with President Compaoré.<sup>12069</sup>

5428. Fornie testified that Bockarie and his group returned to Monrovia from Ouagadougou at night about one week later.<sup>12070</sup> The next day in the evening, Bockarie came with Eddie Kanneh and General Ibrahim<sup>12071</sup> to Base 1, Yeaten's radio station, where they met the witness.<sup>12072</sup> At Base 1, Bockarie called Issa Sesay on the radio and then instructed the witness to send a message to the front-line to "some of the commanders" to come and meet him in Buedu.<sup>12073</sup> While in the radio room, the witness heard Bockarie, Eddie Kanneh and Benjamin Yeaten discussing that Kono and Tongo were the first targets to be hit with the ammunition that Bockarie (a.k.a. Mosquito) had brought back from Burkina Faso.<sup>12074</sup>

5429. On the same day, at around 7:30 to 8pm, Fornie, Bockarie, Rashid and SYB Rogers departed in two jeeps from Yeaten's residence to return to Sierra Leone.<sup>12075</sup> On the outskirts of Monrovia, towards Kakata, the convoy was joined by two large trucks loaded with "ammunition of different types", morale boosters, fuel, rice and other condiments. Zigzag Marzah, Jungle and Bockarie's security guards were with the trucks.<sup>12076</sup> Bockarie told the

<sup>12064</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21545.

<sup>12065</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21545.

<sup>12066</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21544, 21546-21547.

<sup>12067</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21441; Transcript 3 December 2008, pp. 21544-21545.

<sup>12068</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21546.

<sup>12069</sup> Dauda Aruna Fornie, Transcript 10 December 2008, p. 22077.

<sup>12070</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21547.

<sup>12071</sup> The witness described General Ibrahim as a Gambian who used to help Foday Sankoh coordinate the RUF affairs outside of Sierra Leone since 1996 before the Abidjan Accord. General Ibrahim also used to talk to Mosquito sometime on the satellite phone, he used to coordinate things for the RUF, sometimes with Charles Taylor, sometimes in Burkina Faso or Libya.

<sup>12072</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21547.

<sup>12073</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21547.

<sup>12074</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21549.

<sup>12075</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21549-21550.

<sup>12076</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21550-21551.

witness that the trucks had been loaded at Roberts International Airport.<sup>12077</sup> The jeeps and the trucks then moved in a convoy directly to Buedu.<sup>12078</sup>

5430. Fornie further testified that upon arrival at Buedu, Bockarie met with various commanders he had sent for, including Isaac Mongor, Saddam, Eagle, Akim Turay and Issa Sesay to strategize how they could successfully and without delay attack Kono and Tongo. Fornie was not present during these discussions and said that his knowledge of the meeting was based on a message that he had read from a book found in Bravo Zulu 4, Bockarie's radio station, calling the commanders to "hasten and come for the meeting".<sup>12079</sup>

5431. After the meeting, Bockarie distributed the ammunition among the various front-line commanders. Some of the ammunition he sent toward a target in Njama, which is in Kenema, some of it went "to Eagle and others in their defensive area", but most of it was sent with Issa Sesay towards Kono and Tongo.<sup>12080</sup> Bockarie also distributed supplies, "morale boosters" including alcohol, rice, fuel and condiments, which they had also brought back with them and marijuana.<sup>12081</sup> The Commanders then left for their respective areas of responsibility with Issa organizing his men to launch an immediate attack on Kono, Akim and others heading toward Tongo, Isaac Monger toward the Njama area. The witness was in Buedu where there was a general all-out attack on the frontlines in the Kono and Kenema Districts that commenced on about 15 to 20 December 1998.<sup>12082</sup> Fornie explained that this was the attack that led to the capture of Kono and Makeni and during which Gullit and others went ahead to Waterloo and finally up to Freetown on 6 January 1999.<sup>12083</sup> Fornie also testified that when Kono fell to the RUF, Bockarie called Yeaten (a.k.a. 50) on his satellite phone to give him the good news.<sup>12084</sup>

#### Prosecution Witness Isaac Mongor

<sup>12077</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21551-21552.

<sup>12078</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21551-21552. The witness stated that initially, from Benjamin Yeaten's house, the witness was in the same jeep as Sam Bockarie but when they met the trucks at the outskirts of Monrovia, the witness was transferred to the truck and Zigzag Marzah drove in the same jeep as Sam Bockarie as they moved to Buedu.

<sup>12079</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21552-21554.

<sup>12080</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21552-21553.

<sup>12081</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21554-21555.

<sup>12082</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21554-21555.

<sup>12083</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21555.

<sup>12084</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21556.

5432. Witness Isaac Mongor testified that in November 1998,<sup>12085</sup> Sam Bockarie summoned him to Buedu to discuss a disagreement between Bockarie and Denis Mingo (a.k.a. Superman). While he was there, Bockarie expressed concern that the RUF was running out of ammunition to go on offensive or even defend themselves and summoned all the commanders that were in Buedu, including the witness, Daniel Tamba (a.k.a. Colonel Jungle),<sup>12086</sup> an SLA named Sambebe and SYB Rogers (a.k.a. Pa Rogers), to a meeting at Waterworks to discuss the issue and come up with a solution.<sup>12087</sup> The meeting requested the Adjutant Rashid Sandy to write a letter on their behalf to the Accused requesting him to assist them get ammunition because they “did not have enough ammunition to again to continue our offensive, or to fight, or to even defend our areas...”. Sandy wrote the letter and read it out to the meeting. The meeting then asked Colonel Jungle to take the letter to Mr Taylor.<sup>12088</sup> Jungle took the letter to the Accused, and three days later Bockarie told the witness that he had received a call from Taylor asking him to go to Monrovia himself and that during his absence he was leaving Issa Sesay in charge of Buedu and the witness in charge of Pendembu.<sup>12089</sup> Bockarie also told the witness that he was not going alone to Monrovia and that Rashid Sandy, SYB Rogers, Lawrence Womandia, and Eddie Kanneh were to accompany him on the journey.<sup>12090</sup> Mongor testified that Bockarie took some diamonds to Liberia which he used to pay for the ammunition and which he left with Mr Taylor.<sup>12091</sup> When Bockarie returned from Monrovia in November 1998, he summoned all the commanders including Mongor to Buedu.<sup>12092</sup> On arrival, Mongor met Bockarie in a room in his house and an excited Bockarie explained that as a result of the invitation from Mr Taylor, he had brought a lot of ammunition, food and medicine. Bockarie showed Mongor the boxes of ammunition which had been stacked from the floor up to the ceiling in stacks that were about 2.5 to 3 meters high, and were stored in a room inside Bockarie’s house and told him that there were more than 100 boxes of different

<sup>12085</sup> Isaac Mongor, Transcript 11 March 2008, p. 5783.

<sup>12086</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5783-5786. Mongor stated that ‘Jungle’, a member of the Executive Mansion Guard or SSS in Liberia, was also based in Buedu and was acting as a liaison between the RUF and the NPFL, responsible for ferrying arms and ammunition from Taylor to the RUF.

<sup>12087</sup> Isaac Mongor, Transcript 11 March 2008, p. 5782.

<sup>12088</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5776-5781.

<sup>12089</sup> Isaac Mongor, Transcript 11 March 2008, p. 5782.

<sup>12090</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5781-5783.

<sup>12091</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5793-5794.

<sup>12092</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5789-5790.



kinds of ammunition and included AK, RPG, and GMG rounds.<sup>12093</sup> Prior to this, Mongor had not seen “any ammunition that could be up to that quantity”.<sup>12094</sup>

5433. Bockarie also told Mongor that Mr Taylor had connected them with the President of Burkina Faso and that as a result, Bockarie had gone with SYB Rogers to Burkina Faso where they had made arrangements to buy ammunition from there.<sup>12095</sup> Bockarie also showed Mongor the photographs which he had taken with SYB Rogers at a hotel they lodged in Burkina Faso.<sup>12096</sup>

5434. After Bockarie showed the ammunition to Mongor, he told Mongor that he sat with Mr Taylor in Monrovia and looked at a map to see which locations the RUF and SLAs occupied, and then together they planned an operation to capture Kono and Makeni and advance to Freetown. They were also planning to attack Joru and Kenema. Bockarie and Taylor wanted either Mongor or Denis Mingo (a.k.a. Superman) to attack Joru, because they were both former NPFL fighters. Because Superman was located far away from Buedu in the Koinadugu District, they decided that Mongor would attack Joru and then advance on Zimmi, where he would receive NPFL fighters coming from Liberia to reinforce the operation.<sup>12097</sup> Bockarie told Mongor that the ultimate objective of the operation was to capture Freetown in order to release Foday Sankoh and the others from prison and ultimately to seize power.<sup>12098</sup> Bockarie told the witness that Taylor advised that during the attack they should not waste ammunition and that they should “make the operation be more fearful than in all the other operations” they had undertaken so that they take Freetown and hold on to power.<sup>12099</sup>

5435. The next morning, Bockarie held a meeting in Buedu of senior RUF and AFRC<sup>12100</sup> commanders, including Mongor, SYB Rogers, Mike Lamin, Eddie Kanneh, Leather Boot, Akim Turay, ‘Monkey Brown’, Issa Sesay, Augustine Gbao, Morris Kallon and other commanders from other places, during which Bockarie briefed them about his trip, showed them the ammunition he had brought from his mission to Liberia and Burkina Faso and told

<sup>12093</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5790-5791.

<sup>12094</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5789-5795.

<sup>12095</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5793-5794.

<sup>12096</sup> Isaac Mongor, Transcript 11 March 2008, p. 5794.

<sup>12097</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5795-5796.

<sup>12098</sup> Isaac Mongor, Transcript 11 March 2008, p. 5796.

<sup>12099</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5795-5798.

<sup>12100</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5797-5798. Mongor explained that Eddie Kanneh, Leather Boot and Akim Turay were former SLA or AFRC members.

them about the operation they were supposed to use it for.<sup>12101</sup> Mongor explained that Commanders Superman and SAJ Musa whose forces were in Koinadugu District in the northern jungle, neither attended the meeting nor received any share of the ammunition as they were strategically ‘cut off’ from the others by the ECOMOG and Kamajor forces based in Koidu Town. However, at this meeting it was agreed that Bockarie would communicate with them by radio and involve them in the operation.<sup>12102</sup>

5436. After the meeting, Bockarie distributed the ammunition amongst the various commanders and sent them to carry out the operation. Mongor received 15 boxes of AK rounds, six boxes of RPG and five boxes of GMG rounds which he used to attack and capture Joru. He testified that while waiting for the NPFL reinforcement at Joru, ECOMOG forces pushed him out of Joru.<sup>12103</sup>

Prosecution Witness Joseph Marzah (a.k.a. Zigzag)

5437. Witness Joseph Marzah (a.k.a. Zigzag), a former NPFL member and a member of the Special Security Service (SSS) at the Executive Mansion in Liberia, testified that he was accustomed to carrying diamonds from the RUF in Sierra Leone to Charles Taylor in exchange for ammunition and that he did so over 10 to 15 times.<sup>12104</sup> Marzah testified that on one occasion on a date he does not remember,<sup>12105</sup> he presented Taylor with a jar of diamonds he brought from Issa Sesay. Taylor, who was overjoyed with the diamonds, called Musa Cissé, his chief of protocol and said “the boys were doing extremely well”, “it will be better if I do a recommendation for him and you go to Burkina Faso and sign for ammunition for himself”.<sup>12106</sup> Marzah stated that later, Bockarie, Eddie Kanneh, Mike Lamin, and Musa Cissé left and came back 12 days later with pictures of where they slept. Marzah was later at a club with them when Bockarie received a call on his Thuraya satellite phone to return to White Flower. When they arrived there Bockarie was told that his “materials” and “ammo” had arrived. They went to Roberts Airport to receive the Russian cargo plane which was so full of

<sup>12101</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5797-5798.

<sup>12102</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5799-5801.

<sup>12103</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5801-5804. Each box of AK rounds contained “two pans and packets inside the pans”.

<sup>12104</sup> Joseph Marzah, Transcript 12 March 2008, p. 5878.

<sup>12105</sup> Joseph Marzah, Transcript 12 March 2008, p. 5893.

<sup>12106</sup> Joseph Marzah, Transcript 12 March 2008, p. 5884.

ammunition that they could not take everything to Monrovia that night. The Accused assigned trucks to transport the ammunition from the airport.<sup>12107</sup>

5438. Marzah testified he thought that after the ammunition arrived, after two days in the city, he, Eddie Kanneh, Bockarie, Mike Lamin and their bodyguards took off from White Flower the following night and drove to Buedu with one shipment of the arms and ammunition they had unloaded from the plane. After the first trip, Marzah made about four or five additional trips taking the rest of the ammunition to Sierra Leone.<sup>12108</sup>

Prosecution Witness Albert Saidu

5439. Witness Albert Saidu, an RUF member, testified that around early November 1998, he attended a meeting for front line commanders, adjutants and clerks, including CO Eagle, Superman, Hi-Rash, Augustine Gbao and front-line commanders from the various areas. Bockarie told them that the reports from the front lines like Koidu were serious, they could not attack Kono because they had run out of ammunition and that “it look[ed] like he himself should go ... and meet Charles Taylor to explain to him that that was the situation on the ground” and to “explain to him what the pressure was”.<sup>12109</sup>

5440. Saidu further testified that in 1998 before the major attack on Kono,<sup>12110</sup> prior to Bockarie’s trip, the witness visited Sam Bockarie at Bockarie’s house in Buedu and told Bockarie how the RUF was struggling to defeat the Guinean forces in Koidu. Bockarie showed the witness diamonds wrapped in a “white paper” and told him to be patient because very soon he, Bockarie, was going to take those diamonds to ‘the Father’ (meaning Charles Taylor) in order to secure materials (i.e. arms and ammunition) for the RUF to launch a major offensive on ECOMOG and to capture Kono.<sup>12111</sup>

5441. Saidu was promoted around November 1998, when Sam Bockarie travelled to Liberia, leaving Issa Sesay in command.<sup>12112</sup> When Bockarie returned, Saidu was fighting in Koidu when Bockarie convened another forum at Waterworks in Buedu. Saidu could not attend the

<sup>12107</sup> Joseph Marzah, Transcript 12 March 2008, pp. 5878-5885; Transcript 14 March 2008, pp. 6109-6111, 6117-6119.

<sup>12108</sup> Joseph Marzah, Transcript 12 March 2008, pp. 5889-5891, 5911-5912.

<sup>12109</sup> Albert Saidu, Transcript 5 June 2008, pp. 11064, 11066-11068.

<sup>12110</sup> Albert Saidu, Transcript 5 June 2008, p. 11075.

<sup>12111</sup> Albert Saidu, Transcript 5 June 2008, pp. 11071-11072, 11075.

<sup>12112</sup> Albert Saidu, Transcript 6 June 2008, pp. 11205-11207.

meeting due to pressure from the enemies in Koidu.<sup>12113</sup> However, Saidu travelled to Buedu a day later and spoke with Bockarie's bodyguards, Ray, Shabado and others who told him that Bockarie and Eddie Kanneh had returned from Liberia with a lot of ammunition and that all of the front line commanders and senior Vanguarders including Bockarie, Eddie Kanneh, CO Jungle, Ibrahim Bah, Abu Keita, SYB Rogers, Morris Kallon, Issa Sesay and "some other Liberians" had attended the Waterworks meeting.<sup>12114</sup> The witness was told that Bockarie and Eddie Kanneh went to see the Accused in Liberia and had later crossed to Burkina Faso, then returned to Sierra Leone through Liberia.<sup>12115</sup> Saidu was further told that a war plan was drawn during the meeting to attack Kono, and the Bunumbu-Segbwema axis simultaneously.<sup>12116</sup> According to the war plan, the first brigade led by Tamba and Abu Keita was to attack Bunumbu-Segbwema, located in Kenema. The second brigade led by Issa Sesay, Denis Mingo and PB Vandy was to attack Koidu Town, the main town of Kono District.<sup>12117</sup>

Prosecution Witness TFI-567

5442. Witness TFI-567, an RUF member,<sup>12118</sup> testified that in September 1998 he was assigned to work under Issa Sesay in the 2<sup>nd</sup> Brigade at 'Superman Ground' in Koinadugu.<sup>12119</sup> While there, in October/November 1998, the witness accompanied Issa Sesay from Koinadugu to Buedu to meet Bockarie who told them that he was travelling to Liberia to meet Charles Taylor and ask for his assistance to recapture Koidu Town, and was leaving Sesay in charge of the RUF.<sup>12120</sup> In December 1998, Bockarie returned to Buedu<sup>12121</sup> with a pick-up truck carrying "lots of ammunition", RPG bombs, AK rounds, GPMG rounds, guns, camouflage "meaning combat clothes", and other things that the witness could not recall. Bockarie said that Charles Taylor had told him that they should capture Kono and the other mining areas so that they would be able to get diamonds and hence more arms and ammunition.<sup>12122</sup> Bockarie handed over the arms and ammunition to Issa Sesay and tasked

<sup>12113</sup> Albert Saidu, Transcript 5 June 2008, p. 11083.

<sup>12114</sup> Albert Saidu, Transcript 5 June 2008, pp. 11081-11085.

<sup>12115</sup> Albert Saidu, Transcript 5 June 2008, pp. 11082-11083.

<sup>12116</sup> Albert Saidu, Transcript 5 June 2008, pp. 11081-11085.

<sup>12117</sup> Albert Saidu, Transcript 5 June 2008, pp. 11085-11087, 11091.

<sup>12118</sup> TFI-567, Transcript 2 July 2008, p. 12833 (PS).

<sup>12119</sup> TFI-567, Transcript 2 July 2008, p. 12908.

<sup>12120</sup> TFI-567, Transcript 2 July 2008, pp. 12912-12913.

<sup>12121</sup> TFI-567, Transcript 2 July 2008, p. 12915.

<sup>12122</sup> TFI-567, Transcript 2 July 2008, pp. 12912-12913, 12915.

him with organizing commanders to fight and capture Kono and other areas.<sup>12123</sup> Bockarie captured civilians from around Buedu who carried the arms and ammunition back to Superman Ground.<sup>12124</sup>

5443. At Superman Ground, the witness attended a meeting convened by Issa Sesay and attended by RUF and AFRC commanders including Morris Kallon, Akim Turay, Banya, Boston Flomo (a.k.a. Rambo), Gassam Mansaray and others, at which Sesay explained that Bockarie had brought back a lot of arms and ammunition from Liberia for them to capture Koidu Town and other mining areas and that Charles Taylor told Bockarie that he would no longer supply them with arms and ammunition if the RUF/AFRC did not recapture the mining areas.<sup>12125</sup> Sesay organized the commanders and assigned them areas to attack. Boston Flomo was to lead the attack on Koidu Town and in particular Five-Five spot where ECOMOG was based; Akim Turay was to attack Tongo field, while Morris Kallon was to attack Goltown.<sup>12126</sup> After the meeting, Sesay distributed the arms and ammunition. In December 1998, the 2<sup>nd</sup> Brigade forces under Sesay's command successfully overran Koidu Town capturing many arms and ammunition and ECOMOG soldiers who were then taken to Buedu.<sup>12127</sup>

#### Prosecution Witness Augustine Mallah

5444. Witness Augustine Mallah, an RUF member, testified that in late 1998, he attended a routine meeting of senior officers and men at Sam Bockarie's residence in Buedu, at which Bockarie said that he was tired of all of them being confined to Kailahun District and that he would go to Liberia from the Accused and to see whether they could get their needs met.<sup>12128</sup> Mallah estimated that Bockarie left for Liberia in 1999,<sup>12129</sup> and said that when Bockarie returned he summoned representatives from all deployment areas around Kailahun and Kono Districts for a meeting in Buedu.<sup>12130</sup> The witness, who was stationed in Baiima, represented

<sup>12123</sup> TF1-567, Transcript 2 July 2008, p. 12913.

<sup>12124</sup> TF1-567, Transcript 2 July 2008, p. 12913.

<sup>12125</sup> TF1-567, Transcript 2 July 2008, p. 12913.

<sup>12126</sup> TF1-567, Transcript 2 July 2008, pp. 12914-12916.

<sup>12127</sup> TF1-567, Transcript 2 July 2008, p. 12917.

<sup>12128</sup> Augustine Mallah, Transcript 13 November 2008, p. 20217.

<sup>12129</sup> Augustine Mallah, Transcript 13 November 2008, p. 20218.

<sup>12130</sup> Augustine Mallah, Transcript 13 November 2008, p. 20218.

his area along with Major Kailondo and Major Lamin<sup>12131</sup> at the meeting which was attended by over 60 to 80 RUF/AFRC delegates including civilians and Liberian fighters.<sup>12132</sup>

5445. Bockarie told the meeting that he had returned from Liberia where Charles Taylor had given him arms, ammunition and that he brought Liberian reinforcements led by Abu Keita,<sup>12133</sup> so that they could fight ECOMOG in an operation called 'Operation Free Sankoh'.<sup>12134</sup> After that meeting, the witness attended a second meeting for 35 to 40 senior officers at Waterworks where Bockarie told them that they now had everything that they required to fight.<sup>12135</sup> Bockarie also announced that he himself had planned and called 'Operation Spare No Soul', which meant that the fighters were to kill anyone they saw in order to attract the attention of the international "committee"<sup>12136</sup> and demand that Foday Sankoh be freed.<sup>12137</sup>

5446. After the meeting, Bockarie distributed the arms, ammunition, medicine and Liberian reinforcements to the various commanders to whom he also assigned areas of attack. The 1<sup>st</sup> brigade including Mallah, Manawai, 'Eagle' and CO Denis (a.k.a. Monkey Brown), the 1<sup>st</sup> Brigade commander, were to attack Bunumbu, Segbwema, Daru, Tondola, Bendu Junction, Jomukafebu, Kumbema up to Kenema. Issa Sesay and Morris Kallon were to attack Kono and then advance to Makeni. AFRC members Akim Turay, Soriba and others were to join Superman and attack Tongo.<sup>12138</sup> Mallah participated in "Operation Spare No Soul" where the RUF/AFRC killed civilians and burnt villages in accordance with Bockarie's orders.<sup>12139</sup>

#### Prosecution Witness Varmuyan Sherif

5447. Witness Varmuyan Sherif testified that sometime in late 1998 and prior to the Freetown attack in January 1999, he saw Sam Bockarie at Roberts International Airport in

<sup>12131</sup> Major Lamin was an AFRC soldier (Augustine Mallah, Transcript 13 November 2008, p. 20218).

<sup>12132</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20217-20218. The witness explained that the Liberian reinforcements sent with Abu Keita also attended this meeting

<sup>12133</sup> Abu Keita was a former ULIMO commander from Liberia (Augustine Mallah, Transcript 13 November 2008, p. 20219).

<sup>12134</sup> Augustine Mallah, Transcript 13 November 2008, p. 20219.

<sup>12135</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20217-20220.

<sup>12136</sup> The witness used the term "committee" throughout this portion of his evidence. He explained he meant ECOMOG who kept the peace and international observers. Augustine Mallah, Transcript 13 November 2008, pp. 20227-20228.

<sup>12137</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20220-20221.

<sup>12138</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20220-20224.

<sup>12139</sup> Augustine Mallah, Transcript 13 November 2008, p. 20224.

Margibi County Liberia, which is located far away from Monrovia<sup>12140</sup> On this occasion, Mr Taylor had instructed Sherif, then working as Assistant Director for Operations, Special Security Service (SSS) at the Executive Mansion in Monrovia,<sup>12141</sup> and Paul Morlbah, the police director who was responsible for receiving all arms and ammunition, to go to Roberts International Airport to receive the arms and ammunition that were expected to arrive by air.<sup>12142</sup> On arrival at RIA, Sherif saw Bockarie, Musa Cissé,<sup>12143</sup> and Joe Tuah,<sup>12144</sup> seated at Martina Johnson's restaurant<sup>12145</sup> discussing what "quantities" of ammunition they would each receive. Morlbah told them that his instructions were not to distribute any ammunition at the airport but rather to first take all the ammunition to White Flower from where it would be distributed by Mr Taylor himself.<sup>12146</sup> Sherif did not know the quantity of arms and ammunition delivered but he drove behind Paul Morlbah as they escorted the cargo to White Flower.<sup>12147</sup> Sherif also testified that once the arms and ammunition were stored at White Flower, Charles Taylor himself was in charge of the warehouse and strictly controlled who had access to the arms and ammunition in the warehouse and in what amounts.<sup>12148</sup>

#### Prosecution Witness TF1-338

5448. Witness TF1-338, an RUF member, testified that in December 1998 he attended a meeting convened by Sam Bockarie at Waterworks in Buedu and that this was the last meeting Bockarie convened before the RUF captured Kono.<sup>12149</sup> At the meeting, the witness saw General Ibrahim Bah<sup>12150</sup> and heard Bockarie state that it was General Ibrahim Bah who had helped to connect Bockarie to Charles Taylor who in turn connected him with Blaise Compaoré in Burkina Faso to be able to obtain arms and ammunition.<sup>12151</sup>

<sup>12140</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 825-826, 867, 870.

<sup>12141</sup> Varmuyan Sherif, Transcript, 9 January 2008, pp. 806, 820, 834, 836; Transcript 10 January 2008, pp. 940, 986-987.

<sup>12142</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 868.

<sup>12143</sup> Although the transcript lists "Musa Sesay", the witness explained that he was Taylor's Chief of Protocol. The Trial Chamber is therefore satisfied that the witness referred to Musa Cissé.

<sup>12144</sup> The witness explained that Joe Tuah was Assistant Director of Intelligence in Taylor's Security Services.

<sup>12145</sup> The witness explained that Martina Johnson was a Security Director at Roberts International Airport, who also owned a restaurant behind the airport.

<sup>12146</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 868-869.

<sup>12147</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 869.

<sup>12148</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 869. Sherif explained that Taylor's staff at the warehouse would only hand out materials in accordance with Taylor's instructions.

<sup>12149</sup> TF1-338, Transcript 3 September 2008, p. 15295.

<sup>12150</sup> The witness explained that General Ibrahim Bah was a Gambian arms dealer that regularly assisted the RUF to obtain arms and ammunition during the conflict (TF1-338, Transcript 3 September 2008, p. 15298).

<sup>12151</sup> TF1-338, Transcript 3 September 2008, p. 15295.

Prosecution Witness TF1-516

5449. Witness TF1-516, an RUF radio operator, testified that in around November/December 1998, just prior to the Kono operation, Sam Bockarie returned from Liberia to Buedu with a 'ten-tyre truck' loaded with ammunition, specifically AK rounds, RPG bombs, and GMG rounds.<sup>12152</sup>

Prosecution Witness Karmoh Kanneh

5450. Witness Karmoh Kanneh (a.k.a. Eagle), a senior RUF commander,<sup>12153</sup> testified that Sam Bockarie sent a message on the radio calling for frontline commanders including the witness to a meeting at which he told them that he was travelling to Burkina Faso. Bockarie spent about a month away before he returned to Buedu in mid-December 1998. Bockarie brought back a lot of 'materials' including AK-47s, AK-47 rounds, G3s, hand grenades, mines, RPG rockets and tubes, G3 rounds, bombs, hand grenades, mines, combat fatigues, boots and other items, all of which were stored in an "ammo dump" close to his house on Buedu Road.<sup>12154</sup> Kanneh was not present when Bockarie returned from Burkina Faso and as such could not estimate the quantity of arms that Bockarie had brought to Buedu.<sup>12155</sup>

5451. Around mid-December 1998, the witness attended a second meeting convened by Bockarie at his home in Buedu at 9.00pm. This meeting was attended by 12 persons including Issa Sesay, Daniel Tamba (a.k.a. Jungle), Eddie Kanneh, Major Francis (a Gambian who trained with Foday Sankoh), Matthew Barbor, Junior Vandi, Gbessay Gbobah (a.k.a. Chucky), Morris Kallon, Mike Lamin and lasted three hours.<sup>12156</sup> Bockarie told them that he had travelled to Burkina Faso with Ibrahim Bah, where they had met with the President of Burkina Faso.<sup>12157</sup>

5452. Bockarie explained that he had brought ammunition and enough logistics for them "to run any kind of mission" and that they should plan how they were going to capture Kono, Makeni, Segbwema, Daru, Kenema and finally Freetown.<sup>12158</sup> Bockarie told the attendees that he and Charles Taylor devised this plan in Liberia and that he was merely briefing them to

<sup>12152</sup> TF1-516, Transcript 8 April 2008, pp. 6960-6961.

<sup>12153</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9390.

<sup>12154</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9416-9418, 9438.

<sup>12155</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9417.

<sup>12156</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9418-9424, 9433.

<sup>12157</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9418-9419, 9429-9430; Transcript 13 May 2008, p. 9703.



implement it.<sup>12159</sup> Bockarie further explained that the objective of the plan was firstly to capture Freetown and to release Foday Sankoh from Pademba Prison, secondly to capture State House and overthrow or kill President Tejan Kabbah and thirdly to take over power.<sup>12160</sup> Bockarie then assigned each of the commanders the areas they were to attack. Issa Sesay, Morris Kallon and Superman were to attack Kono and Makeni,<sup>12161</sup> while Kanneh was to attack Daru and Segbwema.<sup>12162</sup>

5453. Jungle spoke and told the meeting about the materials that Bockarie had brought back and said that they should not fear this time around and that there was no force that could withstand them. Jungle also stated that when he was in Monrovia Taylor had told him that their first target should be Kono.<sup>12163</sup>

5454. Towards the end of the meeting, Kanneh heard Bockarie and Jungle speaking on the satellite phone to Charles Taylor, briefing him about what had transpired in the meeting and assuring him that the senior officers had agreed to go ahead with the plan.<sup>12164</sup> The witness did not hear Taylor's side of the conversation but it was made clear to those at the meeting that it was Taylor who was speaking to Bockarie and Jungle.<sup>12165</sup>

5455. The next day Bockarie invited the witness to his ammo dump to see the materiel and logistics that he had brought from Burkina Faso. The witness saw "a lot of logistics including AK rifles and rounds, G3 rounds, grenades, mines, RPG rockets and tubes, and combat uniforms."<sup>12166</sup> The witness, a member of the 1<sup>st</sup> Brigade, was given his orders and he left to meet Dennis Lansana, one of the brigade commanders, and begin getting the men together to carry out their mission to capture Segbwema, Daru, and if possible beyond.<sup>12167</sup> The brigade cleared the enemy forces from Segbwema but they were unsuccessful in their attack at the Daru Barracks, where they were stopped by ECOMOG forces.<sup>12168</sup>

#### Prosecution Witness Mohamed Kabbah

<sup>12158</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9424.

<sup>12159</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9424.

<sup>12160</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9430-9431.

<sup>12161</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9425.

<sup>12162</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9426-9427.

<sup>12163</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9431-9433.

<sup>12164</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9434-9437.

<sup>12165</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9434-9437.

<sup>12166</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9437-9438.

<sup>12167</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9438-9440.

<sup>12168</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9438-9440.

5456. Witness Mohamed Kabbah (a.k.a. Tourist), an RUF radio operator,<sup>12169</sup> testified that in late 1998, prior to the attack on Kono, Bockarie took some diamonds to Monrovia and on his return he came with a ‘ten-tyre truck’ loaded with ammunition, rice and condiments. The witness stated that this was the biggest consignment of ammunition, food and used clothing which the RUF had ever received.<sup>12170</sup> The witness stated that the ammunition was used to “attack Kono, as far as Makeni and other areas”.<sup>12171</sup>

5457. Prosecution Witness TF1-367

5458. Witness TF1-367 testified that he was appointed to be the mining commander of Kono at a date he did not recall after the ECOMOG Intervention<sup>12172</sup>. He was stationed in Guinea Highway, three miles from Koidu Town.<sup>12173</sup> During this time Colonel Boston Flomo (a.k.a. Rambo)<sup>12174</sup> told him that Sam Bockarie had travelled to Monrovia for arms and ammunition from Charles Taylor whom “we used to call Father”, and that when he returned Issa Sesay, who at that time was a Battle Front Inspector,<sup>12175</sup> would come to Kono “for us to attack Koidu Town”.<sup>12176</sup>

5459. About two weeks after TF1-367 arrived in Guinea Highway; Sesay arrived with ammunition, his bodyguards, officers and “many manpower”. They carried the ammunition there on their heads because they did not use the highway. At that time they “did not have anywhere else to get ammunition from except Liberia from Charles Taylor”. Sam Bockarie went to Liberia, leaving Sesay in charge as commander in Buedu. When Bockarie returned to Buedu he gave the ammunition to Sesay, who then took the ammunition to Kono for their attack on Koidu Town.<sup>12177</sup> The ammunition that they were given to use in the attack was new, meaning that the boxes it was in were unopened.<sup>12178</sup> The witness testified that the RUF assigned people to keep records of ammunition that was delivered to the commanders.<sup>12179</sup>

<sup>12169</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>12170</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16140.

<sup>12171</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16432.

<sup>12172</sup> The ECOMOG Intervention occurred on 14 February 1998. *Prosecutor v Taylor*, SCSL-03-1-T-370, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, Annex A, Fact AD.

<sup>12173</sup> TF1-367, Transcript 20 August 2008, pp. 14158-14161.

<sup>12174</sup> TF1-367, Transcript 20 August 2008, pp. 14169-14170.

<sup>12175</sup> TF1-367, Transcript 20 August 2008, p. 14176.

<sup>12176</sup> TF1-367, Transcript 20 August 2008, pp. 14162, 14182.

<sup>12177</sup> TF1-367, Transcript 20 August 2008, pp. 14162, 14181-14182.

<sup>12178</sup> TF1-367, Transcript 20 August 2008, p. 14183.

<sup>12179</sup> TF1-367, Transcript 20 August 2008, pp. 14169, 14173-14174.

5460. Sesay sent a message to the senior officers to report for a meeting at headquarters. At the meeting they planned attacks on the roads leading to Koidu Town. The objective of the attack, which was named Operation Free Foday Sankoh, was to attack Kono in order to suppress the government and force the release of Foday Sankoh. They planned to start at Koidu Town and go all the way to Freetown, and they were advised to make the operation “fearful”.<sup>12180</sup> Specific places that they were assigned to attack included Guinea Highway, Tankoro and Five-Five and Lebanon, where ECOMOG had heavy weapons.<sup>12181</sup> The fighters attacking Kono were part of the 2<sup>nd</sup> brigade.<sup>12182</sup>

5461. They were ultimately successful in their attacks against ECOMOG in the Kono District and in Koidu Town, and they captured arms, ammunition and vehicles from them.<sup>12183</sup> Akim Turay moved on to attack Tongo and Boston Flomo (a.k.a. Rambo) moved on to attack Makeni.<sup>12184</sup>

5462. Immediately after the RUF recaptured Kono, Akim captured Tongo. Rambo (Boston Flomo) and Superman then captured Makeni.<sup>12185</sup>

#### Prosecution Witness Abu Keita

5463. Abu Keita testified that he was in Foya when Issa Sesay received a radio call from Sam Bockarie that they were to go to a meeting. Bockarie arrived at the meeting with a pick-up truck and two beige “six style” trucks that the Libyan government had given to Taylor, and he brought with him 300 boxes of ammunition from Monrovia and a mixture of about 150 Sierra Leonean and Liberian men who were taken from Camp Naama. Bockarie told the witness that the ammunition was from Monrovia. A Liberian police driver named Senegalese and the witness’ wife also came with the trucks. Bockarie said it was the first time he had been given such a huge quantity of ammunition, and he was so happy about it that he shot into the air. The trucks continued to Buedu and the men were taken to Bunumbu, the RUF training camp.<sup>12186</sup>

<sup>12180</sup> TF1-367, Transcript 20 August 2008, p. 14165

<sup>12181</sup> TF1-367, Transcript 20 August 2008, pp. 14162-14165.

<sup>12182</sup> TF1-367, Transcript 20 August 2008, p. 14169.

<sup>12183</sup> TF1-367, Transcript 20 August 2008, pp. 14181, 14184-14185.

<sup>12184</sup> TF1-367, Transcript 20 August 2008, p. 14186.

<sup>12185</sup> TF1-367, Transcript 20 August 2008, pp. 14185-14187.

<sup>12186</sup> Abu Keita, Transcript 23 January 2008, pp. 1993-1996.

5464. After Bockarie had despatched the men to Bunumbu, he met with the witness. Bockarie told the witness that since he had last seen him he had been in Burkina Faso and gave him a picture of the guesthouse that he had stayed in there. In the picture there were six people including a Guinean named Sheku Suwape Koroma whom the witness had seen at Benjamin Yeaten's home in Monrovia, Eddie Kanneh, Sam Bockarie, and "SB" Rogers.<sup>12187</sup>

5465. When Sam Bockarie arrived with the 300 boxes of ammunition in Buedu, the RUF men stationed there were very happy. Bockarie immediately called a meeting of the commanders in his home including Issa Sesay, Lawrence Wohmandia, SB Rogers, Akim, and Leatherboot, where Bockarie said that they should use the ammunition to take over Makeni and Kono and terrorise the highway. Kono was targeted because they needed to generate funds for the RUF and the only place they could do this was through mining in Kono. After this meeting Bockarie met with the vanguards in his bedroom, which was followed by a muster parade where all of the soldiers assembled at the military grounds.<sup>12188</sup>

5466. At the muster parade Bockarie ordered Issa Sesay to take over Kono and Makeni, and reported that the President Taylor had said "they should be very vigilant and maintain the ground of the RUF". They then dispersed to carry out the operation in Kono, Makeni, Masingbi, and Magburaka and the operation from Bunumbu to Segbwema to Jumo Kafebu, Gbava, and Bendu Junction. Keita was part of the Bunumbu operation. Koidu Town was taken over on Christmas Day 1998.<sup>12189</sup>

#### Prosecution Witness Jabaty Jaward

5467. Jabaty Jaward testified that in 1998 Sam Bockarie assigned him to be the store keeper in charge of ammunitions, arms, food supply, fuel oils, gasoline, kerosene etc<sup>12190</sup> that came from Liberia. The supplies were brought from Liberia by "escorts" who worked for Taylor.<sup>12191</sup> Originally the supplies were kept in a room attached to Sam Bockarie's home, but when the supplies increased another store was established a few yards away from his compound. When the supplies would arrive, Bockarie would instruct Jaward to take an inventory of them and prepare a distribution list before they were sent to the targets. During

<sup>12187</sup> Abu Keita, Transcript 23 January 2008, pp. 1997-1999, Exh. P-046B

<sup>12188</sup> Abu Keita, Transcript 23 January 2008, pp. 2005-2007.

<sup>12189</sup> Abu Keita, Transcript 23 January 2008, pp. 2007-2010.

<sup>12190</sup> Jabaty Jaward, Transcript 10 July 2008, p. 13383.

<sup>12191</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13385-13388.

the time that he was the store keeper he distributed arms and ammunition to Koidu, Kono, Segbwema, and Kuiva. Jaward held this position until Sam Bockarie left the RUF in December 1999.<sup>12192</sup>

5468. Jabarty testified that in December 1998 a large consignment of AK ammunition, G3 rounds, RPG rounds, rockets, GPMG rounds, bazooka rockets, mortar bombs, drums of petrol, diesel, engine oil, bags of rice, salt, Maggi, and batteries came to Buedu. A large part of this supply went to the Kono operation and smaller quantities were allocated to other defensive positions. He could not recall the specific escorts, but he saw Sheku (a.k.a. Pa Sheku), Daniel Tamba (a.k.a. Colonel Jungle), Joseph Marzah (a.k.a. Zigzag), and Abu Keita and others when the consignment came. Sam Bockarie arranged for the supplies for the Kono operation to be given to Brigadier Issa Sesay the overall commander for the front lines, through Jaward's office.<sup>12193</sup> Jaward testified that while he was store keeper and supplied arms to the RUF, Sengema was a main target because "it was one of the main routes that the RUF soldiers used to go to the Kono defensive".<sup>12194</sup>

5469. One week later Jaward heard on the radio, and from captured ECOMOG fighters brought to Buedu, that Koidu Town had been recaptured and that RUF troops were advancing toward Makeni, capturing other towns and weapons and ammunition from enemy forces, including an armoured ECOMOG tank. Other commanders in Kono at that time included Peter Vandi, Boston Flomo (a.k.a. Rambo), and Amara Peleto.<sup>12195</sup>

#### Prosecution Witness Dennis Koker

5470. Dennis Koker testified that on one occasion he determined that arms coming into Buedu were from Liberia because those who brought them spoke Liberian English, they were wearing Liberian military uniforms and it was during a time when Taylor was President of Liberia.<sup>12196</sup>

#### The Accused

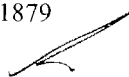
<sup>12192</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13380-13384, 13390-13393; Transcript 16 July 1998, pp. 13844-13845.

<sup>12193</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13424-13426.

<sup>12194</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13411-13412.

<sup>12195</sup> Jabaty Jaward, Transcript 10 July 2008, pp. 13426-13429.

<sup>12196</sup> Dennis Koker, Transcript 16 January 2008. pp. 1367-1368.



5471. The Accused testified that in December 1998 he had returned to Liberia after a trip to Burkina Faso to attend the inauguration of President Blaise Compaoré as Chairman of the OAU. In late 1998 the Accused was aware that Sam Bockarie was passing through Liberia on his way to Burkina Faso to visit President Compaoré in the latter's capacity as Chairman of the OAU. Bockarie told the Accused that the purpose of his visit was to speak to the Chairman of the OAU in furtherance of the peace process in Sierra Leone. President Compaoré also informed the Accused of Bockarie's visit and that many members of ECOWAS and the international community knew that Bockarie was travelling through Liberia to go to Burkina Faso. The Accused said he was not aware of any arms deal being made between Burkina Faso and the RUF around that time in 1998 and did not know what transpired between Bockarie and Compaoré during Bockarie's trip.<sup>12197</sup>

5472. The Accused testified that the reason that Sam Bockarie made trips to Monrovia after Taylor had first made contact with him in September 1998 was because the Accused was "pursuing him to agree to a ceasefire and the implementation of the 1996 Abidjan agreement. That was all. All of the trips he makes, this is what it is all about. It's about the peace process that Sam Bockarie is being urged very much. He's also told that by the chairman of the OAU. He's under a lot of pressure to agree to accept peace. This is all the reason why he's travelling. No other reason".<sup>12198</sup>

5473. The Accused testified that Sam Bockarie came to Liberia in late November 1998<sup>12199</sup>, passing through on his way to Burkina Faso. Bockarie travelled to Monrovia by road and, to the best of the Accused's knowledge, he did not spend the night in Monrovia. "A plane came and picked him up and took him to Roberts" [International Airport] and he travelled on to Burkina Faso.<sup>12200</sup> The Accused said that Bockarie organised the trip himself and that he, the Accused, did not purchase any airline tickets for him and did not arrange for an aircraft to collect him. Bockarie travelled with Eddie Kanneh,<sup>12201</sup> with a shortish older man with grey hair who could have been Mr Rogers,<sup>12202</sup> and with several other people from Sierra Leone whom the Accused did not remember.<sup>12203</sup> Bockarie also travelled with Musa Cissé, the

<sup>12197</sup> Charles Ghankay Taylor, Transcript 6 August 2009, p. 26129; Transcript 10 August 2009, pp. 26391-26392.

<sup>12198</sup> Charles Ghankay Taylor, Transcript, 17 September 2009, p. 29225.

<sup>12199</sup> Charles Ghankay Taylor, Transcript, 17 September 2009, p. 29247.

<sup>12200</sup> Charles Ghankay Taylor, Transcript, 17 September 2009, p. 29248.

<sup>12201</sup> Charles Ghankay Taylor, Transcript, 17 September 2009, p. 29248.

<sup>12202</sup> Charles Ghankay Taylor, Transcript, 17 September 2009, p. 29254.

<sup>12203</sup> Charles Ghankay Taylor, Transcript, 17 September 2009, p. 29249.





Accused's protocol officer, who spoke French and English and was to serve as an interpreter for President Compaoré. The Accused permitted Musa Cissé to travel with Bockarie only because Bockarie was going to Burkina Faso on a peace mission to meet the Chairman of the OAU.<sup>12204</sup> Taylor did not know how long Bockarie stayed in Ouagadougou, but he was away from Liberia for two weeks.<sup>12205</sup>

5474. The Accused disputed evidence given by Prosecution Witness Dauda Aruna Fomie that Bockarie spent 72 hours in Monrovia before he took off for Ouagadougou. The Accused said that Bockarie arrived at night and the Accused saw him briefly the next morning before he took off.<sup>12206</sup>

5475. When Musa Cissé returned from Burkina Faso the Accused asked him why the trip had taken so long. Cissé informed him that Bockarie had left them to travel to Libya and back before they returned to Monrovia.<sup>12207</sup> When Bockarie returned to Liberia, the Accused was located on the outskirts of Monrovia where he was very busy with a "polio campaign". Bockarie went to meet the Accused before returning to Sierra Leone to thank him for sending Cissé and "helping in arranging this trip...to make it possible with the chairman of the OAU" and to tell him "that they had had a very fruitful discussion". The Accused did not ask Bockarie for a debrief because if the Accused wanted to know anything he would have found it out from Cissé or from the Chairman himself. Bockarie left the same day for Sierra Leone.<sup>12208</sup>

5476. The Accused understood that President Compaoré, Chairman of the OAU, had sent a small airplane for Sam Bockarie, and that this trip was arranged by Sam Bockarie and some of the people he travelled with. However, the Accused ultimately stated that "I have no idea of how Sam Bockarie arranged that trip".<sup>12209</sup>

5477. The Accused further testified that according to a UN document presented to the Trial Chamber,<sup>12210</sup> Bockarie and other Junta people were approved for "travelling out for peace". The Accused stated that there were several people related to the Junta who were named in that

<sup>12204</sup> Charles Ghankay Taylor, Transcript, 17 September 2009, pp. 29248, 29249.

<sup>12205</sup> Charles Ghankay Taylor, Transcript, 17 September 2009, pp. 29249, 29261,

<sup>12206</sup> Charles Ghankay Taylor, Transcript, 17 September 2009, p. 29260. The Accused had said earlier in his evidence that Bockarie did not spend the night in Morovia – see para XXX above.

<sup>12207</sup> Charles Ghankay Taylor, Transcript, 17 September 2009, pp. 29249-29250; 29259-29260.

<sup>12208</sup> Charles Ghankay Taylor, 17 September 2009, pp. 29250, 29261.

<sup>12209</sup> Charles Ghankay Taylor, 17 September 2009, pp. 29253-29255.

document who were given permission to travel, because at that time they would otherwise not have been allowed. According to the Accused, "Sam Bockarie would not have come and he would not have been permitted to travel through Liberia to go to Burkina Faso to see the chairman of the OAU unless the chairman knew, I knew, and others knew, including United Nations and other people. Everyone knew of Sam Bockarie's trip...Kabbah agreed that some of these junta people could travel. The UN agreed".<sup>12211</sup>

5478. The Accused, disputing evidence given by Dauda Aruna Fornie, questioned whether Sam Bockarie would have shared his reason for travelling to Monrovia with a radio operator. The Accused stated: "You don't talk important things with messengers and little radio operators".<sup>12212</sup> He suggested that Fornie did not know why Bockarie was coming to Monrovia. The Accused stated that:

... if this Court believes that I had material between disarmament up until I would say 2001 and 2002 where I wrote the United Nations and told the Security Council that I would bring ammunition for legitimate self-defence, if this Court believes that I had material at the quantity that these people are talking about, then I'm already guilty. There was no such thing in that country with the Accused having material; but the whole case is built on: 'He's having material. He's distributing it.' It's not true.<sup>12213</sup>

5479. The Accused testified that he was not aware that Ibrahim Bah had played the role of helping Foday Sankoh in coordinating RUF affairs outside of Sierra Leone since before the Abidjan Accord. However, the Accused said that this would not be strange because Bah left NPFL controlled area back in 1993-1994 and he never heard from him again. The Accused said that some of the evidence he had heard in Court and some of the documentation from the OTP that he had read, gave him no reason to doubt that Bah could play such a role with Foday Sankoh. However, the Accused insisted that evidence given by Dauda Aruna Fornie that Ibrahim Bah sometimes coordinated things for the RUF with the Accused in other areas such as Burkina Faso and Libya was "totally false". The Accused said that he was not aware that Ibrahim Bah was playing such a role in Burkina Faso or Libya.<sup>12214</sup>

5480. The Accused also disputed the testimony of Prosecution Witness Abu Keita that he, the Accused, had provided Bockarie with two trucks, 150 Liberian and Sierra Leonean men from Camp Naama, and 300 boxes of ammunition from Monrovia sometime in late autumn

<sup>12210</sup> It is unclear to the Trial Chamber which document Taylor was referring to in this testimony.

<sup>12211</sup> Charles Ghankay Taylor, 17 September 2009, pp. 29253-29255.

<sup>12212</sup> Charles Ghankay Taylor, 17 September 2009, p. 29226.

<sup>12213</sup> Charles Ghankay Taylor, 17 September 2009, pp. 29226-29227.



prior to the attack on Kono on Christmas Day 1998, which culminated in the attack on Freetown.<sup>12215</sup> The Accused testified that at that point in time Camp Naama had been deserted for a long time, a fact that he stated in a speech that he made in December 1998.<sup>12216</sup>

5481. Further disputing the testimony of Abu Keita, the Accused testified that since Liberia was disarmed at that time, he did not even have material to give to Liberian security personnel, and therefore would not have had 300 boxes of ammunition to give to fighters in Sierra Leone.<sup>12217</sup> Also, since Liberia had disarmed, there were not 150 men available to send.<sup>12218</sup> The Accused further pointed out that Abu Keita claimed in a statement that the alleged driver, Senegalese was a police driver, but that other Prosecution evidence described him as a soldier.<sup>12219</sup> The Accused also denied Keita's evidence that he, the Accused, gave Sam Bockarie an ash coloured Toyota Land Cruiser.<sup>12220</sup>

#### Defence Witness Fayia Musa

5482. Fayia Musa testified that in April 1996 he travelled with Foday Sankoh, Deen-Jalloh, Daniel Kallon, Peter Vandi, Fullah Mon Ami and Palmer for a tour of the sub-region. The purpose of the tour was to meet with regional leaders to both raise funds and ask for political support for the RUF. In Ouagadougou, Burkina Faso, Sankoh held separate meetings with Major Dinjeri (a.k.a. Commander Diendere) and Blaise Compaoré. Sankoh also met with Ibrahim Bah. The witness understood that Compaoré later sent them \$40,000 in July 1996, but he also testified that gifts such as these from West African leaders were normal.<sup>12221</sup>

#### Defence Witness Issa Sesay

5483. Issa Sesay testified that Bockarie travelled to Monrovia with SYB Rogers, the War Council Chairman, Eddie Kanneh, Lawrence Womandia, Rashid Sandy, Junior Vandi, and Shabado in late November or December 1998. While Bockarie was gone he called Sesay away from Pendembu to be in Buedu with Mike Lamin. After they arrived in Monrovia, they

<sup>12214</sup> Charles Ghankay Taylor, 17 September 2009, pp. 29262-29264.

<sup>12215</sup> Charles Ghankay Taylor, 22 September 2009, pp. 29379-29383.

<sup>12216</sup> Charles Ghankay Taylor, 22 September 2009, p. 29383.

<sup>12217</sup> Charles Ghankay Taylor, 22 September 2009, p. 29385.

<sup>12218</sup> Charles Ghankay Taylor, 22 September 2009, p. 29385.

<sup>12219</sup> Charles Ghankay Taylor, 22 September 2009, p. 29384.

<sup>12220</sup> Charles Ghankay Taylor, 22 September 2009, p. 29391.

<sup>12221</sup> Fayia Musa, Transcript 14 April 2010, pp. 39034-39036, 39043; Transcript 15 April 2010, p. 39082; Transcript 16 April 2010, p. 39183; Transcript 20 April 2010, p. 39462.

travelled to Ouagadougou, Burkina Faso, in order to meet with the OA Chairman regarding the Abidjan Accord. While there they met up with Ibrahim Bah who spoke with Bockarie about going to see Gaddafi for assistance for the RUF. Bockarie, Bah, Rogers, and Kanneh travelled to Libya for an unspecified number of days, and Bockarie and Rogers were the ones who met with Gaddafi while they were there. Gaddafi gave them money, which the witness thought was \$50,000 USD. After leaving Libya, Bockarie went back to Burkina Faso and then returned to Monrovia, where Bockarie used some of the money to buy medicine in Monrovia, and ammunition in Lofa County, before returning to Sierra Leone.<sup>12222</sup>

5484. Bockarie said that he bought some of the ammunition from the Liberian Army (AFL) battalion commander at Lofa but subsequently stated that it was bought in in Voinjama. Some ammunition was bought from from Benjamin Yeaten in Kolahun. Bockarie did not say whether the ammunition purchases were made with the knowledge or permission of Taylor. Bockarie purchased up to 40 boxes of AK rounds, up to 15 boxes of G3 rounds, and about 10 boxes of HMG rounds. The ammunition was transported to Sierra Leone in a big civilian ten-wheel truck, and arrived the same day that Sam Bockarie returned to Buedu around 11 or 12 December 1998. Bockarie kept the ammunition in a store by his bedroom.<sup>12223</sup>

5485. The day after Bockarie and the delegation returned, a meeting was held at Waterworks, which was attended by the witness, Rogers, Lamin, Kanneh, Rashid Sandy, and Womandia. Bockarie briefed them on his trip and ordered Sesay, who was a Colonel at the time, to attack ECOMOG positions in Koidu Town in Kono. Bockarie gave Sesay 20 boxes of AK rounds, eight boxes of G3 rounds, and five or six boxes of GPMG rounds, as well as medicines, five jerry cans of diesel, five jerry cans of petrol, cigarettes, cartons of Maggi, acid for the operator's battery, stationary, and engine oil to clean the arms. Sesay successfully carried out the attack, after which he captured a lot of arms and ammunition including tanks, armoured tanks, and many armoured tank rockets, because they captured the entire ECOMOG ammunition dump.<sup>12224</sup>

#### Defence Witness Sam Kolley

<sup>12222</sup> Issa Sesay, Transcript 9 July 2010, pp. 44125-44128.

<sup>12223</sup> Issa Sesay, Transcript 9 July 2010, pp. 44127-44129.

<sup>12224</sup> Issa Sesay, Transcript 10 July 2010, pp. 44129, 44136-441342, 44148-44149.

5486. Sam Kolleh testified that Sam Bockarie went to Burkina Faso sometime from July to August 1998, after the Peace Accord was signed on 7 July 1999, to meet with Compaoré. He subsequently stated Bockarie went in July 1999. Kolleh later stated he was not aware of any other trip that Bockarie took to Burkina Faso. Bockarie told Junior Vandí that they had travelled through Monrovia to Burkina Faso. Bockarie told Junior Vandí that they had travelled through Monrovia to Burkina Faso. Two or three days after Bockarie arrived back in Buedu in 1999, he called a meeting near Buedu at Waterworks, in order for all of the front line commanders, officers and civilian leaders to provide a salute report to him from their various assignment areas, as well as their proposals. About 40 to 60 people attended this meeting, including SYB Rogers, Gbessay Ngobeh, a tall slim Liberian called Jungle, Martin Koker, Eagle, Jalloh (a.k.a the Fulla), Tom Sandy, Rashid Sandy, Junior Vandí, and Major Francis. Mike Lamin, CO Lion, Deputy Commander Gadaffi a.k.a. Foday were not there. The witness could not recall whether Issa Sesay was present. Bockarie did not explain why he had gone to Burkina Faso in this meeting. After this meeting Kono was attacked. The witness placed the time of the attack on Kono in 1998.<sup>12225</sup>

5487. During the witnesses' testimony he repeatedly changed dates or provided dates that were clearly inaccurate, for example, testifying that events took place in 2008 when he meant 1998. He testified that he was wounded late in March 1998 and was in hospital for nearly a year but also stated he left hospital in November 1998<sup>12226</sup>. The Presiding Judge noted that the witness appeared tired; however, the witness insisted he was able to carry on.<sup>12227</sup>

#### Defence Witness DCT-008

5488. DCT-008 testified that Sunlight, Benjamin Yeaten's radio operator, began dealing with Dauda Aruna Fornie in late 1998, but subsequently corrected himself and stated Sunlight never dealt with DAF in 1998<sup>12228</sup> and "dealt a lot"<sup>12229</sup> with Fornie in 1999 after the death of Sella Duwor, the overall signal commander for the RUF/SL which was "prior to the peace talks". DCT-008 also specified that Sunlight's first meeting with Fornie was when Fornie had returned from Togo and the Lome Peace Talks, where Fornie said, he was part of the RUF

<sup>12225</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48501-48509.

<sup>12226</sup> Sam Kolleh, Transcript 1 November 2010, p. 48442.

<sup>12227</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48506-48509.

<sup>12228</sup> DCT-008, Transcript 1 September 2010, p. 47668.

<sup>12229</sup> DCT-008, Transcript 1 September 2010, p. 47663.

delegation.<sup>12230</sup> DCT-008 also testified that the Accused was not residing in White Flower as of early 1998.<sup>12231</sup>

Prosecution Exhibit P-046

5489. Exhibit P-046 is two copies of the same photograph, one in colour and one in black and white, allegedly taken during Sam Bockarie's trip to Burkina Faso in November or December 1998. The Prosecution tendered the exhibit through Abu Keita, who identified the six persons standing in the picture, beginning from the left as: 1) an unknown person, 2) Eddie Kanneh, 3) Sam Bockarie, 4) SYB Rogers of the war council of the RUF, 5) unknown, and 6) Sheku Suwape Koroma.<sup>12232</sup> Keita testified that Koroma was a Guinean who was in Liberia with Benjamin Yeaten, whom he had seen in Monrovia at Yeaten's house and with Bockarie in Buedu.

Prosecution Exhibit P-063

5490. Exhibit P-063 is entitled "RUF Headquarters Forum with the External Delegates Led by the RUF Defence Staff, 2<sup>nd</sup> December 1998". It is a report on the meeting that Sam Bockarie convened in order to report on the external mission to Burkina Faso. It was held on 2 December 1998 at "water-works" at 1323 hours GMT. The attendees were listed as: 1) Brigadier Sam Bockarie, Mr S.Y.B. Rogers, Col. Edward Kanneh, Maj. Lawrence Womandia, Major Junior Vandj, Major Mohamed S. Banya, "Lieutenant Colonel Rashid Sandi – External delegates", Colonel I.H. Sesay BFC, and "members of various other units".<sup>12233</sup>

5491. The report states that Bockarie appointed SYB Rogers to give a salute report about the mission. Rogers stated that "the mission to seek our welfare at the "international front" had been a very big success and "very great interms [sic] of what they were able to receive". He thanked and credited Bockarie with his role in the "external mission", describing his role as "very excellent". Rogers also "noted with profound gratitude the effort applied by our host govt. on the other side for granting us the in-let and exit facilities even with escort".<sup>12234</sup>

<sup>12230</sup> DCT-008, Transcript 1 September 2010, pp. 47661-47663, 47715, 47761, 47766-47773.

<sup>12231</sup> DCT-008, Transcript 1 September 2010, p. 47770.

<sup>12232</sup> Abu Keita, Transcript 23 January 2008, pp. 1997-1998.

<sup>12233</sup> Exhibit P-063, "RUF Headquarters Forum with the External Delegates Led by the RUF Defence Staff, 2<sup>nd</sup> December 1998", p. 1, ERN 15487

<sup>12234</sup> Exhibit P-063, "RUF Headquarters Forum with the External Delegates Led by the RUF Defence Staff, 2<sup>nd</sup> December 1998", pp. 1-2, ERN 15487-15488..

5492. Rogers is reported as stating that he and Bockarie both paid a “courtesy call on his Excellency C.G.T” and that the mission extended to Burkinafaso [sic] where they (delegates) were warmly received and attended to. All discussions with the Burkinabey [sic] authorities were highly fruitful...[Bockarie] behaved excellently and maturedly to the admiration of his excellency, Campore [added in handwriting]. The Brigadier has done a very historic job for the RUFSL movement. He has signed a rich contract for us and with our support, given to him and the movement, we shall do every thing possible to promote this struggle”.<sup>12235</sup>

5493. Eddie Kanneh spoke next stating that “the trip was very successful” and commending Bockarie, SYB Rogers and “Col. Issah Sesay” for “keeping the ground under control” in Bockarie’s absence.

5494. Sam Bockarie spoke, and among other things stated that he brought Major Lawrance Womandia because he could speak French and it was the delegates’ intention to visit “France – Countries and even Libya” and that Pa Rogers and Col. Eddie also went. Bockarie “congratulated Col. Jungle and General Abraham for their sincerity and honesty in delivering the parcels that were given to them for our father across. The C.D.S. said the father showed him the parcels and said he was keeping the parcels until we cater [sic] and get more so as to be able to purchase reasonable quantity of whatever we want”.<sup>12236</sup> He described the missions as a success and stated that he had been able to “formally hand over our struggle and petition about our Leader to the President of Burkina Faso...so that as O.A.U. Chairman, he will stip [sic] in and mediate Peace between us and the SLPP govt”. Bockarie also “placed a curse on any one who would plan to mismanage the small logistics they had laid down their lives for in the interest of the struggle. [Bockarie] inferred re that he went with a two and half carats (2.5 carats) diamond and some other items (handwritten) which he gave as present to a senior security – Benjamin inorder [sic] to facilitate easy access to all chances for the undelayed success of our mission”.<sup>12237</sup>

<sup>12235</sup> Exhibit P-063, “RUF Headquarters Forum with the External Delegates Led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, p. 2, ERN 15488.

<sup>12236</sup> Exhibit P-063, “RUF Headquarters Forum with the External Delegates Led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, p. 4, ERN 15489.

<sup>12237</sup> Exhibit P-063, “RUF Headquarters Forum with the External Delegates Led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, p. 4, ERN 15489.

5495. Col. Issa Sesay, the Battlefield Commander and Col. Isaac Morogo [sic] are also recorded as speaking and thanking the delegates.<sup>12238</sup>

5496. Colonel Mike Lamin also spoke and thanked Bockarie and the delegates who went with him on the mission, and is quoted as saying that “We as RUFSL must consider this gesture as a brilliant challenge and we must do some things impressively in return of the challenge”. According to the report, “Lamin then warned that we must not talk on how the material was channelled to our base for security reason [sic]”.<sup>12239</sup>

5497. Major E. Collins stated that Bockarie “has killed two birds with one stone i.e. solved political and military problems”(handwritten). Several other people are recorded as speaking before Bockarie announced a senior officers’ meeting to arrange “full scale operations”.<sup>12240</sup> Bockarie then called a meeting for the senior officers wherein arrangements were made for a full scale operation.<sup>12241</sup>

5498. The authenticity of this document was challenged by the Defence. The Trial Chamber has already addressed this challenge.<sup>12242</sup>

#### Prosecution Exhibit P-067

5499. Exhibit P-067 is entitled “RUF People’s Arm [sic] – Situation Report to Foday Sankoh from the Black Guard Commander”. It is addressed to “The Leader” from “The Black Revolutionary Guards” regarding the subject “Situation Report”. It records a history of events since Sankoh’s departure in 1996 and in particular in reference to the Burkina Faso shipment, it states that in October<sup>12243</sup> Taylor “again called the “High Command (a reference to Bockarie<sup>12244</sup>) to report”,<sup>12245</sup> and “we therefore went along with him to Monrovia”. The

<sup>12238</sup> Exhibit P-063, “RUF Headquarters Forum with the External Delegates Led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, p. 5, ERN 15490.

<sup>12239</sup> Exhibit P-063, “RUF Headquarters Forum with the External Delegates Led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, p. 4, ERN 15489.

<sup>12240</sup> Exhibit P-063, “RUF Headquarters Forum with the External Delegates Led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, p. 5, ERN 15491.

<sup>12241</sup> Exhibit P-063, “RUF Headquarters Forum with the External Delegates Led by the RUF Defence Staff, 2<sup>nd</sup> December 1998”, p. 5, ERN 15490.

<sup>12242</sup> See *supra*, Evaluation of Evidence: Authenticity of Documents.

<sup>12243</sup> As the preceding paragraph of Exh.P-067 refers to incidents in September 1998 the Trial Chamber infers from this and other matters referred to that this incident occurred in October 1998.

<sup>12244</sup> Issa Sesay, Testimony 12 July 2010, p. 44300.

<sup>12245</sup> Exhibit P-067, “RUF People’s Army– Situation Report to Foday Sankoh from the Black Guard Commander”, ERN 9672. Exhibit P-067 states that Bockarie had also been called after “Freetown and provincial HQ fell in hands of ECOMOG” [sic] to report to the President of Liberia, ERN 9674.

Accused instructed the “High Command” to go to Burkina Faso to meet with President Blaise Compaoré and the “High Command” travelled there with the war council chairman and Col. Eddy Kanneh as a S.L.A. Representative, and remained there for two weeks. They met with President Compaoré who welcomed them and assured them that he would not let Foday Sankoh down and encouraged them to uphold the movement until Sankoh returned. Compaoré also instructed them to forward the “R.U.F. Issue” to the O.A.U. as he was its current Chairman. On their return they were given “huge quantity of materials for serious offensive to start a campaign for the release of our leader”.<sup>12246</sup>

5500. The delegation returned to Monrovia in November and then back to the base where a forum was immediately held “for a serious offensive to commence”. The fighters were happy and agreed to start an operation to capture Kono. A “huge quantity” of materiel was given to B.F.C Issa Sesay who immediately left for Kono.<sup>12247</sup> After they captured the entire Kono district they also captured some artillery weapons and a huge quantity of arms and ammunition. Colonel Rambo then took over the whole operation and continued to Tonkolili, Makeni, and Port Loko.<sup>12248</sup>

#### Prosecution Exhibit P-093

5501. Exhibit P-093 is entitled “Restricted RUF/SL Comprehensive Report to Major Sam Bockarie from Brigadier Issa Sesay on the Take Over of Koidu, January 26 1999”. The Prosecution tendered the exhibit through Isaac Mongor.<sup>12249</sup> It is purportedly a list of materials taken on 6 December 1998 by Issa Sesay to Kono and Sengwema.<sup>12250</sup> According to this list, prior to leaving “Defence Headquarters” for the attack on Koidu, Sesay and the second brigade were given, among other things, 30 boxes of AK rounds, 16 boxes of G3 rounds, 2.5 boxes of RPG rounds, 50 calibre rounds (25 belt feds), 20 boxes of GPMG rounds, one BMG round, food and cigarettes. The report also lists the materials that were captured in Koidu, Kimberlite, Sewafe and Masingbi after they were taken under their control between 17 December 1998 and 22 December 1998. The captured materials included 39

<sup>12246</sup> Exhibit P-067, “RUF People’s Army– Situation Report to Foday Sankoh from the Black Guard Commander”, ERN. 9672, 9679.

<sup>12247</sup> Exhibit P-067, “RUF People’s Army– Situation Report to Foday Sankoh from the Black Guard Commander”, ERN. 9679-9680.

<sup>12248</sup> Exhibit P-067, “RUF People’s Army– Situation Report to Foday Sankoh from the Black Guard Commander”, ERN. 9680.

<sup>12249</sup> Isaac Mongor, Transcript 11 March 2008, p. 5808.

<sup>12250</sup> Prosecution Final Trial Brief, para. 263, fn. 780.

mortar bombs, 1 RPG tube with two rockets, 73 boxes of American AA rounds, 16 boxes of mortar bombs, 31 commando mortar bombs with fuses, one sardine tin of GPMG rounds, one box of Chinese calibre rounds, one box of hand grenades, 3 armoured tanks, drugs and diesel.<sup>12251</sup>

5502. For the attack on Sengwema, the materials he was given included 2 boxes of AK Rounds, 1 box of G3 rounds, one half box of RPG bombs, and 2 boxes of GMPG rounds. They were brought to Sengwema and handed over to the commander in charge on 7 December 1998.<sup>12252</sup>

Prosecution Exhibit P-371

5503. Exhibit P-371 is entitled "Revolutionary United Front of Sierra Leone, 2<sup>nd</sup> Brigade, Headquarters, Kono District, Report of Materials Issued Out, From the 2<sup>nd</sup> Brigade G-4 Commander to the Second Brigade Commander, 12 December 1998". This report states that Colonel Morison [sic] Kallon was issued four boxes of AK rounds, two boxes of G-3 rounds, four boxes of GMG rounds, two RPG rockets and two TNTs; Major Ibrahim Dugbah was issued three boxes of AK rounds, one box of G-3 rounds, two GMG rounds, two RPG rockets and two TNTs; and Battalion commander Lieutenant Colonel KS Banya was issued 10 packets of AK rounds and 5 packets of G3 rounds.<sup>12253</sup> It is signed by the 2<sup>nd</sup> Brigade Commander, Boston Flomo and the G.4 Mohamed Christophia.

Prosecution Exhibit P-372

5504. Exhibit P-372 is entitled "Restricted Revolutionary United Front of Sierra Leone, Materials Issued to the 2<sup>nd</sup> Brigade Commander on the 13 December, 1998 As Seen Below" is dated 14 December 1998. This report states that materials issued to the 2<sup>nd</sup> brigade commander on December 13 1998 included: 13 boxes and 1 tin of AK rounds; 8.5 boxes of G-3 rounds; 8 RPG rockets and 8 TNTs, 7 boxes and tin [sic] GMG rounds. These materials, and foodstuffs and cigarettes were distributed to Lieutenant Colonel Akim, Colonel Boston Flomo, S/Capt Junior, an unnamed artillery commander and Major Victor. This list was

<sup>12251</sup> Exhibit P-093. "Restricted RUF/SL Comprehensive Report to Major Sam Bockarie from Brigadier Issa Sesay on the Take Over of Koidu, January 26 1999", pp. 1-4, ERN 25503-25506.

<sup>12252</sup> Exhibit P-093. "Restricted RUF/SL Comprehensive Report to Major Sam Bockarie from Brigadier Issa Sesay on the Take Over of Koidu, January 26 1999", p. 2, ERN 25504.



signed by 2<sup>nd</sup> Brigade G-4 Commander Major Christoph M. and approved by 2<sup>nd</sup> Brigade Commander Lieutenant Colonel Boston Flomo.<sup>12254</sup>

Prosecution Exhibit P-373

5505. Exhibit P-373 is entitled “Revolutionary United Front of Sierra Leone - RUF/SL 2<sup>nd</sup> INF Brigade Headquarters Makeni Bombali District The Office of the G-4 Unit, Report, From the 2<sup>nd</sup> Brigade G-4 Commander to the 2<sup>nd</sup> Brigade Adjutant”. It is a report dated 22 January 1999 from 2<sup>nd</sup> Brigade G-4 commander noting that materials transported to Koidu on 15 January 1999 arrived safely on 16 January 1999. The materials were listed as 94 boxes of American AA rounds, one box of 60 mm mortar bombs, two boxes of 120 mm mortar bombs, one box of 81mm mortar bombs, one 81mm mortar stand; four boxes of armoured tank bombs; one 1 barrel gun, and three boxes of 82mm mortar bombs. The one barrel gun was asked for by BFC Brigadier Issa.<sup>12255</sup>

5506. Documents P-371, P-372 and P-373 were seized from the RUF Kono office.<sup>12256</sup>

Defence Exhibit D-084

5507. Exhibit D-084 is entitled “RUF, Sierra Leone, Defence Headquarters, Salute Report, From Brigadier Issa H Sesay Battlefield Commander RUF/SL, To The Leader of the Revolution, 27 September 1999”. The Defence tendered the exhibit through its cross-examination of Witness TF1-168. In the report, Sesay informed Sankoh that “General Mosquito left on a trip to secure materials for the Movement and on his return I was issued a liberal quantity of ammunition and instructed to cross the Moa River and recapture the enemy”.<sup>12257</sup>

Deliberations

<sup>12253</sup> Exhibit P-371, “Revolutionary United Front of Sierra Leone, 2<sup>nd</sup> Brigade, Headquarters, Kono District, Report of Materials Issued Out, From the 2<sup>nd</sup> Brigade G-4 Commander to the Second Brigade Commander, 12 December 1998”, ERN 25706.

<sup>12254</sup> Exhibit P-372, “Restricted Revolutionary United Front of Sierra Leone, 2<sup>nd</sup> Brigade Commander on the 13 December, 1998 As Seen Below, 14 December 1998”, ERN 25700.

<sup>12255</sup> Exhibit P-373, “Revolutionary United Front of Sierra Leone - RUF/SL 2<sup>nd</sup> INF Brigade Headquarters Makeni Bombali District The Office of the G-4 Unit, Report, From the 2<sup>nd</sup> Brigade G-4 Commander, to the 2<sup>nd</sup> Brigade Adjutant”, ERN 26072.

<sup>12256</sup> *Prosecutor v Taylor*, SCSL-03-1-T-749, Decision on Prosecution Motion for Admission of Documents Seized from RUF Kono Office, Kono District, 27 February 2009.

5508. Having carefully examined the above evidence, the Trial Chamber makes the following observations. It is undisputed by the parties that in around November 1998, Bockarie left Sierra Leone for Burkina Faso with a delegation that included Eddie Kanneh, SYB Rogers and Lawrence Womandia. On their way to Burkina Faso, the RUF delegation stopped in Monrovia.<sup>12258</sup> It is also not disputed that the delegation was joined in Monrovia by Ibrahim Bah and Musa Cissé who accompanied them to Burkina Faso.<sup>12259</sup> The parties further agree, as supported by the evidence,<sup>12260</sup> that Bockarie and his delegation returned to Buedu, Sierra Leone, around the end of November/early December 1998 with a large quantity of arms and ammunition.<sup>12261</sup> This materiel was subsequently provided to Sesay for a major offensive in Kono District.<sup>12262</sup>

5509. In this context, the Prosecution argues that the Accused was instrumental in procuring and organising the shipment of arms and ammunitions from Burkina Faso used in the AFRC/RUF multi-axis operation culminating in the attack on Freetown in January 1999.<sup>12263</sup> The Prosecution alleges that it was originally planned that Bockarie would go to Libya to get the materiel but that, in Monrovia, Taylor changed the plan and sent Bockarie and his delegation to Burkina Faso, accompanied by Taylor's subordinate Musa Cissé. Bockarie, his delegation and Musa Cissé brought a large quantity of arms and ammunition back with them to Roberts International Airport in Monrovia.<sup>12264</sup>

5510. The Defence contends that the Accused played no role in this shipment and submits that while Bockarie's trip may have taken him through Liberia, Burkina Faso and Libya, and on that trip he obtained arms and/or ammunition, the primary and official purpose of the

<sup>12257</sup> Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL to the Leader of the Revolution, dated 27 September 1999", p. 7, ERN 7762.

<sup>12258</sup> Prosecution Final Trial Brief, para. 258 ("Around October/November 1998... Bockarie travelled with a delegation to Monrovia and then onward to Burkina Faso. Bockarie's delegation to Monrovia included his security personnel, Rashid, SYB Rogers, Eddie Kanneh, radio operator Dauda Aruna Fornie aka DAF and others"); Defence Final Trial Brief, paras 619 ("In late November 1998, Bockarie left Buedu and passed through Monrovia on his way to Burkina Faso. Bockarie travelled with Eddie Kanneh, Lawrence Womandia and SYB Rogers, among others"), 1073 (There has been an abundance of evidence that Bockarie and other key figures in the RUF travelled to Burkina Faso in about November 1998, and that following the trip, the RUF obtained significant quantity of arms and ammunition).

<sup>12259</sup> Prosecution Final Trial Brief, para. 259; Defence Final Trial Brief, para. 619.

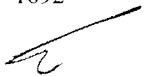
<sup>12260</sup> Exhibit P-63, "RUF Defence Headquarters, Forum with the External Delegates Led by the RUF Defence Staff, handwritten title 'Battlefield Commander RUF-SL', 2nd December, 1998", ERN 15487.

<sup>12261</sup> Prosecution Final Trial Brief, para. 9; Defence Final Trial Brief, paras 620-621.

<sup>12262</sup> See Context: AFRC/RUF Junta Period (1997-1998).

<sup>12263</sup> Prosecution Final Trial Brief, para. 257, see *also* paras 9, 258-264.

<sup>12264</sup> Prosecution Final Trial Brief para. 259.





mission was to discuss the peace process in Sierra Leone with President Blaise Compaoré, who was the chairman of the OAU at the time.<sup>12265</sup> The Defence further contends that the RUF delegation obtained supplies from multiple sources, including from Libya, Burkina Faso and individuals in Liberia operating independently of the Accused.<sup>12266</sup>

5511. The Trial Chamber recalls its findings that Witnesses TF1-371, Fornie, Mongor, Kanneh and Saidu are generally reliable<sup>12267</sup> whilst the testimonies of Marzah and Sesay must be considered with caution and require corroboration.<sup>12268</sup>

5512. The Defence argues that the Prosecution witnesses' accounts "do not complement each other". Specifically, the Defence contends that the evidence of Prosecution witnesses Mongor, Saidu, TF1-371 and Kanneh differs regarding how the RUF contacted the Accused in order to obtain weapons.<sup>12269</sup> The Trial Chamber disagrees. Mongor testified that in early November 1998, the commanders in Buedu met in Waterworks with Bockarie, Jungle, SYB Rogers, Rashid Sandy and others, and decided to send a letter to Taylor requesting ammunition via Daniel Tamba (a.k.a. Jungle).<sup>12270</sup> Saidu testified to a meeting in early November at which Bockarie said that he would have to go to Liberia himself to explain to the Accused the pressure faced on the ground by the RUF.<sup>12271</sup> Such a meeting is corroborated by Augustine Mallah who testified that Bockarie told a senior officers' meeting that he was "fed up" of staying in Kailahun District and would try to visit Taylor for advice and see whether they "could get [their] needs met".<sup>12272</sup> Neither TF1-371 nor Kanneh testified, nor were they questioned, as to how the Accused was initially contacted and their evidence is therefore not inconsistent with the other Prosecution witnesses. More fundamentally, the Trial Chamber notes that both TF1-371 and Kanneh testified to the Accused's involvement in the facilitation of the ammunition from Burkina Faso.<sup>12273</sup> The Defence seeks to distinguish Saidu's testimony from Mongor's on the basis that Saidu testified that it was Bockarie who

<sup>12265</sup> Defence Final Trial Brief, para. 1073.

<sup>12266</sup> Defence Final Trial Brief, paras 1073-1076.

<sup>12267</sup> Credibility Assessment, TF1-371, paras 220-226; Credibility Assessment, Dauda Aruna Fornie, paras 346-358; Credibility Assessment, Isaac Mongor, paras 269-274; Credibility Assessment, Albert Saidu, Pre-Indictment period (1988-1996), para. 2384; Credibility Assessment, Karmoh Kanneh, The Role of Intermediaries, para. 2704.

<sup>12268</sup> Credibility Assessment, Issa Sesay, paras 359-372; Credibility Assessment, Joseph Marzah, paras 263-268.

<sup>12269</sup> Defence Final Trial Brief para. 1074.

<sup>12270</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5779-5783.

<sup>12271</sup> Albert Saidu, Transcript 5 June 2008, pp. 11064, 11066-11068.

<sup>12272</sup> Augustine Mallah, Transcript 13 November 2008, p. 20217.

<sup>12273</sup> TF1-371, Transcript 28 January 2008, pp. 2405-2417 (CS); Karmoh Kanneh, Transcript 8 May 2008, pp. 9394, 9396-9398; Transcript 9 May 2008, pp. 9416-9418.

met the Accused to inform him that the RUF required ammunition rather than, as Mongor testified, Tamba who delivered a letter from the RUF that had been drafted at a meeting in Buedu.<sup>12274</sup> Whilst neither Mallah nor Saidu testified to the letter described by Mongor, their evidence is not inconsistent with his since Mongor also testified that the Accused called Bockarie to Monrovia three days later.<sup>12275</sup> Moreover, there is a wealth of evidence that Bockarie left Buedu with the specific intention of collecting ammunition.<sup>12276</sup>

5513. The Defence further submits that TF1-371's account that the weapons and ammunitions were stored in White Flower before being transported to Sierra Leone is not supported by any other witness.<sup>12277</sup> The Trial Chamber notes that Varmuyan Sherif, who was in Liberia and, according to his testimony, an eyewitness to these events also stated that the ammunition was taken to the Accused at White Flower where it was distributed by the Accused himself.<sup>12278</sup> Joseph Marzah also testified that the shipment was brought to White Flower.<sup>12279</sup>

5514. The Trial Chamber notes that a significant part of the Prosecution's evidence regarding the events in Liberia and Burkina Faso is hearsay. In particular, Witness TF1-371, Mongor, Saidu, and Kanneh did not participate in the RUF mission to Liberia and Burkina Faso. Their account is based on what they observed while in Sierra Leone before the departure and after the return of the RUF delegation, including Bockarie's statement during

<sup>12274</sup> Defence Final Trial Brief, para. 1074.

<sup>12275</sup> Isaac Mongor, 11 March 2008, p. 5782.

<sup>12276</sup> TF1-371, Transcript 28 January 2008, pp. 2402-2403 (the witness testified that Bockarie told him prior to leaving that the purpose of his trip was to meet with the Accused and Musa Cissé in Monrovia and that afterwards Ibrahim Bah was to escort Bockarie to Burkina Faso to get a shipment of ammunition for a major attack); Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21542-21544 (the witness testified that prior to their departure from Buedu, Bockarie told the witness that he had held discussions with Yeaten in which it was intended that Bockarie would travel to Libya to secure ammunition); Albert Saidu, Transcript 5 June 2008, pp. 11071-11072, 11075 (Before he left, he showed the witness "a white paper" which contained diamonds that he said he was taking to the Accused to secure materials for the RUF to launch a major offensive to recapture Kono); Karmoh Kanneh, Transcript 9 May 2008, p. 9416 (Bockarie told the witness before he left that he was going to travel to Burkina Faso); Exhibit P-063, "RUF Headquarters Forum with the External Delegates Led by the RUF Defence Staff, 2<sup>nd</sup> December 1998", p. 4, ERN 15489 (Bockarie and the delegation had travelled with Lawrence Womandia because he could speak French and it was the delegates' intention to visit "France-countries and even Libya" and Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL to the Leader of the Revolution, dated 27 September 1999", p. 7, ERN 7762 (Sesay reported to Sankoh that "General Mosquito left on a trip to secure materials for the Movement...)).

<sup>12277</sup> Defence Final Trial Brief para. 1074 citing Witness TF1-371, Transcript 31 January 2008 pp. 2726-2728, 2750.

<sup>12278</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 869.

<sup>12279</sup> Joseph Marzah, Transcript 12 March 2008, pp. 5888-5890.

the debriefing in Buedu in early December 1998. In these circumstances, the fact that their accounts do not coincide exactly on every particular point of the mission in Liberia and Burkina Faso does not affect their credibility. Nonetheless, the fact that most of the evidence of the witnesses is second hand has been fully considered when assessing the weight of their evidence.

5515. In the Trial Chamber's view however, Prosecution witnesses' testimonies, including those who were allegedly present in Liberia when the shipment was received, effectively complement each other on each critical element of the allegation. Parts of these testimonies are also corroborated by reliable contemporary documentary evidence. The Prosecution witnesses agreed that the RUF senior officers initiated a request to the Accused to obtain arms and ammunition.<sup>12280</sup> The evidence also shows that while in Liberia, Bockarie met the Accused, which is acknowledged by the Accused.<sup>12281</sup> The Accused asked Musa Cissé to accompany Bockarie and his delegation to Burkina Faso.<sup>12282</sup> While the Accused testified that Musa Cissé went in the role of translator, the evidence indicates that Lawrence Womandia, a member of the delegation, spoke French and was brought on the mission by Bockarie for precisely this reason. Issa Sesay testified that Eddie Kanneh spoke very good French.<sup>12283</sup> For

<sup>12280</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5776-5781 (The RUF Senior officers decided to write a letter to the Accused requesting ammunition); TF1-567, Transcript 2 July 2008, pp. 12912-12913, 12915 (Bockarie asked the assistance of the Accused to recapture Koidu Town); TF1-371, Transcript 28 January 2008, p. 2403 (Bockarie told Witness TF1-371 that the purpose of the trip was to meet the Accused and Musa Cissé in Monrovia to get a shipment of ammunition for a major attack); Augustine Mallah, Transcript 13 November 2008, pp. 20217-20218 (RUF senior officers in Buedu, decided to go to see the Accused for advice and to see whether they could get their needs met).

<sup>12281</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21545 (Bockarie told Fornie that he had briefly met with the Accused); Albert Saidu, Transcript 5 June 2008, pp. 11083, 11085 (At the meeting in Buedu, Bockarie said that he, Eddie Kanneh, and others had met the Accused in Liberia); Charles Ghankay Taylor, 17 September 2009, pp. 29250, 29261 (Bockarie met the Accused before returning to Sierra Leone).

<sup>12282</sup> TF1-371, Transcript 28 January 2008, p. 2403; TF1-371, Transcript 30 January 2008, p. 2643; Transcript 31 January 2008, pp. 2702, 2750, 2762 (The delegation met with Musa Cissé who had organised a flight for it to travel together with himself and Ibrahim Bah to Ouagadougou); Joseph Marzah, Transcript 12 March 2008, p. 5884 (Musa Cissé went with the RUF delegation to Burkina Faso in order to get weapons); Charles Ghankay Taylor, Transcript, 17 September 2009, pp. 29219, 29248-29249, 29254, 29261, (Taylor permitted his protocol officer, Musa Cissé, to travel with Bockarie in Burkina Faso but only because he was on a mission of peace); Charles Ghankay Taylor, Transcript, 17 September 2009, pp. 29249-29250; 29259-29260 (Taylor asked Cisse for a briefing when he returned to find out why the trip took so long. Cisse informed the Accused that Bockarie had left them to travel to Libya and back before they returned to Monrovia).

<sup>12283</sup> See Issa Sesay, Transcript 9 July 2010 p. 44122 (Issa Sesay testified that Eddie Kanneh spoke very good French); See also Exhibit P-063, "RUF Headquarters Forum with the External Delegates Led by the RUF Defence Staff, 2<sup>nd</sup> December 1998", ERN 15490 (Bockarie explained that he brought Major Lawrence Womandia because he can speak French).

this reason, the Trial Chamber does not find the testimony of the Accused credible with regard to Musa Cissé's role in the delegation to Burkina Faso.

5516. Prosecution witnesses, including Fornie, Marzah, and Sherif, testified that after being arranged in Burkina Faso, the shipment was brought back by plane from Ougadougou to Roberts International Airport in Liberia.<sup>12284</sup> From there, the shipment was transported and stocked for a short time at White Flower.<sup>12285</sup> The next day, the materiel was transported by trucks provided by the Accused to Buedu, Sierra Leone. In Buedu, after a meeting with RUF and AFRC commanders, the shipment was distributed to the commanders.<sup>12286</sup> TF1-371, Mongor, Marzah, Saidu and Perry Kamara all testified that the Accused received diamonds in exchange for his help in obtaining these materials.<sup>12287</sup> The Trial Chamber accepts the

<sup>12284</sup> TF1-371, Transcript 31 January 2008, pp. 2758-2764 (The shipment came from Burkina Faso through Liberia. The Defence suggests that it came directly from Burkina Faso, but the Witness disagreed); Dauda Aruna Fornie, Transcript 3 December 2008, p. 21551-21552 (Bockarie told Fornie that the trucks had been loaded at Roberts International Airport); Joseph Marzah, Transcript 12 March 2008, pp. 5884-5887 (The shipment arrived in Roberts International Airport in Monrovia); Varmuyan Sherif, Transcript 9 January 2008, p. 870 (Sherif saw Bockarie at Roberts International Airport in Monrovia, with Issa Cissé and Tuah; They were discussing the quantity of arms and ammunition which was arriving);

<sup>12285</sup> TF1-371, Transcript 28 January 2008, pp. 2702-2703; Transcript 31 January 2008, pp. 2750, 2762 (The shipment was deposited at White Flower where it was split between the NPFL and RUF); Joseph Marzah, Transcript 12 March 2008, pp. 5888-5890 (Marzah and Bockarie brought the shipment to Taylor's residence at White Flower in Monrovia); Varmuyan Sherif, Transcript 9 January 2008, p. 869 (Sherif testified that the ammunition was taken to the Accused at White Flower where it was distributed by the Accused).

<sup>12286</sup> TF1-371, Transcript 31 January 2008, pp. 2750-2751 (The arms were deposited at White Flower, Sam Bockarie was given his consignment and was escorted by the Accused's Special Security Service to Buedu). TF1-371, Transcript 28 January 2008, p. 2405; Transcript 31 January 2008, pp. 2750 (Charles Taylor's securities namely Marzah, Tamba, Sampson and Varmoh escorted the convoy to Buedu in Sierra Leone); TF1-371, Transcript 28 January 2008, pp. 2404-2405; Transcript 31 January 2008 p. 2702 (Bockarie told Witness TF1-371 that the Accused had given the trucks which carried the shipment); Joseph Marzah, Transcript 12 March 2008, pp. 5885-90 (The convoy carrying the shipment passed through Bong County, Lofa, through to Voijama, Kolahun, Foya and entered Buedu. Marzah was at the front of the convoy in a jeep with no ammo as an escort. "...when they see me, they will know straightaway that I was the one traveling with those trucks and there would be no embarrassment through Charles Taylor's directive").

<sup>12287</sup> TF1-371, Transcript 28 January 2008, p. 2728-2731 (Bockarie paid the Accused for the shipment with parcels of diamonds that Bockarie brought to the Accused over the course of multiple trips to Monrovia); Isaac Mongor, Transcript 11 March pp. 5789-5795 (Bockarie told Mongor that he had given diamonds to the Accused in exchange for ammunition and rockets, medicines and food which he brought back from Liberia); Joseph Marzah, Transcript 14 March 2008, p. 6100 (Bockarie gave a passport sized diamond to Taylor in exchange of ammunitions); Albert Saidu, Transcript 5 June 2008, pp. 11071-11072, 11075 (Bockarie showed Saidu a white paper which contained diamonds that he said he was taking to the Accused to secure materials for the RUF to launch a major offensive to recapture Kono); Albert Saidu, Transcript 5 June 2008, pp. 11071-11072, 11075 (Saidu testified that during a meeting he had with Bockarie prior to his trip, Bockarie showed him a "white paper" which contained diamonds that he said he was taking to the Accused to secure materials); Perry Kamara, Transcript 5 February 2008, pp. 3159-3167 (Bockarie summoned his commanders to a meeting in Buedu where he showed them a large quantity of arms and ammunition that the Accused had provided in return for diamonds); See *also* Exhibit P-063, "RUF Headquarters Forum with the External Delegates Led by the RUF Defence Staff, 2nd December 1998", ERN 15490. (Bockarie went with a two and half carats diamond and some other items

evidence of these witnesses. Their evidence regarding this particular event is consistent with their previous statements, they corroborate each other and are corroborated by documentary evidence, and they were not effectively challenged in cross-examination. The Defence argues that the Accused did not move into White Flower until January 1999 and that it would not make sense for Bockarie to have deposited arms there only to immediately remove and transport them to Sierra Leone.<sup>12288</sup> The Trial Chamber notes that the building was owned by the Accused and under construction,<sup>12289</sup> which would not preclude its use as a storage area for materiel. Moreover, the evidence indicates that it was not all removed and transported as the Accused retained some of the materiel that arrived.<sup>12290</sup>

5517. The Accused himself acknowledged that he met Bockarie in Monrovia before he went to Burkina Faso and that he met him again on his way back to Sierra Leone.<sup>12291</sup> He further acknowledged that he sent Musa Cissé with the RUF delegation and testified that, after the mission in Burkina Faso, Musa Cissé briefed him and that he also spoke to Bockarie who thanked him, Taylor, for his help.<sup>12292</sup> As noted, the Trial Chamber does not find the Accused's testimony that Cissé went with the delegation to provide French translation credible. Similarly, in the Trial Chamber's view, Taylor's statement that he was not aware of what transpired between Bockarie and Compaoré during Bockarie's trip<sup>12293</sup> is not credible. The presence of Cissé during the mission would have placed Taylor via debriefings, in a position to know the content of the discussions between Bockarie and Compaoré.

5518. The Defence contends that the RUF had other sources of supply for the materiel at issue but does not specify a particular alternative for this shipment and even acknowledges that Bockarie may have arranged an arms deal in Burkina Faso when he was there.<sup>12294</sup> Issa Sesay testified that the RUF delegation travelled to Libya from Burkina Faso, where they received USD \$50,000 from Colonel Gaddafi that Bockarie used for the purchase of arms and ammunition in Liberia.<sup>12295</sup> The Prosecution alleges, and Fornie testified, that Libya was the

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which he gave as a present to a senior security - Benjamin - in order to facilitate easy access to all chances for the undelayed success of the mission).

<sup>12288</sup> Defence Final Trial Brief, para. 1084.

<sup>12289</sup> Charles Ghankay Taylor, Transcript 5 August 2009, p. 26045.

<sup>12290</sup> See TF1-371, Transcript 28 January 2008, p. 2702; Varmuyan Sherif, Transcript 9 January 2008, pp. 868-869.

<sup>12291</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29250, 29261.

<sup>12292</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29248-29250, 29259-29261

<sup>12293</sup> Charles Ghankay Taylor, Transcript 6 August 2009 p. 26129; Transcript 10 August 2009 pp. 26391-26392.

<sup>12294</sup> Defence Final Trial Brief, paras 619, 1073, 1075.

<sup>12295</sup> Defence Final Trial Brief, paras 619, 1073, 1075.

original intended destination of Bockarie, but that plans were changed by the Accused when they arrived in Monrovia. TF1-371 testified that Burkina Faso was the intended destination. However, he was not a member of the delegation. The only witness who travelled with the delegation, to Monrovia, is Fornie. Although Fornie did not travel with the delegation to Burkina Faso, he was in regular contact with Bockarie while he was there, which was acknowledged by the Accused as having been “possible”.<sup>12296</sup> The Trial Chamber considers that, as a radio operator, Fornie would have known if Bockarie and the delegation travelled to Libya.

5519. Sesay and the Accused are the only witnesses who testified that the delegation went to Libya. Taylor heard from Cissé that Bockarie had travelled from Burkina Faso to Libya.<sup>12297</sup> Sesay testified that in Libya, Gaddafi gave Bockarie USD \$50,000, from which he purchased medicines in Monrovia and ammunition from the AFL battalion commander in Voinjama and from Yeaten in Kolahun.<sup>12298</sup>

5520. The Trial Chamber recalls that based on its concerns regarding the general credibility of Issa Sesay, his evidence must be viewed with caution. Regarding his testimony in this particular context, the Trial Chamber notes that Sesay testified in his own trial, on 22 June 2007, that Bockarie brought a large shipment of ammunition from Burkina Faso to Sierra Leone passing through Liberia. Confronted in cross-examination with this contradiction, Sesay explained that he did not recall the truth at that time.<sup>12299</sup> Sesay’s initial testimony, four years closer to the events in question, corroborates the evidence of the Prosecution witnesses including TF1-371, TF1-388, Fornie and Kanneh, who testified that the materiel was purchased in Burkina Faso.<sup>12300</sup> Moreover, contemporary documentary evidence also indicates that the arms and ammunition came from Burkina Faso, without mention of Libya.<sup>12301</sup>

<sup>12296</sup> Charles Ghankay Taylor, Transcript 17 September 2009, p. 29261

<sup>12297</sup> Charles Ghankay Taylor, Transcript 17 September 2009, pp. 29249-29250; Transcript 25 November 2009, p. 32493.

<sup>12298</sup> Issa Sesay, Transcript 9 July 2010, pp. 44125-44128.

<sup>12299</sup> Issa Sesay, Transcript 12 August 2010, pp. 46154-46163.

<sup>12300</sup> TF1-371, Transcript 31 January 2008, pp. 2759-2761 (TF1-371 testified that the materials with which the delegation returned to Buedu were given to them by President Compaoré, who also gave them USD \$17,000); Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21542-21543; Transcript 10 December 2008, pp. 22078-22079 (Taylor sent Bockarie, Kanneh and SYB Rogers to Ougadougou, Burkina Faso, to collect the ammunition there instead of Libya); Karmoh Kanneh, Transcript 13 May 2008, pp. 9639-9640 (Bockarie told him that the arms had come from Burkina Faso and through Liberia to Sierra Leone); TF1-338, Transcript 3 September 2008 p. 15295 (“Ibrahim Bah helped Bockarie to pass through Charles Taylor to obtain materials from Blaise Compaoré and to bring them back”); See also Exhibit P-063, “RUF



5521. The Trial Chamber notes that the Defence has challenged the authenticity of Exhibit P-063. The Trial Chamber has considered the authenticity of this document and rejected the challenges raised.<sup>12302</sup>

5522. Under these circumstances, and in light of the overwhelming evidence of Prosecution witnesses and documentary exhibits that arms were shipped from Burkina Faso to Monrovia and particularly noting his initial testimony corroborating this evidence, the Trial Chamber does not find Sesay's testimony that the arms were procured elsewhere to be credible.

5523. The Trial Chamber notes that the evidence of the Accused is second-hand and self-serving. He testified that Cissé told him the delegation travelled to Libya, when he asked why the trip to Burkina Faso was so long. He claimed to have little information on what transpired in Burkina Faso and did not say anything about what might have transpired in Libya. The Trial Chamber notes that the testimony of the Accused, and the contention of the Defence, that the purpose of the visit was to discuss the peace process in Sierra Leone with then OAU Chairman President Compaoré<sup>12303</sup> does not preclude the possibility that, while in Burkina Faso, the RUF arranged the shipment of arms and ammunition that they brought back to Sierra Leone through Liberia with the help of the Accused. With regard to Taylor's emphatic assertion that he had no materiel to give to Bockarie, the Trial Chamber notes that the allegation is not that he gave materiel that he had to Bockarie, but rather that he arranged for

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Defence Headquarters, Forum with the External Delegates Led by the RUF Defence Staff, handwritten title 'Battlefield Commander RUF-SL', 2nd December, 1998", pp. 1-4, ERN 15487-15490.

<sup>12301</sup> Exhibit P-063, "RUF Defence Headquarters, Forum with the External Delegates Led by the RUF Defence Staff, handwritten title 'Battlefield Commander RUF-SL', 2nd December, 1998", p. 4, ERN 15490. (Description of the mission as a success; See also Bockarie's warning to the fighters not to "mismanage the small logistics [which the delegation] had laid down their lives for in the interests of the struggle"); Exhibit P-067, "RUF People's Army- Situation Report to Foday Sankoh from the Black Revolutionary Guards", ERN 9672, 9678 ("The High Command, the War Council Chairman and one SLA representative Col. Eddy Kanneh took the trip to Burkina Faso. They met president Blaise Campoare [sic], and they were highly welcome. They took two weeks in Burkina Faso. They were given words [sic] of confidence and assurance by president Blaise that he will not let Cpl Foday Sankoh down at all. The president told the High Command to be very hard in [illegible]to uphold the movement until the arrival of the Leader. In fact he instructed the High Command to forward the RUF issue to the OAU as he is the current OAU Chairman. On their return they were given huge quantity of materials for serious offensive to start a campaign for the release of our leader. The delegation return [sic] back to Monrovia in November. The delegation return back [illegible] and held an immediate forum for a serious offensive to commence [sic]. All the combatants were happy and agree to start the operation in capturing Kono"). See also Exhibit P-063, "RUF Defence Headquarters, Forum with the External Delegates Led by the RUF Defence Staff, handwritten title 'Battlefield Commander RUF-SL', 2nd December, 1998", p. 4, ERN 15490 (Mike Lamin's stated that "we must not talk on how the material was channelled to our base for security reason [sic]").

<sup>12302</sup> See *supra*, Evaluation of Evidence: Authenticity of Documents.

<sup>12303</sup> Defence Final Trial Brief, para. 1073.

Bockarie to secure arms and ammunition elsewhere, in Burkina Faso, and that Taylor kept some of this materiel for his own use, which is consistent with his testimony that he needed the materiel. For these reasons, the Trial Chamber finds that the testimony of the Accused does not raise reasonable doubt regarding the origin of the shipment, or the evidence that he played a role in organizing it.

5524. The Defence argues that the evidence of Fayia Musa, that in April 1996 he travelled with Sankoh and others to meet regional leaders to raise funds and seek political support for the RUF, supports the proposition that “Liberia was simply a transit point for arms and ammunition supplies originating elsewhere”, that the RUF’s contact in Burkina Faso was General Diendere, and that the Accused had been negotiating with him for arms and ammunition during the time of the Abijan Peace Process.<sup>12304</sup> The Trial Chamber rejects this argument. The fact that Sankoh met with Diendere in Burkina Faso several years beforehand and on that occasion was given funds by Compaoré in no way precludes the possibility that the Accused made arrangements for this particular arms transaction. Similarly, the Trial Chamber does not find the Defence citation of Koker’s testimony that on one occasion, unrelated to this shipment, he determined that arms were from Liberia because those who brought them spoke Liberian English and were wearing Liberian uniforms at a time when Taylor was President as probative of the argument that “witnesses are keen to conflate the fact that any materials coming across the border from Liberia were necessarily provided by and with the knowledge of Taylor”.<sup>12305</sup>

5525. There is substantial credible evidence that the Accused was paid for the shipment with diamonds, that he sent Musa Cissé with the delegation, that he directed the distribution of the shipment, and that he kept some of it for his own purposes, In the light of the foregoing the Chamber finds that the shipment of arms and ammunitions brought to Sierra Leone in December 1998 came from Burkina Faso through Liberia, and that the Accused played a significant role in this transaction.

5526. Turning to the content of the shipment, the Trial Chamber notes that the testimonies vary regarding the exact content and volume of the shipment.<sup>12306</sup> Nonetheless the evidence

<sup>12304</sup> Defence Final Trial Brief, paras 1085-1086.

<sup>12305</sup> Defence Final Trial Brief, para. 1080.

<sup>12306</sup> TF1-371, Transcript 28 January 2008, pp. 2404-2405 (CS); Transcript 31 January 2008, p. 2761. (The shipment contained “plenty of boxes of AK-47 rounds and boxes of hand grenades, RPG bombs and

unequivocally demonstrates that the shipment contained a large quantity of arms and ammunitions which was unprecedented in its volume.<sup>12307</sup>

machine guns, general machine guns, 50 caliber machine guns ammunitions). But see TF1-371, Transcript 31 January 2008, pp. 2758-2761 (the shipment comprised only 44 boxes of ammunition); TF1-567, Transcript 2 July 2008, pp. 12912-12913, 12915 (Bockarie returned to Buedu in December 1998 with RPG bombs, AK rounds, GPMG rounds, guns, camouflage, and other things); Karmoh Kanneh, Transcript 9 May 2008, pp. 9416-9418, 9438 (Bockarie brought back materials including AK-47s, AK-47 rounds, G3s, hand grenades, mines, RPG rockets and tubes, G3 rounds, bombs, hand grenades, mines, combat fatigues, boots and other items, all of which were stored in an "ammo dump" close to his house on Buedu Road); Abu Keita, Transcript 23 January 2008, pp. 1993-1996 (Bockarie brought with him 300 boxes of ammunition from Monrovia); Jabaty Jaward, Transcript 10 July 2008, pp. 13424-13426 (Jaward testified that in December 1998 a large consignment of AK ammunition, G3 rounds, RPG round rockets, GPMG rounds, bazooka rockets, mortar bombs, drums of petrol, diesel, engine, oil, bags of rice, salt, Maggi, and batteries were brought to Buedu); Issa Sesay, Transcript 10 July 2010, pp. 44127-44129 (Bockarie purchased up to 40 boxes of AK rounds, up to 15 boxes of G3 rounds, and about 10 boxes of HMG rounds); See also Exhibit P-093, "Restricted RUF/SL Comprehensive Report to Major Sam Bockarie from Brigadier Issa Sesay on the Take Over of Koidu, January 26 1999" (list of materials taken on 6 December 1998 by Issa Sesay to Kono and Sengwema: 30 boxes of AK rounds, 16 boxes of G3 rounds, 2.5 boxes of RPG rounds, 50 calibre rounds (25 belt feds), 20 boxes of GPMG rounds, and one BMG round); Exhibit P-371, "Revolutionary United Front of Sierra Leone, 2nd Brigade, Headquarters, Kono District, Report of Materials Issued Out, From the 2nd Brigade G-4 Commander to the Second Brigade Commander, 12 December 1998" (This report states that Colonel Morison [sic] Kallon was issued four boxes of AK rounds, two boxes of G-3 rounds, four boxes of GMG rounds, two RPG rockets and two TNTs; Major Ibrahim Dugbah was issued three boxes of AK rounds, one box of G-3 rounds, two GMG rounds, two RPG rockets and two TNTs; and Battalion commander Lieutenant Colonel KS Banya was issued 10 packets of AK rounds and 5 packets of G3 rounds); Exhibit P-372, "Restricted Revolutionary United Front of Sierra Leone, Materials Issued to the 2nd Brigade Commander on the 13 December, 1998 As Seen Below, 14 December 1998" (This report states that materials issued to the 2nd brigade commander on December 13 1998 included: 13 boxes and 1 tin of AK rounds; 8.5 boxes of G-3 rounds; 8 RPG rockets and 8 TNTs, 7 boxes and tin [sic] GMG rounds. These materials were distributed to Lieutenant Colonel Akim, Colonel Boston Flomo, S/Capt Junior, an unnamed artillery commander and Major Victor. This list was signed by 2nd Brigade G-4 Commander Major Christoph M. and approved by 2nd Brigade Commander Lieutenant Colonel Boston Flomo); Exhibit P-373, "Revolutionary United Front of Sierra Leone - RUF/SL 2nd INF Brigade Headquarters Makeni Bombali District The Office of the G-4 Unit, Report, From the 2nd Brigade G-4 Commander, to the 2nd Brigade Adjutant". (report dated 22 January 1999 from 2nd Brigade G-4 commander noting that materials transported to Koidu on 15 January 1999 arrived safely on 16 January 1999: 94 boxes of American AA rounds, one box of 60 mm mortar bombs, two boxes of 120 mm mortar bombs, one box of 81 mm mortar bombs, one 81 mm mortar stand; four boxes of armoured tank bombs; one 1 barrel gun, and three boxes of 82 mm mortar bombs. The one barrel gun was asked for by BFC Brigadier Issa).

<sup>12307</sup> Isaac Mongor, Transcript 11 March pp. 5789-5795 (Mongor described the ammunition as being packed from the floor up to the ceiling in stacks that were about 2.5 to 3 meters high. Mongor estimated that there were more than 100 boxes of different kinds of ammunition and included AK, RPG, and GMG rounds. Prior to this, Mongor had not seen "any ammunition that could be up to that quantity"); Albert Saidu, Transcript 6 June 2008, pp. 11205-11207 (Bockarie returned with "a lot of materiel"); TF1-567, Transcript 2 July 2008, pp. 12912-12913, 12915 (Bockarie returned to Buedu in December 1998 with "lots of ammunition"); Perry Kamara, Transcript 5 February 2008, pp. 3159-3167 (Bockarie summoned his commanders to a meeting in Buedu where he showed them a large quantity of arms and ammunition that the Accused had provided in return for diamonds); Mohamed Kabbah, Transcript 17 September 2008, pp. 16431-16432. (Kabbah testified that in late 1998, prior to the attack on Kono, he saw the biggest consignment of ammunition, food and used clothing which the RUF had ever received. Kabbah added that the RUF never had any hundred boxes of ammunition at a stretch and that they never received such a large consignment again); TF1-367, Transcript 20 August 2008, pp. 14162, 14181-14182 (There was so much ammunition that they carried it to there on their heads); See also Exhibit P-067, "RUF People's Army- Situation Report to Foday Sankoh from the Black Guard Commander", ERN 9672, 9678.

5527. The Trial Chamber will assess the use of the Burkina Faso shipment in the section of the Judgement below dealing with the use of materiel supplied or facilitated by the Accused.<sup>12308</sup>

### Findings

5528. The Trial Chamber finds that the Prosecution has proved beyond a reasonable doubt that around November/December 1998, the Accused was instrumental in procuring a large quantity of arms and ammunition for the RUF from Burkina Faso. These arms and ammunitions were distributed to RUF and AFRC commanders in Buedu.

#### 4. Use of Materiel Supplied or Facilitated by the Accused

##### General Submissions by the Parties

5529. The Trial Chamber has found beyond reasonable doubt that the Accused was involved in supplying or facilitating the supply of materiel to the RUF and AFRC during the period when the AFRC/RUF Junta was in power to the end of Issa Sesay's reign as leader of the RUF.

5530. The Prosecution alleges that the Accused provided the materiel critical to a successful initial invasion and the subsequent expansion into Sierra Leone. Throughout the remainder of the conflict, the Accused provided the RUF and AFRC/RUF with a wide variety of arms and ammunition, aka materiel. After access to the border was severely restricted, this assistance was most directly provided during the period from 1997 through 2001. The Prosecution submits that the materiel provided by the Accused contributed significantly to the crimes committed in Sierra Leone by the RUF, AFRC/RUF and/or the Accused's Liberian fighters, enabling these forces to carry out their campaign of terror as charged in Counts 1-11 of the Indictment. The Prosecution contends that such materiel "ensured the very survival of the rebels as a viable armed group at several crucial times". It cites evidence linking this materiel to use in specific RUF/AFRC operations.<sup>12309</sup>

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(On their return the RUF delegation was given "huge quantity of materials for serious offensive" to start a campaign for the release of their leader).

<sup>12308</sup> See Arms and Ammunition: Use of Materiel Supplied or Facilitated by the Accused.

<sup>12309</sup> Prosecution Final Trial Brief, para. 206.

5531. The Defence contests that the materiel allegedly supplied by the Accused was as significant as the Prosecution claims. The Defence submits that the evidence in this case demonstrates that the RUF obtained its arms and ammunition from a variety of sources including: capturing weapons from ECOMOG; obtaining weapons from government stores when it acted as the Junta government; trading for arms and ammunition with Guinea and former ULIMO combatants; from Burkina Faso; and from Liberia. The Defence submits that the RUF's main source of arms and ammunition was from capturing weapons from ECOMOG; that the RUF obtained fewer arms and ammunition from Liberia than from other sources; that the arms and ammunition the RUF obtained from Liberia was not through official channels and was never enough to enable it to launch major operations. Ultimately, the Defence submits that the Accused was not involved or informed and cannot be criminally responsible for having given practical assistance in the form of arms and ammunition to rebel groups which carried out crimes in Sierra Leone.<sup>12310</sup>

(i) The AFRC coup in May 1997 to the retreat from Freetown in February 1998

5532. The Trial Chamber recalls its finding that the Accused sent Ibrahim Bah on his behalf to assist in arranging a shipment of materiel delivered to Magburaka in October 1997 and its finding that during the Junta period Daniel Tamba brought ammunition supplied by the Accused, comprised of AK, GMG and RPG rounds, to the RUF in Sierra Leone.<sup>12311</sup>

5533. According to the Prosecution, the Junta was "desperate for arms" due to the embargo imposed on Sierra Leone by UN Security Council Resolution 1132, and the arms and ammunition supplied by the Accused during the Junta period allowed the Junta government to hold on to key areas in Sierra Leone for several additional months.<sup>12312</sup> According to the Prosecution, the materiel brought in the Magburaka shipment was used to reinforce RUF/AFRC forces in the fight against ECOMOG<sup>12313</sup> and was "central to prolonging the life of the Junta".<sup>12314</sup> The Prosecution submits that the shipment sent via Daniel Tamba (aka "Jungle") was sent to Denis Mingo (aka "Superman") in Freetown to be used to counter an

<sup>12310</sup> Defence Final Trial Brief, paras 1033-1034, 1131.

<sup>12311</sup> See Arms and Ammunition: Allegations of Direct Supply by the Accused, During the Junta Period.

<sup>12312</sup> Prosecution Final Trial Brief, para. 223.

<sup>12313</sup> TF1-334, Transcript 28 April 2008, pp. 8686-8693; TF1-597, Transcript 21 May 2008, pp. 10479-10480.

<sup>12314</sup> Prosecution Final Trial Brief, para. 234.

anticipated ECOMOG attack against Freetown.<sup>12315</sup> The Prosecution adduced evidence from witnesses Isaac Mongor, TF1-338, TF1-371, Samuel Kargbo, Alimamy Bobson Sesay, Mustapha M. Mansaray, TF1-539 and Exhibit P-066.

5534. The Defence acknowledges that there is evidence that materiel obtained from the Magburaka Shipment was used in fighting ECOMOG in Freetown in February 1998, but contends that it is not clear how much was left over or used in subsequent operations or the commission of crimes, and that evidence showing the RUF and AFRC were struggling to obtain ammunition supplies throughout 1998 suggests that the ammunition from Magburaka did not last.<sup>12316</sup> The Defence also submits that there is no evidence as to what use the materiel delivered by Tamba in 1997 was put to, or how long it lasted.<sup>12317</sup> The Defence adduced evidence from witness Issa Sesay and Exhibits D-004, D-009, D-084.

### Evidence

#### Prosecution Witness Isaac Mongor

5535. Isaac Mongor, a senior RUF member, testified that one of the AA guns from the Magburaka shipment was mounted by the AFRC at JPK's house to use against ECOMOG Alpha Jets. The other was given to the RUF and taken to Kenema and left in the care of Sam Bockarie. The GMG rounds were used during the fighting in Freetown during the Intervention.<sup>12318</sup>

#### Prosecution Witness TF1-338

5536. TF1-338 testified that the materiel from the Magburaka shipment was distributed to AFRC/RUF forces in Freetown, Makeni and Magburaka and later used to repel ECOMOG from Freetown.<sup>12319</sup>

#### Prosecution witness TF1-371

<sup>12315</sup> Prosecution Final Trial Brief, para. 224.

<sup>12316</sup> Defence Final Trial Brief, para. 1055.

<sup>12317</sup> Defence Final Trial Brief, para. 1062.

<sup>12318</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5733-5734.

<sup>12319</sup> TF1-338, Transcript 5 September 2008; pp. 15557-15558.





5537. TF1-371 testified that the AK-47s obtained upon the arrival of the Magburaka shipment were distributed amongst the armed guards stationed at the mining operations at Tongo Fields, in addition to the weapons which the guards already had when they joined the Junta.<sup>12320</sup> According to TF1-371, these guards included members of the “Small Boys Units” (“SBUs”), some of whom were as young as 13 years old.<sup>12321</sup>

Prosecution Witness Alimamy Bobson Sesay

5538. Alimamy Bobson Sesay told the Trial Chamber that the arms from the Magburaka shipment were distributed among RUF and SLA members<sup>12322</sup> and that some other arms and ammunition were used to reinforce the fight against ECOMOG forces.<sup>12323</sup>

Prosecution Witness Samuel Kargbo

5539. Samuel Kargbo testified that after the ECOMOG intervention and the loss of Freetown, the AFRC were unable to bring their heavy artillery with them as they retreated, because Waterloo was blocked and there was no way for the heavy artillery to cross over. They left the weapons at Tombo.<sup>12324</sup>

Prosecution Witness Mustapha M. Mansaray

5540. Mustapha Mansaray, who was IDU Commander at Daru Barracks at the time of the ECOMOG Intervention<sup>12325</sup> stated that when the AFRC/RUF retreated from Freetown in February 1998, they took with them a supply of arms and ammunition from Freetown.<sup>12326</sup>

Prosecution Witness TF1-539

5541. TF1-539 testified to hearing from the men who were fleeing from Freetown that they had left their weapons in Freetown.<sup>12327</sup>

Defence Witness Issa Sesay

<sup>12320</sup> TF1-371, Transcript 29 January 2008, p. 2463 (CS).

<sup>12321</sup> TF1-371, Transcript 28 January 2008, p. 2337 (CS).

<sup>12322</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8702-8704.

<sup>12323</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, p. 8688.

<sup>12324</sup> Samuel Kargbo, Transcript 22 May 2008, p. 10514.

<sup>12325</sup> Mustapha Mansaray, Transcript 4 March 2008, p. 5231.

<sup>12326</sup> Mustapha Mansaray, Transcript 6 March 2008, p. 5443.

<sup>12327</sup> TF1-539, Transcript 10 June 2008, pp. 11396-11398.

5542. Issa Sesay testified that the only arms and ammunition that came to Sierra Leone during the Junta regime was the flight that landed in Magburaka.<sup>12328</sup> This was also the only stock of ammunition Sesay was aware of that the RUF would have had access to.<sup>12329</sup>

Defence Exhibit D-004

5543. Exhibit D-004 is a letter, dated 3 October 1997, from Johnny Paul Koroma to Charles Taylor, thanking him for his supportive position at the UN General Assembly, describing ECOMOG bombardment of Freetown and noting an impending ECOMOG invasion of Freetown. The letter ends with a request that Taylor supply the Junta with arms and ammunition and sets out an itemised list of the quantity and description of the arms and ammunition requested.<sup>12330</sup>

Defence Exhibit D-009

5544. Exhibit D-009<sup>12331</sup> is a Salute Report to Sankoh by Bockarie, dated 26 September 1999, in which Bockarie recounts events after Sankoh left Sierra Leone in November 1996 to the date of the report. Bockarie wrote in the Report:

5545. Before Gibril was arrested he exposed to the AFRC, information on materials that the RUF held in stock. Unknown to me and the rest of the RUF High Command, Gibril and the AFRC made arrangements for the stock to be moved in place for their use. They then took control of the entire load leaving the bulk of it stashed away at the residence of J P Koroma and fled the city whilst our troops fought the enemy from house to house with nearly empty magazines and no support fire. In the end Freetown fell and the majority of soldiers, both RUF and SLA retreated safely from the Capital.<sup>12332</sup>

Defence Exhibit D-084

<sup>12328</sup> Issa Sesay, Transcript 11 August 2010, p. 45961

<sup>12329</sup> Issa Sesay, Transcript 7 July 2010, pp. 43984-43985.

<sup>12330</sup> Exhibit D-004, "Letter from Johnny Paul Koroma to Charles Taylor asking for help in the Defence of the Country against ECOMOG, 3 October 1997".

<sup>12331</sup> Exhibit D-009, "RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie - 00009658 – 00009671".

<sup>12332</sup> Exhibit D-009, "RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie", ERN. 9662.



5546. Exhibit D-084 is a Salute Report from Issa Sesay to Foday Sankoh, dated 27 September 1999, reporting on various events since the Abidjan Accords. The report states that during the Junta period, the AFRC had arranged to take military equipment belonging to the RUF without the consent of the RUF High Command, and withheld RUF access. When the troops retreated from Freetown after the ECOMOG intervention, “a large quantity of the said equipment was left in storage at the residence of Chairman J P Koroma”.<sup>12333</sup>

Prosecution Exhibit P-066

5547. Exhibit P-066 is an unsigned letter, dated 24 June 1998, from “Brigadier Sam Bockarie – CDS RUFSL” to Charles Taylor through his “Chief of Protocol” Alhaji Musa Sesay. The letter begins by describing the RUF’s supply shortages, stating that in the face of ECOMOG led attacks on RUF positions in Koidu and Kailahun, “we do not have rockets or bombs which are badly needed to handle the situation” and that the RUF was “merely managing the small ammunition we have at hand as at now”.<sup>12334</sup>

Deliberations

a. Use of the Magburaka shipment

5548. The Trial Chamber has had regard to the evidence of Isaac Mongor, TF1-338, and TF1-371 as to how the arms and ammunition delivered in the Magburaka shipment were used. The Trial Chamber recalls that it had no general reservations regarding the testimonies of Mongor, TF1-338 or TF1-371.<sup>12335</sup> Mongor testified that the GMG rounds were used in fighting in Freetown in February 1998.<sup>12336</sup> TF1-338 also testified that the materiel brought in the Magburaka shipment was distributed to Freetown to be used to repel ECOMOG.<sup>12337</sup> Importantly, TF1-371 testified that the AK-47s obtained upon the arrival of the Magburaka shipment were distributed amongst the armed guards stationed at the mining operations at

<sup>12333</sup> Exhibit D-084, “RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999”, ERN. 7760.

<sup>12334</sup> Exhibit P-066, “Confidential – RUF Brigade Headquarter – Buedu, ‘Information and Request’, Report from Sam Bockarie to Charles Taylor, 24 June 1998”, ERN. 7833.

<sup>12335</sup> Credibility Assessment, Isaac Mongor, paras 269-274; Credibility Assessment, TF1-338, paras 318-329; Credibility Assessment, TF1-371, paras 220-226.

<sup>12336</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5733-5734.

<sup>12337</sup> TF1-338, Transcript 4 September 2008, pp. 15557-15558.

Tongo fields, some of whom were as young as 13 years old.<sup>12338</sup> The Trial Chamber recalls that it has previously accepted TF1-371's evidence to establish that the RUF and AFRC used children under the age of 15 years to participate actively in hostilities in mining sites in Tongo Fields.<sup>12339</sup>

5549. The Defence accepts that the Magburaka shipment was used in the fighting in Freetown during the ECOMOG Intervention. However, it argues that the shipment did not last much longer beyond that time.<sup>12340</sup> The Defence contends that the AFRC and RUF were forced to leave a substantial portion of the Magburaka shipment in Freetown. Samuel Kargbo, TF1-539 and Issa Sesay all testified that although the retreating AFRC and RUF troops took with them a supply of arms and ammunition when they left Freetown, the majority of the supplies were left behind at Johnny Paul Koroma's residence and captured by ECOMOG.<sup>12341</sup> Exhibits D-009 and D-084 also support this contention.<sup>12342</sup> According to Exhibit D-009, the RUF and AFRC soldiers fled the city "with nearly empty magazines".<sup>12343</sup>

5550. The Defence also relies on Exhibit P-066, which indicates that at the time that Bockarie wrote a letter, dated 24 June 1998, to the Accused, the Magburaka shipment had been exhausted.<sup>12344</sup> In the letter, Bockarie informed the Accused that more rockets or bombs were "badly needed" by the RUF because the group was "merely managing the small ammunition".<sup>12345</sup>

5551. The Trial Chamber is satisfied, in light of the uncontested evidence from TF1-371, that weapons from the Magburaka shipment were used in the Junta mining operations at Tongo Fields prior to the ECOMOG Intervention.

<sup>12338</sup> TF1-371, Transcript 29 January 2008, p. 2463 (CS); Transcript 28 January 2008, p. 2337 (CS).

<sup>12339</sup> See also Factual and Legal Findings on Alleged Crimes, Count 9 (Child Soldiers).

<sup>12340</sup> Defence Final Trial Brief, para. 1055.

<sup>12341</sup> Samuel Kargbo, Transcript 22 May 2008, p. 10514.

<sup>12342</sup> Exhibit D-009, "RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie", ERN. 9662; Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999", ERN. 7760.

<sup>12343</sup> Exhibit D-009, "RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie", ERN. 9662.

<sup>12344</sup> TF1-371, Transcript 1 February 2008, pp. 2839-2841 (CS).

<sup>12345</sup> Exhibit P-066, "Confidential – RUF Brigade Headquarter – Buedu, 'Information and Request', Report from Sam Bockarie to Charles Taylor, 24 June 1998", ERN. 7833; TF1-371, Transcript 1 February 2008, pp. 2839-2841 (CS).

5552. In relation to the use of the Magburaka shipment during and after the Intervention, the weight of the evidence suggests that while the materiel from the Magburaka shipment was used in fighting in Freetown in February 1998, the RUF/AFRC retreated with little more than the weapons and ammunition they carried and left the bulk of their supply in Freetown. The Trial Chamber is satisfied that although the rebel forces may still have had recourse to the remaining shares of the Magburaka shipment left at Magburaka or distributed to Makeni and Kenema, it was not sufficient to sustain the RUF's military activities beyond 24 June 1998.

5553. Nonetheless, between the ECOMOG Intervention in February 1998 and June 1998, the AFRC/RUF were engaged in active hostilities, including an extensive campaign of looting on the way from Freetown to Masiaka and Makeni known as "Operation Pay Yourself", and subsequent attempts to capture and retain control of Kono district in the months after the Intervention.<sup>12346</sup> As there is no evidence that the Junta obtained further materiel after the Magburaka shipment in late 1997 or that the RUF/AFRC were able to capture a significant amount of supplies in the retreat from Freetown, it is likely that the only supplies that the retreating troops had access to were from the Magburaka shipment. Given the nature of these operations and that such operations necessarily involved the use of arms and ammunition, the Trial Chamber can safely infer that the Magburaka shipment was relied on in both "Operation Pay Yourself" and subsequent offensives, and was used to commit crimes during those operations, until the RUF/AFRC was able to capture or otherwise obtain alternative supplies of materiel.

5554. The Trial Chamber recalls its findings that various crimes were committed by RUF/AFRC troops in "Operation Pay Yourself" and in subsequent offensives, including but not limited to, unlawful killings in Paema,<sup>12347</sup> sexual slavery in the Kono District,<sup>12348</sup> the use of children under the age of 15 years to participate actively in hostilities in Koinadugu District<sup>12349</sup> and in Teko Barracks,<sup>12350</sup> and pillage in the Kono District,<sup>12351</sup> Bombali District,<sup>12352</sup> and Port Loko District.<sup>12353</sup>

<sup>12346</sup> See *supra*, Context: AFRC/RUF Junta Period (1997-1998).

<sup>12347</sup> See *supra*, Factual and Legal Findings on Alleged Crimes, Counts 2 and 3 (Unlawful Killings).

<sup>12348</sup> See *supra*, Factual and Legal Findings on Alleged Crimes, Count 5 (Sexual Slavery).

<sup>12349</sup> See *supra*, Factual and Legal Findings on Alleged Crimes, Count 9 (Child Soldiers).

<sup>12350</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers).

b. Materiel brought by Daniel Tamba

5555. Little evidence was adduced as to how the materiel supplied by the Accused via Daniel Tamba (a.k.a. "Jungle") was used during this period. The Prosecution relies primarily on the evidence of TF1-375 that some<sup>12354</sup> of the convoy of materiel brought by Tamba to Kenema in 1997 was taken to Denis Mingo in Freetown in preparation for an ECOMOG attack.<sup>12355</sup>

5556. In relation to where the shipment was distributed, the Defence submits that there is no evidence as to what use the materiel delivered by Tamba was put to, or how long it lasted.<sup>12356</sup> The Prosecution relies primarily on the evidence of TF1-375 that he escorted the shipment to Kenema, and then onto Freetown, on Bockarie's instructions, in order to prepare for an imminent ECOMOG attack.<sup>12357</sup> However, TF1-375's evidence as to the shipment's ultimate destination is uncorroborated. Jaward's evidence that he believed Bockarie's convoy was on its way to pick up the ammunition Tamba had informed Bockarie about was speculative, based only on Jaward seeing Bockarie heading in the direction of Buedu. Neither Isaac Mongor nor Jaward testified as to the ammunition subsequently being sent to Freetown. On the contrary, TF1-375's testimony in this respect is contradicted by Isaac Mongor's testimony that Bockarie did not send the ammunition to Freetown and that they did not inform the AFRC about this shipment.<sup>12358</sup> Recalling that TF1-375's evidence must be considered with caution and requires corroboration,<sup>12359</sup> the Trial Chamber is therefore not satisfied that the materiel delivered by Jungle was ultimately transported to Freetown or used in the fighting during the ECOMOG Intervention. On the evidence, the shipment remained with Bockarie in Kenema.

5557. However, according to the Prosecution, the lack of direct evidence as to how materiel supplied by the Accused was used is immaterial because during this period, the

<sup>12351</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 11 (Pillage).

<sup>12352</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 11 (Pillage).

<sup>12353</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 11 (Pillage).

<sup>12354</sup> TF1-375, Transcript 23 June 2008, p. 12489.

<sup>12355</sup> TF1-375, Transcript 23 June 2008, pp. 12487-12492, 12495-12496.

<sup>12356</sup> Defence Final Trial Brief, paras 1060-1061.

<sup>12357</sup> TF1-375, Transcript, 23 June 2008, pp. 12487-12492, 12495-12496.

<sup>12358</sup> Isaac Mongor, Transcript 7 April 2008, pp. 6729-6730 ("Sam Bockarie [...] did not release [the ammunition] for it to reach us in Freetown").

Junta had no choice but to rely on the Accused for provision of materiel because of the arms embargo imposed on Sierra Leone.

5558. It is not contested that on 26 August 1997, ECOWAS members agreed to a total arms embargo against Sierra Leone<sup>12360</sup> and that in October 1997, the United Nations Security Council adopted Resolution 1132, which imposed mandatory sanctions on Sierra Leone.<sup>12361</sup> In considering the importance of the Accused's contribution to the Junta's supplies of materiel after the imposition of the embargo, the Trial Chamber has considered the evidence of TF1-371 that at some point in or after August 1997, the Junta had depleted most of its existing ammunition and logistical supplies<sup>12362</sup> and that in 1997 Bockarie had contacted the Accused from Kenema asking for material support.<sup>12363</sup> The Trial Chamber also notes Exhibit D-004, indicating that the Junta faced increasing attacks from ECOMOG and had appealed to the Accused for arms and ammunition in October 1997.<sup>12364</sup>

5559. The evidence indicates that the Junta had depleted its existing stores of supplies in late 1997 but that the RUF, along with the AFRC, were involved in active hostilities and engaged in the commission of crimes against the civilian population. The Trial Chamber recalls its finding that the AFRC and RUF forces under the command and control of Sam Bockarie attacked Tongo Fields in August 1997 and conducted mining operations there.<sup>12365</sup> It has also determined that during the Junta period, from their base in Kenema Town, these RUF and AFRC forces committed crimes in various locations in the Kenema District, including but not limited to a number of unlawful killings in Kenema Town and Tongo Fields,<sup>12366</sup> the enslavement of an unspecified number of civilians in the mining operations

<sup>12359</sup> Credibility Assessment, TF1-375, paras 308-312.

<sup>12360</sup> Exhibit D-135, ECOWAS, Report of the Committee of Four on the Situation in Sierra Leone, Abuja, Nigeria, 26 August 1997, p. 3; Exhibit P-078, Sierra Leone 1998, A Year of Atrocities Against Civilians, Amnesty International Report, p. 2; Exhibit D-340, "Official Journal of the Economic Community of West African States (ECOWAS), Vol. 33, August 1997", p. 6; Exhibit P-034, Profile: Economic Community of West African States (ECOWAS); *Prosecutor v Taylor*, SCSL-03-1-T, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, Annex A, Fact AC.

<sup>12361</sup> Exhibit P-069, "United Nations Security Council Resolution 1132, S/RES/1132 (1997), 8 October 1997"; see also Exhibit P-070 "United Nations Security Council Resolution 1171, 5 June 1998"; Exhibit P-311, "United Nations Security Council Resolution 1231, S/RES/1231 (1999), 11 March 1999", paras 1-4, 7-12.

<sup>12362</sup> TF1-371, Transcript 28 January 2008, pp. 2310-2311 (CS).

<sup>12363</sup> TF1-371, Transcript 31 January 2008, pp. 2693-2694.

<sup>12364</sup> Exhibit D-004, "Letter from Johnny Paul Koroma to Charles Taylor asking for help in the Defence of the Country against ECOMOG, 3 October 1997", ERN. 12940-12941; Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Magburaka Shipment

<sup>12365</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings).

<sup>12366</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings).

at Tongo Fields,<sup>12367</sup> and use of children to actively participate in hostilities at Tongo Fields.<sup>12368</sup>

5560. In this context, although there is no direct evidence as to how the shipment brought by Tamba was applied except that it was kept by Bockarie in Kenema, the Trial Chamber can nonetheless reasonably infer that it was used by the AFRC and RUF forces under Bockarie's command in the course of their activities in the Kenema District, which included the commission of crimes in that area.

### Findings

5561. The Trial Chamber finds beyond reasonable doubt that the arms and ammunition delivered in the Magburaka shipment were used by the AFRC/RUF forces in fighting ECOMOG and SLPP forces in Freetown before, during and after the Intervention and that this included offensives against the civilian population. The Trial Chamber also finds beyond reasonable doubt that weapons from the Magburaka shipment were used in the Junta mining operations at Tongo Fields prior to the ECOMOG Intervention, in both "Operation Pay Yourself" and subsequent offensives on Kono, as well as the commission of crimes during those operations.

5562. The Trial Chamber finds beyond reasonable doubt that ammunition delivered by Daniel Tamba (a.k.a. Jungle) and supplied by the Accused during the Junta period was kept by Sam Bockarie in the Kenema District, and used in the course of their activities in the Kenema District, which included the commission of crimes in that area.

#### (ii) February 1998 to the Freetown Invasion in January 1999

5563. The Trial Chamber recalls its findings that after the ECOMOG Intervention in 1998:

- a. the Accused sent supplies of arms and ammunition to the RUF/AFRC, through, *inter alia*, Daniel Tamba, Sampson Weah and Joseph Marzah;
- b. Bockarie made trips to Liberia throughout 1998 during which he obtained materiel from the Accused;

<sup>12367</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 10 (Enslavement).

<sup>12368</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers).

- c. The Accused was instrumental in procuring a large quantity of arms and ammunition for the RUF from Burkina Faso in November or December 1998.

5564. The Prosecution alleges that after the Intervention in February 1998, the RUF and AFRC used the materiel provided by the Accused to carry out their continuing campaign of terror against the civilians of Sierra Leone, to make civilian areas “no go” zones, and to control the civilian population not killed or driven out of AFRC/RUF controlled areas.<sup>12369</sup> The Prosecution also alleges that this materiel was used in specific operations throughout 1998, including the attempt by the RUF to capture and hold Kono in March to April 1998, the Fitti-Fatta mission in mid-1998, operations by AFRC/RUF break-away groups in northern Sierra Leone in the latter half of 1998,<sup>12370</sup> as well as the December 1998 and January 1999 offensives in Kono, Kenema and the Freetown axis.<sup>12371</sup>

5565. The Defence disputes the Prosecution contention that the RUF and AFRC used the arms and ammunition allegedly provided by the Accused to carry out their continuing campaign of terror against the civilians of Sierra Leone, including in specific operations throughout 1998.<sup>12372</sup>

a. Operations in Kono in early 1998

5566. The Prosecution contends that the ammunition provided by the Accused in early 1998 enabled the AFRC/RUF forces to retain control in Kono District and was used to fight to capture and hold Koidu Town and the surrounding areas.<sup>12373</sup> The Prosecution adduced evidence from witnesses Alimamy Bobson Sesay, TF1-375, Isaac Mongor, Dauda Arunie Fornie, Perry Kamara and Alice Pyne.

5567. The Defence rebuts the Prosecution contention that the ammunition used for the spectrum of crimes in the Kono District in the first half of 1998 could be traced to the Accused<sup>12374</sup> and notes that witnesses cited for this proposition by the Prosecution do not

<sup>12369</sup> Prosecution Final Trial Brief, para. 241.

<sup>12370</sup> Prosecution Final Trial Brief, para. 156-157.

<sup>12371</sup> Prosecution Final Trial Brief, para. 169.

<sup>12372</sup> Defence Response to Prosecution Final Trial Brief, para. 41.

<sup>12373</sup> Prosecution Final Trial Brief, para. 251.

<sup>12374</sup> Defence Final Trial Brief, para. 1106.

support the Prosecution's allegations.<sup>12375</sup> The Defence adduced evidence from the Accused and Issa Sesay.

### Evidence

#### Prosecution Witness Alimamy Bobson Sesay

5568. Alimamy Bobson Sesay, an AFRC fighter, testified that in mid-March 1998, shortly after the RUF/AFRC re-captured Koidu Town, Johnny Paul Koroma held a meeting in a village near Gandorhun at which he declared that Kono should serve as a strong base for the Junta forces. He stated that he was going to see Taylor in Liberia, for the purpose of securing "logistics", including arms, ammunition and food so that they could continue to "hold the ground" in Kono because Kono was a diamondiferous area whose control would bring the RUF/AFRC international recognition.<sup>12376</sup>

5569. Bobson Sesay also testified that in April or May 1998, while the AFRC/RUF forces remained in control of Koidu Town, he was present when Denis Mingo (a.k.a. Superman) received a message from Bockarie over the radio that President Taylor had organised for Bockarie to receive materiel.<sup>12377</sup> In this message, Bockarie instructed his commanders to get the ammunition supplied and use it to defend Kono and recapture Koidu Geiya.<sup>12378</sup> Bobson Sesay testified that immediately after this communication, Superman, along with Hassan Papa Bangura (a.k.a. Bomb Blast), Ibrahim Kamara (a.k.a. Bazzy) and RUF Rambo, led an attack on Koidu Geiya and recaptured it from the Kamajors.<sup>12379</sup> Subsequently, a combined force of AFRC and RUF fighters arrived from Kailahun with a supply of ammunition. Bobson Sesay clarified that Bockarie had instructed Superman to capture Koidu Geiya, and ammunition would then be brought there to defend Koidu Town.<sup>12380</sup> Bobson Sesay saw the ammunition when it arrived at Koidu Geiya, which he described as:

<sup>12375</sup> Defence Response to Prosecution Final Trial Brief, para. 45.

<sup>12376</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7950-7952.

<sup>12377</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8009-8011.

<sup>12378</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8011-8012, 8016; Transcript 28 April 2008, pp. 8709-8710.

<sup>12379</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8012-8014.

<sup>12380</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8015-8016.







... boxes of AK rounds, 60 millimetre mortars, RPGs...they were in green boxes and it was written on them AFL, Armed Forces of Liberia, and these were clearly written on them. AFL, Armed Forces of Liberia.<sup>12381</sup>

5570. Bobson Sesay testified that Superman loaded the ammunition on board a vehicle and then distributed the materiel at Koidu Town.<sup>12382</sup> The troops travelled back to Koidu Town because they had heard that ECOMOG had begun bombing the town.<sup>12383</sup>

5571. On cross-examination, the witness stated that Bockarie had in his initial communication stated that the commanders should prepare to go to Koidu Geiya to receive materiel and affirmed that the supplies arrived after they had captured the area.<sup>12384</sup> The ammunition was loaded into one vehicle<sup>12385</sup> and only ammunition, not arms, were provided.<sup>12386</sup>

5572. On their arrival in Koidu Town, Superman spoke to Bomb Blast about a call received from Bockarie. Bockarie stated that ECOMOG was advancing toward Sewafe Bridge and that he had obtained this information from President Taylor.<sup>12387</sup> Superman called for an operation to repel the ECOMOG forces and distributed part of the ammunition Bobson Sesay witnessed being delivered after the capture of Koidu Geiya to Bazzy, Bomb Blast and the RUF/SLA fighters to initiate such an attack.<sup>12388</sup> Superman, Bomb Blast, and other commanders, including Isaac Mongor, led the RUF/SLA forces towards the Sewafe Bridge.<sup>12389</sup> They were unable to completely destroy the bridge but made it impassable.<sup>12390</sup> Because ECOMOG were using heavy weaponry, the RUF/SLA forces made a tactical withdrawal.<sup>12391</sup> The attack on Sewafe Bridge occurred around mid-May.<sup>12392</sup>

5573. After the withdrawal from Sewafe Bridge, Superman moved with his men towards Gandorhun. The remaining SLA/RUF forces under the leadership of Bomb Blast moved to

<sup>12381</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8016.

<sup>12382</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8016.

<sup>12383</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8017.

<sup>12384</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8709-8710.

<sup>12385</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8711, 8713.

<sup>12386</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8712.

<sup>12387</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8018. Note that it is not clear from Bobson Sesay's testimony who actually received the call from Bockarie – Bomb Blast or Superman.

<sup>12388</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8030-8031.

<sup>12389</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, p. 8023.

<sup>12390</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8021-8022.

<sup>12391</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8021-8022, 8032-8033.

<sup>12392</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8021-8022.

Tombodu, where they joined with another group of SLA/RUF troops under the command of Alex Tamba Brima (a.k.a. Gullit) and Bazzy. When the witness arrived at Tombodu, the group still had the ammunition that Superman had distributed to Bazzy and Bomb Blast.<sup>12393</sup> Around May-June 1998, on the way to Tombodu, Bobson Sesay and others burnt houses.<sup>12394</sup>

Prosecution witness TF1-375

5574. TF1-375 testified to the RUF and AFRC's operations in the months subsequent to the ECOMOG Intervention. Approximately one month after the intervention, Rambo, Isaac Mongor and Superman led attacks against Koidu Town.<sup>12395</sup> There were then other attacks in Kono District, including Bumpe<sup>12396</sup> and Mortema.<sup>12397</sup>

5575. According to TF1-375, during this time RUF and AFRC troops tried to capture Koidu Geiya, about 15 miles from Koidu Town, so they could cross with Johnny Paul Koroma to go to Kailahun. When they captured Koidu Geiya, the Kamajors went on the offensive against the AFRC and RUF troops.<sup>12398</sup> The RUF and AFRC were able to repel the attack, in the process of which Rambo made the area "fearful" by killing civilians, burning down houses and carrying out amputations. The witness knew about these activities because after RUF and AFRC troops successfully captured Koidu Geiya, Superman sent him and others to take ammunition to Rambo at Koidu Geiya.<sup>12399</sup>

Prosecution Witness Isaac Mongor

5576. Isaac Mongor, an RUF senior commander, also testified that while in Kono under the command of Superman,<sup>12400</sup> he was under orders from Bockarie not to let go of Kono because that was where they got their diamonds from. There was no ammunition in Kono so

<sup>12393</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8038-8039. Bobson Sesay confirmed also that both SLA and RUF troops constituted this group. Transcript 18 April 2008, pp. 8003, 8022.

<sup>12394</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8038-8039.

<sup>12395</sup> TF1-375, Transcript 23 June 2008, pp. 12508-12509.

<sup>12396</sup> TF1-375, Transcript 23 June 2008, pp. 12516-12517.

<sup>12397</sup> TF1-375, Transcript 23 June 2008, pp. 12509-12510.

<sup>12398</sup> TF1-375, Transcript 23 June 2008, pp. 12517-12519.

<sup>12399</sup> TF1-375, Transcript 23 June 2008, pp. 12519-12520.

<sup>12400</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5742-5744.

Mongor requested ammunition from Buedu. Bockarie told him to be patient because Jungle had gone to Liberia to Taylor to get some.<sup>12401</sup>

5577. Mongor testified that he later received ammunition from Bockarie which was part of a delivery made by Jungle to Buedu.<sup>12402</sup>

Prosecution Witness Dauda Aruna Fornie

5578. Dauda Aruna Fornie testified that on his trip to Monrovia with Bockarie shortly after the Intervention, Bockarie met with Taylor and returned with a small “Benz” truck loaded with ammunition, including “AK rounds...grenades, GPMG, RPG, G3 rounds, [and] RPG rockets”.<sup>12403</sup> Fornie stated that upon their return to Buedu, the bulk of the ammunition was distributed to the “various front lines” within Kailahun and Kono Districts. According to the witness, “that was the ammunition we used to stop the ECOMOG advance into our territory”.<sup>12404</sup>

Prosecution Witness Perry Kamara

5579. Perry Kamara testified that the first time the RUF entered Kono after the ECOMOG Intervention they had a message from Bockarie in Buedu, to Denis Mingo (a.k.a. Superman) concerning mining in Koidu Town. The message stated that Taylor had instructed Bockarie not to lose Kono as the diamonds mined from there were to be given to Taylor in return for ammunition. After travelling to Monrovia and returning with ammunition, Bockarie reinforced this message of the importance of holding onto Kono.<sup>12405</sup>

Prosecution Witness Alice Pyne

5580. Alice Pyne testified that she heard from the radio operator at Gandorhun that before June 1998, and before the Fitti-Fatta mission, RUF fighters led by Rambo attacked Koidu Geiya and killed many civilians.<sup>12406</sup>

<sup>12401</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5744-5745.

<sup>12402</sup> Mongor testifies that this was shortly after the Intervention. Isaac Mongor, Transcript 11 March 2008, pp. 5745-5746.

<sup>12403</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21454.

<sup>12404</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21455-21456.

<sup>12405</sup> Perry Kamara, Transcript 5 February 2008, p. 3142.

<sup>12406</sup> Alice Pyne, Transcript 18 June 2008, pp. 12199-12201.

The Accused

5581. The Accused denied that he supplied materiel to the Sierra Leonean rebels in the manner that Bobson Sesay described. He accepted that there may have been arms coming from Liberia, but surmised that witnesses incorrectly assumed that when materiel came from Liberia, they must have been supplied by the President of Liberia. The Accused emphasised that he had no arms to provide to the RUF at this time.<sup>12407</sup>

Defence Witness Issa Sesay

5582. Issa Sesay testified that he participated in an unsuccessful attack on Koidu Geiya in 1998 but did not provide a specific date for the attack. Bockarie also sent reinforcements to attack Koidu Geiya from the other direction, but again was not successful. Sesay did not refer to any successful attacks on Koidu Geiya.<sup>12408</sup>

Deliberations

5583. To support its contention that materiel supplied by the Accused was used for the Fitti-Fatta operation, the Prosecution relies primarily on the evidence of Alimamy Bobson Sesay, who testified to materiel arriving after the attack by Denis Mingo (a.k.a. Superman) on Koidu Geiya, which was used in an operation at Sewafe Bridge, among other areas. As a preliminary issue, the Trial Chamber is satisfied, on the basis of the evidence of Bobson Sesay, Alice Pyne and TF1-375, that both the Koidu Geiya attack and the Sewafe attack took place prior to the Fitti-Fatta mission in mid-1998, but after the RUF successfully captured Koidu Town in March 1998.<sup>12409</sup>

5584. The Trial Chamber notes that while Bobson Sesay initially testified that Bockarie called Mingo to collect materiel for the purpose of an attack on Koidu Geiya, he later clarified that the boxes of ammunition marked "Armed Forces of Liberia" actually arrived

<sup>12407</sup> Charles Ghankay Taylor, Transcript 30 September 2009, pp 29992-29993.

<sup>12408</sup> Issa Sesay, Transcript 8 July 2010, pp. 44001-44004.

<sup>12409</sup> Alice Pyne, Transcript 18 June 2008, pp. 12199-12201 (Before the Fitti-Fatta mission, RUF fighters led by Rambo attacked Koidu Geiya); TF1-375, Transcript 23 June 2008, pp. 12517-12520 (TF1-375 stated that the attack on Koidu Geiya occurred before the loss of Koidu Town, which precipitated Fitti-Fatta); Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8009-8011 (The Koidu Geiya attack took place while the AFRC/RUF forces remained in control of Koidu Town). The Trial Chamber notes that on Bobson Sesay's account, the attack on Koidu Geiya took place before the attack on Sewafe bridge, which he places in mid-May 1998: Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8021-8022. See also *supra*, Context: Civil War in Sierra Leone (1998-1999).

after the capture of Koidu Geiya,<sup>12410</sup> and Mingo then distributed the ammunition to the fighters.<sup>12411</sup> Hence, according to Bobson Sesay, the materiel allegedly provided by the Accused was not used to attack Koidu Geiya itself but was used for subsequent operations to hold onto Kono and then for attacks in Koinadugu and Bombali districts from June to October 1998 once the AFRC and RUF lost control of Kono. The latter operations in the north of Sierra Leone are the subject of separate allegations by the Prosecution and are dealt with in that context.<sup>12412</sup>

5585. The Trial Chamber recalls that it had no general reservations concerning the evidence of Bobson Sesay.<sup>12413</sup> The Defence, however, contends that there are “serious issues” with Bobson Sesay’s account concerning the ammunition at Koidu Geirya, noting that in no prior statement did he say that this consignment had “Armed Forces of Liberia” marked on it. In cross-examination, Defence counsel referred to a prior statement in which Bobson Sesay stated that during a period after the January 1999 Freetown invasion, other RUF members “would always boast that they get their arms and ammunition from Liberia” but that the witness had not personally seen them.<sup>12414</sup> Defence counsel then referred to a second prior statement referring specifically to the ammunition brought to Koidu Geiya, which did not mention that it was labelled with the words “AFL, Armed Forces of Liberia”.<sup>12415</sup>

5586. The Trial Chamber considers that these alleged inconsistencies do not undermine Bobson Sesay’s account. It was clear from the witness’s first prior statement that he was testifying in relation to the arms and ammunition obtained during the post-Freetown invasion period, and his response that he never saw that ammunition was not a broader claim not to have seen any ammunition coming from Liberia.<sup>12416</sup> In relation to the second prior statement, the witness explained that the OTP’s question about the Koidu Geiya shipment was limited to the kind of materiel delivered and he was not asked about whether the boxes of ammunition were marked with any particular kind of writing.<sup>12417</sup> The Trial Chamber

<sup>12410</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8015-8016, 8709-8710..

<sup>12411</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8016, 8031, 8039.

<sup>12412</sup> See *supra*, Arms and Ammunition: Use of Materiel Supplied or Facilitated by the Accused.

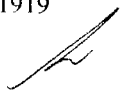
<sup>12413</sup> Credibility Assessment, Alimamy Bobson Sesay, paras 285-289.

<sup>12414</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8720-8721.

<sup>12415</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, p. 8722.

<sup>12416</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, p. 8721.

<sup>12417</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8722-8723.





notes that he did not appear to have been asked in that interview, as he was at trial, about where that ammunition came from. In these circumstances, the Trial Chamber accepts his explanation for why he had not previously raised this aspect of his evidence.

5587. The Trial Chamber finds that the witness's evidence as to this incident was generally consistent and credible. Despite persistent attempts by Defence counsel to discredit his account, the witness maintained his position and provided plausible responses to these challenges. For example, the Defence put it to the witness in cross-examination that the Accused would not likely have sent ammunition in boxes clearly marked "Armed Forces of Liberia" to the RUF in a period when an arms embargo was in place against Sierra Leone. Bobson Sesay pointed out that even when the unrecognised AFRC government was in power, it was able to bypass the sanctions, while the Accused had the resources of a legitimate government at his disposal to violate the embargo.<sup>12418</sup> While Bobson Sesay had not explicitly testified that the Accused was the source of the ammunition received after the Koidu Geiya attack, it is clear from his testimony that Johnny Paul Koroma had gone to Liberia to see the Accused immediately prior to the attack, for the purpose of securing military and other supplies to hold Kono.<sup>12419</sup>

5588. The Prosecution also cited the evidence of TF1-375 concerning the months after the ECOMOG Intervention as corroborative of Bobson Sesay's account.<sup>12420</sup> Both witnesses referred to ammunition being taken to Koidu Geiya after a successful attack. However, unlike Bobson Sesay, who testified that Mingo led the attack, TF1-375 testified that Rambo led the attack, and that Mingo sent ammunition to Rambo.<sup>12421</sup> In any event, TF1-375 did not link this supply of ammunition to the Accused, nor did he mention anything concerning the boxes of ammunition being marked with the words "Armed Forces of Liberia". In these circumstances, the Trial Chamber does not consider TF1-375's evidence to be of value in assessing whether the Accused supplied materiel for these attacks.

5589. In addition to the evidence cited by the Prosecution, the Trial Chamber has also considered the evidence of Isaac Mongor, Dauda Aruna Fornie and Perry Kamara. Mongor testified that shortly after the Intervention, he received ammunition from Bockarie and that

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<sup>12418</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8717-8719.

<sup>12419</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7950-7952.

<sup>12420</sup> Prosecution Final Trial Brief, para. 251, citing TF1-375 Transcript 23 June 2008, pp. 12508-12519.

<sup>12421</sup> TF1-375, Transcript 23 June 2008, pp. 12508-12, 12516-19

he was then assigned under the command of Mingo “to go to Kono and [...] not let go of Kono”.<sup>12422</sup> Dauda Aruna Fornie stated that the ammunition collected on his first trip to Monrovia from the Accused shortly after the Intervention was distributed to the “various front lines” within the Kailahun and Kono Districts and was used to repel the ECOMOG advance.<sup>12423</sup> Perry Kamara testified that the first time the RUF entered Kono after the ECOMOG intervention, Bockarie travelled to Monrovia and returned with ammunition.<sup>12424</sup>

5590. All of these witnesses implicated the Accused. Mongor stated that the materiel supplied was from Daniel Tamba (a.k.a. “Jungle”), who according to Bockarie had gone to Liberia to see Taylor about re-supply of ammunition.<sup>12425</sup> Fornie stated that he was told by Bockarie that Bockarie was going to meet with the Accused in Monrovia and on Bockarie’s return from the purported meeting, the group was met with a truckload of ammunition.<sup>12426</sup> Kamara testified that the Accused instructed Bockarie not to lose Kono as the diamonds mined from there were to be given to Taylor in return for ammunition.<sup>12427</sup>

5591. While the details of these accounts do not relate specifically to Bobson Sesay’s testimony as to ammunition obtained after the capture of Koidu Geiya, their accounts consistently support the involvement of the Accused in the supply of materiel for operations in Kono before Operation Fitti-Fatta.

5592. The Trial Chamber recalls its previous finding that it had no general reservations concerning the evidence of Mongor, Fornie and Perry Kamara,<sup>12428</sup> and it has no reason to disbelieve their evidence in relation to the use of materiel provided by the Accused.

5593. Based on Bobson Sesay, Mongor, Fornie and Kamara’s evidence, which the Trial Chamber finds to be credible, the Trial Chamber is satisfied that the Accused supplied materiel that was used in operations by the RUF and AFRC in Kono in early 1998, before Operation Fitti-Fatta.

<sup>12422</sup> Isaac Mongor, Transcript 11 March 2008, p. 5745.

<sup>12423</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21455-21456.

<sup>12424</sup> Perry Kamara, Transcript 5 February 2008, p. 3142.

<sup>12425</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5744-5745.

<sup>12426</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21451.

<sup>12427</sup> Perry Kamara, Transcript 5 February 2008, p. 3142.

<sup>12428</sup> Credibility Assessment, Dauda Aruna Fornie, paras 346-358; Credibility Assessment, Isaac Mongor, paras 269-274; Credibility Assessment, Perry Kamara, paras 227-236.

5594. The Trial Chamber recalls that it accepted Bobson Sesay's evidence of a range of crimes committed by the AFRC and RUF after the attack on Koidu Geiya and the receipt of this shipment of ammunition, including but not limited to multiple rapes of young women in Tombodu between March and June 1998,<sup>12429</sup> sexual slavery in the Kono District between March to June 1998,<sup>12430</sup> and acts of terror against the civilian population, including burning, in Bumpo<sup>12431</sup> until the AFRC and RUF forces withdrew from the Kono District in June 1998.<sup>12432</sup>

### Findings

5595. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that materiel supplied by the Accused was used in operations in the Kono District in early 1998, before Operation Fitti-Fatta and the commission of crimes during those operations.

#### b. Fitti-Fatta in mid-1998

5596. The Prosecution submits that after the AFRC/RUF were pushed out of Koidu Town around May/June 1998, they set up a series of camps in Kono District, including PC Ground, Superman Ground and others, from which they launched attacks with arms and ammunition supplied to Bockarie by the Accused.<sup>12433</sup>

5597. Specifically, the Prosecution led evidence that the Accused provided the RUF with the arms and/or ammunition to execute the unsuccessful attack led by the RUF on Koidu Town in mid-1998,<sup>12434</sup> known as the "Fitti-Fatta" attack. The Prosecution alleges that Bockarie secured from the Accused in Monrovia a large amount of arms and ammunition, including AK-47s, GPMGs, RPGs and LMGs, which were then used in the attack.<sup>12435</sup>

5598. In support of its allegations, the Prosecution adduced evidence from TF1-375, Perry Kamara, TF1-367, TF1-567, Foday Lansana, Isaac Mongor, Alice Pyne, Komba Sumana, Karmoh Kanneh and Exhibit P-067.

<sup>12429</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 4 (Rape).

<sup>12430</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 5 (Sexual Slavery).

<sup>12431</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 1 (Acts of Terrorism).

<sup>12432</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8064-8067.

<sup>12433</sup> Prosecution Final Trial Brief, paras. 252.

<sup>12434</sup> See *supra*, Military Operations: Operation Fitti-Fatta.



5599. The Defence submits that the materiel for Fitti-Fatta originated from other sources, namely supplies captured from ECOMOG or purchased from ULIMO.<sup>12436</sup> The Defence also notes that witnesses cited for this allegation by the Prosecution do not support the Accused's involvement.<sup>12437</sup> The Defence adduced evidence from the Accused, Issa Sesay, Charles Ngebeh, Martin George and Exhibit D-009.

## Evidence

### Prosecution Witness TF1-375

5600. Witness TF1-375 testified that after the the RUF and AFRC lost control of Koidu Town in 1998, he moved to Superman Ground.<sup>12438</sup> About three weeks after they retreated from Koidu, Bockarie called Superman on the radio and requested him to send people to Moa River to receive some guests that had come from Liberia. He then saw up to eight Liberian men bringing arms, ammunition and medicine men to Superman Ground. They stated that they had brought that ammunition from Liberia and wanted the RUF to retake Kono, Koidu Town.<sup>12439</sup> TF1-375 testified that one of the Liberians was an SSS officer named "Osebo Demy", whom he came to know subsequently in Liberia and as one of Yeaten's subordinates in the SSS.<sup>12440</sup>

5601. TF1-375 also testified about an occasion in 1998 at the beginning of the rainy season,<sup>12441</sup> when Bockarie ordered him and a group of other AFRC/RUF personnel to travel with Eddie Kanneh to Liberia. The group went to Foya by road and were received by Zigzag Marzah, and a helicopter. The helicopter took the group to the President's farm in Gbarnga, where he met Benjamin Yeaten.<sup>12442</sup> At the farm, they were told to load ammunition from the car park or garage at the President's house into two cars. The two cars were driven by Jungle and Sampson Weah from the SSS. The cars moved to Voinjama and Foya in Lofa

<sup>12435</sup> Prosecution Final Trial Brief, paras. 156, 253.

<sup>12436</sup> Defence Final Trial Brief, paras. 1108-1109.

<sup>12437</sup> Defence Response to Prosecution Final Trial Brief, para. 46.

<sup>12438</sup> TF1-375, Transcript 23 June 2008, pp. 12520-12521.

<sup>12439</sup> TF1-375, Transcript 23 June 2008, pp. 12522-12524.

<sup>12440</sup> TF1-375, Transcript 23 June 2008, pp. 12523-12530.

<sup>12441</sup> TF1-375, Transcript 23 June 2008, p. 12540.

<sup>12442</sup> TF1-375, Transcript 23 June 2008, pp. 12531-12533.

county and finally to Buedu.<sup>12443</sup> At Buedu, they stored the materiel in Bockarie's ammunition dump.<sup>12444</sup>

5602. Bockarie distributed part of the ammunition brought from Gbarnga to Akim Turay, an AFRC soldier, to attack Segbwema, the Daru barracks, and stored part of it in Buedu. The majority of the ammunition was given by Bockarie to Superman's contingent, of which TF1-375 was a member, to retake Koidu Town.<sup>12445</sup> Superman took the ammunition and used it for Operation Fitti-Fatta,<sup>12446</sup> which was not ultimately successful in taking over Koidu.<sup>12447</sup>

#### Prosecution Witness Perry Kamara

5603. Perry Kamara testified that around April-May 1998, Superman received a message from Bockarie requesting him to go to Buedu for a meeting concerning a plan to recapture key areas in Sierra Leone, including Kono.<sup>12448</sup> Attending the meeting were the witness, Mike Lamin, Isaac Mongor, Superman and SYB Rogers. At the meeting, Bockarie took the attendees to his house and showed them a pile of arms and ammunition, commercial radios and a satellite phone. Bockarie told the attendees that Taylor had provided these materials in return for diamonds sent to him by the RUF and stated that he expected more to arrive.<sup>12449</sup> According to Kamara, amongst the weapons he was shown were AK-47s, RPGs, and different types of machine guns.<sup>12450</sup>

5604. Less than a week later, Kamara returned to Superman Ground, where the men received ammunition, arms, food and morale boosters. The witness stated that these supplies were intended for the Fitti-Fatta Mission and Superman was to carry part of the arms and ammunition to SAJ Musa.<sup>12451</sup> The ammunition would be part of a larger shipment yet to arrive for a larger plan.<sup>12452</sup>

<sup>12443</sup> TF1-375, Transcript 23 June 2008, pp. 12535-12538.

<sup>12444</sup> TF1-375, Transcript 23 June 2008, p. 12538.

<sup>12445</sup> TF1-375, Transcript 23 June 2008, pp. 12538-12539; Transcript 28 August 2008, pp. 14824-14825.

<sup>12446</sup> TF1-375, Transcript 23 June 2008, pp. 12540-12541.

<sup>12447</sup> TF1-375, Transcript 23 June 2008, p. 12541; Transcript 28 August 2008, pp. 14824-14825.

<sup>12448</sup> Perry Kamara, Transcript 5 February 2008, p. 3156.

<sup>12449</sup> Perry Kamara, Transcript 5 February 2008, pp. 3160-3164.

<sup>12450</sup> Perry Kamara, Transcript 5 February 2008, pp. 3162-3163, 3170.

<sup>12451</sup> Perry Kamara, Transcript 5 February 2008, p. 3169.

<sup>12452</sup> Perry Kamara, Transcript 5 February 2008, pp. 3169-3172.

5605. In cross-examination, the Defence put to Kamara that in a report to Sankoh, Exhibit D-009, Bockarie had stated that the materials for the attack were sourced from ULIMO.<sup>12453</sup> Kamara insisted that the weapons came from the Accused and stated that Bockarie's information otherwise in the report was a lie.<sup>12454</sup>

Prosecution Witness TF1-367

5606. RUF mining commander<sup>12455</sup> TF1-367 testified that he bought arms and ammunition from former ULIMO fighters at the very start of the rainy season in 1998 with the proceeds of a bank robbery during Operation Pay Yourself. Once the witness had collected a "reasonable amount" of weapons he used NPFL communications to communicate with the RUF in Sierra Leone. The witness loaded the weapons and took them to Sierra Leone.<sup>12456</sup> The materiel bought from ULIMO was used by Superman for Operation Fitti-Fatta.<sup>12457</sup>

Prosecution Witness TF1-567

5607. According to TF1-567, Superman organised troops who called themselves Fitti-Fatta and unsuccessfully tried to re-attack Koidu Town. He obtained the materiel for this attack from Bockarie.<sup>12458</sup>

Prosecution Witness Foday Lansana

5608. Foday Lansana, a radio operator stationed in Kono District from January 1998 to September 1998, testified that at one point in this period Bockarie told Superman that he had sent Issa Sesay with some diamonds from "Johnny Paul" to Monrovia to purchase arms and ammunition from Charles Taylor, but that Issa Sesay had lost them.<sup>12459</sup> Superman then travelled to Buedu to attend a meeting concerning this incident. He returned from that meeting with "some quantity" of arms and ammunition.<sup>12460</sup> Before Superman travelled to Buedu, he summoned Lansana to Superman Ground. While Superman was in Buedu he used to communicate with Lansana on a daily basis through his operators King Perry and Alice

<sup>12453</sup> Perry Kamara, Transcript 7 February 2008, pp. 3344-3345.

<sup>12454</sup> Perry Kamara, Transcript 7 February 2008, pp. 3344-3345.

<sup>12455</sup> TF1-367, Transcript 20 August 2008, pp. 14158-14161.

<sup>12456</sup> TF1-367, Transcript 20 August 2008, pp. 14148-14150.

<sup>12457</sup> TF1-367, Transcript 1 September 2008, pp. 15066-15067.

<sup>12458</sup> TF1-567, Transcript 2 July 2008, pp. 12907-12908.

<sup>12459</sup> Foday Lansana, Transcript 21 February 2008, pp. 4508, 4511, 4517.

Pyne who travelled with him. Superman was in Buedu for over a month. When Superman returned, Superman briefed Lansana on why he had to go to Buedu and told him that despite the loss of the diamonds, Fonti Kanu was able to obtain arms and ammunition from an ECOMOG commander in Monrovia<sup>12461</sup> and some of the LURD or ULIMO-K in Lofa County had surrendered to Bockarie, as a result of which General Abu Keita had “come with” arms and ammunition to Bockarie in Buedu.<sup>12462</sup>

5609. After Superman left Buedu he went with some of Sam Bockarie’s troops to Superman Ground and launched an operation called Fitti-Fatta to attack Koidu. The purpose of the operation was to attack Koidu and to get arms and ammunition. The operation resulted in serious casualties for both the RUF and ECOMOG.<sup>12463</sup>

Prosecution Witness Isaac Mongor

5610. Isaac Mongor, an RUF senior commander, testified that after the meeting in Buedu at which the Fitti-Fatta operation was ordered, Superman came to Gandorhun with a quantity of ammunition for the attack. Mongor subsequently spoke with Bockarie who confirmed that Taylor had sent Jungle with a “small quantity” of ammunition which Bockarie had given to Superman for the Fitti-Fatta operation.<sup>12464</sup>

Prosecution Witness Alice Pyne

5611. Alice Pyne, a radio operator, testified that she travelled to Buedu with Superman and more than 150 others to attend a meeting convened by Bockarie prior to the Fitti-Fatta mission.<sup>12465</sup> While Pyne did not attend the meeting,<sup>12466</sup> following the meeting, she observed Bockarie and his bodyguards departing in vehicles. One of the other radio operators, Sebatu, told her that Bockarie was departing for Foya.<sup>12467</sup> Pyne saw the group return several hours later, with Colonel Jungle, and unload goods at Bockarie’s house. She

<sup>12460</sup> Foday Lansana, Transcript 21 February 2008, pp. 4515-4516.

<sup>12461</sup> Foday Lansana, Transcript 21 February 2008, pp. 4508, 4511.

<sup>12462</sup> Foday Lansana, Transcript 21 February 2008, pp. 4516-4517.

<sup>12463</sup> Foday Lansana, Transcript 21 February 2008, pp. 4518-4519.

<sup>12464</sup> Isaac Mongor, Transcript 11 March 2008, p. 5748. The Prosecution brief also cites Isaac Mongor’s testimony at Transcript 11 March 2008, pp. 5781-5783, but the Trial Chamber is of the opinion that Mongor is there testifying about the lead up to the December 1998 offensives.

<sup>12465</sup> Alice Pyne, Transcript 18 June 2008, pp. 12191-12193, 12209-12211; Transcript 19 June 2008, p. 12233; Transcript 20 June 2008, pp. 12356-12357.

<sup>12466</sup> Alice Pyne, Transcript 20 June 2008, p. 12357.

was not able to see the items themselves, but later they gave Superman arms, ammunition and alcoholic drinks known as “morale boosters” which they said they had brought from Foya.<sup>12468</sup>

Prosecution Witness Komba Sumana

5612. Komba Sumana testified that in 1998 three soldiers with red hats delivered arms at pass out parade.<sup>12469</sup> He was told by a fellow member of the rebel forces that these men, who spoke Liberian English, were “Charles Taylor’s soldiers”.<sup>12470</sup> Sumana further added that after the weapons were distributed, Bockarie stated that they were going to “clear” Kono. The troops, including the witness, left the next day. En route, General Issa told the troops that as part of ‘Operation No Living Thing,’ they would attack Koidu Town. The attack was not successful.<sup>12471</sup> The witness did not ultimately participate in the attack.<sup>12472</sup>

Prosecution Witness Karmoh Kanneh

5613. Karmoh Kanneh, a senior RUF Commander,<sup>12473</sup> testified that in 1998 “some months” before the death of Sani Abacha,<sup>12474</sup> Bockarie contacted him from Buedu and instructed Kanneh to assist in collecting some ammunition which “Pa Taylor” was sending to Foya for the RUF.<sup>12475</sup> Kanneh met with Bockarie and they travelled to Foya in three jeeps along with several of Bockarie’s securities and his radio man Elevation.<sup>12476</sup> Kanneh was selected because he was a commander in the Kailahun area and because he had a vehicle, a land rover.<sup>12477</sup>

5614. At Foya, a helicopter arrived and five people alighted, unloaded materiel and brought them into Bockarie’s vehicles. Bockarie introduced the witness to a man who Bockarie said was Taylor’s chief bodyguard, named Benjamin Yeaten. The helicopter had flown in from

<sup>12467</sup> Alice Pyne, Transcript 19 June 2008, pp. 12235-12236.

<sup>12468</sup> Alice Pyne, Transcript 19 June 2008, pp. 12236-12237.

<sup>12469</sup> Komba Sumana, Transcript 6 October 2008, pp. 17937-17939; Transcript 7 October 2008, pp. 18031-18033.

<sup>12470</sup> Komba Sumana, Transcript 6 October 2008, p. 17938; Transcript 7 October 2008, pp. 18041-18042.

<sup>12471</sup> Komba Sumana, Transcript 6 October 2008, pp. 17940-17943.

<sup>12472</sup> Komba Sumana, Transcript 6 October 2008, pp. 17941-17943.

<sup>12473</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9390-9391.

<sup>12474</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9452-9463. Sani Abacha died in June 1998, Admitted fact 11.

<sup>12475</sup> Karmoh Kanneh, Transcript 9 May 2008, p. 9448.

<sup>12476</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9448-9449.





Monrovia.<sup>12478</sup> The materiel included 40 boxes of AK rounds, 10 boxes of RPG rockets, a few RPG tubes.<sup>12479</sup> In the evening, they left Foya and went to Buedu. At Buedu, the materials were put in the ammunition dump, by Foya Road, near Sam Bockarie's house. Kanneh was given some materials for his own use by Bockarie, which Kanneh took to his base at Baiima.<sup>12480</sup>

### The Accused

5615. The Accused denies any involvement in the Fitti-Fatta attack.<sup>12481</sup> He testified that he was not even aware that Fitti-Fatta had occurred.<sup>12482</sup>

### Defence Witness Issa Sesay

5616. Issa Sesay testified that the ammunition they used in the Fitti-Fatta mission was buried ammunition bought by an RUF member from ex-ULIMO fighters in Voinjama.<sup>12483</sup> According to Issa Sesay, this ammunition was bought with money looted from a bank in Kono by the AFRC and RUF in early April 1998. Issa Sesay saw the materials in the room of the RUF member in Voinjama. The ammunition looked rusty, so Bockarie's S4—Jabaty Jaward—cleaned them in drums in Buedu using diesel oil.<sup>12484</sup>

5617. Superman experienced heavy casualties in the Fitti-Fatta mission because the ammunition was not up to standard and there was not enough of it for such an attack. It was not until after the mission failed, that it was given the name Fitti-Fatta because of the heavy casualties the RUF suffered. According to Issa Sesay, "Fitti-Fatta" translates as something which has gone beyond the expected number, i.e. the casualties the RUF suffered.<sup>12485</sup>

### Defence Witness Charles Ngebeh

<sup>12477</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9447-9449.

<sup>12478</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9453-9455.

<sup>12479</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9456-9457.

<sup>12480</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9457-9458.

<sup>12481</sup> Charles Ghankay Taylor, Transcript 3 August 2009, pp. 25819-25820.

<sup>12482</sup> Charles Ghankay Taylor, Transcript 25 November 2009, p. 32485.

<sup>12483</sup> Issa Sesay, Transcript 8 July 2010, pp. 44060-44064.

<sup>12484</sup> Issa Sesay, Transcript 8 July 2010, pp. 44058-44063.

<sup>12485</sup> Issa Sesay, Transcript 8 July 2010, pp. 44064-44065, 44067.

5618. Charles Ngebeh testified that the RUF and AFRC forces stationed in Superman Ground tried to retake Koidu Town during the dry season of 1998 in the 'Fitti-Fatta' Operation. According to Ngebeh, 'Fitti-Fatta' means 'everything should be enough'; including manpower, food, and ammunition. The attack failed and the AFRC and RUF lost 21 fighters.<sup>12486</sup>

Defence Witness Martin George

5619. Martin George testified that while the RUF had sufficient arms for Fitti-Fatta, they did not have enough ammunition.<sup>12487</sup>

Exhibit P-067

5620. Exhibit P-067 is a 1999 report to Foday Sankoh by the Black Guards, authored by Junior Vandi, a Black Guard commander.<sup>12488</sup> Recounting military operations during the course of 1998, the report states:

Moreso, President Taylor continues to give helping hands with logistics which involves foodstuff and materials. The High Command was called in every month to report to Monrovia for briefing. The High Command later called Brigadier [sic] Denis Mingle (Superman) on a forum for a mission to be carry-out to capture the whole of Kono. They came up with an agreement to apply some guerrilla tactics to overrun the strategic positions in Kono district. A plan was drawn but Superman never went with the plan, and the mission fail without capturing Kono and over thirty (30) MIA on our side and also KIA.<sup>12489</sup>

Exhibit D-009

5621. Exhibit D-009<sup>12490</sup> is a salute report to Sankoh by Bockarie, dated 26 September 1999 in which Bockarie recounts events after Sankoh left Sierra Leone in November 1996 to the date of the report. The report states that "during this period":

I renewed my contact with ULIMO and tried to secure materials from them. It was out of these materials that I gave Superman a good quantity to attack and capture Kono. ...

Superman used the materials to attack Kono and was able to control parts of Koidu Town. Though they were able to raise the ammo dump, they then concentrated on looting and later withdrew leaving the enemy to re-occupy the town. Even prior to that, all instructions to maintain the ground were not implemented.<sup>12491</sup>

<sup>12486</sup> Charles Ngebeh, Transcript 24 March 2010, p. 37907.

<sup>12487</sup> DCT-062, Transcript 27 April 2010, pp. 40129-40133.

<sup>12488</sup> TF1-371, Transcript 28 January 2008, p. 2406 (CS). Vandi authored it and he was a Black Guard commander; TF1-567, Transcript 2 July 2008, p. 12903.

<sup>12489</sup> Exhibit P-67, "RUF People's Army - Situation Report to Foday Sankoh from the Black Revolutionary Guards", ERN 9676-9676, 9677.

<sup>12490</sup> Exhibit D-009, "RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie", ERN. 9658 - 9671.

Deliberations

5622. The evidence of Prosecution and Defence witnesses converge on the following contextual points. Around mid-1998, Bockarie instructed his commanders to report to Buedu to discuss a plan to recapture Koidu Town from ECOMOG and the Kamajors.<sup>12492</sup> At Buedu, Denis Mingo (a.k.a. Superman) was ordered to lead the attack and was given a quantity of arms and/or ammunition by Bockarie.<sup>12493</sup> Sometime after this meeting, Mingo commanded an attack on Koidu Town, using the arms and ammunition that had been provided by Bockarie.<sup>12494</sup> What is contested between the parties is whether these arms and ammunition were sourced from the Accused.

5623. Prosecution witnesses TF1-375, Perry Kamara, TF1-567, Isaac Mongor and Alice Pyne, testified directly as to the source of the materiel used for Fitti-Fatta. The most detailed account of the provenance of that materiel is provided by TF1-375, who claims to have been personally involved in the transportation of ammunition, with *inter alia* Daniel Tamba (a.k.a. "Jungle") and Sampson Weah, from the Accused's farm in Gbarnga, which ammunition was then given by Bockarie to Mingo to use for Operation Fitti-Fatta.<sup>12495</sup> The Trial Chamber notes that TF1-375 also testified to one occasion, before Fitti-Fatta and his trip to Gbarnga, in which he saw up to eight Liberian men bringing arms, ammunition and medicine men to Superman Ground. They stated that they had brought that ammunition from Liberia and wanted the RUF to retake Kono, Koidu Town.<sup>12496</sup> TF1-375 testified that he came to know one of the Liberians subsequently in Liberia as one of Yeaten's subordinates in the SSS.<sup>12497</sup>

<sup>12491</sup> Exhibit D-009, RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie - 00009658 - 00009671, p. 9662.

<sup>12492</sup> Perry Kamara, Transcript 5 February 2008, p. 3160; Alice Pyne, 18 June 2008, pp. 12209-12213; Transcript 19 June 2008, pp. 12233-12241; Transcript 20 June 2008, pp. 12356-12357; Isaac Mongor, Transcript 11 March 2008, p. 5748.

<sup>12493</sup> Isaac Mongor, Transcript 11 March 2008, p. 5748; Alice Pyne, Transcript 19 June 2008, pp. 12235-12237; but see TF1-371, Transcript 28 January 2008, p. 2394 (the Fitti-Fatta operation was led by Morris Kallon).

<sup>12494</sup> Exhibit P-067, "RUF People's Army, Situation Report to Foday Sankoh from the Black Guard Commander"; Exhibit D-009, RUF Defence Headquarters, Salute Report to the Leader of the Revolution, from Major General Sam Bockarie; Alice Pyne, Transcript 19 June 2008, p. 12233-12241; TF1-375, Transcript 23 June 2008, pp. 12532-12541, Transcript 28 August 2008, pp. 14824-14825; TF1-567, Transcript 2 July 2008, pp. 12907-08; Issa Sesay, Transcript 8 July 2010, pp. 44058-44064; Charles Ngebeh, Transcript 24 March 2010, pp. 37907-37908.

<sup>12495</sup> TF1-375, Transcript 23 June 2008, pp. 12540-12541.

<sup>12496</sup> TF1-375, Transcript 23 June 2008, pp. 12522-12524.

<sup>12497</sup> TF1-375, Transcript 23 June 2008, pp. 12523-12530.



5624. That the Accused was the source of the supplies for Fitti-Fatta is corroborated by Mongor, Pyne, and Kamara. Both Mongor and Pyne also supported TF1-375's testimony that Tamba was involved in the delivery of the materiel. Mongor testified that after the meeting in Buedu at which the Fitti-Fatta operation was ordered, Mingo came to Gandorhun with a quantity of ammunition for the attack. Mongor subsequently spoke with Bockarie who confirmed that the Accused had sent Jungle with a "small quantity" of ammunition which Bockarie had given to Mingo for the Fitti-Fatta operation.<sup>12498</sup> Pyne testified that after the meeting convened by Bockarie prior to the Fitti-Fatta mission,<sup>12499</sup> Bockarie travelled to Foya and returned with Colonel Jungle and materiel which was provided to Mingo.<sup>12500</sup>

5625. The Trial Chamber recalls its previous finding that it had no general reservations concerning the evidence of Mongor, Pyne and Kamara,<sup>12501</sup> but that the evidence of TF1-375 should be treated with caution and requires corroboration.<sup>12502</sup> However, the Trial Chamber notes that the Defence did not seek to impeach his account of this particular trip to Gbarnga or of how the supplies he obtained from that trip were distributed and applied.

5626. The Prosecution has also relied on the evidence of Komba Sumana that in 1998, men who Sumana were informed were the Accused's soldiers delivered arms at pass out parade, after which the troops unsuccessfully attacked Koidu Town.<sup>12503</sup> Sumana does not explicitly mention the Fitti-Fatta attack. However, as Sumana described the attack as unsuccessful, his evidence was unlikely to relate to either the March or December offensives, which both resulted in the capture of Koidu Town. He also described the events as occurring after he finished his training at the base outside of Buedu, which the Trial Chamber has previously found occurred in approximately July 1998,<sup>12504</sup> placing the events within general temporal proximity to Fitti-Fatta, which the Trial Chamber found occurred in roughly mid-June

<sup>12498</sup> Isaac Mongor, Transcript 11 March 2008, p. 5748. The Prosecution brief also cites Isaac Mongor's testimony at Transcript 11 March 2008, pp. 5781-5783, but the Trial Chamber is of the opinion that Mongor is there testifying about the lead up to the December 1998 offensives.

<sup>12499</sup> Alice Pyne, Transcript 18 June 2008, pp. 12191-12193, 12209-12211; Transcript 19 June 2008, p. 12233; Transcript 20 June 2008, pp. 12356-12357.

<sup>12500</sup> Alice Pyne, Transcript 19 June 2008, pp. 12235-12237 (although it is not clear by whom the witness was told).

<sup>12501</sup> Credibility Assessment, Isaac Mongor, paras 269-274; Credibility Assessment, Alice Pyne, paras 304-307; Credibility Assessment, Perry Kamara, paras 227-236.

<sup>12502</sup> Credibility Assessment, TF1-375, paras 308-312.

<sup>12503</sup> Komba Sumana, Transcript 6 October 2008, p. 17938; 7 October 2008, pp. 18041-18042.

<sup>12504</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Counts 7 and 8 (Physical Violence).

1998.<sup>12505</sup> Sumana stated that the men who Sumana was informed were the Accused's soldiers delivered the arms with which the troops unsuccessfully attacked Koidu Town.

5627. In support of its allegation that the materiel used for Fitti-Fatta was supplied by the Accused, the Prosecution also cited Karmoh Kanneh's evidence that he was involved in obtaining arms and ammunition from Liberia on one occasion in 1998, "some months" before the death of President Abacha.<sup>12506</sup> However, the Trial Chamber notes that the witness's only testimony concerning the manner in which the materiel was used was that Bockarie gave him a quantity of the supplies with which he returned to his base in Baiima.<sup>12507</sup> The witness's evidence provided no identifiable link to the Fitti-Fatta or any other attack. The Trial Chamber is therefore unable to rely on Kanneh's evidence in support of the Prosecution's allegation.

5628. The Trial Chamber has also had regard to evidence which, while not specifically drawing a link between the Accused and the supplies for Fitti-Fatta, provides general corroboration that the Accused was supplying materiel to Bockarie around the time of that operation. TF1-567, for example, stated that Mingo obtained the materiel for this attack from Bockarie.<sup>12508</sup> However, immediately prior to this point in his testimony, TF1-567 had testified that Bockarie obtained arms and ammunition from the Accused, via Sampson Weah, Tamba and others.<sup>12509</sup> Exhibit P-067, a salute report to Foday Sankoh by the Black Guards describing events in 1998, states generally that "President Taylor continues to give helping hands with [...] materials", and in the same paragraph, describes an unsuccessful attack on Kono launched by Mingo, an attack which was prompted by a trip by Bockarie to Monrovia "for briefing".<sup>12510</sup>

5629. The Defence points to evidence that the RUF obtained the ammunition for Fitti-Fatta from other sources that did not include the Accused.<sup>12511</sup> Issa Sesay testified that the ammunition they used in the Fitti-Fatta mission was buried ammunition bought by an RUF

<sup>12505</sup> See *supra*, Military Operations: Operation Fitti-Fatta.

<sup>12506</sup> Prosecution Final Trial Brief, para. 253, footnote 759.

<sup>12507</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9457-9458.

<sup>12508</sup> TF1-567, Transcript 2 July 2008, pp. 12907-12908.

<sup>12509</sup> TF1-567, Transcript 2 July 2008, pp. 12903-12906.

<sup>12510</sup> Exhibit P-067, "RUF People's Army-- Situation Report to Foday Sankoh from the Black Revolutionary Guards", ERN 9676-9677. Even the Defence also acknowledges, in relation to this paragraph, that the "implication is the material came from Taylor": Defence Final Trial Brief, para. 1108.

<sup>12511</sup> Defence Final Trial Brief, para. 1109.

member from ex-ULIMO fighters in Voinjama.<sup>12512</sup> TF1-367 corroborated Issa Sesay's account in all respects, including that the ammunition bought from ULIMO and used for Fitti-Fatta was bought with money looted from a bank in Kono by the AFRC and RUF in early April 1998.<sup>12513</sup> Foday Lansana also suggests that the materiel from Fitti-Fatta came from both an ECOMOG commander in Monrovia<sup>12514</sup> and ULIMO-K.<sup>12515</sup> The Defence also cites Exhibit D-009, which states that Bockarie secured materiel from ULIMO for an attack on Kono.<sup>12516</sup> Both Issa Sesay and TF1-371 confirmed that this part of D-009 referred to the Fitti-Fatta operation.<sup>12517</sup>

5630. Nonetheless, the Trial Chamber considers that the evidence that materiel used by the RUF and AFRC for Fitti-Fatta came from other sources does not preclude part of that materiel also being sourced from the Accused, and indeed Foday Lansana suggests that the materiel for Fitti-Fatta came from multiple sources.<sup>12518</sup> Only Issa Sesay specifically denied that any of the materiel came from the Accused.<sup>12519</sup> The Trial Chamber is of the view that there were several sources for the materiel for Fitti-Fatta, and that one of these sources was the Accused.

5631. On the strength of evidence from TF1-375, Isaac Mongor, Alice Pyne, Perry Kamara, and Komba Sumana which the Trial Chamber considers to be credible, and the general evidence of TF1-567 and in Exhibit P-067, the Trial Chamber finds that the Accused supplied materiel which was used for operation Fitti-Fatta.

5632. In relation to quantity of materiel provided, Mongor stated that the Accused had only provided a "small quantity" of ammunition for the Fitti-Fatta operation,<sup>12520</sup> while according to TF1-375, Bockarie gave him a large quantity of ammunition to take to Superman.<sup>12521</sup>

<sup>12512</sup> Issa Sesay, Transcript 8 July 2010, pp. 44060-44064.

<sup>12513</sup> TF1- 367, Transcript 1 September 2008, pp. 15066- 15067; Issa Sesay, Transcript 8 July 2010, pp. 44058-44063.

<sup>12514</sup> Foday Lansana, Transcript 21 February 2008, pp. 4508, 4511.

<sup>12515</sup> Foday Lansana, Transcript 21 February 2008, pp. 4516-4517.

<sup>12516</sup> Exhibit D-009, RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie - 00009658 - 00009671, p. 9662.

<sup>12517</sup> Issa Sesay, Transcript 8 July 2010, pp. 44076-44077; TF1-371, Transcript 29 January 2008, pp. 2483-2484.

<sup>12518</sup> Foday Lansana, Transcript 21 February 2008, pp. 4508, 4511.

<sup>12519</sup> Issa Sesay, Transcript 8 July 2010, p. 44064.

<sup>12520</sup> Isaac Mongor, Transcript 11 March 2008, p. 5748.

<sup>12521</sup> TF1-375, Transcript 28 August 2008, pp. 14824-14825.

5633. The Prosecution submits that Fitti-Fatta means “an abundance of everything” and the operation was so named in advance on account of the substantial amount of arms, ammunition and other support which was sent by the Accused to the RUF for the operation.<sup>12522</sup> The Defence suggests that there is no evidence for the assumption that the materiel for the Fitti-Fatta operation was abundant.<sup>12523</sup> In support of its submission, the Prosecution adduced evidence from Perry Kamara, Alice Pyne and Charles Ngebeh, who all testified that Fitti-Fatta was so named because the attacking forces had sufficient manpower, food and ammunition.<sup>12524</sup> However, other witnesses gave different explanations as to the meaning of the term “Fitti-Fatta”. Issa Sesay testified that “Fitti-Fatta” meant something that was disorganised or that lacked control, and that the operation was so named after it failed and the RUF suffered high casualties.<sup>12525</sup> This explanation is somewhat similar to that offered by Prosecution witness Isaac Mongor, who testified that “Fitti-Fatta” means to do something senselessly “as if you were a mad man”, and Martin George who testified that it was because all the fighters ran away in retreat under enemy fire.<sup>12526</sup> Due to the contradictory nature of this evidence, the Trial Chamber does not consider the name of the operation to be of probative value as to the quantity of materiel used for the Fitti-Fatta mission.

### Findings

5634. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that materiel supplied by the Accused was used in Operation Fitti-Fatta in Kono in mid-1998.

#### c. Operations in the North

5635. The Prosecution submits that ammunition provided by the Accused prior to Fitti-Fatta was also used for subsequent operations in the North of Sierra Leone, firstly by SAJ Musa and Denis Mingo (a.k.a. Superman) for an attack on Mongor Bendugu and Kabala

<sup>12522</sup> Prosecution Final Trial Brief, paras 157, 254.

<sup>12523</sup> Defence Response to Prosecution Final Trial Brief, para. 42.

<sup>12524</sup> Perry Kamara, Transcript 5 February 2008, p. 3172; Alice Pyne, Transcript 19 June 2008, p. 12239; Charles Ngebeh, Transcript 24 March 2010, p. 37907.

<sup>12525</sup> Issa Sesay, Transcript 18 August 2010, pp. 46610-46611.

<sup>12526</sup> Isaac Mongor, Transcript 11 March 2008, p. 5749; Martin George, Transcript 27 April 2010, pp. 40129-40130; George also testified that while the RUF had sufficient arms for Fitti-Fatta, they did not have enough

shortly after Fitti-Fatta,<sup>12527</sup> and secondly for a series of attacks by the breakaway group led by Alex Tamba Brima (a.k.a. Gullit), Hassan Papa Bangura (a.k.a. Bomb Blast), Ibrahim Kamara (a.k.a. Bazzy) in the Koinadugu and Bombali Districts from June to October 1998.<sup>12528</sup>

5636. The Prosecution adduced evidence from Alimamy Bobson Sesay, Perry Kamara, TF1-375, Komba Sumana, Alice Pyne, TF1-143, TF1-028 and Exhibit P-080.

5637. The Defence contends that the evidence of Prosecution witnesses in relation to this allegation is not credible,<sup>12529</sup> and generally maintains that the Accused was not involved in supply of materiel to the RUF/AFRC during this period. The Defence adduced evidence from Exhibit D-009.

### Evidence

#### Prosecution Witness Alimamy Bobson Sesay

5638. Alimamy Bobson Sesay, an AFRC fighter, testified that the ammunition delivered after the attack at Koidu Geiya and distributed to Bazzy, Bomb Blast and the RUF/SLA fighters to use in the attack on Sewafe Bridge,<sup>12530</sup> was also used in subsequent attacks by Superman, and the group led by Alex Tamba Brima (a.k.a. Gullit) and Ibrahim Kamara (a.k.a. Bazzy).

5639. Bobson Sesay told the Trial Chamber that after the withdrawal from Sewafe Bridge, Superman moved with his men towards Gandorhun. The remaining SLA/RUF forces under the leadership of Bomb Blast moved to Tombodu, where they joined with another group of SLA/RUF troops under the command of Gullit and Bazzy. When the witness arrived at Tombodu, the group still had available the ammunition obtained after Koidu Geiya.<sup>12531</sup>

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ammunition: Transcript 27 April 2010, pp. 40129-40133.

<sup>12527</sup> Prosecution Final Trial Brief, para. 255.

<sup>12528</sup> Prosecution Final Trial Brief, para. 256, see *also* para. 6.

<sup>12529</sup> Defence Final Trial Brief, para. 1107.

<sup>12530</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8030-8031.

<sup>12531</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8038-8039; Bobson Sesay confirmed also that both SLA and RUF troops constituted this group: Transcript 18 April 2008, pp. 8003, 8022.

5640. With that group, the witness then participated in a number of operations through June to October 1998, including at Masofinia in Koinadugu district in June 1998,<sup>12532</sup> Karina,<sup>12533</sup> Mandaha,<sup>12534</sup> and Gbedembu<sup>12535</sup> in Bombali district in July 1998, and then at Camp Rosos<sup>12536</sup> and Gbombsamba<sup>12537</sup> in Bombali District in September and October 1998. The troops burnt houses,<sup>12538</sup> looted and captured civilians along the way. The troops settled at Camp Rosos.

5641. Around September-October 1998, the troops established a new base at Major Eddie town, towards the Tonko-Limba area, in Kambia District. Gullit re-named the town Colonel Eddie town, when Major Eddie, who found the location for the base, was promoted.<sup>12539</sup>

5642. Bobson Sesay testified that the supply of ammunition he witnessed being brought after Koidu Geiya and distributed by Superman to Bazzy and Bomb Blast was used throughout the military attacks undertaken by Gullit's group in Mansofinia, Karina, Mandaha, Gbedembu, Rosos and Gbombsamba.<sup>12540</sup> According to the witness, the group "never had any other supply".<sup>12541</sup>

Prosecution witness TF1-375

5643. TF1-375, a fighter under the command of Denis Mingo (a.k.a. Superman) for most of 1998, testified that two days after Fitti-Fatta, Superman instructed him to take the ammunition he had collected from Taylor's farm in Gbarnga to Komba Gbundema at Wordu. Gbundema was an RUF commander. The witness went with Gbundema and the ammunition to Kurubonla to meet SAJ Musa. With SAJ Musa, they then used that

<sup>12532</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8039-8040.

<sup>12533</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8090-8108.

<sup>12534</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8111-8113.

<sup>12535</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8114-8118.

<sup>12536</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8124-8131.

<sup>12537</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8132-8136.

<sup>12538</sup> Alimamy Bobson Sesay, Transcript 18 April 2008, pp. 8038-8039.

<sup>12539</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8162-8165.

<sup>12540</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, p. 8142.

<sup>12541</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8136-8139.

ammunition to launch an attack on Mongor Bendugu.<sup>12542</sup> The attack on Mongor Bendugu occurred in late 1998, at the end of the rainy season.<sup>12543</sup>

5644. Heavy weapons and a lot of ammunition were captured during the attack on Mongor Bendugu, including one 40 barrelled missile, an armoured car, a 50 calibre, some one barrel missiles, mortars, GMG, some RPGs, pistols, and AK-47s.<sup>12544</sup>

5645. TF1-375 testified that after the attack on Mongor Bendugu, Superman travelled to Kurubonla, where a commanders' forum was held to discuss a planned attack on Kabala.<sup>12545</sup> SAJ Musa, Superman and General Bropleh, among others, were present at this meeting. Superman arrived in Kurubonla with armed bodyguards and the same ammunition brought from Gbarnga. He explained that Bockarie told him to work with SAJ Musa to capture Kabala and, eventually, Freetown. The witness knew the ammunition Superman brought was the same ammunition from Gbarnga because he was able to tell the difference between ammunition used in Liberia and Sierra Leone.<sup>12546</sup> After the forum, they attacked Kabala.<sup>12547</sup> They used the ammunition from Mongor Bendugu, as well as ammunition brought by Superman.<sup>12548</sup> The attack on Kabala was still during the rainy season. At Kabala they were able to take a lot of weapons and ammunition from the Nigerian contingent.<sup>12549</sup>

Prosecution witness Perry Kamara

5646. Perry Kamara testified that when Superman received ammunition at Buedu for the Fitti-Fatta Mission, Bockarie also instructed Superman to carry part of the arms and ammunition to SAJ Musa.<sup>12550</sup> The ammunition would be part of a larger shipment yet to arrive for a larger plan.<sup>12551</sup>

Prosecution witness Komba Sumana

<sup>12542</sup> TF1-375, Transcript 23 June 2008, pp. 12543, 12548.

<sup>12543</sup> TF1-375, Transcript 23 June 2008, pp. 12553-12554.

<sup>12544</sup> TF1-375, Transcript 23 June 2008, pp. 12551-12553.

<sup>12545</sup> TF1-375, Transcript 24 June 2008, pp. 12556-12557.

<sup>12546</sup> TF1-375, Transcript 24 June 2008, pp. 12558-12559.

<sup>12547</sup> TF1-375, Transcript 24 June 2008, pp. 12559-12560.

<sup>12548</sup> TF1-375, Transcript 24 June 2008, pp. 12560-12562.

<sup>12549</sup> TF1-375, Transcript 24 June 2008, pp. 12559-12560.

<sup>12550</sup> Perry Kamara, Transcript 5 February 2008, p. 3169.

<sup>12551</sup> Perry Kamara, Transcript 5 February 2008, pp. 3169-3172.

5647. Komba Sumana testified that after the Fitti-Fatta operation, he went to Korunbala and attended a meeting there. At this meeting Superman arrived, saying that he had brought ammunition.<sup>12552</sup> The ammunition was then used to launch an attack on Mongor Bendugu,<sup>12553</sup> which they successfully captured along with a large quantity of materiel.<sup>12554</sup> After this SAJ Musa decided to attack Kabala.<sup>12555</sup>

Prosecution witness Alice Pyne

5648. Witness Alice Pyne testified that while at Superman Ground, she saw supplies of arms and ammunition, including AK rounds and RPG bombs, arrive from Buedu on two occasions. The first time occurred when the RUF attacked Koidu Town and captured two ECOMOG soldiers whom they took to Bockarie at Buedu. The men escorting the ECOMOG soldiers returned with arms and ammunition and food. On one occasion armed men brought arms and ammunition for the RUF fighters at Superman Ground. They told the witness that they had got them from Sam Bockarie at Buedu. Then Alice Pyne sent a message on behalf of Superman to Sam Bockarie confirming receipt of the supplies. This occurred nearly two months after the witness arrived in Superman Ground in March 1998<sup>12556</sup> but before Fitti-Fatta.<sup>12557</sup>

Prosecution witness TF1-143

5649. TF1-143, a child soldier, testified that in September 1998, when he was 12 years old, rebels attacked Kabala Town, Koinadugu District where he was living with his family.<sup>12558</sup> His family ran away to his mother's village, Konkoba, located 12 miles from Kabala Town.<sup>12559</sup> Two nights later, TF1-143's family was captured at gunpoint and locked in a house with 150 civilians.<sup>12560</sup> He testified about being trained to use weaponry in Koinadugu District,<sup>12561</sup> and then moving to launch an attack on Karina, where there were Nigerian

<sup>12552</sup> Komba Sumana, Transcript 6 October 2008, p. 17950.

<sup>12553</sup> Komba Sumana, Transcript 6 October 2008, p. 17951.

<sup>12554</sup> Komba Sumana, Transcript 6 October 2008, p. 17958.

<sup>12555</sup> Komba Sumana, Transcript 6 October 2008, pp. 17959-17961.

<sup>12556</sup> Alice Pyne, Transcript 18 June 2008, pp. 12191-12194.

<sup>12557</sup> Alice Pyne refers to this consignment as being chronologically prior to Fitti-Fatta: Transcript 19 June 2008, pp. 12236-12240.

<sup>12558</sup> TF1-143, Transcript 5 May 2008, p. 8970.

<sup>12559</sup> TF1-143, Transcript 5 May 2008, pp. 8970-8971.

<sup>12560</sup> TF1-143, Transcript 5 May 2008, pp. 8974-8976.

<sup>12561</sup> TF1-143, Transcript 5 May 2008, pp. 8980-8981.






soldiers and heavy fighting.<sup>12562</sup> After Karina, they travelled to Kukuna where there were Nigerian soldiers,<sup>12563</sup> and then to Colonel Eddie Town.<sup>12564</sup> At Eddie Town, SAJ Musa gave them an order to go to Freetown to overthrow the government.<sup>12565</sup>

Prosecution witness TF1-028

5650. TF1-028 testified that she fled Freetown after the ECOMOG Intervention and moved to Karina.<sup>12566</sup> Shortly afterwards, the “Juntas” entered Karina, where they took her captive. They remained in Karina for two weeks before returning.<sup>12567</sup> The troops then left the forest, taking the witness and other civilians with them, and moved towards Mandaha.<sup>12568</sup> The commanders in Mandaha included Five-Five, Gullit, Woyoh, Leatherboot and Alabama.<sup>12569</sup> After Mandaha, the group moved to Makiteh in Bombali district,<sup>12570</sup> then Gbendembu, Kalangba, and on to Sander Makulo. The group arrived in Sander Makulo about four days after leaving Mandaha.<sup>12571</sup> The witness was then taken to Rosos, which was by the Batkanu area.<sup>12572</sup>

5651. After six months at Rosos, the witness was taken to Tufayim, also known as Eddie Town. She travelled with other “juntas” and civilians.<sup>12573</sup> TF1-028 testified that when the witness was held captive at Eddie Town, she heard that Superman was sending reinforcements from Kurubonla with “a good number of ammunition”.<sup>12574</sup> According to TF1-028, when the reinforcements arrived there was a celebration, and the troops stated that they could now take Freetown.<sup>12575</sup>

Defence Exhibit D-009

<sup>12562</sup> TF1-143, Transcript 5 May 2008, pp. 8987-8989.

<sup>12563</sup> TF1-143, Transcript 5 May 2008, pp. 9000-9004.

<sup>12564</sup> TF1-143, Transcript 5 May 2008, pp. 9005-9006.

<sup>12565</sup> TF1-143, Transcript 5 May 2008, pp. 9013-9014, 9015-9018.

<sup>12566</sup> TF1-028, Transcript 6 May 2008, pp. 9128-9129.

<sup>12567</sup> TF1-028, Transcript 7 May 2008, pp. 9142-9146.

<sup>12568</sup> TF1-028, Transcript 7 May 2008, pp. 9176-9178.

<sup>12569</sup> TF1-028, Transcript 7 May 2008, pp. 9183-9185.

<sup>12570</sup> TF1-028, Transcript 7 May 2008, pp. 9185-9187.

<sup>12571</sup> TF1-028, Transcript 7 May 2008, pp. 9189-9190.

<sup>12572</sup> TF1-028, Transcript 7 May 2008, pp. 9190-9192.

<sup>12573</sup> TF1-028, Transcript 7 May 2008, pp. 9201-9202.

<sup>12574</sup> TF1-028, Transcript 7 May 2008, pp. 9205-9207.

<sup>12575</sup> TF1-028, Transcript 7 May 2008, pp. 9205-9210.

5652. Exhibit D-009<sup>12576</sup> is a salute report to Sankoh by Bockarie, dated 26 September 1999, in which Bockarie recounts events after Sankoh left Sierra Leone in November 1996 to the date of the report. After recounting the failed Fitti-Fatta mission to retake Kono, during which Superman was able to capture materiel from the ammunition dump in Koidu Town, the report states:

With the captured materials from Kono, Superman went to the Kabala axis to join SAJ Musa. I instructed him to send some materials to which he agreed. Later he refused to dispatch the materials and refused to grant permission to the receiving officer to return to me.

...

Brig. Issa insisted that the materials be handed over as Superman had not only misused large , amounts of ammo in his failed attempt to capture Kono but had also refused to give account of materials captured when the Koidu Town ammo dump of ECOMOG was captured. Superman continued to refuse and Brig. Issa accompanied by Brig. Kallon entered his house and arrested all materials found.<sup>12577</sup>

#### Prosecution Exhibit P-080

5653. Exhibit P-080 is the First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone dated 12 August 1998. It states:

13. On 27 July 1998, apparently after seizing weapons and ammunition in an attack on ECOMOG units at Bendugu in north-eastern Sierra Leone, junta supporters attacked ECOMOG troops in the town of Kabala.<sup>12578</sup>

#### Deliberations

5654. The evidence unequivocally demonstrates that following the failed Fitti-Fatta mission, Denis Mingo (a.k.a. Superman) took a group of fighters from Kono to Kurubonla in Koinadugu District, where SAJ Musa was based, after which they launched attacks on Mongor Bendugu and Kabala.<sup>12579</sup> Separately, after the RUF/AFRC withdrawal from Koidu

<sup>12576</sup> Exhibit D-009, RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie - 00009658 - 00009671.

<sup>12577</sup> Exhibit D-009, RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie - 00009658 - 00009671, p. 9662.

<sup>12578</sup> Exhibit P-080, "UN Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998", para. 13, ERN 12388.

<sup>12579</sup> Issa Sesay, Transcript 8 July 2010, pp. 44054-44055 (describing a meeting occurring in July 1998 in which Superman defied Bockarie and went to Koinadugu after the Fitti-Fata mission); Perry Kamara, Transcript 5 February 2008, pp. 3155-3156, 3167-31769 (describing a meeting in Buedu in which Bockarie orders Superman to go to Koinadugu because SAJ Musa, in Koinadugu, was unskilled in jungle operations); TF1-375, Transcript 24 June 2008, pp. 12556-12557 (testifying that when Superman arrived in Kurubonla and told SAJ Musa that Sam Bockarie had told him to go and work with SAJ Musa). It was also suggested that Superman was ordered to go to Koinadugu to kill SAJ Musa: Foday Lansana, Transcript 22 February 2008, 4524-4525; Exhibit P-080, "UN Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998", p. 3, ERN 12388 (placing the attacks on Mongor Bendugu and Kabala in late July

Town in or around April 1998, a break-away group of primarily SLA troops under the leadership of Alex Tamba Brima (a.k.a. Gullit) independently made their way from Kono to Eddie Town, in the Kambia District, establishing a base there in September or October 1998.<sup>12580</sup>

i. The materiel used by Alex Tamba Brima's group on their way to Eddie Town

5655. In support of its allegations that the Accused provided the materiel used by Brima's group on their way to Eddie Town, the Prosecution relies on the evidence of Alimamy Bobson Sesay, who testified that the ammunition he witnessed being brought for the attack on Koidu Gieya in April or May 1998 was also used during military attacks undertaken by Brima's group when it moved north through Karina, Mandaha, Gbendembu and Rosos in the Bombali and Koinadugu districts. According to the witness, the group "never had any other supply".<sup>12581</sup>

5656. The Trial Chamber first recalls its finding that it had no general reservations concerning the evidence of Bobson Sesay.<sup>12582</sup> The Defence contends that Bobson Sesay's evidence as to this incident is not credible,<sup>12583</sup> citing in support the implausibility of the same consignment of ammunition being used by the fighters in numerous operations over the next months, including as late as September/October 1998 in Camp Rosos.<sup>12584</sup> Bobson Sesay testified that Brima's group did not receive any shipment of ammunition between the arrival of the shipment after the Koidu Geiya attack and the time it entered Freetown.<sup>12585</sup>

5657. The Trial Chamber also recalls its finding that the evidence was insufficient to establish the quantity of ammunition brought. According to Bobson Sesay, the ammunition

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1998).

<sup>12580</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8153-8155, 8162-8165; Perry Kamara, Transcript 5 February 2008, p. 3173 (The break-away group of AFRC that was not happy with the fact that Sam Bockarie was in command went to Rosos (Bombali District) and was comprised of Gullit, Five Five, Bazy and Junior Lion and the other fighters of AFRC); Issa Sesay, Transcript 8 July 2010, pp. 44087-44090.

<sup>12581</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, pp. 8136-8139.

<sup>12582</sup> Credibility Assessment, Alimamy Bobson Sesay, paras 285-289.

<sup>12583</sup> Defence Final Trial Brief, para. 1106.

<sup>12584</sup> Defence Final Trial Brief, para. 1107; Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8723-8726.

<sup>12585</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8733-8734.

provided at Koidu Geiya fit into one vehicle,<sup>12586</sup> although he did not describe the type of vehicle. The Trial Chamber takes into account that while the troops did meet resistance from Kamajors and ECOMOG forces on their route, Bobson Sesay described a number of the operations by Brima's group as being against primarily undefended civilian targets.<sup>12587</sup> The Trial Chamber considers that in such circumstances, and accounting for captured materiel from military engagements, it is not implausible that the materiel lasted for several months, until September and October 1998.

5658. The Trial Chamber finds Bobson Sesay's account of his participation in operations conducted by Brima's group from mid-1998 to October 1998 to be consistent and credible. Notably, the evidence provided by witnesses who had been captured by Brima's group closely corresponded to his account of the route and operations undertaken by Brima's troops throughout this period.<sup>12588</sup> While no other witness testified that materiel supplied by the Accused for the RUF and AFRC was applied for any of these operations, the Trial Chamber is of the opinion that this is due to the dearth of witnesses who participated in the attacks led by Brima. The witnesses who were captured by Brima's group either retained their civilian status or were not in a high ranking position within the contingent.<sup>12589</sup> As a fighter and officer in the AFRC organisation headed by Brima,<sup>12590</sup> Bobson Sesay is the only witness who testified before this Trial Chamber in a position to know the source of materiel used by the SLA commanders Brima and Kamara.

5659. On the basis of the evidence of Bobson Sesay, which the Trial Chamber considers to be credible, the Trial Chamber is satisfied that the materiel used by the SLA commanders

<sup>12586</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8711, 8713.

<sup>12587</sup> Alimamy Bobson Sesay, Transcript 21 April 2008, p. 8092 (the troops were surprised that they did not meet any military presence in Karina); Transcript 21 April 2008, p. 8114 (describing looting and capturing of civilians in Gbendembu); Transcript 21 April 2008, pp. 8120-8121 (the people at Matiti ran away when the troops arrived: "We did not even shoot. They ran away"); *but* see Transcript 21 April 2008, p. 8112 (the troops repelled Kamajors at Mandaha); Transcript 21 April 2008, p. 8122 (Attacks by Gbethis and Kamajors at Foro Loko); Transcript 21 April 2008, p. 8135 (encountering some resistance from ECOMOG forces at Gbomsamba). See also evidence of DCT-068, that in some cases, arms were not necessary to control a territory because the reputation of the RUF as murderers and rapists meant that sometimes opposing forces would abandon their posts: DCT-068, Transcript 11 March 2010, pp. 37125 – 37126.

<sup>12588</sup> TF1-143, Transcript 5 May 2008, pp. 9005-9006; TF1-028, Transcript 7 May 2008, pp. 9142-9146.

<sup>12589</sup> The only other witnesses who accompanied Brima's group during this period were TF1-143 and TF1-028, both captured civilians. TF1-143 was a child soldier trained to fight with Brima's group, but TF1-028 remained a civilian.

<sup>12590</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7867-7869.

Brima and Kamara in northern Sierra Leone after the attack on Koidu Geiya was supplied by the Accused.

5660. Bobson Sesay did not testify, nor does the Prosecution allege, that this ammunition was used after the capture of Rosos. Further, the Trial Chamber recalls that it has been judicially noticed that once the AFRC troops arrived at Colonel Eddie Town, in or around September 1998, they had to make a number of attacks on ECOMOG positions to supplement their dwindling stocks of arms and ammunition,<sup>12591</sup> suggesting that after arriving at Eddie Town, Brima's group obtained other sources of materiel.

5661. Bobson Sesay described a range of crimes committed by the RUF and SLA troops on its way through the Koinadugu and Bombali districts but the only crime for which these locations are within the geographical scope of the Indictment is Count 9 (Child Soldiers). The Trial Chamber recalls that on the basis of Bobson Sesay's evidence of the capture of boys during the attack by Brima's group on Karina in July 1998 and their later use in the Koinadugu District and in the Freetown attack, it has found that the crime of using children to participate actively in hostilities was committed.<sup>12592</sup> The Trial Chamber has also found that the abduction and training of TF1-158 in late 1998 by AFRC troops led by Gullit and SAJ Musa constituted the forcible conscription of a child into an armed force.<sup>12593</sup> Although there was no direct evidence that the materiel brought for the attack on Koidu Geiya in April or May 1998 was used for these crimes, the Trial Chamber can nonetheless reasonably infer that it was used by SLA commanders Brima and Kamara in the course of their activities from around mid-1998 to October 1998, which included the commission of crimes.

ii. The materiel used by Denis Mingo and SAJ Musa's group in northern Sierra Leone

5662. Turning to the Prosecution allegation that the Accused provided the materiel used by Mingo and SAJ Musa's group in northern Sierra Leone, the Trial Chamber finds that the evidence consistently establishes that Mingo did arrive with ammunition in Koinadugu

<sup>12591</sup> *Prosecutor v Taylor*, SCSL-03-1-T, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the AFRC Trial Judgement pursuant to Rule 94(B), 23 March 2009, Annex A, Fact 9.

<sup>12592</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers).

<sup>12593</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers).

district.<sup>12594</sup> According to TF1-375,<sup>12595</sup> this was the ammunition he assisted in transporting from Gbarnga. The Trial Chamber recalls that it has accepted TF1-375's account that the ammunition from Gbarnga was given by the Accused to Bockarie, and in turn to Mingo to use for Operation Fitti-Fatta.<sup>12596</sup> This account is supported by Perry Kamara, who stated, that before Fitti-Fatta, Bockarie brought ammunition from the Accused and that while some of this materiel was used for Fitti-Fatta, Bockarie instructed Mingo to take part of the materiel to SAJ Musa.<sup>12597</sup> Alice Pyne also testified that some time before Fitti-Fatta, Bockarie provided supplies of arms and ammunition to Superman at his territory near Guinea Highway.<sup>12598</sup>

5663. In light of the general credibility concerns surrounding TF1-375's evidence, the Trial Chamber treats his testimony with caution.<sup>12599</sup> TF1-375's explanation for linking this ammunition to that brought by Mingo to Kurubonla is that he was able to tell the difference between the types of ammunition used in Liberia and Sierra Leone.<sup>12600</sup> The Trial Chamber is of the opinion that this explanation is plausible, in light of the lengthy period of time the witness spent in Liberia during the war.<sup>12601</sup> Nor was he challenged on it. Further, TF1-375's account is supported by Perry Kamara, about whose evidence the Trial Chamber had no general reservations.<sup>12602</sup>

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<sup>12594</sup> TF1-028, Transcript 7 May 2008, pp. 9205-9207 (stating that when the witness was held captive at Eddie Town, she heard that Superman was sending reinforcements from Kurubonla with "a good number of ammunition"); Komba Sumana, Transcript 6 October 2008, p. 17950 (stating that after the Fitti-Fatta operation, he went to Korunbala, and shortly afterwards Superman arrived, saying that he had brought ammunition); Issa Sesay, Transcript 12 July 2010, p. 44222 (Superman misused large amounts of ammunition captured during the Fitti-Fatta mission, disobeying Bockarie's orders to send the ammunition to him and instead used the ammunition to go to Koinadugu); Exhibit D-009, "RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie", ERN. 9662 ("With the captured materials from Kono, Superman went to the Kabala axis to join SAJ Musa. I instructed him to send some materials to which he agreed. Later he refused to dispatch the materials [...]").

<sup>12595</sup> TF1-375, Transcript 23 June 2008, pp. 12543, 12548.

<sup>12596</sup> TF1-375, Transcript 23 June 2008, pp. 12540-12541.

<sup>12597</sup> Perry Kamara, Transcript 5 February 2008, p. 3169.

<sup>12598</sup> Alice Pyne, Transcript 18 June 2008, pp. 12191-12194.

<sup>12599</sup> Credibility Assessment, TF1-375, paras 308-312.

<sup>12600</sup> TF1-375, Transcript 24 June 2008, pp. 12558-12559.

<sup>12601</sup> TF1-375, Transcript 23 June 2008, pp. 12469-12470, 12473.

<sup>12602</sup> Credibility Assessment, Perry Kamara, paras 227-236.

5664. A different account of how Mingo obtained this ammunition is provided by Issa Sesay, who testified that the ammunition brought by Mingo to SAJ Musa was materiel captured during the Fitti-Fatta mission. This is also supported by Exhibit D-009.<sup>12603</sup>

5665. The Trial Chamber does not consider that the two explanations for the sources of the materiel brought by Mingo to Northern Sierra Leone to be mutually inconsistent. While evidence suggests that Mingo did capture materiel from the Fitti-Fatta operation,<sup>12604</sup> this would not have precluded him from also taking the materiel given to him by Bockarie for the Fitti-Fatta mission.

5666. On the basis of the evidence of TF1-375 and Perry Kamara, which the Trial Chamber considers to be credible, the Trial Chamber finds that at least part of the materiel used by SAJ Musa and Mingo's group in the attacks on Mongor Bendugu and Kabala was supplied by the Accused. The Trial Chamber also accepts TF1-375's evidence that he took the ammunition he had collected from Taylor's farm in Gbarnga, to Komba Gbundema at Wordu.<sup>12605</sup>

5667. The Trial Chamber notes that neither TF1-375 nor Kamara testified that this ammunition was used beyond Mongor Bendugu and Kabala. However, TF1-375 testified that the RUF/SLA troops captured a large amount of heavy weapons and ammunition during the attack on Mongor Bendugu, which they then applied, together with the remaining ammunition from Mingo, towards the Kabala attack.<sup>12606</sup> The Trial Chamber recalls its findings that the forcible abduction and conscription of TF1-143 after SAJ Musa's attack on Kabala constituted the crime of using a child to participate actively in hostilities.<sup>12607</sup> It also recalls its acceptance of TF1-375's evidence that immediately after the Fitti-Fatta Operation in mid-1998, when TF1-375 provided the ammunition he had collected from the Accused's

<sup>12603</sup> Exhibit D-009, "RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie", ERN. 9662.

<sup>12604</sup> TF1-585, Transcript 8 September 2008, p. 15707 (While Superman was not able to capture Kono, but they were able to capture some arms and ammunition); Alice Pyne, Transcript 19 June 2008, pp. 12246-12248 (capture of materiel from Guineans on the way to Koidu Town).

<sup>12605</sup> TF1-375, Transcript 23 June 2008, pp. 12553-12554.

<sup>12606</sup> TF1-375, Transcript 24 June 2008, pp. 12560-12562.

<sup>12607</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers).





farm in Gbarnga to RUF Commander Komba Gbundema, an unknown number of people were mutilated by the carving of RUF on their chests by Gbundema.<sup>12608</sup>

### Findings

5668. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that materiel supplied by the Accused was used by SAJ Musa and Denis Mingo (a.k.a. Superman) in attacks on Mongor Bendugu and Kabala shortly after Operation Fitti-Fatta in mid-1998, which included the commission of crimes.

5669. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that materiel supplied by the Accused was used by the AFRC group led by Alex Tamba Brima (a.k.a. Gullit), Hassan Papa Bangura (a.k.a. Bomb Blast), and Ibrahim Kamara (a.k.a. Bazy) in their activities in the Koinadugu and Bombali Districts from June to October 1998, which included the commission of crimes.

#### d. The December 1998 offensives and the Freetown Invasion

5670. The Prosecution contends that the surge of materiel brought by the Burkina Faso shipment was “critical to the success of the multi-axis nationwide operation” in December 1998 in the lead up to the Freetown attack. The Prosecution alleges that the materiel from the Burkina Faso shipment was used to capture Koidu town and environs and other locations, capturing more supplies which in turn enabled their advance along the Freetown and Kenema axis.<sup>12609</sup> The Prosecution adduced evidence from witnesses Isaac Mongor, Alimamy Bobson Sesay, TF1-375, Komba Sumana, TF1-174, Perry Kamara, Mohamed Kabbah, and Dauda Aruna Fornie.

5671. The Defence does not contest that the materiel obtained from Bockarie’s trip to Burkina Faso in November/December 1998 was used during the RUF attack on Koidu Town and Kenema in December 1998, enabling the further capture of materiel by the RUF.<sup>12610</sup> The Defence disputes that any of the materiel from the Burkina Faso shipment was used in the January 1999 Freetown invasion. The Defence contends that the forces led by Alex

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<sup>12608</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Counts 7 and 8 (Physical Violence).

<sup>12609</sup> Prosecution Final Trial Brief, paras. 263-264.



Tamba Brima (a.k.a. Gullit) and SAJ Musa launched the Freetown attack independently from the RUF, and that the RUF commanders never got closer to Freetown than Waterloo.<sup>12611</sup> It submits that the Burkina Faso shipment never reached the group led by Brima and SAJ Musa.<sup>12612</sup> The Defence adduced evidence from witness Issa Sesay.

5672. The Prosecution further alleges that the shipment brought by Dauda Aruna Fornie from White Flower during the Freetown invasion was sent on to Issa Sesay in Makeni, who then sent it on to Boston Flomo (a.k.a. RUF Rambo) whose forces were at that time in the Waterloo area to reinforce the forces in Freetown.<sup>12613</sup> It relies on the evidence of Fornie for this contention.

### Evidence

#### Prosecution Witness Isaac Mongor

5673. Isaac Mongor testified that Bockarie called RUF commanders to Buedu for a meeting after returning from the November/December 1998 trip to Burkina Faso. At the meeting, Bockarie showed them the ammunition for the mission and they discussed a planned operation to capture Kono, Makeni and advance to Freetown.<sup>12614</sup> SAJ Musa was not present at the meeting; he was in Koinadugu. At the meeting, SAJ Musa's and Superman's forces in the north were discussed. It was agreed that Johnny Paul Koroma would send a radio message to SAJ Musa and instruct them to join together for the operation. Mongor had a radio in his area. His radio man monitored the radio and told Mongor that the message had been relayed to SAJ Musa and that SAJ Musa agreed to run the operation. There were some RUF men with SAJ Musa at that time, including Alfred Brown, Perry Kamara (a.k.a. King Perry) and others.<sup>12615</sup>

5674. After the meeting with all the commanders, everyone agreed to run the operation and received a supply of ammunition. The only commanders who did not receive the supplies were those in the Northern jungle in the Koinadugu District. There was no way for the

<sup>12610</sup> Defence Final Trial Brief, paras 1078, 1070.

<sup>12611</sup> Defence Final Trial Brief, paras 617-618.

<sup>12612</sup> Defence Final Trial Brief, para. 1078.

<sup>12613</sup> Prosecution Final Trial Brief, para. 266.

<sup>12614</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5797-5798; see *also* p. 5795.

<sup>12615</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5799-5801.

RUF/AFRC to transport any ammunition to the Koinadugu District because the ECOMOG troops, the Kabbah loyalists and the Kamajors were based in Koidu Town.<sup>12616</sup>

Prosecution Witness Alimamy Bobson Sesay

5675. Alimamy Bobson Sesay was an AFRC fighter and officer<sup>12617</sup> who testified to participating in the Freetown attack in January 1999 as part of the group led by Gullit. He testified that during the second week of January, when he and Gullit were in Freetown and had captured the State House, Gullit called RUF Rambo from the State House and requested reinforcements. RUF Rambo stated that he and “Issa” had moved with SLA Rambo, also known as Rambo Red Goat to Hastings and were preparing reinforcements to come to Freetown.<sup>12618</sup>

5676. Some time before the third week of January, Gullit appointed the witness and Colonel Eddie to receive Idrissa Kamara (a.k.a. Rambo Red Goat), who came with 30 RUF fighters and 20 SLA as reinforcements from Allen town.<sup>12619</sup> The group was “heavily armed”. Gullit’s group was happy because by then they were running out of ammunition, and the reinforcements were equipped with a supply of ammunition “they received from Mosquito when they were advancing to capture Kono and Makeni until they advanced to our area”.<sup>12620</sup> According to Bobson Sesay, Rambo Red Goat explained the source of the ammunition when he arrived and it “was not hidden to the troop”.<sup>12621</sup> The whole troop then moved to Ferry Junction, and later recaptured the State House.<sup>12622</sup>

5677. On cross-examination, Bobson Sesay stated that Rambo Red Goat did not disclose whether the ammunition he brought came from Liberia.<sup>12623</sup>

5678. Bobson Sesay also testified that later, when the AFRC troops retreated from Allen Town through Grafton and Hastings and Benguema, Issa Sesay, Morris Kallon, RUF Rambo

<sup>12616</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5801-5803

<sup>12617</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7865-7866.

<sup>12618</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8300-8301.

<sup>12619</sup> Alimamy Bobson Sesay, Transcript 22 April 2008, pp. 8301-8302; Transcript 23 April 2008, pp. 8326-8327. He testified that “this was almost during the third week of 6 January when we entered”: Transcript 23 April 2008, p. 8328.

<sup>12620</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, p. 8434.

<sup>12621</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, p. 8434.

<sup>12622</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8328-8330.

<sup>12623</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8733-8734.

and RUF/SLA fighters joined them at Benguema, where they held a meeting. At the meeting, Issa Sesay informed them of a plan to recapture Freetown by using the peninsular route. Issa Sesay told them that he would bring ammunition from Makeni so they could advance to Freetown.<sup>12624</sup>

5679. Bobson Sesay testified that during the third week of January 1999, he led the troops to Macdonald. When he was based in Macdonald, Issa Sesay, along with Five-Five, Morris Kallon, Superman, Bomb Blast and RUF Rambo, Med Bajehjeh arrived to provide reinforcements for the planned advance towards Freetown. Sesay came in a vehicle that had ammunition, including rocket propelled grenades. He distributed ammunition to the fighters who reinforced the troops at Macdonald, and they advanced towards Tombo axis.<sup>12625</sup> While Bobson Sesay stated when asked in examination-in-chief that he did not know where this ammunition came from,<sup>12626</sup> in cross-examination, he testified:

[there were] rumours around that this ammunition came from Liberia. People were saying that, because we had no other place to get ammunition. They said the ammunition came from Liberia that even enabled them to capture Kono and right up to the advancement that they made through our own area and the other one that Issa Sesay was going to take to give us was to recapture Freetown and that was what we used. We used the Tombo route. But that was a rumour around, that it was from Liberia.<sup>12627</sup>

#### Prosecution Witness TF1-375

5680. TF1-375, who fought with Superman and SAJ Musa from December 1998 to January 1999, testified that Rambo Red Goat was one of the commanders with Superman, Issa Sesay and RUF Rambo who were on the outskirts of Freetown in January 1999.<sup>12628</sup> At Waterloo, Superman, Issa Sesay, Komba Gbundema and other senior officers decided that RUF Rambo should take a group to attack Hastings and get across the bridge to go to Freetown to join their “brothers”.<sup>12629</sup> Issa Sesay appointed Rambo Red Goat to lead the group that went to Freetown because, as Sesay stated, Rambo Red Goat was once an SLA soldier and “knew his brothers in the city well”.<sup>12630</sup> The group led by Rambo Red Goat numbered roughly 60 to 65 and comprised some RUF men, some SLA and some STF. The RUF were armed by

<sup>12624</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8379-8381.

<sup>12625</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8382-8384.

<sup>12626</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8384.

<sup>12627</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, p. 8734.

<sup>12628</sup> TF1-375, Transcript 24 June 2008, p. 12608.

<sup>12629</sup> TF1-375, Transcript 24 June 2008, p. 12608.

<sup>12630</sup> TF1-375, Transcript 24 June 2008, p. 12609.

Issa Sesay and Superman, the STF were armed by General Bropleh and the SLA were armed by Brigadier Mani and Colonel T.<sup>12631</sup>

Prosecution Witness Komba Sumana

5681. Komba Sumana testified that in 1998, after a conflict between SAJ Musa and Superman, SAJ Musa left Koinadugu. Superman remained the commander and General Bropleh the deputy. Later, SAJ Musa communicated to them that he was to move with Five-Five to Freetown and requested Superman's group to move to Makeni.<sup>12632</sup> The witness and others successfully attacked and captured Makeni.<sup>12633</sup> Brigadier Mani was with Superman in Koinadugu.<sup>12634</sup> At Makeni, Superman received a communication from Five-Five, who told them that SAJ Musa was shot and requested reinforcement. After this, the witness and other fighters assembled at Issa's house. Issa told the fighters that they were to reinforce the forces in Freetown.<sup>12635</sup>

5682. The witness travelled on a truck with other fighters, commanded by Superman, to Lunsar, where they remained for a month. From Lunsar, the witness's group attacked Gberi Junction and dislodged ECOMOG. Two other trucks went on towards Freetown. The witness's friend, "Rubber-Rubber" was on one of those trucks.<sup>12636</sup> When both had returned to Makeni, Rubber-Rubber told Sumana that:

5683. [T]hey went but they stopped at Waterloo. He said not all of them were able to go to Freetown. He said they took the - they used a bypass and went to Freetown. He said when they went they met Five-Five and others. At the time that they went SAJ Musa had already died.<sup>12637</sup>

Prosecution Witness TF1-174

5684. Witness TF1-174, who did relief work during the Sierra Leonean Civil War,<sup>12638</sup> testified that on 28 December 1998<sup>12639</sup> he was introduced to Issa Sesay in Makeni when

<sup>12631</sup> TF1-375, Transcript 24 June 2008, p. 12610.

<sup>12632</sup> Komba Sumana, Transcript 6 October 2008, pp. 17966-17969.

<sup>12633</sup> Komba Sumana, Transcript 6 October 2008, pp. 17973-17974.

<sup>12634</sup> Komba Sumana, Transcript 6 October 2008, p. 17968.

<sup>12635</sup> Komba Sumana, Transcript 6 October 2008, pp. 17976-17978.

<sup>12636</sup> Komba Sumana, Transcript 6 October 2008, pp. 17979-17980.

<sup>12637</sup> Komba Sumana, Transcript 6 October 2008, p. 17979.

Sesay's vehicle pulled up close to where the witness was sitting.<sup>12640</sup> On the same day, he then encountered a black Mercedes Benz with about six persons dressed in black and military attire in the centre of Makeni. They were rebels with guns, in military brown and green shirts. They stopped the witness and one of the men pointed to a vehicle in front of them loaded with young men and women.<sup>12641</sup> According to the witness, the man then stated that "very soon we will hear what will come out of Freetown, even the vehicle ahead was proceeding to Freetown".<sup>12642</sup> Immediately afterwards, two other vehicles arrived from behind. Inside the vehicles were young men and girls who said that they were heading for Freetown. The three vehicles loaded with young men and girls were ECOMOG trucks which had a usual capacity of about 20-30 people but were packed with up to 90 or 100 people.<sup>12643</sup> The witness could see that those sitting at the back door were armed. When they passed, the witness continued on to meet his wife and children.<sup>12644</sup>

5685. From 28 December, for the next weeks, the witness saw the People's Army continuously moving to Kabala, Port Loko to Lunsar, Bumbuna and Freetown. The witness knew this because he saw the rebels loading their vehicles and they would say where they were going or where they were coming back from.<sup>12645</sup>

#### Prosecution Witness Perry Kamara

5686. Perry Kamara was a radio operator who moved to Rosos on Bockarie's instructions in or around September 1998.<sup>12646</sup> Ultimately, he accompanied SAJ Musa and Gullit on the way to Freetown from Camp Rosos.<sup>12647</sup> According to Kamara, after the Kukuna mission in September 1998, and when Sam Bockarie returned from a trip to Liberia, Bockarie sent a message to his commanders from Buedu saying that materiel had arrived for the mission

<sup>12638</sup> TF1-174, Transcript 27 January 2009, p. 23664.

<sup>12639</sup> TF1-174, Transcript 27 January 2009, pp. 23690-23692.

<sup>12640</sup> TF1-174, Transcript 27 January 2009, pp. 23692- 23693.

<sup>12641</sup> TF1-174, Transcript 27 January 2009, pp. 23693-23696.

<sup>12642</sup> TF1-174, Transcript 27 January 2009, p. 23694.

<sup>12643</sup> TF1-174, Transcript 27 January 2009, pp. 23694-23695.

<sup>12644</sup> TF1-174, Transcript 27 January 2009, pp. 23695-23696.

<sup>12645</sup> TF1-174, Transcript 27 January 2009, pp. 23707-23708.

<sup>12646</sup> Perry Kamara, Transcript 5 February 2008, p. 3175 (The witness was instructed to move to Rosos by Bockarie to join SAJ Musa in Koinadugu to reinforce Gullit and his own radio operators); Perry Kamara, Transcript 6 February 2008, p. 3188 (The witness left from Koinadugu to Rosos on 1 September 1998 which took about 21 days).

<sup>12647</sup> Perry Kamara, Transcript 6 February 2008, p. 3212.

“that was planned”.<sup>12648</sup> Ammunition was allotted for various groups. However, the witness was unsure as to whether the commanders at Rosos got their part of the ammunition due to the conflict that developed between SAJ Musa and Superman. While materiel destined for Koinadugu and Rosos did arrive at Koinadugu, the witness is unaware whether SAJ Musa actually took any of that ammunition with him to Rosos because when SAJ Musa arrived at Rosos, he prohibited radio contact with the RUF.<sup>12649</sup> SAJ Musa went to Rosos in late November 1998.<sup>12650</sup>

5687. Kamara also testified that, around 25 December 1998, the troops captured Benguema, the location of the SLA barracks and ECOMOG headquarters.<sup>12651</sup> During the attack, they had captured a large amount of ammunition but were unable to carry it to Freetown. SAJ Musa instructed them to set fire to the captured materiel<sup>12652</sup> so that ECOMOG could not have it.<sup>12653</sup>

5688. When the group had reached Waterloo and Benguema but before moving into Freetown, Gullit contacted Bockarie using the witness as radio operator.<sup>12654</sup> Bockarie asked Gullit to wait for Superman and Issa Sesay to join him with reinforcements before entering Freetown. Gullit responded that if this was because Bockarie wanted to supply them with ammunition, it was not necessary as the group had sufficient ammunition to enter Freetown. Gullit did not ultimately wait for Superman and Sesay.<sup>12655</sup>

5689. Kamara also testified that during the invasion, a former SLA called Rambo Red Goat joined the troops at Kissy Road with reinforcements of 15 men who had bypassed ECOMOG.<sup>12656</sup> While Rambo Red Goat stayed in Freetown,<sup>12657</sup> Kamara and the remaining forces retreated to Waterloo, because many of the troops, especially those who were released from Pademba, had no weaponry.<sup>12658</sup> Bockarie ordered the troops to leave Freetown and

<sup>12648</sup> Perry Kamara, Transcript 6 February 2008, p. 3206.

<sup>12649</sup> Perry Kamara, Transcript 6 February 2008, p. 3207.

<sup>12650</sup> Perry Kamara, Transcript 6 February 2008, p. 3208.

<sup>12651</sup> Perry Kamara, Transcript 6 February 2008, p. 3214.

<sup>12652</sup> Perry Kamara, Transcript 6 February 2008, pp. 3214-3215.

<sup>12653</sup> Perry Kamara, Transcript 6 February 2008, p. 3215.

<sup>12654</sup> Perry Kamara, Transcript 6 February 2008, p. 3218.

<sup>12655</sup> Perry Kamara, Transcript 6 February 2008, pp. 3218-3219.

<sup>12656</sup> Perry Kamara, Transcript 6 February 2008, pp. 3237-3238.

<sup>12657</sup> Perry Kamara, Transcript 6 February 2008, p. 3238.

<sup>12658</sup> Perry Kamara, Transcript 6 February 2008, p. 3238.

return to Waterloo to reorganise themselves in order to re-attack Freetown.<sup>12659</sup> The remaining forces were told to make the area fearful.<sup>12660</sup>

5690. Kamara also testified that after the troops in Freetown captured the State House, Bockarie told them that reinforcements would arrive, although the reinforcements, led by Issa Sesay, Morris Kallon and Superman could not make it to Freetown, only to Waterloo.<sup>12661</sup>

#### Prosecution Witness Mohamed Kabbah

5691. Mohamed Kabbah, an RUF radio operator, testified that when Superman and others were operating in Northern Sierra Leone independently from the RUF, they had to capture ammunition so that the group could defend itself.<sup>12662</sup>

5692. Kabbah gave a specific example of an offensive in late 1998 in which Superman, SAJ Musa and Gullit obtained weapons from Guineans stationed in Kambia at around the same time as the RUF successfully attacked Kono in 1998.<sup>12663</sup> Kabbah confirmed a prior statement that there were such large quantities of arms captured from Kambia that excess weapons were stored in Kabbah's house in Kailahun.<sup>12664</sup>

5693. Kabbah testified that the AFRC group did not ask for weapons before launching the Freetown operation.<sup>12665</sup>

#### Prosecution Witness Dauda Aruna Fornie

5694. Dauda Aruna Fornie testified that the ammunition he brought back to Buedu during the Freetown invasion was despatched directly to Kono where Peter Vandi received it and sent it directly on to Issa Sesay in Makeni who despatched it to Rambo and others in the Waterloo area. The ammunition reached Rambo approximately 3 days after Fornie came

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<sup>12659</sup> Perry Kamara, Transcript 6 February 2008, p. 3239.

<sup>12660</sup> Perry Kamara, Transcript 6 February 2008, pp. 3241-3242.

<sup>12661</sup> Perry Kamara, Transcript 7 February 2008, p. 3387.

<sup>12662</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16373-16374.

<sup>12663</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16417.

<sup>12664</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16419.

<sup>12665</sup> Mohamed Kabbah, Transcript 17 September 2008, pp. 16420-16421.

with them to Buedu. The witness explained that he knew all this because it was written down in the message log book.<sup>12666</sup>

Defence Witness Issa Sesay

5695. Issa Sesay testified that the ammunition used by the AFRC in the Freetown invasion was from captured supplies.<sup>12667</sup> He testified that from February 1998 to January 1999, the AFRC, including Brigadier Mani, SAJ Musa and the groups in the Koinadugu District, used ammunition captured from ECOMOG, which was why their supplies ran out quickly. The AFRC were a purely independent operation at this point; they were not taking orders from Taylor or the RUF.<sup>12668</sup>

5696. Sesay denied that there was one joint plan for the AFRC and RUF to attack Freetown which included SAJ Musa and his troops coming from Koinadugu because (i) their similar timing was pure coincidence and (ii) Johnny Paul Koroma and SAJ Musa were not in contact at this time so cannot have colluded. When Sesay then attacked Kono, SAJ Musa was already on his way to Freetown.<sup>12669</sup>

5697. According to Issa Sesay, after SAJ Musa died, Gullit called Bockarie via the radio operator Alfred Brown. He told Bockarie about SAJ Musa's death and the plan to attack Freetown. Bockarie told Gullit that they should wait to attack Freetown and that Bockarie would send reinforcements to meet them at Waterloo. Gullit did not wait and attacked Freetown one or two days later.<sup>12670</sup> Gullit also called Bockarie after they had captured the State House and their troops were at the Congo Cross Bridge and asked Bockarie to send reinforcements and ammunition.<sup>12671</sup>

5698. Issa Sesay testified that at the time of the Freetown invasion, Bockarie was in Buedu, Superman was in Lunsar and Sesay was in Makeni. The RUF did not take part in the attack on Freetown, and they did not send reinforcements or ammunition to the attacking forces.<sup>12672</sup> Sesay testified that in December 1998, after an unsuccessful attack on Makeni,

<sup>12666</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21595-21596.

<sup>12667</sup> Issa Sesay, Transcript 26 July 2010, p. 44632.

<sup>12668</sup> Issa Sesay, Transcript 26 July 2010, pp. 44632-44633.

<sup>12669</sup> Issa Sesay, Transcript 4 August 2010, pp. 45424-45425

<sup>12670</sup> Issa Sesay, Transcript 9 July 2010, pp. 44162-44163.

<sup>12671</sup> Issa Sesay, Transcript 9 July 2010, p. 44162.

<sup>12672</sup> Issa Sesay, Transcript 9 July 2010, pp. 44161-44162.



Bockarie instructed Brigadier Mani, an AFRC member,<sup>12673</sup> Superman and others to join Sesay's group in Makeni so they could capture Teko Barracks.<sup>12674</sup> Brigadier Mani, General Bropleh and Superman then coordinated a joint attack on ECOMOG at Teko Barracks.<sup>12675</sup> From the time that Brigadier Mani, General Bropleh and Superman attacked Teko Barracks, Brigadier Mani and General Bropleh stayed with Sesay in Makeni until Superman and Massaquoi attacked Sesay in March 1999.<sup>12676</sup>

5699. After the Teko Barracks attack, Superman stayed in Makeni for a week before he moved to Lunsar. He stayed in Lunsar until Bockarie gave orders to Superman and Rambo to attack Port Loko.<sup>12677</sup> The attack on Port Loko failed, and Bockarie ordered Superman and Rambo to advance towards Waterloo, where ECOMOG had redeployed after the attack on Freetown. On the way to Waterloo, they captured Masiaka. The RUF fought at Waterloo for two weeks before ECOMOG withdrew. By this time, the AFRC was already leaving Freetown. The RUF forces did not get further than Waterloo.<sup>12678</sup> Rambo's forces attacked Waterloo as part of the RUF's plan to take Freetown, as the path through Waterloo was the only way to get to Freetown,<sup>12679</sup> not to link up with or open a way for the AFRC.<sup>12680</sup>

5700. Sesay testified that he went to Waterloo from Makeni after the withdrawal of the AFRC from Freetown.<sup>12681</sup> Bockarie sent Sesay to Waterloo to instruct Gibril Massaquoi, who had just been freed by the AFRC from Pademba Road Prison and had joined Superman and Rambo in Waterloo,<sup>12682</sup> to take the APC politicians who had also been freed from Pademba Road Prison to go to Makeni to talk with Sam Bockarie.<sup>12683</sup>

5701. Sesay denied going to Waterloo to assist the AFRC in retaking Freetown.<sup>12684</sup> When Sesay arrived at Waterloo, the AFRC were split into two groups. Gullit commanded one

<sup>12673</sup> Issa Sesay, Transcript 8 July 2010, pp. 43991-43994.

<sup>12674</sup> Issa Sesay, Transcript 8 July 2010, pp. 44082-44083.

<sup>12675</sup> Issa Sesay, Transcript 9 July 2010, pp. 44159-44160.

<sup>12676</sup> Issa Sesay, Transcript 9 July 2010, pp. 44159-44160. Sesay acknowledged in cross-examination that he did have some level of co-ordination with Brigadier Mani from late December 1998 until March 1999: Issa Sesay, Transcript 19 August 2010, pp. 46679-46680

<sup>12677</sup> Issa Sesay, Transcript 12 July 2010, pp. 44216-44217.

<sup>12678</sup> Issa Sesay, Transcript 9 July 2010, pp. 44168-44169.

<sup>12679</sup> Issa Sesay, Transcript 4 August 2010, p. 45433.

<sup>12680</sup> Issa Sesay, Transcript 4 August 2010, p. 45432.

<sup>12681</sup> Issa Sesay, Transcript 11 August 2010, p. 45974.

<sup>12682</sup> Issa Sesay, Transcript 11 August 2010, p. 45976; Transcript 28 July 2010, pp. 44823-44824.

<sup>12683</sup> Issa Sesay, Transcript 11 August 2010, p. 45974-45975.

group in Benguema and Bazy commanded the other in Hastings.<sup>12685</sup> There was no unity between the AFRC and the RUF. Neither side would subordinate themselves to the other, so misunderstandings arose and they used to shoot at each other. The AFRC blamed the RUF for their forced retreat from Freetown because the RUF did not reinforce them.<sup>12686</sup> Due to problems between the AFRC and the RUF at Waterloo, Bockarie ordered Sesay to withdraw Rambo. Sesay did so and Rambo came to Makeni. When Rambo withdrew, ECOMOG were attacking the AFRC positions in Hastings and advancing towards Waterloo.<sup>12687</sup>

5702. Sesay testified that Rambo Red Goat was part of the AFRC group led by Brigadier Mani<sup>12688</sup> and was a former SLA soldier.<sup>12689</sup> He testified that the “Red Goat Battalion” operated with Brigadier Mani’s group in Koinadugu and was comprised of RUF soldiers. Sesay first heard about them in December 1998 when they met in Makeni. They were not involved in the attack on Freetown because at that time they were in Makeni.<sup>12690</sup> Sesay testified that he did not know who Rambo Red Goat was at this time and only first met Rambo Red Goat in the detention facility where he was kept, when Red Goat came to visit Ibrahim Bazy Kamara (a.k.a. Bazy).<sup>12691</sup> Sesay testified that he and Brigadier Mani had separate commands in Makeni. Mani commanded the AFRC, whereas Superman and Sesay commanded the RUF.<sup>12692</sup> Sesay denied ever commanding Red Goat or instructing him or anybody to reinforce Freetown. Sesay stated that if he was to send reinforcements, he would have sent RUF Rambo, not Red Goat Rambo. And if the RUF wanted to send reinforcements to Freetown, they would have sent more than 60 men.<sup>12693</sup>

5703. Sesay testified that the RUF captured a large quantity of arms and ammunition from ECOMOG during the attack on Koidu Town. Sesay used some of this ammunition on the way to Makeni, but he also still had some of it when he arrived. They continued to use this ammunition until the time of disarmament.<sup>12694</sup> The ammunition Bockarie brought from

<sup>12684</sup> Issa Sesay, Transcript 11 August 2010, p. 45978.

<sup>12685</sup> Issa Sesay, Transcript 11 August 2010, p. 45974.

<sup>12686</sup> Issa Sesay, Transcript 12 July 2010, pp. 44201-44203.

<sup>12687</sup> Issa Sesay, Transcript 12 July 2010, p. 44201.

<sup>12688</sup> Issa Sesay, Transcript 28 July 2010, p. 44916.

<sup>12689</sup> Issa Sesay, Transcript 11 August 2010, p.45979.

<sup>12690</sup> Issa Sesay, Transcript 9 July 2010, pp. 44167-44168.

<sup>12691</sup> Issa Sesay, Transcript 19 August 2010, p. 46800

<sup>12692</sup> Issa Sesay, Transcript 27 August 2010, p. 47335

<sup>12693</sup> Issa Sesay, Transcript 27 August 2010, p. 47335

<sup>12694</sup> Issa Sesay, Transcript 12 July 2010, p. 44187.

Liberia was not used to fight all the way from Kono to Makeni and Waterloo. It was used to attack Kono but it was ammunition captured there that was used to fight ECOMOG in Makeni. Without taking Kono, the RUF would not have had the ammunition necessary to attack Makeni.<sup>12695</sup>

5704. Sesay disagreed with the proposition put to him by Prosecution counsel that all the attacks and atrocities carried out by the RUF and AFRC in December and January were as a result of the ammunition brought by Bockarie from Liberia in December 1998.<sup>12696</sup> The atrocities in Freetown had nothing to do with the troops who came from Kono to Makeni.<sup>12697</sup> Sesay stated that without the ammunition from Liberia, the RUF would not have attacked Kono but the AFRC would still have attacked Freetown. The AFRC had its own plans.<sup>12698</sup> Sesay disagreed that the AFRC would not have got into Freetown without the RUF attacks on Koidu and Makeni and other locations. The RUF was in Buedu *when* the AFRC captured Lunsar and Masiaka, between 5 and 10 December 1998,<sup>12699</sup> so the AFRC had already made plans to take Freetown regardless of whether the RUF attacked Koidu.<sup>12700</sup>

#### Deliberations

5705. The Trial Chamber recalls its finding that the Accused facilitated a large shipment of materiel from Burkina Faso during November/December 1998, and that the evidence clearly establishes that prior to the arrival of the shipment, the RUF and AFRC under Bockarie's command was short of materiel.<sup>12701</sup> The evidence also unequivocally shows, and the Defence does not dispute,<sup>12702</sup> that the materiel obtained by Bockarie during his trip to

<sup>12695</sup> Issa Sesay, Transcript 18 August 2010, pp. 46661-46662.

<sup>12696</sup> Issa Sesay, Transcript 12 August 2010, p. 46168.

<sup>12697</sup> Issa Sesay, Transcript 12 August 2010, p.46168-46169.

<sup>12698</sup> Issa Sesay, Transcript 12 August 2010, p.46169.

<sup>12699</sup> Issa Sesay, Transcript 12 August 2010, p.46170.

<sup>12700</sup> Issa Sesay, Transcript 12 August 2010, p.46169-46170.

<sup>12701</sup> John Vincent, Transcript 31 March 2010 pp 38418-38419 (Before the Waterworks meeting, the RUF was out of ammunition but the RUF had plenty of weapons when the attack on Kono was launched); TF1-371, Transcript 28 January 2008 p. 2402 (Bockarie was concerned with expanding the fighting to Kono especially after they suffer the casualty after the aborted attempt of the Fitti-Fatta operation); Isaac Mongor, Transcript 11 March 2008, pp. 5776-5781 (The RUF decided to write a letter to the Accused requesting ammunition because they did not have enough ammunition to continue its offensive, to fight, or to defend its areas); TF1-371, Transcript 28 January 2008, p. 2403 (Bockarie needed ammunition for a major attack); see also Defence Final Trial Brief, para. 1067 (“[...] both RUF and AFRC groups needed additional supplies of ammunition [in 1998]”).

<sup>12702</sup> Defence Final Trial Brief, para. 1078 (“The materiel obtained from Bockarie’s trip to Burkina Faso was used during the RUF attack on Koidu Town in December 1998. It was also used during the attack on Kenema”).

Burkina Faso was distributed to RUF commanders to attack Kono, Kenema and Makeni,<sup>12703</sup> and AFRC commanders to attack various targets, including Tongo.<sup>12704</sup> The key question in

<sup>12703</sup> TF1-371, Transcript 28 January 2008, p. 2416 (Issa Sesay and Morris Kallon used the materials brought from Monrovia to capture Koidu); Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21549 (Kono and Tongo were the first targets to be hit with the ammunition they had brought back with them); Isaac Mongor, Transcript 11 March pp. 5801-5805 (The ammunition were distributed to RUF and AFRC commanders and used to attack Koidu Town, Njaiama Nimikoro, and Makeni); TF1-567, Transcript 2 July 2008, pp. 12914-12916 (Those arms of the shipment were used in attacks on Koidu Town that commenced after the meeting in Buedu); Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21552- 21555 (Some of the ammunition he sent toward a target in Njama, which is in Kenema, some of it went “to Eagle and others in their defensive area”, but most of it was sent with Issa Sesay towards Kono and Tongo. The Commanders then left for their respective areas of responsibility with Issa organising his men to launch an immediate attack on Kono, Akim and others heading toward Tongo, Issac Monger toward the Njama area. The witness testified that there was a general all-out attack on the frontlines in the Kono and Kenema districts that commenced on about 15 to 20 December 1998); Augustine Mallah, Transcript 13 November 2008, pp. 20220-20224 (After the meeting Bockarie gave the commanders the arms, ammunition in order to attack the Kenema axis and Kono); TF1-516, Transcript 8 April 2008 pp. 6960-6961 (In around November or December 1998, just prior to the Kono operation, Sam Bockarie came to Buedu with a ten-tyre truck loaded with ammunition, specifically AK rounds, RPG bombs, and GMG); Mohamed Kabbah, Transcript 17 September 2008, p. 16432 (This ammunition was used to “attack Kono, as far as Makeni and other areas”); TF1-367, Transcript 20 August 2008, pp. 14162, 14181-14182 (When Bockarie returned to Buedu he gave the ammunition to Sesay, who then took the ammunition to Kono for their attack on Koidu Town); Abu Keita, Transcript 23 January 2008, pp. 2005-2007 (Bockarie said that they should use the ammunition to take over Makeni and Kono); Jabaty Jaward, Transcript 10 July 2008, pp. 13424-13426 (A large part of the supply went to the Kono operation and smaller quantities were allocated to other defensive positions); Issa Sesay, Transcript 10 July 2010, pp. 44129, 44136-441342 (Bockarie ordered Sesay to attack Koidu Town in Kono. Bockarie gave Sesay 20 boxes of AK rounds, eight boxes of G3 rounds, and five or six boxes of GPMG rounds, as well as medicines, five jerry cans of diesel, five jerry cans of petrol, cigarettes, cartons of Maggi, acid for the operator’s battery, stationary, and engine oil to clean the arms. Sesay successfully carried out the attack, after which he captured a lot of arms and ammunition including tanks, armoured tanks, and many armoured tank rockets, because they captured the entire ECOMOG ammunition dump); See *also* Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306-S/2000/1195, Adopted on 20 December 2000”, paras 208, 211 (A few days after receiving a shipment in December 1998, the RUF rebels started a major offensive that eventually resulted in the destructive January 1999 raid on Freetown”); See *also* Exhibit P-067, “RUF People’s Army – Situation Report to Foday Sankoh from the Black Guard Commander”, ERN 9677-9678 (The delegation returned to Monrovia in November and then back to the base where a forum was immediately held to “for a serious offensive to commence”. The fighters were happy and agreed to start an operation to capture Kono. A huge quantity of materials was given to B.F.C. Issa Sesay who immediately left for Kono); Exhibit P-093, “Restricted RUF/SL Comprehensive Report to Major Sam Bockarie from Brigadier Issa Sesay on the Take Over of Koidu, January 26 1999” (list of materials taken on 6 December 1998 by Issa Sesay to Kono and Sengwema); Exhibit P-371, “Revolutionary United Front of Sierra Leone, 2nd Brigade, Headquarters, Kono District, Report of Materials Issued Out, From the 2nd Brigade G-4 Commander to the Second Brigade Commander, 12 December 1998” (This report states that Colonel Morison [sic] Kallon was issued four boxes of AK rounds, two boxes of G-3 rounds, four boxes of GMG rounds, two RPG rockets and two TNTs; Major Ibrahim Dugbah was issued three boxes of AK rounds, one box of G-3 rounds, two GMG rounds, two RPG rockets and two TNTs; and Battalion commander Lieutenant Colonel KS Banya was issued 10 packets of AK rounds and 5 packets of G3 rounds); Exhibit P-373, “Revolutionary United Front of Sierra Leone - RUF/SL 2nd INF Brigade Headquarters Makeni Bombali District The Office of the G-4 Unit, Report, From the 2nd Brigade G-4 Commander, to the 2nd Brigade Adjutant”. (report dated 22 January 1999 from 2nd Brigade G-4 commander noting that materials transported to Koidu on 15 January 1999 arrived safely on 16 January 1999: 94 boxes of American AA rounds, one box of 60 mm mortar bombs, two boxes of 120 mm mortar bombs, one box of 81mm mortar bombs, one 81mm mortar stand; four boxes of armoured tank bombs; one 1 barrel gun, and three boxes of 82 mm mortar bombs. The one barrel gun was asked for by BFC Brigadier Issa).

<sup>12704</sup> Specifically, Akim Turay was one of the AFRC commanders to whom the Burkina Faso shipment was distributed. Isaac Mongor, Transcript 11 March 2008, pp. 5803-5804 (Issa Sesay and Akim Turay received materiel from Bockarie after the Burkina Faso shipment to carry out attacks on Kono and Tongo); See *also* Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21552- 21555 (Bockarie met with various commanders

dispute is whether the Burkina Faso shipment was used in operations in Freetown and the Western Area.<sup>12705</sup>

5706. It is not contested that it was the predominantly AFRC forces led by Alex Tamba Brima (a.k.a. Gullit) and SAJ Musa, moving from the Bombali District, who launched the Freetown attack.<sup>12706</sup> The Defence submits that the Burkina Faso shipment was not distributed to these forces,<sup>12707</sup> and in any case Brima's group captured so much ammunition en route to Freetown that they had no need for additional supplies to enter the city.<sup>12708</sup> As

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he had sent for, including Isaac Mongor, Saddam, Eagle, Akim Turay and Sesay to discuss how they could successfully attack Kono and Tongo. Akim and others eventually headed toward Tongo); Augustine Mallah, Transcript 13 November 2008, pp. 20220-20224 (CO Denis (a.k.a. Monkey Brown), the First Brigade commander, was to attack the Kenema axis; Issa Sesay, Akim Turay, Soriba and others were to attack Kono); TF1-367, Transcript 20 August 2008, p. 14186 (Akim Turay moved on to attack Tongo and Boston Flomo (a.k.a. Rambo) moved on to attack Makeni); Abu Keita, Transcript 23 January 2008, pp. 2005-2007 (When Sam Bockarie arrived with the 300 boxes of ammunition in Buedu, Bockarie immediately called a meeting of the commanders in his home including Issa Sesay, Lawrence Wohmandia, SB Rogers, Akim, and Leatherboot, where Bockarie said that they should use the ammunition to take over Makeni and Kono); Exhibit P-372, "Restricted Revolutionary United Front of Sierra Leone, Materials Issued to the 2nd Brigade Commander on the 13 December, 1998 As Seen Below, 14 December 1998" (This report states that materials issued to the 2nd brigade commander on December 13 1998 included: 13 boxes and 1 tin of AK rounds; 8.5 boxes of G-3 rounds; 8 RPG rockets and 8 TNTs, 7 boxes and tin [sic] GMG rounds. These materials were distributed to Lieutenant Colonel Akim, Colonel Boston Flomo, S/Capt Junior, an unnamed artillery commander and Major Victor. This list was signed by 2nd Brigade G-4 Commander Major Christoph M. and 2nd Brigade Commander Lieutenant Colonel Boston Flomo).

<sup>12705</sup> Defence Final Trial Brief, paras 626-627, 1071 (The Defence allege that the materiel captured from the December 1998 offensives in Kono, Kenema and Makeni were put to use to secure further targets during that period, not to aid and abet the commission of crimes, citing in support evidence which suggests that there were no reports of amputations, mutilations, and burning in Maken, Kono, Tonkili, Bombali, or Kambia districts).

<sup>12706</sup> Defence Final Trial Brief, para. 617 (contending that the RUF was not involved in the Freetown attack); Prosecution Final Trial Brief, paras. 516 (While the Prosecution contends that the RUF forces commanded by Bockarie "were significantly involved in the battle for Freetown", it acknowledges that "the majority of its forces were attacking from outside of the city boundary and never successfully entered in force".)

<sup>12707</sup> Defence Final Trial Brief, para. 617-618, citing the evidence of Isaac Mongor, Transcript 11 March 2008, p. 5801 (There were logistical problems in getting any of the supplies to the Koinadugu District); Perry Kamara expressed similar doubts concerning whether Gullit's group ever received the materiel distributed from the Burkina Faso shipment: Perry Kamara, Transcript 6 February 2008, p. 3207; see also Exhibit D-175, "UN Security Council, Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/1176, 16 December 1998 - DCT 102 (D-175)", para. 20 (On the movement of the rebel group led by SAJ Musa in December 1998, the Progress Report states that "ECOMOG and the Civil Defence Forces (CDF) have done much to disrupt the supply of arms and ammunition from Kailahun to the rebels in the north").

<sup>12708</sup> Defence Final Trial Brief, para. 1113; Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8733-8734 (Gullit's group did not receive any shipment of ammunition from the Koidu Geiya shipment and the time it entered Freetown); Perry Kamara, Transcript 6 February 2008, pp. 3214-3215 (The AFRC destroyed excess amounts of arms and ammunition captured on the way to Freetown because they could not carry them); Mohamed Kabbah, Transcript 16 September 2008, pp. 16373-16374 (Mohamed Kabbah, an RUF radio operator, testified that when Superman and others were operating in Northern Sierra Leone independently from the RUF, they had to capture ammunition so that the group could defend itself); Transcript 17 September 2008, pp. 16417-16419 (In late 1998, SAJ Musa and Gullit obtained weapons from Guineans stationed in Kambia and then attacked Freetown. They obtained so many weapons that some were considered surplus and were stored in Kabbah's house); Komba Sumana, Transcript 7 October 2008, pp. 18059-18060 (SAJ Musa used arms captured at Mongor Bendugu and Kabala during the Freetown attack); Issa Sesay, Transcript 26 July 2010, p. 44632 (SAJ

Mohamed Kabbah testified, Gullit and SAJ Musa's group did not ask for weapons before launching the Freetown operation.<sup>12709</sup>

5707. The Prosecution does not contend that materiel from the Burkina Faso shipment was ever directly supplied to Brima's forces before their entry into Freetown.<sup>12710</sup> However, the Prosecution submits that, firstly, even if it did not reach the AFRC commanders in the north prior to their entry into Freetown, some of the materiel from the Burkina Faso shipment was later distributed in Freetown via reinforcements sent by Bockarie.<sup>12711</sup> Secondly, the Prosecution contends that the materiel from the Burkina Faso shipment was used by the RUF to capture Koidu Town and environs and other locations from which the attacking forces were able to supplement their supplies by capturing more materiel, which in turn enabled them to move on to targets along the Freetown axis.<sup>12712</sup>

5708. The Trial Chamber also recalls its finding that a separate shipment of 25 boxes of ammunition was provided by the Accused during the Freetown invasion in January 1999, when Fornie and others on Bockarie's orders, transported materiel provided by the Accused from Liberia to Sierra Leone.<sup>12713</sup> The Trial Chamber recalls that it accepted Fornie's testimony that ammunition he brought back to Buedu was ultimately despatched to Rambo and others in the Waterloo area.<sup>12714</sup>

i. Materiel brought by Idrissa Kamara (a.k.a. Rambo Red Goat) to the troops in Freetown

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Musa and the groups in the Koinadugu District used ammunition captured from ECOMOG which they used to attack Freetown); TF1-375, Transcript 24 June 2008, pp. 12581-12582 (On the way to Freetown, TF1-375's group captured "lots of arms and ammunition" from Yira Filaia, known as "Pumpkin Ground" and at Makeni, arms and ammunition, including an armour car, trucks, small tactical jeeps, camouflage combat and other things.)

<sup>12709</sup> Mohamed Kabbah, Transcript 17 September 2008, pp. 16420-16421.

<sup>12710</sup> Prosecution Final Trial Brief, para. 263 ("Bockarie distributed the ammunition to his AFRC/RUF commanders for the all out attacks on the Kenema and Kono axes, including against Tongo, Sengema and Kuiva". The Brief does not refer to distribution to the Koinadugu or Bombali districts, where SAJ Musa and Alex Tamba Brima (a.k.a. Gullit), were based.) .

<sup>12711</sup> Prosecution Final Trial Brief, para. 264.

<sup>12712</sup> Prosecution Final Trial Brief, para. 264.

<sup>12713</sup> See Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockarie's Leadership (February 1998-December 1999).

<sup>12714</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21595-21596.



5709. In relation to whether the Burkina Faso shipment reached Gullit's contingent in Freetown via reinforcements arriving when they were already in or retreating from Freetown,<sup>12715</sup> the Prosecution relies primarily on two aspects of the evidence of Bobson Sesay. First, Bobson Sesay testified that, when Idrissa Kamara (a.k.a. Rambo Red Goat) came to reinforce the troops in their attack on Freetown, he brought extra materiel with him to re-supply the troops already in Freetown.<sup>12716</sup>

5710. The Trial Chamber recalls its previous finding, on the basis of the evidence of Bobson Sesay, Perry Kamara, TF1-375, as corroborated by Komba Sumana and TF1-174, that Idrissa Kamara did arrive in Freetown some time before the third week of January with a contingent of fighters and that he was part of the group of reinforcements led by Boston Flomo (a.k.a. RUF Rambo) and others under the command of Bockarie.<sup>12717</sup> While these witnesses do not specifically corroborate Bobson Sesay's account that Idrissa Kamara brought materiel, the Trial Chamber considers it a reasonable inference that Idrissa Kamara brought materiel with him, noting in particular that TF1-375 testified that the reinforcements led by Idrissa Kamara were well armed,<sup>12718</sup> and TF1-174's evidence that the fighters heading to Freetown were armed.<sup>12719</sup>

5711. Concerning the source of the materiel brought by Rambo Red Goat and who sent him to Freetown, the Trial Chamber considers credible Bobson Sesay's evidence that Rambo Red Goat told him it came from Bockarie's distribution prior to advancing towards Kono and Makeni,<sup>12720</sup> although Red Goat did not disclose whether the ammunition he brought came from Liberia.<sup>12721</sup> Recalling its finding that the materiel obtained by Bockarie during his trip to Burkina Faso was distributed to RUF and AFRC commanders in Buedu to attack Kono, Kenema and Makeni, and that prior to the arrival of the shipment, the RUF and AFRC under Bockarie's command did not receive any other supplies<sup>12722</sup> the Trial Chamber

<sup>12715</sup> Defence Final Trial Brief, para 1115.

<sup>12716</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8322-8323, 8326-8328; Transcript 28 April 2008, pp. 8431-8434.

<sup>12717</sup> See *supra*, Military Operations: The Freetown Invasion, The Implementation of the Plan.

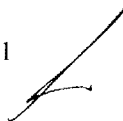
<sup>12718</sup> TF1-375, Transcript 24 June 2008, p. 12610.

<sup>12719</sup> TF1-174, Transcript 27 January 2009, pp. 23695-23696.

<sup>12720</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8322-8323, 8326-8328; Transcript 28 April 2008, pp. 8431-8434.

<sup>12721</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8733-8734.

<sup>12722</sup> See *supra*, Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Burkina Faso Shipment.





is satisfied that the “distribution” to which Bobson Sesay referred was the materiel from the Burkina Faso shipment.

ii. Materiel brought by Issa Sesay when Gullit’s forces retreated from Freetown

5712. In relation to whether the Burkina Faso shipment reached Gullit’s forces, the Prosecution also relies on Bobson Sesay’s evidence that in the third week of January 1999 when Gullit’s forces retreated from Freetown, Issa Sesay arrived on the outskirts of Freetown to provide reinforcements for a planned second attack on Freetown. He distributed ammunition to the fighters who reinforced the troops at Macdonald and they used this ammunition to attack Tombo village.<sup>12723</sup> According to Bobson Sesay, there were rumours that this ammunition came from Liberia.<sup>12724</sup>

5713. Issa Sesay denied that the RUF sent reinforcements or ammunition to the AFRC forces while they were retreating from Freetown.<sup>12725</sup> The Trial Chamber recalls its previous finding that Issa Sesay’s evidence as to whether there was coordination between Bockarie’s forces and Gullit’s forces as the latter retreated from Freetown is not credible<sup>12726</sup> and is outweighed by the consistent evidence of Prosecution witnesses that there was such cooperation in which Sesay himself was involved. Having found that troops under Bockarie’s command and Gullit’s forces made collaborative efforts to re-attack Freetown, including joint attacks on the outskirts of Freetown,<sup>12727</sup> the Trial Chamber considers it likely that the former also supplied latter with additional ammunition.<sup>12728</sup> The Trial Chamber does not therefore accept Issa Sesay’s denial that he brought reinforcements or ammunition to the AFRC forces that retreated from Freetown.<sup>12729</sup>

<sup>12723</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8382-8384.

<sup>12724</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, p. 8734.

<sup>12725</sup> Issa Sesay, Transcript 12 July 2010, pp. 44187-44188.

<sup>12726</sup> Additionally, Sesay was inconsistent on his own movements during January 1999. While first stating that he stayed in Makeni throughout the invasion of Freetown up until Superman attacked him in March 1999, Issa Sesay, Transcript 12 July 2010, p. 44200, he later testified that when the AFRC withdrew from Freetown but still at some point in January 1999, he travelled to Waterloo from Makeni: Issa Sesay, Transcript 11 August 2010, p. 45974.

<sup>12727</sup> See *supra*, Military Operations: The Freetown Invasion, The Implementation of the Plan.

<sup>12728</sup> See *supra*, Military Operations: The Freetown Invasion, The Implementation of the Plan.

<sup>12729</sup> Issa Sesay, Transcript 12 July 2010, pp. 44187-44188.



5714. In light of its previous findings, the Trial Chamber accepts Bobson Sesay's evidence that Issa Sesay coordinated with the retreating troops on the outskirts of Freetown and that he brought supplies of ammunition in order to do so.

5715. The Defence submits that even if it could be established that materiel was sent by RUF and AFRC troops under Bockarie's command to the forces around Freetown, it is not possible to establish that it was specifically materiel *from the Burkina Faso shipment* which was sent. The Defence contends that large amounts of materiel were captured by the RUF and AFRC in Kono, which dwarfed the amount alleged to have been brought by the Burkina Faso shipment, and it was these supplies from Kono that fuelled the rest of the December 1998 offensives and the involvement of those troops on the outskirts of Freetown.<sup>12730</sup> The Defence argues that because of this any effect of the materiel from the Burkina Faso shipment on the associated atrocities in or around Freetown was too remote in time and place, the RUF having used captured materiel for their activities after moving from Kono and Kenema.<sup>12731</sup> The Defence also contends that if Bockarie indeed did reinforce Gullit with materiel, he gave Gullit materiel from supplies captured from those operations.<sup>12732</sup>

5716. Consistent evidence has been adduced as to the large quantities of materiel captured in Kono in December 1998.<sup>12733</sup> While there is evidence that the materiel brought by Rambo

<sup>12730</sup> Defence Final Trial Brief, paras 1068, 1070.

<sup>12731</sup> Defence Final Trial Brief, para. 1111.

<sup>12732</sup> Defence Final Trial Brief, para. 1115.

<sup>12733</sup> TF1-367, Transcript 20 August 2008, pp. 14184-14185, 14188 (The attack on Koidu Town was a success and the RUF were able to capture ground missiles, lighter arms, ammunition and vehicles from ECOMOG, although ECOMOG destroyed much of their heavy weaponry before leaving); Charles Ngebeh, Transcript 23 March 2010, pp. 37916 – 37917 (the successful capture of Koidu Town on 16 and 17 of December 1998 resulted in the seizure of food, arms and ammunition from ECOMOG, including two 'shakers', one missile and ammunition, artillery ammunition, G3 rounds and RPG bombs); TF1-567, Transcript 2 July 2008, pp. 12913-12917 (TF1-567 testified that in December 1998, the RUF were successful in capturing Koidu Town, where they were also able to capture ECOMOG arms and ammunition); Exhibit P-093, "Restricted RUF/SL Comprehensive Report from Major Sam Bockarie to Brigadier Issa Sesay on the take over of Koidu, 26 January 1999", p. 25505 (Exhibit lists items captured from successful attacks in December 1998, including the capture of 5 fifty caliber guns, 3 full sets of 81 mm guns, 39 120 mm mortar bombs in boxes, 73 boxes of American AA rounds, 16 boxes of 81 mm mortar bombs and 3 armoured tanks from the successful attack on Koidu Town on 16-17 December 1998; further materiel was captured on the successful takeover of Sewafe, Gold Town and Masingbe); Exhibit D-084, "RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999", p. 7763 (Describing troop advancements against ECOMOG in the December 1998 offensives, the report states: "The enemy were forced to retreat through the road leading to Massingbi where they fell [...]. The enemy lost four war-tanks, armored cars, and a multitude of heavy artillery pieces, personal rifles, and large amounts of ammunition"); Exhibit P-067, "RUF People's Arm- Situation Report to Foday Sankoh from the Black Guard Commander", ERN 9679 (the Sesay-led operation to capture Kono in late 1998, before the Freetown invasion, succeeded in "overrunning the entire Kono district", and capturing artillery weapons and "huge quantities of arms and ammunition").

Red Goat into Freetown came from the Burkina Faso shipment,<sup>12734</sup> the Trial Chamber recognises that it is not possible to differentiate whether the materiel brought by Issa Sesay to MacDonald or generally that the materiel used by the troops on the outskirts of Freetown came from the Burkina Faso shipment or further materiel captured from the offensives in Kono and Makeni. As the Defence points out, Bobson Sesay's evidence concerning the ammunition brought by Issa Sesay to MacDonald did not make clear the origin of that ammunition; Bobson Sesay himself admitted that it was only a rumour that the ammunition brought by Sesay came from Liberia.<sup>12735</sup>

5717. The Trial Chamber also considers that it is not possible to distinguish between this materiel and the materiel brought by Dauda Aruna Fornie in January 1999. According to Fornie, Boston Flomo and others in the Waterloo area received the ammunition he brought to Buedu several days after he returned, which was only 36 hours after he departed, two days after 6 January 1999.<sup>12736</sup> However, Fornie gave no evidence as to whether it reached its intended destination, that is, to reinforce Gullit's forces in Freetown. It is likely that the shipment of, *inter alia*, 25 boxes of ammunition brought by Fornie became added to the overall resources of the groups commanded by Boston Flomo, Issa Sesay and others as they operated in the outskirts of Freetown.

5718. However, the Trial Chamber does not consider that it is necessary to pin down from which of these three possible sources—the Burkina Faso shipment, materiel captured in Kono, the shipment brought by Dauda Aruna Fornie—the materiel used by Bockarie's troops in the outskirts of Freetown originated. First, the Trial Chamber found that both the Burkina Faso shipment and the shipment brought by Dauda Aruna Fornie were either supplied or facilitated by the Accused. Second, in relation to the materiel captured in Kono, the Trial Chamber notes that the Burkina Faso shipment was causally critical to the success of the Kono operation, and hence the materiel captured there. As Issa Sesay himself acknowledged, without the shipment that Bockarie brought back in November/December 1998, the RUF would not have launched these initial operations on Kono,<sup>12737</sup> and without

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<sup>12734</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, p. 8434.

<sup>12735</sup> See Arms and Ammunition, Allegations of Direct Supply by the Accused, During Sam Bockarie's Leadership (February 1998-December 1999).

<sup>12736</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21595-21596.

<sup>12737</sup> Issa Sesay, Transcript 12 August 2010, p. 46169.

taking Kono, the RUF would not have had the materiel necessary to attack other areas.<sup>12738</sup> Hence, the materiel captured in the operations in Kono is directly referable to the materiel from the Burkina Faso shipment.

5719. The Trial Chamber is therefore satisfied that the Burkina Faso shipment, the materiel captured from Kono and the shipment brought by Dauda Aruna Fornie together formed an amalgamate of fungible resources from which Issa Sesay supplied Gullit's troops as they were withdrawing from Freetown.

iii. Whether crimes were committed by the RUF and AFRC during December 1998 offensives in Kono, Kenema and Makeni

5720. Finally, the Defence alleges that the materiel captured from the December 1998 offensives in Kono, Kenema and Makeni was put to use to secure further targets during that period, not to aid and abet the commission of crimes, citing in support evidence which suggests that there were no reports of amputations, mutilations, amputations and burning in Makeni, Kono, Tonkili, Bombali, or Kambia districts. The Trial Chamber recalls its finding that there were crimes committed in these districts by rebel forces during December 1998. Specifically, the Trial Chamber has found, on the evidence of TF1-362 that at the end of 1998, when Kono was "cleared", children were forcibly conscripted and trained by the RUF and AFRC,<sup>12739</sup> and adult civilians were forced to undergo military training<sup>12740</sup> at the Yengema training base. The Trial Chamber has also found, on the evidence of Komba Sumana, that the RUF and AFRC used a child to participate actively in hostilities in attacks carried out by RUF/AFRC rebels in Makeni in Bombali District in December 1998.<sup>12741</sup>

5721. The Trial Chamber considers that even if it were the case that no crimes were committed in these districts, it has found crimes, including rape, were committed in Freetown and the Western Area by the forces led by Rambo Red Goat that entered Freetown to join Gullit's forces.<sup>12742</sup> Notably, on the evidence of Perry Kamara, the group led by Rambo Red Goat as well as members of the Red Lion Battalion remained in Freetown after

<sup>12738</sup> Issa Sesay, Transcript 18 August 2010, pp. 46661-46662.

<sup>12739</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers).

<sup>12740</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 10 (Enslavement).

<sup>12741</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers).

<sup>12742</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 4 (Rape), Count 5 (Sexual Slavery).

the departure of Gullit and the civilian brigade, and constituted the forces predominantly charged with carrying out Bockarie's instruction to make the area "fearful".<sup>12743</sup> Further, the contribution of the attacks on Kono and Makeni to later attacks on the Freetown axis by the RUF and jointly by the RUF and AFRC was critical. The Trial Chamber recalls that it has found crimes were committed by these groups in the Western Area during the AFRC's retreat from Freetown, including the forcible conscription and use of an unknown number of children to participate actively in hostilities in Benguema from the end of January until March 1999.<sup>12744</sup> The Trial Chamber notes that it has also accepted as evidence of the crime of sexual slavery Bobson Sesay's account that after the joint Tombo attack in mid-February 1999 with Issa Sesay and Morris Kallon, captured women at Benguema were "subdued" with weapons and would do whatever the troops wanted them to do, including having sexual intercourse with them.<sup>12745</sup>

### Findings

5722. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the arms and ammunition from the Burkina Faso shipment were distributed to RUF and AFRC commanders in Buedu and used in attacks in Kono and Kenema in December 1998, where further arms and ammunition were captured, and in the commission of crimes in the Kono and Makeni Districts.

5723. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that part of the materiel from the Burkina Faso shipment was taken by a contingent of fighters led by Idrissa Kamara (a.k.a. Rambo Red Goat) to reinforce the troops in Freetown some time before the third week of January, and was used in the commission of crimes in Freetown and the Western Area.

5724. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Burkina Faso shipment, the materiel captured from the December 1998 offensives in Kono and the shipment brought by Dauda Aruna Fornie together formed an amalgamate of fungible resources which was used in attacks by the RUF and AFRC on the outskirts of

<sup>12743</sup> Perry Kamara, Transcript 6 February 2008, pp. 3241-3242 (Gullit ordered Red Goat to make the area fearful after leaving him in charge of Freetown)

<sup>12744</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers).

<sup>12745</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 5 (Sexual Slavery).

Freetown after the withdrawal of Gullit's forces from the city, and in the commission of crimes in the Western Area.

(iii) Post-Freetown invasion to January 2002

5725. The Trial Chamber recalls its finding that the Accused:

- a. sent supplies of arms and ammunition to the RUF/AFRC between February 1998 and December 1999 in Buedu, through, *inter alia*, Daniel Tamba, Sampson Weah and Joseph Marzah, and continued to send such supplies to the RUF in 2000 and 2001;
- b. sent a major shipment of materiel to the RUF in or around March 1999, whether originating from Burkina Faso or otherwise;
- c. provided Bockarie with materiel during his trips to Liberia at an undefined time after the Freetown invasion, and in August to October 1999;
- d. provided Dauda Aruna Fornie with materiel on his trip to Liberia during the January 1999 Freetown invasion;
- e. provided Issa Sesay with materiel during his trips to Liberia in May 2000, in the second half of 2000 and in early 2001;
- f. provided Issa Sesay with materiel via Sesay's subordinates, TF1-567 and Albert Saidu during Issa Sesay's reign as Interim Leader of the RUF.

5726. The Prosecution makes no specific contention as to where the materiel provided during 1999 was applied, but contends that materiel Taylor provided to Issa Sesay from 2000 to 2001 was used, in part, against the Sierra Leone government and Kamajor forces attacking Superman and other RUF contingents in Freetown and in Makeni, against UNAMSIL forces and against the LURD in Liberia and Guinea when, on Taylor's orders, Sesay sent AFRC/RUF fighters to attack Lansana Conte's troops on the Guinean border and in Guinea.<sup>12746</sup> The Prosecution adduced evidence from witnesses TF1-338, Karmoh Kanneh, Albert Saidu, TF1-567, and Exhibit P-264.

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<sup>12746</sup> Prosecution Final Trial Brief, para. 280.

5727. The Defence contends that due to a lack of military operations in 2000 and 2001, and evidence of few atrocities against civilians, the RUF had no need to obtain large quantities of arms and ammunition.<sup>12747</sup> The Defence adduced evidence from Exhibit D-441C.

### Evidence

#### Prosecution Witness TF1-338

5728. TF1-338 testified that the materiel brought back by Issa Sesay from the trip to Monrovia to discuss Foday Sankoh's arrest in May 2000 was used in Sierra Leone to fight against the Kamajors and other pro-government forces who were attacking Superman's group, firstly from Freetown to Makeni.<sup>12748</sup>

5729. TF1-338 testified that the materiel brought back by Issa Sesay from Camp Schefflein at the end of 2000 was partly used in Sierra Leone to fight against the Kamajors and UNAMSIL, in the mission in Guinea, and some remained in Liberia for RUF forces assisting in the fight against LURD rebels.<sup>12749</sup>

5730. TF1-338 testified that the materiel in the trip in early 2001 was used to attack Kamajors and UNAMSIL peacekeepers and the remainder was stored in Koidu Town.<sup>12750</sup>

5731. Finally, TF1-338 testified that Benjamin Yeaten told Sesay that Charles Taylor wanted Sesay to use the materiel Taylor had given him to attack Guinea. Issa Sesay then planned attacks at Pamelap and Kissidougou. The attacks were carried out successfully at the end of 2001.<sup>12751</sup>

#### Prosecution Witness Karmoh Kanneh

5732. Karmoh Kanneh testified that the materiel brought back to Sierra Leone by Issa Sesay and the witness in the second half of 2000 from Monrovia was stored in the ammunition dump in Buedu and later distributed to various commanders, including the

<sup>12747</sup> Defence Final Trial Brief, paras 1128-1130.

<sup>12748</sup> TF1-371, Transcript 1 September 2008, p. 15137 (CS).

<sup>12749</sup> TF1-338, Transcript 2 September 2008, pp. 15163-15164; Transcript 2 September 2008, p. 15218 (CS).

<sup>12750</sup> TF1-338, Transcript 2 September 2008, pp. 15166-15167.

<sup>12751</sup> TF1-338, Transcript 1 September 2008, p. 15179; Transcript 2 September 2008, p. 15218 (CS).

witness,<sup>12752</sup> along with the materiel they had just captured in their offensive against LURD.<sup>12753</sup>

Prosecution Witness Albert Saidu

5733. Albert Saidu, an RUF adjutant,<sup>12754</sup> testified that of the materiel he brought back from Benjamin Yeaten in 2000, fifty AK-47 rifles were distributed to Saidu, which they brought back to Segbwema and kept until the final disarmament in 2001.<sup>12755</sup> According to Saidu, they experienced no further attacks by the CDF and did not use the rifles.<sup>12756</sup>

Prosecution Witness TF1-567

5734. Witness TF1-567, who went with Sam Bockarie to Monrovia during the Lomé peace talks,<sup>12757</sup> testified that Yeaten explained to Bockarie that the materiel brought back by Bockarie by helicopter from Spriggs Field was given to him “by my dad, Charles Taylor” to take to Buedu for the purpose of “keeping security” while Sankoh was in Freetown.<sup>12758</sup>

Defence Witness Issa Sesay

5735. Issa Sesay testified that in mid-1999, after the Peace Accord was signed, there were still persistent Kamajor attacks on RUF positions.<sup>12759</sup> The RUF recaptured Tongo in January 1999 but could not mine there in 1999 because there were constant Kamajor attacks and air raids.<sup>12760</sup> According to Sesay, the RUF also fought with the Government of Sierra Leone twice during this period. In March/April 1999, ECOMOG attacked the RUF in Masiaka and Gberi Junction.<sup>12761</sup> In July 2000, the government attacked the RUF at Lunsar and Gberi Junction.<sup>12762</sup> The government was bombing Makeni and Magburaka in July

<sup>12752</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9467-9469.

<sup>12753</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9605-9607.

<sup>12754</sup> Albert Saidu, Transcript 3 June 2008, pp. 10887-10888; Transcript 4 June 2008, p. 10895.

<sup>12755</sup> Albert Saidu, Transcript 5 June 2008, pp. 11110-11111.

<sup>12756</sup> Albert Saidu, Transcript 5 June 2008, pp. 11111-11112.

<sup>12757</sup> TF1-567, Transcript 4 July 2008, pp. 12974-12976.

<sup>12758</sup> TF1-567, Transcript 4 July 2008, p. 12983.

<sup>12759</sup> Issa Sesay, Transcript 13 July 2010, p. 44387.

<sup>12760</sup> Issa Sesay, Transcript 26 July 2010, pp. 44639-44640.

<sup>12761</sup> Issa Sesay, Transcript 12 July 2010, pp. 44199-44200.

<sup>12762</sup> Issa Sesay, Transcript 6 August 2010, pp. 45637-45638.

2000.<sup>12763</sup> A further threat during 1999 came from the AFRC West Side Boys, who had joined the government troops and were attacking the RUF in Lunsar.<sup>12764</sup>

5736. Sesay admitted that, accordingly, at this time the RUF was in need of supplies due to the attacks from government troops, the Kamajors and the AFRC.<sup>12765</sup> However, he denied obtaining any arms and ammunition from Taylor in May to July 2000, or discussing the issues of materiel with Taylor.<sup>12766</sup>

5737. Sesay stated that, after his appointment as interim leader in July 2000, the peace process progressed well. According to Sesay, there were no hostilities from August 2000 until the end of disarmament,<sup>12767</sup> aside from one or two skirmishes with Kamajors.<sup>12768</sup> The Kamajors, after the 8 May incident,<sup>12769</sup> continued to attack around the Fotaneh Junction (between Magburaka and Masingbi), Sewafe, and on the border between Kono and Guinea.<sup>12770</sup> Further, by August 2000 disarmament had taken place in Lunsar and Gberi Junction, Fadugu, Segbwema, totalling around 2,500 combatants.<sup>12771</sup> In the locations where disarmament was already underway, such as Lunsar, the men there had no guns.<sup>12772</sup>

#### Defence Witness Charles Ngebeh

5738. Witness Charles Ngebeh affirmed that in 2001, the Kamajors came from Guinea and attacked the RUF at Gandorhun base in Kono.<sup>12773</sup> However, the RUF maintained the peace and did not disrupt the peace process.<sup>12774</sup> He also testified that at this time, the RUF did not have any weapons in Kono due to disarmament.<sup>12775</sup>

#### Prosecution Exhibit P-264

<sup>12763</sup> Issa Sesay, Transcript 6 August 2010, pp. 45638-45639.

<sup>12764</sup> Issa Sesay, Transcript 2 August 2010, p. 45222.

<sup>12765</sup> Issa Sesay, Transcript 2 August 2010, p. 45222.

<sup>12766</sup> Issa Sesay, Transcript 2 August 2010, p. 45222.

<sup>12767</sup> Issa Sesay, Transcript 26 July 2010, p. 44574.

<sup>12768</sup> Issa Sesay, Transcript 26 July 2010, pp. 44570-44571.

<sup>12769</sup> Issa Sesay, Transcript 2 August 2010, p. 45286.

<sup>12770</sup> Issa Sesay, Transcript 2 August 2010, pp. 45283-45284.

<sup>12771</sup> Issa Sesay, Transcript 2 August 2010, p. 45285.

<sup>12772</sup> Issa Sesay, Transcript 6 August 2010, p. 45612.

<sup>12773</sup> Charles Ngebeh, Transcript 12 April 2010, pp. 38697.

<sup>12774</sup> Charles Ngebeh, Transcript 12 April 2010, pp. 38697-38698.

<sup>12775</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38699.



5739. Exhibit P-264 is a photocopy of a radio log book kept by TF1-274 of communications between Sam Bockarie and Foday Sankoh during the Lomé peace talks kept by Dauda Aruna Fornie. It includes a message from Issa Sesay (a.k.a. “SSS”) to Bockarie (a.k.a. “Concord”) dated 25 July 1999 reporting on attacks by Kamajors on Sesay’s position at Bandajuma Yawei.<sup>12776</sup>

#### Defence Exhibit D-441C

5740. Exhibit D-441C is the witness statement of Daniel Opande, the Force Commander of UNAMSIL from November 2000 to September 2003. The statement was made in the RUF Trial and admitted before this Trial Chamber through witness Issa Sesay. It states that when in April 2001, there was a major invasion of Kono by CDF combatants from Guinea, Sesay requested that Opande immediately deploy to Kono to stop the fighting.<sup>12777</sup>

#### Deliberations

5741. As a preliminary issue, the Trial Chamber notes that it has found in another context of the Judgement that in 1999, the Accused ordered Bockarie to send AFRC/RUF forces to assist him in his fight against Mosquito Spray and the LURD forces that had attacked his forces and that that in 2000 and 2001 the Accused instructed Issa Sesay to send RUF forces, who fought alongside AFL forces in Liberia and Guinea under the command of the Accused’s subordinates.<sup>12778</sup> Some of the witnesses testifying to military shipments sent by the Accused during 1999, and a large proportion of the witnesses testifying to military shipments sent by the Accused in 2000 and 2001, testified that those shipments, including the sizeable March 1999 shipment, were received partially or for the predominant purpose of these joint operations outside Sierra Leone, including Operation Mosquito Spray in April 1999,<sup>12779</sup> RUF/AFRC operations against LURD in Liberia and Guinea, and RUF operations in Guinea in 2000 and 2001.<sup>12780</sup> The Trial Chamber is satisfied on the basis of the evidence

<sup>12776</sup> Exhibit P-264, “Radio Log Book - 00008636 - 00008726”, ERN. 8693; Issa Sesay, Transcript 13 July 2010, pp. 44382-44383.

<sup>12777</sup> Exhibit D-441C, “SCSL, Witness Statement of Daniel Opande (Issa Sesay), SCSL, March 7 2008 (14 pages)”, p. 6; Issa Sesay, Transcript 27 July 2010, p. 44742.

<sup>12778</sup> See *supra*, Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Operations Outside of Sierra Leone.

<sup>12779</sup> TF1-371, Transcript 31 January 2008, p. 2751 (CS) (the March 1999 shipment of materiel from Monrovia came around the time the fighting with LURD intensified and after “Mr Taylor asked Sam Bockarie to beef up their troops in Foya and he went to Monrovia”).





considered in those shipments that the materiel provided by the Accused was used in these operations outside Sierra Leone.

5742. The Trial Chamber explores below only the extent to which those arms and ammunition were also used within Sierra Leone.

a. Materiel supplied in 1999

5743. Meagre evidence was adduced concerning use of materiel provided by the Accused during 1999. The Trial Chamber notes that Karmoh Kanneh testified that the materiel Bockarie obtained when they went to Monrovia in March 1999 was a reward for the work they did in clearing LURD forces from Lofa County and was taken back to Sierra Leone. Kanneh explained that the RUF was still “at war” at that time, and the ammunition was stored in the ammunition dump in Buedu and later distributed to various commanders, including the witness,<sup>12781</sup> along with the materiel they had just captured in their offensive against LURD.<sup>12782</sup>

5744. The Trial Chamber also notes that TF1-567, who went with Sam Bockarie on his trip to Monrovia in August to October 1999, stated that Yeaten explained to Bockarie that the

<sup>12780</sup> Exhibit P-099A, (confidential). See Exhibit P-099B, “Composition Book of Handwritten Radio Communication Between Benjamin Yeaten and Issa Sesay - 00019148 - 00019193 - Redacted Version – Public”, ERN 19181 (recording a message from Yeaten to Issa Sesay on 30 September 2001. In the message, Gen 50 informs Sesay that pursuant to a telephone conversation the day before, he has despatched 10 boxes of AK rounds, 10 boxes of RPG rockets (All with TNTs) for smooth operation”. In a second message to Sesay dated 22 October 2001, Yeaten refers to an operation in Guinea); TF1-371, Transcript 29 January 2008, pp. 2456-2457 (CS) (Issa Sesay told the witness in September 2001 that he received materiel from Benjamin Yeaten to attack the government of President Lansana Conte in Guinea); TF1-338, Transcript 2 September 2008, pp. 15163-15164; Transcript 2 September 2008, p. 15218 (CS) (TF1-338 testified that the materiel brought back by Issa Sesay from Camp Schefflein at the end of 2000 was partly used in Sierra Leone to fight against the Kamajors and UNAMSIL, in the mission in Guinea, and some remained in Liberia for RUF forces assisting in the fight against LURD rebels); TF1-338, Transcript 1 September 2008, p.15179; Transcript 2 September 2008, p. 15218 (CS) (Benjamin Yeaten told Issa Sesay that Charles Taylor wanted Sesay to use the materiel Taylor had given him to attack Guinea. Sesay then planned attacks at Pamelap and Kissidougou. The attacks were carried out successfully at the end of 2001); TF1-516, Transcript 8 April 2008, p. 6959 (In early 2001, Momoh Gibba brought a supply of rifles to Benjamin Yeaten’s house. After some time, the rifles were flown to Foya some of which were distributed to RUF combatants who were to participate in an operation in Guinea); Karmoh Kanneh, Transcript 12 May 2008, pp. 9506-9507 (Issa Sesay told the witness that Taylor had given him materiel for the RUF to attack Guinea from Sierra Leone); Abu Keita, Transcript 23 January 2008, p. 2055 (The ammunition for the RUF operations in Liberia against the LURD and in Guinea was provided by Benjamin Yeaten); Varmuyan Sherif, Transcript 10 January 2008, p. 899 (Together with the RUF, the witness fought against LURD. Taylor provided arms to Benjamin Yeaten and in return Yeaten distributed them among the groups that fought in Lofa County).

<sup>12781</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9467-9469.

<sup>12782</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9605-9607.

materiel given to him was for the purpose of “keeping security” when Sankoh had returned to Freetown after signing the Lomé Peace agreement.<sup>12783</sup>

5745. It is undisputed that on 18 May 1999, a ceasefire agreement was signed in Lomé, to take effect from 24 May 1999,<sup>12784</sup> although it failed to bring about the end of hostilities. The Trial Chamber has had regard to evidence that Kamajor forces and ECOMOG forces continued their offensives against the RUF,<sup>12785</sup> while in addition, a splinter group of AFRC fighters loyal to Koroma and known as the ‘West Side Boys’ attacked ECOMOG forces and the civilian population in Port Loko District.<sup>12786</sup> In the second half of July 1999, the Kamajors attacked the RUF at Futane Junction, Gold Town, Massingbi and Codor.<sup>12787</sup> Issa Sesay also testified that during 1999, even after the Lomé Peace Accord, the RUF faced persistent Kamajor attacks on RUF positions,<sup>12788</sup> ECOMOG attacks in March/April 1999,<sup>12789</sup> and attacks from the “West Side Boys”, the AFRC breakaway group, in Lunsar, also during March and April 1999.<sup>12790</sup>

5746. Having regard to the existence of these operations and the evidence of other witnesses that some of the materiel supplied by the Accused was taken to Buedu for the RUF to defend their own positions, the Trial Chamber is satisfied that at least part of that materiel was used in Sierra Leone.

5747. The Trial Chamber recalls its previous findings that during 1999, the RUF and AFRC under the command of Sam Bockarie committed a number of crimes within Sierra Leone. In particular, the Trial Chamber found that an unknown number of children who were used to guard mining in Tombudu in December 1999 were used to participate actively in hostilities,<sup>12791</sup> that AFRC/RUF members detained women and used them for sexual purposes in Buedu from March 1998 to December 1999,<sup>12792</sup> that AFRC/RUF members in

<sup>12783</sup> TF1-567, Transcript 4 July 2008, pp. 12983.

<sup>12784</sup> Exhibit D-199, Special ECOWAS Report on Successful Peace Talks in Lomé, 1999, pp. 3, 9, 11.

<sup>12785</sup> Exhibit P-264, Radio Log-Book 0008636-0008726, pp. 8653, 8656, 8658, 8660, 8662, 8665, 8668A, 8672.

<sup>12786</sup> Issa Sesay, Transcript 12 July 2010, pp. 44201-44203; Corinne Dufka, Transcript 22 January 2008, p. 1930; Isaac Mongor, Transcript 31 March 2008, pp. 6178-6180; Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8416-8419; Transcript 24 April, pp. 8447-8760.

<sup>12787</sup> Exhibit P-264, Radio Log-Book 0008636-0008726, pp. 8680-8681, 8687, 8701.

<sup>12788</sup> Issa Sesay, Transcript 13 July 2010, p. 44387.

<sup>12789</sup> Issa Sesay, Transcript 12 July 2010, pp. 44199-44200.

<sup>12790</sup> Issa Sesay, Transcript 2 August 2010, p. 45222

<sup>12791</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers).

<sup>12792</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 4 (Rape).

Buedu committed acts of sexual slavery against an unknown number of women and girls from March 1998 to December 1999,<sup>12793</sup> that AFRC and RUF fighters committed outrages upon personal dignity on an unknown number of women used as sexual slaves between February 1998 and December 1999 in Buedu,<sup>12794</sup> that the RUF engaged in forced conscription of a child in the Kailahun District from approximately February or March 1999 through approximately November or December 1999<sup>12795</sup> and in using a child to actively participate in hostilities in April/May 1999,<sup>12796</sup> and enslavement.<sup>12797</sup>

5748. However, the Trial Chamber considers that the evidence of the relevant witnesses is not sufficiently precise to find conclusively that the materiel supplied by the Accused was used to commit these crimes or used even in specific locations. Albert Saidu testified that some of the materiel supplied by the Accused remained unused due to the lack of attacks by enemy forces.<sup>12798</sup> Furthermore, there is evidence that the RUF had recourse to alternate sources of materiel during this period, particularly captured materiel.<sup>12799</sup> Nonetheless, given the nature of the crimes committed during this period and that they necessarily involved the use of arms and ammunition, the Trial Chamber can reasonably infer that the supplies provided by the Accused, and established to have been used in Sierra Leone, formed part of the overall supply of materiel used by the RUF in its activities, including the commission of crimes.

b. Materiel supplied in 2000 and 2001

5749. In support of the contention that materiel Taylor provided to Issa Sesay from 2000 to 2001 was used, in part, against the Sierra Leone government and Kamajor forces attacking Superman and other RUF contingents in Freetown and in Makeni, and against UNAMSIL forces, the Prosecution relies primarily on the evidence of TF1-338.<sup>12800</sup> As the Trial Chamber has previously set out, TF1-338 testified that the materiel brought back by Issa Sesay from the trip to Monrovia to discuss Foday Sankoh's arrest in May 2000 was used in

<sup>12793</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 5 (Sexual Slavery).

<sup>12794</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 6 (Outrages upon personal dignity).

<sup>12795</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers).

<sup>12796</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers).

<sup>12797</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 10 (Enslavement).

<sup>12798</sup> Albert Saidu, Transcript 5 June 2008, pp. 11111-11112.

<sup>12799</sup> See *supra*, Arms and Ammunition: Other Sources of Materiel, Captured Materiel.

<sup>12800</sup> Prosecution Final Trial Brief, para. 280.

Sierra Leone to fight against the Kamajors and other pro-government forces who were attacking Superman's group, firstly from Freetown to Makeni.<sup>12801</sup> He also testified that both the materiel brought back by Issa Sesay from Camp Schefflein at the end of 2000<sup>12802</sup> and the materiel obtained from the trip in early 2001<sup>12803</sup> were partly used in Sierra Leone to fight against the Kamajors and UNAMSIL peacekeepers.

5750. Issa Sesay affirmed that there was fighting in Sierra Leone from May to July 2000 against UNAMSIL.<sup>12804</sup> However, according to Sesay, there were no hostilities from August 2000 until the end of disarmament, aside from one or two skirmishes with Kamajors.<sup>12805</sup> He testified that by August 2000 disarmament was well underway and had taken place in Lunsar and Gberi Junction, Fadugu, Segbwema, totalling around 2,500 combatants,<sup>12806</sup> and by 2001, progress was significant.<sup>12807</sup> He acknowledged that even after August 2000, the Kamajors continued to attack RUF positions around the Fotaneh Junction (between Magburaka and Masingbi), Sewafe, and on the border between Kono and Guinea. He also testified that the Guineans used to cross the border to attack the Rokupr area and the Kambia and Kono axes.<sup>12808</sup> However, he stated that these cross-border skirmishes were not full-scale operations and only happened occasionally.<sup>12809</sup>

5751. It is unclear whether the RUF engaged militarily with the Kamajor attacks. Although Charles Ngebeh affirmed that in 2001, the Kamajors came from Guinea and attacked the RUF at Gandorhun base in Kono,<sup>12810</sup> the RUF maintained the peace and did not disrupt the peace process.<sup>12811</sup> He also testified that at this time, the RUF did not have any weapons in Kono due to disarmament.<sup>12812</sup> Similarly, Exhibit D-441C states and Issa Sesay affirmed that when in April 2001, there was a major invasion of Kono by CDF combatants from Guinea,

<sup>12801</sup> TF1-371, Transcript 1 September 2008, p. 15137 (CS).

<sup>12802</sup> TF1-338, Transcript 2 September 2008, pp. 15163-15164; Transcript 2 September 2008, p. 15218(CS).

<sup>12803</sup> TF1-338, Transcript 2 September 2008, pp. 15166-15167.

<sup>12804</sup> Issa Sesay, Transcript 6 August 2010, p. 45637-45638.

<sup>12805</sup> Issa Sesay, Transcript 26 July 2010, pp. 44570-44571.

<sup>12806</sup> Issa Sesay, Transcript 2 August 2010, p. 45285.

<sup>12807</sup> Issa Sesay, Transcript 2 August 2010, p. 45286.

<sup>12808</sup> Issa Sesay, Transcript 2 August 2010, pp. 45283-45284. See also DCT-292, Transcript 1 June 2010, pp. 41805-41806 (the RUF was fighting against Kamajors and ECOMOG until late 2001).

<sup>12809</sup> Issa Sesay, Transcript 2 August 2010, pp. 45283-4

<sup>12810</sup> Charles Ngebeh, Transcript 12 April 2010, pp. 38697.

<sup>12811</sup> Charles Ngebeh, Transcript 12 April 2010, pp. 38697-38698.

<sup>12812</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38699.

Sesay requested that Opande immediately deploy to Kono to stop the fighting.<sup>12813</sup> The Trial Chamber also notes the evidence of Albert Saidu, who testified that when at one point in 2000, he received fifty AK-47 rifles from a consignment of materiel provided to Sesay by Yeaten,<sup>12814</sup> they were never used because the RUF experienced no further attacks by the CDF.<sup>12815</sup>

5752. The Trial Chamber notes that parts of Issa Sesay's testimony as to the RUF's need for arms supplies during this period are implausible. Sesay testified that in 2001, it was not necessary for the RUF to acquire arms, firstly as there was little fighting occurring in Sierra Leone after August 2000 and secondly because the RUF had access to an existing supply of arms and ammunition captured from ECOMOG and government sources in December 1998.<sup>12816</sup> Firstly, that the RUF had a supply of arms and ammunition from December 1998 that lasted until 2001 is inconsistent with his testimony that by 2001, the process of disarmament had progressed significantly.<sup>12817</sup> Secondly, Sesay had previously testified that the RUF was in need of supplies in 1999. Given that he acknowledged there were attacks by Kamajors in 2001 and that the process of disarmament was taking place, it is difficult to understand why in 2001 Sesay would not have required arms when there was such a need in 1999.

5753. Regardless of whether military operations persisted during this time, the Trial Chamber recalls its findings that the commission of crimes by RUF forces continued under Issa Sesay's administration. Specifically, it found that from December 1999 until the disarmament, RUF forces intentionally killed an unknown number of civilians who refused to mine for the AFRC/RUF at Tombudu Bridge or who were denied medical treatment,<sup>12818</sup> that a further unknown number of children under 15 years were conscripted into the RUF, an armed force in May 2000 at Makeni,<sup>12819</sup> that an unknown number of children were used to participate actively in hostilities as bodyguards to the RUF and AFRC between 1996 to 2000

<sup>12813</sup> Exhibit D-441C, "SCSL, Witness Statement of Daniel Opande (Issa Sesay), SCSL, March 7 2008 (14 pages)", p. 6; Issa Sesay, Transcript 27 July 2010, p. 44742.

<sup>12814</sup> Albert Saidu, Transcript 5 June 2008, pp. 11107-11110.

<sup>12815</sup> Albert Saidu, Transcript 5 June 2008, pp. 11111-11112.

<sup>12816</sup> Issa Sesay, Transcript 28 July 2010, pp. 44809-44810, 47195.

<sup>12817</sup> Issa Sesay, Transcript 26 August 2010, pp. 47193-47195.

<sup>12818</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings).

<sup>12819</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers).

in Kailahun,<sup>12820</sup> that civilians were captured either in the bush or by Morris Kallon and Issa Sesay in towns such as Makeni and Magburaka and forced to work in the Kono mines from 1998 to 2000,<sup>12821</sup> that civilians were forced to farm and fish near Talia and Giema from November 1996 to 2000<sup>12822</sup> and that between May 1999 and July 2000 in Pendembu, civilians who had been abducted by the RUF were assigned to fighters, and made to perform domestic duties.<sup>12823</sup> The Trial Chamber also notes that the RUF were involved in the capture of between 400 to 500 UNAMSIL peacekeepers in May 2000.<sup>12824</sup>

5754. As with the evidence pertaining to 1999, the Trial Chamber considers that the evidence of the relevant witnesses is not sufficiently precise to find conclusively that the materiel supplied by the Accused was specifically used to commit these crimes or conduct these activities, particularly in light of evidence that the RUF had recourse to alternate sources of materiel during this period.<sup>12825</sup> Nonetheless, given the nature of the crimes committed and activities conducted during this period and that they necessarily involved the use of arms and ammunition, the Trial Chamber can reasonably infer that the supplies provided by the Accused, and established to have been used in Sierra Leone, were part of the overall supply of materiel used by the RUF in its activities, including the commission of crimes.

### Findings

5755. The Trial Chamber finds that the Prosecution has proved beyond a reasonable doubt that the arms and ammunition sent by the Accused to the RUF during 1999 were used in fighting in Sierra Leone, against Kamajors throughout 1999, and against ECOMOG and the “West Side Boys” in March to April 1999, and were part of the overall supply of materiel used by the RUF in its activities, including the commission of crimes.

5756. The Trial Chamber finds that the Prosecution has proved beyond a reasonable doubt that the arms and ammunition sent by the Accused to the RUF during 2000 to 2001 were

<sup>12820</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers).

<sup>12821</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 10 (Enslavement).

<sup>12822</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 10 (Enslavement).

<sup>12823</sup> See *supra*, Factual and Legal Findings on Alleged Crimes: Count 9 (Child Soldiers).

<sup>12824</sup> Issa Sesay, Transcript 14 July 2010, pp. 44505-44513; Abu Keita, Transcript 23 January 2008, pp. 2030-2032; Admitted Facts and Law, Agreed Fact 36.

<sup>12825</sup> See *supra*, Arms and Ammunition: Other Sources of Materiel, Captured Materiel.

part of the overall supply of materiel used by the RUF in its activities, including the commission of crimes.

## 5. Other Sources of Materiel

### Submissions of the Parties

5757. The Defence submits that the RUF and AFRC's primary source of military equipment was not the Accused. The Defence submits that: from May 1997 to the ECOMOG Intervention, the Junta government obtained its arms and ammunition by inheriting supplies from the former government, by trading for them with former ULIMO combatants, and by trading for them with people in Guinea;<sup>12826</sup> from February 1998 to December 1998, the RUF and the AFRC obtained arms and ammunition from the stockpiles of arms and ammunition held by the Junta government, supplies captured from ECOMOG soldiers and trade with former ULIMO combatants;<sup>12827</sup> from February 1999 to December 1999, the RUF and AFRC obtained arms and ammunition by capturing them from ECOMOG;<sup>12828</sup> and in 2000 and 2001, when the RUF was not in need of large quantities of supply, the RUF obtained what it needed by capturing materiel from ECOMOG soldiers and UN peacekeepers.<sup>12829</sup>

5758. According to the Defence, these supplies far outweighed those allegedly supplied by the Accused.<sup>12830</sup> The Defence contends that where the RUF or the AFRC did source materiel from Liberia, the amount of materiel it obtained was small and not sufficient to enable the RUF or AFRC to launch major operations.<sup>12831</sup> The Defence adduced evidence from witnesses Issa Sesay, Isatu Kallon, Fayia Musa, John Vincent, Charles Ngebeh, DCT-292, and exhibits D-003, D-009, D-084 and D-085.

5759. The Prosecution does not dispute that the RUF and AFRC were able to obtain arms and ammunition supplies from sources other than the Accused, including capturing arms and ammunition from ECOMOG forces.<sup>12832</sup> However, it contends that the regular materiel

<sup>12826</sup> Defence Final Trial Brief, paras 1042-1043.

<sup>12827</sup> Defence Final Trial Brief, para. 1064.

<sup>12828</sup> Defence Final Trial Brief, para. 1121.

<sup>12829</sup> Defence Final Trial Brief, paras 1128-1130.

<sup>12830</sup> Defence Final Trial Brief, para. 1121.

<sup>12831</sup> Defence Final Trial Brief, para. 1131.

<sup>12832</sup> Prosecution Final Trial Brief, para. 238.



support provided by the Accused enabled the Junta government to hold onto power during a time when an embargo imposed on Sierra Leone by UN Security Council Resolution 1132 prevented the Junta forces from obtaining materiel from external sources<sup>12833</sup> and enabled the RUF and AFRC, once ousted from power, to carry out offensives and maintain territories throughout the Indictment Period.<sup>12834</sup> According to the Prosecution, the AFRC and RUF depended overwhelmingly on the Accused's direct provisioning.<sup>12835</sup> The Prosecution adduced evidence from witnesses Alice Pyne, TF1-585, TF1-371, TF1-367, Isaac Mongo, Mohamed Kabbah, Mustapha M. Mansaray, Varmuyan Sherif, TF1-375, Alimamy Bobson Sesay, Albert Saidu, TF1-338, Jabaty Jaward, Foday Lansana, Perry Kamara, TF1-516, and exhibits P-361, P-080, P-093, P-067, P-149 and P-018.

### Evidence

#### Prosecution Witness Alice Pyne

5760. Alice Pyne testified that some time after the Intervention, RUF fighters at Tefeya sent a message that they had set ambushes along Sewafe Bumpe highway and as a result, they captured arms.<sup>12836</sup> Pyne also testified that around the end of May 1998, during an unsuccessful operation to take Koidu, they captured heavy weapons from the Guineans.<sup>12837</sup>

#### Prosecution Witness TF1-585

5761. TF1-585 testified that in 1998, Bockarie called a meeting and instructed his commanders to go to Kono to join Superman in an attack on Koidu.<sup>12838</sup> While the RUF were not able to capture Kono, but they were able to capture some arms and ammunition.<sup>12839</sup>

#### Prosecution Witness Komba Sumana

<sup>12833</sup> Prosecution Final Trial Brief, para. 223.

<sup>12834</sup> Prosecution Final Trial Brief, paras 2, 6.

<sup>12835</sup> Prosecution Final Trial Brief, para. 238.

<sup>12836</sup> Alice Pyne, Transcript 18 June 2008, pp. 12194-12198.

<sup>12837</sup> Alice Pyne, Transcript 19 June 2008, pp. 12246-12248.

<sup>12838</sup> TF1-585, Transcript 8 September 2008, pp. 15706-15707.

<sup>12839</sup> TF1-585, Transcript 8 September 2008, p. 15707.

5762. Komba Sumana testified that after the Fitti-Fatta operation, an operation launched by Superman and SAJ Musa was successful in taking Mongo Bendugu,<sup>12840</sup> along with a large quantity of materiel.<sup>12841</sup> After this SAJ Musa decided to attack Kabala.<sup>12842</sup>

Prosecution Witness TF1-371

5763. TF1-371 testified that the RUF began purchasing arms and ammunition from ULIMO at around the same time as the elections in Liberia.<sup>12843</sup> He disagreed with Defence counsel's suggestion that these arms purchases lasted over the next several years and were a major undertaking, stating that he could only recall several discrete occasions in which the RUF purchased arms from ULIMO.<sup>12844</sup> Further, TF1-371 considered these transactions to be minor.<sup>12845</sup> The witness referred to one occasion in 1998, when Bockarie told the witness that he had been given 40,000 Liberian dollars to buy arms and ammunition from the former ULIMO-K fighters in Lofa County. Bockarie gave the money to Mulbah, the overall G4 commander, and Mulbah returned from Lofa County with a large amount of arms and ammunition.<sup>12846</sup> A further transaction took place some time in 1998 when the RUF retreated from Freetown. On Bockarie's instructions, TF1-371 met one of the ULIMO commanders and traded a water pump machine for three boxes of AK-47 ammunition.<sup>12847</sup> TF1-371 also stated that in June 1998, the RUF had received small amounts of arms, bought from ULIMO, but that was not sufficient to fight off the Guinean and ECOMOG attacks.<sup>12848</sup>

5764. TF1-371 further stated before the 1997 coup, Jungle made trips to Guinea to purchase arms for the RUF. The RUF bribed the Guinean troops at the Moa River border crossing, who facilitated the movement of goods.<sup>12849</sup>

<sup>12840</sup> Komba Sumana, Transcript 6 October 2008, p. 17951.

<sup>12841</sup> Komba Sumana, Transcript 6 October 2008, p. 17958.

<sup>12842</sup> Komba Sumana, Transcript 6 October 2008, pp. 17959-17961.

<sup>12843</sup> TF1-371, Transcript 31 January 2008, pp. 2695-2697 (CS).

<sup>12844</sup> TF1-371, Transcript 31 January 2008, pp. 2696-2700 (CS).

<sup>12845</sup> TF1-371, Transcript 31 January 2008, pp. 2698-2700 (CS).

<sup>12846</sup> TF1-371, Transcript 31 January 2008, pp. 2688-2689 (CS).

<sup>12847</sup> TF1-371, Transcript 31 January 2008, pp. 2688-2689 (CS).

<sup>12848</sup> TF1-371, Transcript 1 February 2008, p. 2825 (CS).

<sup>12849</sup> TF1-371, Transcript 4 February 2008, pp. 2965-2966 (CS).

5765. TF1-371 testified that at some point in or after August 1997, he attended an emergency meeting of the AFRC Supreme Council because the military received an intelligence report of an impending ECOMOG attack on Freetown. Security was the paramount concern because the Junta had depleted most of its ammunition and logistical supplies, and it was of concern to the Chairman to develop a contingency plan.<sup>12850</sup> TF1-371 also testified that in 1997 Bockarie told him that he contacted Taylor from Kenema asking for material support.<sup>12851</sup>

Prosecution Witness TF1-367

5766. TF1-367, an RUF member, testified that after the ECOMOG Intervention at the very start of the rainy season, he travelled with Bockarie to Foya where Bockarie instructed the witness to purchase ammunition from ULIMO.<sup>12852</sup> Once the witness had collected a “reasonable amount” of weapons he used NPFL communications to communicate with the RUF in Sierra Leone, and the witness loaded the weapons and took them to Sierra Leone.<sup>12853</sup> The witness took four such shopping trips to former ULIMO fighters.<sup>12854</sup>

5767. TF1-367 also stated that the attack on Koidu Town in December 1998 was a success and the RUF were able to capture ground missiles, lighter arms, ammunition and vehicles from ECOMOG, although ECOMOG destroyed much of their heavy weaponry before leaving.<sup>12855</sup>

Prosecution Witness Isaac Mongor

5768. Isaac Mongor testified that when ULIMO blockaded the border in 1993, the RUF used to barter cocoa and coffee for ammunition from Guinean soldiers at the border. However, the quantities purchased were not large. Sometimes they got three boxes of ammunition with some grenades.<sup>12856</sup>

Prosecution Witness Mohamed Kabbah

<sup>12850</sup> TF1-371, Transcript 28 January 2008, pp. 2310-2311 (CS).

<sup>12851</sup> TF1-371, Transcript 31 January 2008, pp. 2693-2694 (CS).

<sup>12852</sup> TF1-367, Transcript 20 August 2008, pp. 14148-14150.

<sup>12853</sup> TF1-367, Transcript 20 August 2008, pp. 14150-14154.

<sup>12854</sup> TF1-367, Transcript 20 August 2008, pp. 14155-14156.

<sup>12855</sup> TF1-367, Transcript 20 August 2008, pp. 14184-14185, 14188.

<sup>12856</sup> Isaac Mongor, Transcript 11 March 2008, p. 5749.

5769. Mohamed Kabbah testified that ULIMO cut off the Liberian-Sierra Leonean border from 1992-1997<sup>12857</sup> and during this period, the RUF was able to purchase arms from ULIMO and ammunition from Guinea.<sup>12858</sup>

5770. Kabbah also testified that when Superman and SAJ Musa were operating in Northern Sierra Leone independently from the RUF, they captured large amounts of ammunition from Guineans stationed at Kambia at around the same time as the RUF successfully attacked Kono in 1998.<sup>12859</sup> Kabbah confirmed a prior statement that there were such large quantities of arms captured from Kambia that excess weapons were stored in Kabbah's house in Kailahun.<sup>12860</sup>

Prosecution Witness Mustapha M. Mansaray

5771. Mustapha M. Mansaray, IDU Commander at Segbwema, Kailahun District during 1998,<sup>12861</sup> testified that in 1996, when the witness and his former commander went to Guinea, he saw ammunition which was purchased by the commanders in return for coffee and cocoa and transported by canoe.<sup>12862</sup>

5772. Mansaray also testified that in 1998 and 1999, the RUF captured arms and ammunition from ECOMOG.<sup>12863</sup>

Prosecution Witness Varmuyan Sherif

5773. Varmuyan Sherif testified that the RUF bought arms from former ULIMO fighters in Lofa County from the end of 1997 to 2003.<sup>12864</sup>

Prosecution Witness TF1-375

5774. TF1-375, who fought under the leadership of SAJ Musa and Superman during late 1998, testified that during this time, at the end of the rainy season,<sup>12865</sup> Superman and SAJ

<sup>12857</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16423.

<sup>12858</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 12677-12678.

<sup>12859</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16417.

<sup>12860</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16419.

<sup>12861</sup> Mustapha M. Mansaray, Transcript 4 March 2008, pp. 5232-5233.

<sup>12862</sup> Mustapha M. Mansaray, Transcript 6 March 2008, p. 5414.

<sup>12863</sup> Mustapha M. Mansaray, Transcript 6 March 2008, pp. 5410-5411.

<sup>12864</sup> Varmuyan Sherif, Transcript 10 January 2008, p. 1018.

<sup>12865</sup> TF1-375, Transcript 23 June 2008, pp. 12553-12554.

Musa launched an attack on Mongor Bendugu.<sup>12866</sup> Heavy weapons and a lot of ammunition were captured during the attack on Mongor Bendugu, including one 40 barrelled missile, an armoured car, a 50 calibre, some one barrel missiles, mortars, GMG, some RPGs, pistols, and AK-47s.<sup>12867</sup> The group then used the ammunition captured from Mongor Bendugu to attack Kabala.<sup>12868</sup> At Kabala they were able to capture a lot of weapons and ammunition,<sup>12869</sup> including AK-47s, FM or LAR rifles (a heavy gun larger than an AK-47, similar to a G3), some pistols and mortar guns including 60 millimetre mortar bombs and 81 millimetre mortar guns.<sup>12870</sup>

5775. TF1-375 also testified that on the way to Freetown in December 1998, his group captured “lots of arms and ammunition” from Yira Filaia, known as “Pumpkin Ground” and at Makeni, arms and ammunition,<sup>12871</sup> including an armoured car, trucks, small tactical jeeps, camouflage combat and other things.<sup>12872</sup>

#### Prosecution Witness Alimamy Bobson Sesay

5776. Bobson Sesay testified that the AFRC, led by Ibrahim Kamara (a.k.a. Bazy), captured ammunition when they attacked Makolo town around June 1999.<sup>12873</sup>

#### Prosecution Witness Albert Saidu

5777. Albert Saidu testified that the RUF exchanged money, coffee, cocoa and palm oil from Sierra Leone for salt, Maggi, rice, cigarettes and clothing from Guinea. Saidu testified that on one occasion in the second half of 1998, he was present when Bockarie gave his bodyguard Shabado some US currency in hundred dollar bills and instructed him to go to the riverside and trade with the Guineans.<sup>12874</sup>

#### Prosecution Witness TF1-338

<sup>12866</sup> TF1-375, Transcript 23 June 2008, pp. 12543, 12548.

<sup>12867</sup> TF1-375, Transcript 23 June 2008, pp. 12551-12553.

<sup>12868</sup> TF1-375, Transcript 24 June 2008, pp. 12560-12562.

<sup>12869</sup> TF1-375, Transcript 24 June 2008, pp. 12559-12560.

<sup>12870</sup> TF1-375, Transcript 24 June 2008, pp. 12560-12562.

<sup>12871</sup> TF1-375, Transcript 24 June 2008, pp. 12581-12582.

<sup>12872</sup> TF1-375, Transcript 24 June 2008, p. 12600

<sup>12873</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8461-8463.

<sup>12874</sup> Albert Saidu, Transcript 5 June 2008, pp. 11069-11070, 11072-11074, 11119.

5778. TF1-338, an RUF member, testified that the RUF received arms from ULIMO around 1997, when ULIMO was disarming.<sup>12875</sup> Bockarie and others would negotiate to purchase arms and ammunition from ULIMO in Foya.<sup>12876</sup>

Prosecution Witness Jabaty Jaward

5779. Jabaty Jaward testified that some time after November 1996, but before the May 1997 coup, Bockarie began to negotiate with ULIMO in order to get arms and ammunition to reinforce their various front lines.<sup>12877</sup> At Koindu, once, Sam Bockarie wrote a letter that he gave to Jaward and others to deliver together with cigarettes, a big tape recorder and boots to the immediate ULIMO commander at the border.<sup>12878</sup> The witness and the others went to Mendekoma where they encountered ULIMOs at the check points and delivered the letter.<sup>12879</sup> The next day Bockarie and the commander went to Foya in Liberia. Later, RUF received arms and ammunition from ULIMO in exchange for the items they had sent.<sup>12880</sup>

5780. The witness refuted a suggestion by Defence counsel that the RUF received arms from all disarming factions, including ULIMO, the NPFL and the Liberian Peace Council, stating that he was not aware of the RUF purchasing materiel from any other faction.<sup>12881</sup>

Prosecution Witness Foday Lansana

5781. Foday Lansana testified that when he was in the Kono District during January to September 1998,<sup>12882</sup> Superman returned from a meeting in Buedu where he got arms and ammunition. Superman informed Lansana that he learnt from Bockarie that Issa Sesay had travelled with some diamonds from "Johnny Paul" to Monrovia to purchase arms and ammunition from Charles Taylor, but that Issa Sesay had lost them. Superman said that despite the loss of the diamonds, Fonti Kanu had made arrangements with an ECOMOG

<sup>12875</sup> TF1-338, Transcript 2 September 2008, p. 15271; Transcript 3 September 2008, pp. 15275-15276.

<sup>12876</sup> TF1-338, Transcript 3 September 2008, p. 15276.

<sup>12877</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13332-13334.

<sup>12878</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13334-13336.

<sup>12879</sup> Jabaty Jaward, Transcript 9 July 2008, p. 13336.

<sup>12880</sup> Jabaty Jaward, Transcript 9 July 2008, p. 13337.

<sup>12881</sup> Jabaty Jaward, Transcript 16 July 2008, p. 13821.

<sup>12882</sup> Foday Lansana, Transcript 21 February 2008, p. 45013.

general in Monrovia to get the arms and ammunition.<sup>12883</sup> After Superman came back from Buedu with the arms and ammunition, fighting took place at Tombodu.<sup>12884</sup>

Prosecution Witness Perry Kamara

5782. Perry Kamara testified that in May 2000, the RUF arrested a contingent of UN peacekeepers in Freetown, and took their arms and ammunition, including a number of armoured tanks.<sup>12885</sup> While Issa Sesay agreed to return the armoured tanks, the RUF kept the light weaponry.<sup>12886</sup>

Prosecution Witness TF1-516

5783. TF1-516 testified that the weapons the RUF had confiscated from UN peace-keepers in 2000 were new and of better quality than those that the RUF had had before that time.<sup>12887</sup>

Defence Witness Issa Sesay

5784. In relation to supplies during the Junta period, Issa Sesay testified that as Freetown was the army headquarters the ammunition dump at Murray Town had ammunition even before the coup. So after the coup, the AFRC and RUF used this ammunition to fight against the Kamajors.<sup>12888</sup> Further, according to Sesay, when Bockarie wanted to attack Kamajors at that time, he would send the army chief of staff to Freetown. Sometimes a helicopter would take ammunition from Freetown and deliver it to Bockarie in Kenema. Bockarie also got supplies from the brigade commander in Kenema.<sup>12889</sup>

5785. According to Issa Sesay, from February 1998 to January 1999 the RUF bought buried ammunition from ULIMO. This was the ammunition they used in the Fitti-Fatta mission. The ammunition Sesay used for the attack on Kono in December 1998 was bought by Bockarie in Lofa.<sup>12890</sup> In September 1998 Mike Lamin collected a well-digging machine from Baiwala and sold it to Bob Gibson, the AFL battalion commander in Bomi Hills. In

<sup>12883</sup> Foday Lansana, Transcript 21 February 2008, pp. 4508, 4511, 4517.

<sup>12884</sup> Foday Lansana, Transcript 21 February 2008, pp. 4511-4513.

<sup>12885</sup> Perry Kamara, Transcript 6 February 2008, p. 3269.

<sup>12886</sup> Perry Kamara, Transcript 6 February 2008, p. 3270.

<sup>12887</sup> TF1-516, Transcript 9 April 2008, pp. 7103-7104.

<sup>12888</sup> Issa Sesay, Transcript 11 August 2010, p. 45958

<sup>12889</sup> Issa Sesay, Transcript 11 August 2010, p. 45958

<sup>12890</sup> Issa Sesay, Transcript 26 July 2010, pp. 44626-44628.

exchange, Lamin received ammunition.<sup>12891</sup> Some time after May 1998, Mike Lamin and Sesay also began buying small amounts of ammunition, “sardine tins”, from an AFL company commander in Vahun who was secretly selling to the RUF the ammunition that was sent to him for the border.<sup>12892</sup>

5786. Issa Sesay testified that the trade with the Guineans lasted from 1992 until June<sup>12893</sup> or July 1998 when the Guineans attacked Koidu.<sup>12894</sup> These attacks continued through 2000.<sup>12895</sup> The Guinean government was unaware that Guinean commanders were selling ammunition to the RUF. The commanders would stop trading during government patrols of the border and then start up again when the patrols finished.<sup>12896</sup> Sesay stated that after those attacks, around October or November 1998, the RUF continued to do business with the Guineans at the border crossing points.<sup>12897</sup> Isatu Kallon, a woman who procured materiel and other supplies for the RUF,<sup>12898</sup> would often go to Guinea to make arrangements to buy ammunition for the organisation.<sup>12899</sup> Sesay also heard that SAJ Musa sent his wife to Guinea to buy ammunition during the time that he was not cooperating with the RUF, from February to December 1998.<sup>12900</sup> However, in June 1998 the only ammunition they had was that which they bought from ex-ULIMO fighters in Voinjama or that which they obtained in ambushes.<sup>12901</sup>

5787. Sesay testified that in 2001, it was not necessary for the RUF to acquire arms, firstly as there was little fighting occurring in Sierra Leone after August 2000 and secondly because the RUF had access to an existing supply of arms and ammunition captured from ECOMOG and government sources in December 1998.<sup>12902</sup> The RUF also had available

<sup>12891</sup> Issa Sesay, Transcript 8 July 2010, pp. 44071-44072.

<sup>12892</sup> Issa Sesay, Transcript 8 July 2010, pp. 44107-44114, 44116-44117.

<sup>12893</sup> Issa Sesay, Transcript 8 July 2010, pp. 44105-44106.

<sup>12894</sup> Issa Sesay, Transcript 26 July 2010, pp. 44628-44629.

<sup>12895</sup> Issa Sesay, Transcript 8 July 2010, pp. 44105-44106, 47254.

<sup>12896</sup> Issa Sesay, Transcript 26 July 2010, pp. 44628-44629.

<sup>12897</sup> Issa Sesay, Transcript 26 August 2010, p. 47254.

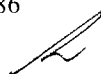
<sup>12898</sup> Issa Sesay, Transcript 6 July 2010, p. 43760.

<sup>12899</sup> Issa Sesay, Transcript 26 August 2010, p. 47254.

<sup>12900</sup> Issa Sesay, Transcript 19 August 2010, p. 46681.

<sup>12901</sup> Issa Sesay, Transcript 8 July 2010, pp. 44106-44107.

<sup>12902</sup> Issa Sesay, Transcript 28 July 2010, pp. 44809-44810, 47195.







from May 2000 ammunition, armoured cars, vehicles and communication sets captured from the UN peacekeepers taken hostage in that period.<sup>12903</sup>

#### Defence Witness Isatu Kallon

5788. Isatu Kallon, a businesswoman who assisted the RUF with procuring food, clothing and other supplies,<sup>12904</sup> testified that prior to the Indictment period, the RUF sold produce and palm oil cultivated by civilians to the Guineans.<sup>12905</sup> According to Kallon, the RUF operated through “contractors”, intermediaries who traded these products to the Guineans.<sup>12906</sup> She testified to herself trading food, medicines, clothing to the RUF at Gbemalu town.<sup>12907</sup> In around 1995, while the witness was in Gueckedou, she began trading in ammunition. She bought a box with two “sardine cups” of AK rounds from a Guinean soldier, went to the border and traded the box with the RUF contractors for five Jerry cans of palm oil.<sup>12908</sup>

#### Defence Witness Fayia Musa

5789. Fayia Musa testified that after Top Final,<sup>12909</sup> he set up a barter system whereby he traded coffee and cocoa for other foodstuffs and ammunition Guinean security authorities along the Guinea-Sierra Leone border.<sup>12910</sup> This barter system continued to operate under the witness’s supervision until the witness was appointed by Foday Sankoh to begin diplomatic relations with the international community in June 1995.<sup>12911</sup> At that point the witness transferred operation of the barter program to someone else.<sup>12912</sup>

#### Defence Witness John Vincent

5790. John Vincent testified that in 1998, the RUF obtained arms and ammunition by selling cocoa and coffee, through trading at the Guinean border and trading in NPFL

<sup>12903</sup> Issa Sesay, Transcript 11 August 2010, p. 45998

<sup>12904</sup> Isatu Kallon, Transcript 21 June 2010, pp. 43005-43006.

<sup>12905</sup> Isatu Kallon, Transcript 17 June 2010, pp. 42765-42773; Transcript 18 June 2010, pp. 42840-42841.

<sup>12906</sup> Isatu Kallon, Transcript 17 June 2010, pp. 42773-42774.

<sup>12907</sup> Isatu Kallon, Transcript 17 June 2010, pp. 42836-42838.

<sup>12908</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42878-42882.

<sup>12909</sup> Fayia Musa, Transcript 13 April 2010, p. 38876.

<sup>12910</sup> Fayia Musa, Transcript 13 April 2010, pp. 38870 – 38873, 38877.

<sup>12911</sup> Fayia Musa, Transcript 13 April 2010, pp. 38875 – 38876.

<sup>12912</sup> Fayia Musa, Transcript 13 April 2010, p. 38877.

controlled areas with the help of General Timothy Fayah, who was the NPFL commander in Foya.<sup>12913</sup> Vincent stated that during December 1998, the border with Liberia was closed and the RUF could only obtain ammunition through its ambushes against ECOMOG and the SLA and trade with Guinea.<sup>12914</sup> Sam Kolleh, a Liberian vanguard, organised the sale of cocoa and coffee with a woman in Guinea in exchange for arms and ammunition for the RUF.<sup>12915</sup>

Defence Witness Charles Ngebeh

5791. Charles Ngebeh, an armourer commander for the RUF throughout much of the Indictment period,<sup>12916</sup> testified that before Zogoda fell into the hands of the Kamajors in November 1996, Bockarie had established an arms trading relationship with ULIMO,<sup>12917</sup> whereby the RUF would barter items in exchange for ammunition and arms.<sup>12918</sup> ULIMO would provide the RUF with AK-47s, GMGs, LARs, BARs, and RPGs, as well as ammunition for these weapons.<sup>12919</sup> The materiel obtained from ULIMO was mostly rusted. Ngebeh was responsible for cleaning the weapons and ammunition so they could be used by the RUF.<sup>12920</sup>

5792. Ngebeh also testified that about three weeks after Bockarie and the RUF forces entered Freetown after the AFRC coup, they received news that Kamajors had blocked the road from Bo to Kenema. Bockarie and his troops were successful in clearing the highway<sup>12921</sup> and around June or July<sup>12922</sup> the RUF pursued the Kamajors to Tongo, where they had heard that they were harassing the families of soldiers.<sup>12923</sup> At this time the RUF

<sup>12913</sup> John Vincent, Transcript 26 March 2010 pp. 38100-38104.

<sup>12914</sup> John Vincent, Transcript 26 March 2010 pp. 38121-38123.

<sup>12915</sup> John Vincent, Transcript 26 March 2010 pp. 38103-38105.

<sup>12916</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37847.

<sup>12917</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37849, 37852.

<sup>12918</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37850-37851.

<sup>12919</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37852.

<sup>12920</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37852-37853.

<sup>12921</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37863.

<sup>12922</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37864.

<sup>12923</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37863.

was well equipped with weapons and ammunition,<sup>12924</sup> the sole source of which was Johnny Paul Koroma in Freetown.<sup>12925</sup>

5793. Ngebeh stated that the successful capture of Koidu Town on 16 and 17 of December 1998 resulted in the seizure of food, arms and ammunition from ECOMOG.<sup>12926</sup> In Koidu Town itself the RUF and AFRC captured two 'shakers', one missile and ammunition, including artillery ammunition, G3 rounds and RPG bombs. By virtue of having attacked the ECOMOG forces the day after their payday the RUF and AFRC also captured US dollars from them. The cash was declared 'government property' and fighters were ordered to hand over any cash they took from a captured ECOMOG soldier. The witness himself took \$1000, which he gave to Issa Sesay, from another soldier who had captured the money from a Nigerian.<sup>12927</sup>

5794. Ngebeh also testified that the RUF was able to capture a lot of ammunition and arms in the successful capture of Makeni on 25 December 1998, as that was where the ECOMOG barracks, known as the "Teko barracks", were stationed.<sup>12928</sup> He also testified to the capture of RPG bombs, AK-47s and GT rounds at Gberi Junction<sup>12929</sup> some time before the first week of February 1999,<sup>12930</sup> the capture of ammunition from the Guineans at Masiaka, and when a Guinean convoy fell into an AFRC and RUF ambush in Lumpa, Waterloo, the capture of a 40 barrel gun as well as a DAF 25 foot trailer,<sup>12931</sup> although the 40 barrel gun could not be moved across the river to Kailahun and was eventually destroyed by an ECOMOG jet.<sup>12932</sup>

5795. In relation to the May 2000 capture of UN peacekeepers, Ngebeh testified that he took charge of the heavy weapons and armoured cars captured during that attack. The witness removed the weapons that were mounted on the armoured cars.<sup>12933</sup>

<sup>12924</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37865.

<sup>12925</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37873.

<sup>12926</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37914-37915.

<sup>12927</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37916-37917.

<sup>12928</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37918-37919.

<sup>12929</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37924.

<sup>12930</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37920-37922.

<sup>12931</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37927-37928.

<sup>12932</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37929.

<sup>12933</sup> Charles Ngebeh, Transcript 13 April 2010, p. 38784.

Defence Witness Sam Kolleh

5796. Sam Kolleh, a Liberian member of the RUF,<sup>12934</sup> testified that he delivered food and other domestic items from Guinea to Sankoh in Zogoda during 1994 to 1995.<sup>12935</sup>

Defence Witness DCT-292

5797. DCT-292, an RUF member, testified that to get ammunition for battles against Kamajors and ECOMOG, the RUF used to carry cocoa and coffee to the Guinean borders and barter for supplies, although there was no such need to do so from late 1999 to 2001 as the RUF had sufficient ammunition.<sup>12936</sup>

Prosecution Exhibit P-361

5798. Exhibit P-361 is a radio log book covering communications within the RUF for the period 28 April 1999 to 11 September 1999. Exhibit P-361 was part of a series of documents seized from Foday Sankoh's house on Spur Road in Freetown in May 2000 admitted through rule 92bis.<sup>12937</sup> It includes radio messages from Bockarie and Issa Sesay to Sankoh reporting on attacks by Kamajors on RUF positions in June and July 1999 and materiel captured by the RUF in these attacks.<sup>12938</sup>

Prosecution Exhibit P-080

5799. Exhibit P-080 is the First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, dated 12 August 1998. Describing the military situation in Sierra Leone, it states that on 27 July 1998, "apparently after seizing weapons and

<sup>12934</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48366-48367.

<sup>12935</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48390-48394, 48398-48401.

<sup>12936</sup> DCT-292, Transcript 1 June 2010, pp. 41806-41807.

<sup>12937</sup> *Prosecutor v Taylor*, SCSL-03-01-T-747, Decision on Prosecution Motion For Admission of Documents Seized from Foday Sankoh's House, 26 February 2009, para. 51; Tariq Malik, 19 January 2009, pp. 22940-22941.

<sup>12938</sup> Exhibit P-361, "Radio Log Book covering communication for the period - 28/04/1999 - 11/09/1999 - 00008636 - 00008726 (CMS PGS 21955-22046)", ERN. 8662 (Radio message from Bockarie to Sankoh reporting that Kamajors attacked Kantia village in the Kambia District on 16 June 1999 and they captured two Single-barrel rifles and two G-3 rifles); 8693 (Radio message from Bockarie to Sankoh that report received from Bandajuma Yawei of Kamajor attack and capture by RUF of 6 rockets of RPG and 5 TNTs, 1 RPG tube, 5 packets of AK rounds, dated 19 June 1999); 8701 (message from Issa Sesay to Foday Sankoh detailing Kamajor attack on RUF near Guinea-Sierra Leone Border (village called Godor). Arms captured include: RPG tube, 6 RPG bombs and 5 TNTs, 5 packets of AK rounds, 1 stick grenade, dated 29 July 1999).

ammunition in an attack on ECOMOG units at Bendugu in north-eastern Sierra Leone, junta supporters attacked ECOMOG troops in the town of Kabala”.<sup>12939</sup>

Prosecution Exhibit P-093

5800. Exhibit P-093 is a report from Issa Sesay to Bockarie on military operations led by Sesay, dated 26 January 1999, listing items captured from a number of successful attacks in December 1998. It notes the capture of 5 fifty calibre guns, 3 full sets of 81mm guns, 39 120mm mortar bombs in boxes, 73 boxes of American AA rounds, 16 boxes of 81mm mortar bombs and 3 armoured tanks from the successful attack on Koidu Town on 16-17 December 1998. Further materiel was captured on the successful takeover of Sewafe, Gold Town and Masingbe.<sup>12940</sup> The report notes that on 23 December 1998, the RUF captured Magburaka but little materiel supply was taken as its military strength was not high.<sup>12941</sup>

Prosecution Exhibit P-067

5801. Exhibit P-067 is a 1999 report to Foday Sankoh by the Black Guards, authored by Junior Vandí, a Black Guard commander. It states that the Sesay-led operation to capture Kono in late 1998, before the Freetown invasion, succeeded in “overrunning the entire Kono district”, and capturing artillery weapons and “huge quantities of arms and ammunition”.<sup>12942</sup>

Prosecution Exhibit P-149

5802. Exhibit P-149 is a memorandum to the Battlefield Commander from the RUF Black Guard Adjutant, dated 21 January 1999, detailing an attack on Masiaka on 5 Jan 1999 launched by Colonel Boston Flomo (a.k.a Verndame), resulting in the capture of an American GMG, some light automatic rifles and assorted GMG rounds. The report then states that the RUF advanced to RDF and Waterloo, capturing six rockets RPG bombs with 6 TNTs, and one box of mortar bombs. On 8 January 1999, the RUF attacked again and the enemies at Waterloo evacuated towards the Port Loko axis. They left behind a 120mm

<sup>12939</sup> Exhibit P-080, “UN Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998”, para.13, ERN. 12388.

<sup>12940</sup> Exhibit P-093, “Restricted RUF/SL Comprehensive Report from Brigadier Issa Sesay to Major Sam Bockarie on the take over of Koidu, 26 January 1999”, p. 25505.

<sup>12941</sup> Exhibit P-093, “Restricted RUF/SL Comprehensive Report from Brigadier Issa Sesay to Major Sam Bockarie on the take over of Koidu, 26 January 1999”, p. 25505.

<sup>12942</sup> Exhibit P-067, “RUF People’s Army– Situation Report to Foday Sankoh from the Black Guard Commander”, ERN 9679.

Mortar gun, a 40 barrel Missile with assorted rounds of AK rounds, G3, GMG, and bombs.<sup>12943</sup>

Prosecution Exhibit P-018

5803. Exhibit P-018 is a report of the UN Panel of Experts appointed pursuant to Security Council resolution 1306 (2000) in relation to the situation in Sierra Leone, dated December 2000. It reports on a study made available to the Panel by the Small Arms Survey, a Geneva-based NGO, which provided a well-documented summary overview of the capture of weapons by the RUF during confrontations with the Sierra Leone Army, ECOMOG and UNAMSIL forces. The Panel noted that it was able to verify most of the incidents reported in the survey. The Panel summarises the supplies obtained by the RUF from intervening forces deployed in Sierra Leone as including:<sup>12944</sup>

- considerable amounts of weaponry seized during confrontations with the government of Sierra Leone armed forces. A lack of training and discipline led to soldiers abandoning their weapons for ready seizure by the rebels. SLA soldiers are also reported to have sold weapons and ammunition to the rebels;
- a significant number of weapons, including hundreds of rifles, 24 machine guns, 10 mortars, 20 rocket propelled grenades, several tons of ammunition and three armoured personnel carriers were seized when the rebels detained and disarmed a Guinean UNAMSIL unit in January 2000. Guinean units serving under ECOMOG had also been disarmed during previous ambushes and seizures;
- Kenyan and Zambian UNAMSIL contingents were disarmed when they were taken hostage by rebels in May 2000. In these cases, great amounts of rifles were lost to the rebels, as well as eight armoured personnel carriers and several other military vehicles".<sup>12945</sup>

Defence Exhibit D-003

5804. Exhibit D-003 is a Radio Log Book recording radio messages between RUF commanders from 23 September 1999 to 18 April 2000. Exhibit D-003 was adduced through Prosecution witness Perry Kamara, who testified that it was one of the logbooks relating to Buedu, Sam Bockarie's radio station.<sup>12946</sup> A message from Issa Sesay (a.k.a. SSS) to Bockarie (a.k.a. Concord) dated 14 October 1999 records that materiel captured by

<sup>12943</sup> Exhibit P-149, "Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL 2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21 January 1999", ERN. 25494.

<sup>12944</sup> Exhibit P-018, "Report of the Panel of Experts established by Resolution 1306 - S/2000/1195, adopted on 20 December 2000", para. 178.

<sup>12945</sup> Exhibit P-018, "Report of the Panel of Experts established by Resolution 1306 - S/2000/1195, adopted on 20 December 2000", para. 179.

<sup>12946</sup> Perry Kamara, Transcript 7 February 2008, pp. 3334-3335.

Superman from the Guineans included more than 50 boxes of SK rounds, more than 35 boxes of RPG bombs and more than 35 boxes of grenades with many weapons.<sup>12947</sup> Further messages record the capture of a Nigerian truck full of ammunition from Daru heading to Kenema on 26 December 1999.<sup>12948</sup>

5805. Notably, a radio message from Komba Gbundema to the Leader, dated 10 January 2000, describes the arrest of Guinean ECOMOG troops heading in the direction of Mile 91, and their three armoured cars, five trucks and large quantity of arms and ammunition,<sup>12949</sup> although Sankoh instructed Issa Sesay to release the captured materiel the next day.<sup>12950</sup>

#### Defence Exhibit D-009

5806. Exhibit D-009<sup>12951</sup> is a salute report to Sankoh by Bockarie dated 26 September 1999 in which Bockarie recounts events after Sankoh left Sierra Leone in November 1996 to the date of the report. The report states that “during this period”:

I renewed my contact with ULIMO and tried to secure materials from them. It was out of these materials that I gave Superman a good quantity to attack and capture Kono. ...

Superman used the materials to attack Kono and was able to control parts of Koidu Town. Though they were able to raise the ammo dump, they then concentrated on looting and later withdrew leaving the enemy to re-occupy the town. Even prior to that, all instructions to maintain the ground were not implemented.<sup>12952</sup>

5807. The report also describes the RUF advance to Port Loko, noting that “Rambo was successful in capturing part of the town and in capturing a large quantity of materials”.<sup>12953</sup>

#### Defence Exhibit D-084

<sup>12947</sup> Exhibit D-003, “Radio Log Book Three - 00008727 - 00008903, 23 September 1999 to 18 April 2000”, ERN. 8732.

<sup>12948</sup> Exhibit D-003, “Radio Log Book Three - 00008727 - 00008903, 23 September 1999 to 18 April 2000”, ERN. 8769.

<sup>12949</sup> Exhibit D-003, Radio Log Book Three - 00008727 - 00008903, 23 September 1999 to 18 April 2000, p. 00008779.

<sup>12950</sup> Exhibit D-003, Radio Log Book Three - 00008727 - 00008903, 23 September 1999 to 18 April 2000, p. 00008779.

<sup>12951</sup> Exhibit D-009, RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie - 00009658 - 00009671.

<sup>12952</sup> Exhibit D-009, “RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie - 00009658 - 00009671”, ERN. 9662.

<sup>12953</sup> Exhibit D-009, “RUF Defence Headquarters, Salute report to the Leader of the Revolution from Major General Sam Bockarie - 00009658 - 00009671”, ERN. 9664.

5808. Exhibit D-084 is a Salute Report from Issa Sesay to Foday Sankoh, dated 27 September 1999, reporting on various events since the Abidjan Accords.

5809. Describing troop advancements against ECOMOG in the December 1998 offensives, the report states: “The enemy were forced to retreat through the road leading to Massingbi where they fell [...]. The enemy lost four war-tanks, armored cars, and a multitude of heavy artillery pieces, personal rifles, and large amounts of ammunition”. The report states that “taking with me all needed Military Materials for the attack”, Sesay joined Rambo and Kallon’s group in the attack against Makeni.<sup>12954</sup>

5810. It also refers to Sesay’s successful capture of a “Forty Barrel Missile and a large quantity of its bombs” in an ambush near Waterloo and RDF.<sup>12955</sup>

#### Defence Exhibit D-085

5811. Exhibit D-085 is a report to Foday Sankoh from Major Francis M. Musa, District IDU Commander, dated 31 August 1999, covering RUF activities that took place in Sankoh’s absence from 24 March 1996 to 31 August 1999. Recounting events towards the beginning of this period, the report states

Major General Sam Bockarie....went to Liberia, contacted the Liberian soldiers and established strong relationship between the RUF and the Liberian soldiers. Devoted soldiers and civilians freely offered cocoa beans, coffee beans, pistols, single-barrels, X-Base tape, presentable dressings, etc to the movement to be exchanged for ammunition. This ammunition was what we used to fight the enemies and withheld the Burkina axis until the AFRC took over [...]<sup>12956</sup>

#### Deliberations

5812. At the outset, the Trial Chamber notes that the Defence conceded that the three main sources of arms and ammunition for the RUF and AFRC during the Indictment period were the Magburaka shipment, the Burkina Faso shipment, and the materiel captured from ECOMOG in December 1998.<sup>12957</sup> Having found that the Accused was responsible for

<sup>12954</sup> Exhibit D-084, “RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999”, p. 8, ERN. 7763.

<sup>12955</sup> Exhibit D-084, RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL to the Leader of the Revolution, dated 27 September 1999, pp. 000077634-000077635.

<sup>12956</sup> Charles Ghankay Taylor, Transcript 23 July 2009, pp. 25117-25119.

<sup>12957</sup> Defence Final Trial Brief, para. 1131; see also para. 1073 (There has been an abundance of evidence that Bockarie and other key figures in the RUF travelled to Burkina Faso in about November 1998, and that following the trip, the RUF obtained significant quantity of arms and ammunition).



facilitating both the Magburaka and the Burkina Faso shipments, the basis for the Defence submission that that alternative sources of supply, in quantitative terms, “far outweighed” those allegedly supplied by the Accused is considerably weakened.

5813. The Trial Chamber will now examine the extent to which the RUF and AFRC relied on the remaining alternative sources of materiel asserted by the Defence.

a. Existing military stores in Freetown

5814. The Trial Chamber has heard evidence that the Junta had recourse to the existing military stores in Freetown in fighting against the Kamajors, particularly in the subsequent months after the May 1997 coup. Issa Sesay stated that the Junta forces drew from the existing ammunition dump at Murray Town to fight against the Kamajors.<sup>12958</sup> Evidence suggests that such supplies were not insignificant. Charles Ngebeh testified that in the month after the May 1997 coup, the RUF was well equipped with weapons and ammunition for its military engagements with pro-Kabbah forces, the sole source of which was Johnny Paul Koroma in Freetown.<sup>12959</sup>

5815. However, as the Trial Chamber has previously noted, at some point in or after August 1997, the Junta had depleted the available sources of supplies in Freetown or were not obtaining from them satisfactory amounts of materiel<sup>12960</sup> and Bockarie had contacted the Accused from Kenema asking for material support.<sup>12961</sup> In these circumstances, the Trial Chamber is not satisfied that the existing military stores in Freetown were sufficient to sustain the Junta forces beyond August 1997.

b. Materiel purchased from ULIMO, Guinea and other private sources

<sup>12958</sup> Issa Sesay, Transcript 11 August 2010, p. 45958.

<sup>12959</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37873.

<sup>12960</sup> TF1-371, Transcript 28 January 2008, pp. 2310-2311 (CS) (in or after August 1997, the witness attended an emergency meeting of the AFRC Supreme Council because the military received an intelligence report of an impending ECOMOG attack on Freetown and the Junta had depleted most of its ammunition and logistical supplies).

<sup>12961</sup> TF1-371, Transcript 31 January 2008, pp. 2693-2694.

5816. The Trial Chamber has also heard evidence of the RUF obtaining supplies from former ULIMO fighters, from sources within Guinea, and from ECOMOG and AFL commanders in Liberia.

5817. The Trial Chamber recalls its finding that the RUF commenced trading independently with ULIMO from late 1996 and throughout the Junta period. Jabaty Jaward testified that some time after November 1996, but before the coup, Bockarie began to negotiate with ULIMO in order to get arms and ammunition to reinforce their various front lines.<sup>12962</sup> TF1-338, an RUF member, also testified that the RUF received arms from ULIMO around 1997, when ULIMO was disarming.<sup>12963</sup> Some of these transactions were exchanges of goods for materiel,<sup>12964</sup> while in others the RUF purchased arms and ammunition for cash.<sup>12965</sup> Although the extent of the trade between the RUF and ULIMO before the Junta period was minor, the trade between the RUF/AFRC and ULIMO expanded after the ECOMOG Intervention in mid-February 1998.<sup>12966</sup>

5818. The evidence also consistently establishes that the RUF exchanged or sold agricultural commodities such as palm oil, cocoa and coffee along the Guinean border throughout the Sierra Leonean conflict, albeit with some interruptions depending on which armed groups controlled the borders.<sup>12967</sup> The Trial Chamber accepts the evidence of TF1-367 and Defence witness John Vincent that the RUF used money earned in such transactions to purchase ammunition. Mohamed Kabbah testified from 1992-1997<sup>12968</sup> when ULIMO cut off the Liberian-Sierra Leonean border, the RUF was able to purchase ammunition from Guinea.<sup>12969</sup> Mustapha M. Mansaray attested to such trade occurring in 1996.<sup>12970</sup> According to Issa Sesay, the RUF and parts of the AFRC were still obtaining ammunition from Guinea

<sup>12962</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13332-13334.

<sup>12963</sup> TF1-338, Transcript 2 September 2008, p. 15271; Transcript 3 September 2008, pp. 15275-15276.

<sup>12964</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13334-13336 (Sam Bockarie wrote a letter that he gave to Jaward and others to deliver together with cigarettes, a big tape recorder and boots to the immediate ULIMO commander at the border. Later, RUF received arms and ammunitions from ULIMO in exchange for the items they had sent).

<sup>12965</sup> The Trial Chamber recalls its previous finding that Sankoh gave Bockarie \$USD 7,000 which was used to purchase arms and ammunition from ULIMO from around late 1996. Arms and Ammunition: Other Sources of Materiel.

<sup>12966</sup> See, Arms and Ammunition: Other Sources of Materiel.

<sup>12967</sup> Jabaty Jaward, Transcript 16 July 2008, p. 13821; TF1-367, Transcript 21 August 2008, pp. 14307-14308.

<sup>12968</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16423.

<sup>12969</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 12677-12678.

<sup>12970</sup> Mustapha M. Mansaray, Transcript 6 March 2008, p. 5414.

around October or November 1998, even after incursions by Guinean forces into Kono.<sup>12971</sup> John Vincent confirms that in December 1998, the RUF were still trading with Guinea and that it was one of their few sources of ammunition.<sup>12972</sup>

5819. The Trial Chamber also accepts that on occasions the RUF traded such goods directly for arms and ammunition or purchased materiel with cash. Defence witness John Vincent testified that such transactions on the Guinean border took place and Sam Kolleh, a Liberian member of the RUF, organised the sale of cocoa and coffee with a woman in Guinea in exchange for arms and ammunition for the RUF.<sup>12973</sup> Albert Saidu testified that on one occasion in the second half of 1998, he was present when Bockarie gave his bodyguard Shabado some US currency in hundred dollar bills and instructed him to go to the riverside and trade with the Guineans.<sup>12974</sup> The RUF bribed Guinean troops at border crossings, who would facilitate the movement of goods.<sup>12975</sup>

5820. Sesay also testified that he was involved in clandestine transactions with AFL commanders along the Liberian border, in which he would exchange goods such as bikes or generators for ammunition.<sup>12976</sup> Vincent also testified that he participated in a deal between the RUF and an AFL commander in Foya.<sup>12977</sup> Recalling Sherif's testimony that the Lofa County area was "totally lawless",<sup>12978</sup> the Trial Chamber accepts that private trade with AFL officers on the Sierra Leonean-Liberian border was an additional source of supply for the RUF.

5821. Foday Lansana testified that when he was in the Kono District during January to September 1998,<sup>12979</sup> Superman returned from a meeting in Buedu where he got arms and ammunition. Superman informed Lansana that he learnt from Bockarie that this materiel had

<sup>12971</sup> Issa Sesay, Transcript 26 August 2010, p. 47254.

<sup>12972</sup> John Vincent, Transcript 26 March 2010 pp. 38121-38123.

<sup>12973</sup> John Vincent, Transcript 26 March 2010 pp. 38103-38105.

<sup>12974</sup> Albert Saidu, Transcript 5 June 2008, pp. 11069-11070, 11072-11074, 11119.

<sup>12975</sup> TF1-371, Transcript 4 February 2008, pp. 2965-2966.

<sup>12976</sup> Issa Sesay, Transcript 8 July 2010, pp. 44107-44114.

<sup>12977</sup> John Vincent, Transcript 26 March 2010 pp. 38100-38104.

<sup>12978</sup> Varmuyan Sherif, Transcript 11 January 2008, pp. 1081-1083.

<sup>12979</sup> Foday Lansana, Transcript 21 February 2008, p. 45013.

come about because Fonti Kanu had made arrangements with an ECOMOG general in Monrovia to get the arms and ammunition.<sup>12980</sup>

5822. However, the materiel purchased or traded from ULIMO and Guinea appears to have been relatively small in quantity and insufficient to sustain the operations of the rebel groups. The Trial Chamber has had regard to the evidence of TF1-371 that the arms purchases from ULIMO were a “minor enterprise”<sup>12981</sup> and that by June 1998, during a period of heightened military action for the RUF, the small amounts of arms bought from ULIMO were not sufficient to fight off the Guinean and ECOMOG attacks.<sup>12982</sup> The Trial Chamber also heard differing evidence concerning how long this trade lasted. Although Varmuyan Sherif testified that this trade continued to 2003,<sup>12983</sup> the Trial Chamber considers it unlikely, as the RUF were fighting against the revival of the ULIMO insurgency in Lofa County by early 1999.<sup>12984</sup> This assertion is unsupported by any other witness. In particular, Issa Sesay indicated that the RUF bought buried ammunition from ULIMO only until January 1999.<sup>12985</sup> Finally, although purchases from ULIMO are framed as an alternative source for the RUF by the Defence, the Trial Chamber considers significant its previous finding that the Accused played a key role in facilitating the border trade after the ECOMOG Intervention which resulted in the expansion of such trade.<sup>12986</sup>

5823. Issa Sesay’s evidence also indicates that trade on the border with Guinea was irregular and not dependable, interrupted at sporadic intervals by government border patrols, and by Guinean cross-border incursions into Sierra Leone in 1998.<sup>12987</sup> Concerning the quantity of supplies obtained from Guinea, although Issa Sesay testified that Isatu Kallon would often go to Guinea to make arrangements to buy ammunition for the organisation,<sup>12988</sup> Kallon herself testified to successfully facilitating trade between the RUF and Guineans only once, in the pre-Indictment period, to obtain two “sardine cups” of AK rounds.<sup>12989</sup> On other

<sup>12980</sup> Foday Lansana, Transcript 21 February 2008, pp. 4508, 4511, 4517.

<sup>12981</sup> TF1-371, Transcript 31 January 2008, p. 2700 (CS).

<sup>12982</sup> TF1-371, Transcript 1 February 2008, p. 2825 (CS).

<sup>12983</sup> Varmuyan Sherif, Transcript 10 January 2008, p. 1018.

<sup>12984</sup> See, *supra*, Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Operations Outside of Sierra Leone.

<sup>12985</sup> Issa Sesay, Transcript 26 July 2010, pp. 44626-44628.

<sup>12986</sup> See Arms and Ammunition, Other Sources of Materiel.

<sup>12987</sup> Issa Sesay, Transcript 26 July 2010, pp. 44628-44629.

<sup>12988</sup> Issa Sesay, Transcript 26 August 2010, p. 47254.

<sup>12989</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42878-42882.

journeys into Guinea she primarily procured food, clothing and other non-military supplies.<sup>12990</sup> Similarly, although Fayia Musa testified that Sam Kolleh organised the purchase of arms and ammunition for the RUF from Guinea,<sup>12991</sup> Kolleh himself only testified that he delivered food and other domestic items from Guinea to Sankoh in Zogoda during 1994 to 1995.<sup>12992</sup> Isaac Mongor testified that when the RUF used to barter cocoa and coffee for ammunition from Guinean soldiers at the border, the quantities purchased were not large.<sup>12993</sup> Further, it is unclear whether the trade with Guinea continued past late 1998.<sup>12994</sup> According to DCT-292, there was no such need to obtain supplies from Guinea from late 1999 to 2001 as the RUF had sufficient ammunition.<sup>12995</sup>

5824. Further, the quality of the ammunition obtained from ULIMO is questionable.<sup>12996</sup> Charles Ngebeh, armourer commander for the RUF throughout much of the Indictment period,<sup>12997</sup> testified that the materiel obtained from ULIMO was mostly rusted. Ngebeh had to clean the weapons and ammunition so they could be used by the RUF.<sup>12998</sup> Similarly, Issa Sesay affirmed that the materiel the RUF purchased from ULIMO was rusty, and had to be cleaned in drums in Buedu using diesel oil.<sup>12999</sup>

5825. Evidence also indicates that the materiel purchased or traded from AFL and ECOMOG commanders was not large. Issa Sesay testified that trade with AFL commanders resulted only in small amounts of ammunition.<sup>13000</sup> Also, apart from an isolated incident of purchasing from ECOMOG commanders in the evidence of Foday Lansana, there is little

<sup>12990</sup> Isatu Kallon, Transcript 17 June 2010, pp. 42836-42838; Albert Saidu and Sam Kolleh also testified concerning primarily obtaining food and domestic items from Guinea, rather than military supplies: Albert Saidu, Transcript 5 June 2008, pp. 11069-11070 (The RUF would barter palm oil, cocoa, and coffee with the Guineans in return for salt, clothing, Maggi or rice); Sam Kolleh, Transcript 1 November 2010, pp. 48390-48394, 48398-48401 (The witness also delivered food and other domestic items from Guinea to Zogoda during 1994-1995).

<sup>12991</sup> John Vincent, Transcript 26 March 2010 pp. 38103-38105.

<sup>12992</sup> Sam Kolleh, Transcript 1 November 2010, pp. 48390-48394, 48398-48401.

<sup>12993</sup> Isaac Mongor, Transcript 11 March 2008, p. 5749.

<sup>12994</sup> John Vincent, Transcript 26 March 2010 pp 38121-38123.

<sup>12995</sup> DCT-292, Transcript 1 June 2010, pp. 41806-41807.

<sup>12996</sup> TF1-371, Transcript 31 January 2008, pp. 2751-2758.

<sup>12997</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37847.

<sup>12998</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37852-37853.

<sup>12999</sup> Issa Sesay, Transcript 8 July 2010, pp. 44058-44063; see also TF1-371, Transcript 31 January 2008, p. 2758 (CS).

<sup>13000</sup> Issa Sesay, Transcript 8 July 2010, pp. 44107-44114, 44116-44117 (Lamin and Sesay bought small amounts of ammunition, "sardine tins", from an AFL company commander in Vahun).

indication in the record that the RUF had continuing arrangements with ECOMOG for arms and ammunition.<sup>13001</sup>

5826. Overall, there is no reasonable basis for the conclusion that the needs of the RUF and AFRC during the Indictment period were fulfilled in any significant proportion by materiel purchased from ULIMO, Guinea or other private sources.

c. Captured materiel

5827. The Trial Chamber heard reliable evidence that the RUF captured a significant quantity of arms, ammunition and other supplies from ECOMOG in the Kono attacks in December 1998. The most detailed account of what was captured is contained in Exhibit P-093, the written report from Sesay to Bockarie after the attack on Koidu Town. The Trial Chamber also notes that in Exhibit P-67, the Black Guards reported to Sankoh that the fighters succeeded in “overrunning the entire Kono district”, and captured “huge quantities of arms and ammunition.”<sup>13002</sup> Witnesses TF1-367, Kabbah, TF1-375 and Charles Ngebeh also note the capture of a substantial quantity of arms in the December Koidu Town attack.<sup>13003</sup> Kabbah testified that the arms and ammunition were of such a high quantity that the surplus AK-47s were stored in the witness’s home in Kailahun.<sup>13004</sup> It is also evident that the RUF were able to use this captured materiel to secure further targets and supplies in subsequent offensives in Kenema, Makeni and in the Western Area.<sup>13005</sup>

5828. The Trial Chamber also recalls the evidence that the break-away groups led by Alex Tamba Brima (a.k.a. Gullit), Denis Mingo (a.k.a. Superman) and SAJ Musa also relied on

<sup>13001</sup> Foday Lansana, Transcript 21 February 2008, pp. 4508, 4511, 4517.

<sup>13002</sup> Exhibit P-067, “RUF People’s Army– Situation Report to Foday Sankoh from the Black Guard Commander”, ERN 9679.

<sup>13003</sup> TF1-367, Transcript 20 August 2008, pp. 14184-14185; Mohamed Kabbah, Transcript 16 September 2008, pp. 16418-16420, TF1-375, Transcript 23 June 2008, pp. 12552-12554; Charles Ngebeh, Transcript 23 March 2010, pp. 37916-37917.

<sup>13004</sup> Mohamed Kabbah, Transcript 17 September 2008, p. 16419.

<sup>13005</sup> Charles Ngebeh, Transcript 23 March 2010, pp. 37918-37919, 37924, 37927-37928 (the RUF were also able to capture a lot of ammunition and arms in the successful capture of the ECOMOG barracks in Makeni on 25 December 1998, in the attack at Gberi Junction in January or February 1999, in an attack on the Guineans at Masiaka, and in an RUF ambush in Lumpa, Waterloo, during or shortly after January 1999); Exhibit P-149, “Memo of the BFC, from the Overall Intelligent Officer Commander and Black Guard Adjutant, Revolutionary United Front of Sierra Leone - RUFSL 2nd INF Brigade Headquarters - Bombali District Revolution Intelligence Office, 21 January 1999”, ERN. 25494 (recording weapons and ammunition captured during an attack on Masiaka on 5 Jan 1999 and an attack on RDF and Waterloo on 8 January 1999).

captured ammunition after they rejected Bockarie's command in the latter half of 1998,<sup>13006</sup> Notably, the attack on Mongor Bendugu launched by Superman and SAJ Musa during the rainy season of 1998 resulted also in a substantial quantity of materiel,<sup>13007</sup> which was used, in part, to attack Kabala,<sup>13008</sup> which in turn garnered more captured arms and ammunition.<sup>13009</sup> Evidence also indicates that the AFRC forces who led the Freetown invasion captured sufficient ammunition en route to Freetown to enable them to enter Freetown.<sup>13010</sup> Evidence suggests that the RUF were also able to capture materiel in 1999, primarily in the course of military engagements with Kamajors.<sup>13011</sup>

<sup>13006</sup> Defence Final Trial Brief, para. 1113; Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8733-8734 (Gullit's group did not receive any shipment of ammunition from the Koidu Geiya shipment and the time it entered Freetown); Perry Kamara, Transcript 6 February 2008, pp. 3214-3215 (The AFRC destroyed excess amounts of arms and ammunition captured on the way to Freetown because they could not carry them); Mohamed Kabbah, Transcript 17 September 2008, pp. 16417-16419 (SAJ Musa and Gullit obtained weapons from Guineans stationed in Kambia and then attacked Freetown, and some of these weapons were considered surplus and were stored in Kabbah's house); Transcript 17 September 2008, pp. 16420-16421 (The AFRC group did not ask for weapons before launching the Freetown operation); Komba Sumana, Transcript 7 October 2008, pp. 18059-18060 (SAJ Musa used arms captured at Mongo Bendugu and Kabala during the Freetown attack); Issa Sesay, Transcript 26 July 2010, p. 44632 (SAJ Musa and the groups in the Koinadugu District used ammunition captured from ECOMOG which they used to attack Freetown); TF1-375, Transcript 24 June 2008, pp. 12581-12582 (On the way to Freetown, TF1-375's group captured "lots of arms and ammunitions" from Yira Filaia, known as "Pumpkin Ground" and at Makeni, arms and ammunition, including an armour car, trucks, small tactical jeeps, camouflage combat and other things); Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8461-8463 (The AFRC captured ammunition when they attacked Makolo town after June 1999)

<sup>13007</sup> Komba Sumana, Transcript 6 October 2008, p. 17958.

<sup>13008</sup> Komba Sumana, Transcript 6 October 2008, pp. 17959-17961.

<sup>13009</sup> TF1-375, Transcript 24 June 2008, pp. 12563-12566.

<sup>13010</sup> Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8733-8734 (Gullit's group did not receive any shipment of ammunition from the Koidu Geiya shipment by the time it entered Freetown); Perry Kamara, Transcript 6 February 2008, pp. 3214-3215 (The AFRC destroyed excess amounts of arms and ammunition captured on the way to Freetown because they could not carry them); Mohamed Kabbah, Transcript 17 September 2008, pp. 16417-16419 (SAJ Musa and Gullit obtained weapons from Guineans stationed in Kambia and then attacked Freetown, and some of these weapons were considered surplus and were stored in Kabbah's house); Transcript 17 September 2008, pp. 16420-16421 (The AFRC group did not ask for weapons before launching the Freetown operation); Komba Sumana, Transcript 7 October 2008, pp. 18059-18060 (SAJ Musa used arms captured at Mongo Bendugu and Kabala during the Freetown attack); Issa Sesay, Transcript 26 July 2010, p. 44632 (SAJ Musa and the groups in the Koinadugu District used ammunition captured from ECOMOG which they used to attack Freetown); TF1-375, Transcript 24 June 2008, pp. 12581-12582 (On the way to Freetown, TF1-375's group captured "lots of arms and ammunitions" from Yira Filaia, known as "Pumpkin Ground" and at Makeni, arms and ammunition, including an armour car, trucks, small tactical jeeps, camouflage combat and other things.)

<sup>13011</sup> Mustapha M. Mansaray, Transcript 6 March 2008, pp. 5410-5411; Exhibit D-003, "Radio Log Book Three - 00008727 - 00008903, 23 September 1999 to 18 April 2000", ERN. 8732 (from Issa Sesay (SSS) to Concord (Bockarie) with information to Smile (Sankoh) dated 15 October 1999 referring to large amounts of ammunition captured by Superman from the Guineans); Exhibit P-361, "Radio Log Book covering communication for the period - 28/04/1999 - 11/09/1999 - 00008636 - 00008726 (CMS PGS 21955-22046)", ERN. 8662 (Radio message from Bockarie to Sankoh reporting that Kamajors attacked Kantia village in the Kambia District on 16 June 1999 and they captured two Single-barrel rifles and two G-3 rifles); 8693 (Radio message from Bockarie to Sankoh that report received from Bandajuma Yawei of Kamajor attack and capture by RUF of 6 rockets of RPG and 5 TNTs, 1 RPG tube, 5 packets of AK rounds, dated 19 June 1999); 8701 (message from Issa Sesay to Foday Sankoh dated 29 July 1999 detailing Kamajor attack on RUF near the Guinea-Sierra Leone border at a

5829. However, the Trial Chamber notes that the capture of supplies by the RUF and AFRC at most other times tended to be sporadic and irregular. The Trial Chamber heard consistent evidence that the RUF was short of ammunition after the ECOMOG Intervention through 1998 until the Burkina Faso shipment,<sup>13012</sup> and there is little evidence that the RUF were able to capture much by the way of arms and ammunition during this period. Alice Pyne stated that some time after the Intervention, RUF fighters at Tefeya sent a message that they had set ambushes along Sewafe Bumpe highway and as a result, they captured arms.<sup>13013</sup> Further, there is some evidence to suggest that although the Fitti-Fatta mission to capture Kono in mid-1998 failed, the RUF succeeded in capturing some arms and ammunition.<sup>13014</sup> However, during a period when a number of crucial attacks were carried out by the RUF and AFRC, there is a notable dearth of other evidence concerning captured materiel.

5830. Similarly there is little evidence of captured materiel in 2000 and 2001,<sup>13015</sup> and what was seized, primarily from ECOMOG and UN peacekeepers, ultimately had to be returned. While the Trial Chamber also heard consistent evidence that the RUF captured supplies from UN peacekeepers in May 2000,<sup>13016</sup> Perry Kamara testified that Issa Sesay

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village called Godor in which the RUF captured RPG tubes, RPG bombs and TNTs, 5 packets of AK rounds, 1 stick grenade); Exhibit D-003, "Radio Log Book Three - 00008727 - 00008903, 23 September 1999 to 18 April 2000", ERN. 8769 (recording the capture of a Nigerian truck full of ammunition from Daru heading to Kenema on 26 December 1999).

<sup>13012</sup> TF1-371, Transcript 30 January 2008, pp. 2670-2671 (CS); TF1-579, Transcript 25 November 2008, pp. 21138-21141 (the RUF had its own weapons but was short of ammunition); Isaac Mongor, Transcript 11 March 2008, pp. 5744-5745 (Isaac Mongor stated that while in Kono in 1998, the RUF had no ammunition); Karmoh Kanneh, Transcript 9 May 2008, p. 9416; John Vincent, Transcript 31 March 2010, pp. 38418-38419 (John Vincent testified that before the Waterworks meeting, the RUF was out of ammunition); Samuel Kargbo, Transcript 22 May 2008, p. 10515 (Kargbo testified that after the ECOMOG Intervention, the AFRC and RUF had to abandon the heavy artillery and weapons in Freetown and there was no way for the AFRC to replace the arms that were lost); Exhibit P-066, "Confidential - RUF Brigade Headquarter - Buedu, 'Information and Request', Report from Sam Bockarie to Charles Taylor, 24 June 1998", ERN. 7833 (Exhibit P-066 indicates that the RUF were short of ammunition by June 1998 to repel ECOMOG attacks); Exhibit P-080, "UN Security Council - First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone", 12 August 1998, ERN. 12388: "Reported shortages of food and ammunition among the rebels have increased the risk that they could attack ECOMOG convoys and isolated settlements in order to resupply themselves. ...".

<sup>13013</sup> Alice Pyne, Transcript 18 June 2008, pp. 12194-12198.

<sup>13014</sup> Alice Pyne, Transcript 19 June 2008, pp. 12246-12248 (Around the end of May 1998, during an unsuccessful operation to take Koidu, the RUF captured heavy weapons from the Guineans); TF1-585, Transcript 8 September 2008, p. 15707 (While witness places this meeting and failed attempt to capture Kono in late 1998, the Trial Chamber considers that this cannot be correct as the RUF successfully captured Kono in December 1998. It is more likely she is referring to Fitti-Fatta).

<sup>13015</sup> Defence Final Trial Brief, paras 1128-1130.

<sup>13016</sup> Issa Sesay, Transcript 8 July 2010, pp. 44107-44114, 44116-44117; TF1-516, Transcript 9 April 2008, pp. 7103-7104 (TF1-516 testified that the weapons the RUF had confiscated from UN peace-keepers in 2000 were new and of better quality than those that the RUF had had before that time); Exhibit P-018, "Report of the Panel



agreed to return much of the heavy weaponry captured from the UN peacekeepers in May 2000, keeping only the light weaponry.<sup>13017</sup> Sankoh also instructed Issa Sesay to release the materiel captured from the arrest of Guinean ECOMOG troops in January 2000.<sup>13018</sup>

### Conclusion

5831. In light of this evidence, the Trial Chamber cannot accept the Defence contention that the RUF and AFRC either obtained significant quantities of materiel from any of the alternative sources it asserts or that the RUF and AFRC relied on those sources.

5832. In assessing the relative importance of the Accused's contribution, the Trial Chamber has also had regard to the evidence indicating that the Accused's support often satisfied a need or request for materiel at a particular time. The evidence clearly establishes that Bockarie and Sesay would regularly turn to the Accused when the RUF was out of arms and ammunition.<sup>13019</sup> For example, the Magburaka shipment came at a time when the Junta government had depleted its existing sources of supply<sup>13020</sup> and after Bockarie had requested

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of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, para. 178 (“Kenyan and Zambian UNAMSIL contingents were disarmed when they were taken hostage by rebels in May 2000. In these cases, great amounts of rifles were lost to the rebels, as well as eight armoured personnel carriers and several other military vehicles”); see also Prosecution Final Trial Brief, para. 178; Exhibit P-018, “Report of the Panel of Experts established by Resolution 1306 – S/2000/1195, adopted on 20 December 2000”, para. 178 (“Kenyan and Zambian UNAMSIL contingents were disarmed when they were taken hostage by rebels in May 2000. In these cases, great amounts of rifles were lost to the rebels, as well as eight armoured personnel carriers and several other military vehicles”); Exhibit P-604A, “UN Security Council, Ninth Report of the Secretary-General on the United Nations Mission in Sierra Leone, S/2001/228, March 14, 2001”, para. 6 (“So far, RUF have returned to UNAMSIL 56 personal weapons, 10 vehicles, and 20 armoured personnel carriers, which were part of the weapons and equipment seized by RUF from UNAMSIL contingents last year”).

<sup>13017</sup> Perry Kamara, Transcript 6 February 2008, p. 3270; Charles Ngebeh, Transcript 13 April 2010, p. 38784 (Ngebeh testified that he took charge of the heavy weapons and armoured cars captured from the UN peacekeepers in May 2000 and removed the weapons that were mounted on the armoured cars); See also Peace Process: Release of UNAMSIL Peacekeepers (2000).

<sup>13018</sup> Exhibit D-003, “Radio Log Book Three - 00008727 - 00008903, 23 September 1999 to 18 April 2000,” p. 00008779.

<sup>13019</sup> TF1-585, Transcript 8 September 2008, pp. 15682 (Jungle came every two or three weeks throughout 1998 into mid-1999, whenever Bockarie requested military equipment); Dauda Aruna Fornie, Transcript 2 December 2008, p. 21479 (from early 1998 until late April 1999, Bockarie, through his radio operators, would contact Benjamin Yeaten or Taylor to request military supplies); TF1-516, Transcript 8 April 2008, p. 6965 (Zigzag Marzah, Jungle and Dopoe Menkarzon brought arms and ammunition into Sierra Leone shortly after the Intervention in 1998 regularly and when materiel was needed for operations. Requests for ammunition from Liberia were never denied, but on some occasions Bockarie was told to wait); Jabaty Jaward, Transcript 10 July 2008, pp. 13390-13391 (at times the witness was informed by Bockarie that Bockarie had made a request “to Monrovia” for supplies on account of pressing needs on the ground); TF1-516, Transcript 9 April 2008, pp. 7010-7011 (the practice of making requests via radio to Yeaten for materiel remained the same when Issa Sesay took over command of the RUF).

<sup>13020</sup> TF1-371, Transcript 28 January 2008, pp. 2310-2311 (CS).

material support from the Accused.<sup>13021</sup> It is also clear that several shipments enabled the rebel groups to launch major offensives in which they were able to take and control key parts of Sierra Leonean territory. As the Trial Chamber has previously found, the retreating RUF and AFRC forces after the ECOMOG Intervention were reliant on weapons from the Magburaka shipment in Operation Pay Yourself, consignments sent by the Accused were used in efforts to hold Kono in early 1998, in operation Fitti-Fatta, and by the AFRC-led breakaway groups in the north, while the Burkina Faso shipment precipitated the December 1998 attacks on Kono, Kenema, and the Western Area.<sup>13022</sup>

5833. Further, the Trial Chamber observes that shipments of materiel supplied by or facilitated by the Accused often contributed to and were causally linked to the capture of supplies by the RUF and AFRC. In particular, the Burkina Faso shipment was causally critical to the December 1998 offensives, which the Defence concede constituted the third main source of materiel for the RUF.<sup>13023</sup> Similarly, as the Trial Chamber has found, the Fitti-Fatta mission, from which arms and ammunition were captured, was conducted through materiel supplied by the Accused,<sup>13024</sup> and the attacks by SAJ Musa and Mingo's group on Mongo Bendugu from which it captured a large supply of materiel<sup>13025</sup> were also enabled by materiel supplied by the Accused.<sup>13026</sup>

5834. In these circumstances, the finding that the RUF and the RUF/AFRC also had other sources of materiel from May 1997 to February does not diminish the significance of the materiel provided or facilitated by the Accused. Indeed, the evidence clearly establishes that throughout much of the Indictment period the RUF and RUF/AFRC heavily and frequently relied on the materiel supplied or facilitated by the Accused to carry out offensives and maintain territories throughout much of the Indictment Period.

### Findings

<sup>13021</sup> TF1-371, Transcript 31 January 2008, pp. 2693-2694 (CS).

<sup>13022</sup> See Arms and Ammunition: Use of Materiel Supplied or Facilitated by the Accused.

<sup>13023</sup> Issa Sesay, Transcript 12 August 2010, p. 46169.

<sup>13024</sup> TF1-585, Transcript 8 September 2008, p. 15707 (While witness places this meeting and failed attempt to capture Kono in late 1998, the Trial Chamber considers that this cannot be correct as the RUF successfully captured Kono in December 1998. It is more likely she is referring to Fitti-Fatta).

<sup>13025</sup> Komba Sumana, Transcript 6 October 2008, p. 17958.

<sup>13026</sup> See Arms and Ammunition: Use of Materiel Supplied or Facilitated by the Accused.

5835. The Trial Chamber finds beyond reasonable doubt that, in addition to receiving materiel supplies from the Accused, the RUF and the AFRC also obtained arms and ammunition (a) from the stockpiles of arms and ammunition held by the Junta government; (b) by capturing them from ECOMOG and other pro-government forces; (c) through trade with ULIMO and sources in Guinea; (e) through trade with AFL and ECOMOG commanders; and (d) by capturing materiel from UN peacekeepers in May 2000.

5836. The Trial Chamber finds beyond reasonable doubt that these alternative sources of materiel were of minor importance in comparison to that supplied or facilitated by the Accused.

5837. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the materiel provided or facilitated by the Accused, beginning with the arrival of the Magburaka shipment in October 1997, was critical in enabling the RUF and the AFRC to carry out offensives and maintain territories until the end of the Indictment period.

#### Summary of Findings

5838. The Trial Chamber has found that -

- (i) At no relevant time in the Indictment period was the ECOMOG presence on the Liberia/Sierra Leone border, or the official closure of the border by the Liberian Government, sufficient to prevent the cross-border movement of arms and ammunition.
- (ii) The Prosecution has proved beyond reasonable doubt that the Accused was able to obtain arms and had the capacity to supply arms and ammunition to the rebel groups in Sierra Leone, and had the capacity to facilitate larger arms shipments through third countries.
- (iii) The Prosecution has proved beyond reasonable doubt that during the Junta period the Accused sent ammunition to Bockarie in Sierra Leone via Daniel Tamba (a.k.a. Jungle).
- (iv) The Prosecution failed to prove beyond reasonable doubt that the shipment of ammunition brought by Memunatu Deen and Fonti Kanu to Sierra Leone in 1997 was sent by the Accused.

- (v) The Prosecution has proved beyond reasonable doubt that supplies of arms and ammunition were sent to the RUF/AFRC in Buedu between February 1998 and December 1999 by the Accused, through, *inter alia*, Daniel Tamba (a.k.a. Jungle), Sampson Weah and Joseph (a.k.a. Zigzag) Marzah. However, there is insufficient evidence to establish beyond reasonable doubt that, except for the Burkina Faso shipment of November/December 1998, the amounts of materiel provided by the Accused in 1998 and 1999 through, *inter alia*, Daniel Tamba, Sampson Weah and Joseph Marzah were large.
- (vi) Bockarie made trips to Liberia in 1998 during which he obtained from the Accused.
- (vii) The RUF/AFRC received sizeable amounts of materiel from the Accused in 1998 although not comparable in quantity to the Magburaka shipment, the Burkina Faso shipment and the March 1999 shipment.
- (viii) Bockarie made a trip to Liberia at an undefined time after the Freetown invasion during which he obtained arms and ammunitions supplied by the Accused.
- (ix) On Bockarie's trip to Monrovia around March 1999, he brought back a large shipment of materiel supplied by the Accused
- (x) The Prosecution has proved beyond reasonable doubt that Bockarie made a trip to Monrovia as part of the Lomé delegation and returned to Sierra Leone in or around late September to October 1999 with a helicopter of materiel supplied by the Accused.
- (xi) The Prosecution has proved beyond reasonable doubt that during the Freetown invasion in January 1999, Dauda Aruna Fornie and others transported materiel provided by the Accused from Liberia to Sierra Leone.
- (xii) The Prosecution has proved beyond reasonable doubt that the Accused continued to deliver arms and ammunition to the RUF in 2000 and 2001 via, *inter alia*, Joseph (a.k.a. Zigzag) Marzah, Daniel Tamba (a.k.a.

Jungle), Sampson Weah, Dopoe Menkarzon, Roland Duoh (a.k.a. Amphibian Father) and Christopher Varmoh (a.k.a. Liberian Mosquito). However, There is insufficient evidence to establish beyond reasonable doubt that the amounts of materiel delivered were large.

- (xiii) Issa Sesay made a trip to Liberia in May 2000 in which he obtained arms and ammunitions from the Accused.
- (xiv) Issa Sesay made at least two trips to Liberia in the second half of 2000 and in early 2001 during which he obtained arms and ammunition supplied by the Accused. However, There is insufficient evidence to establish the quantity of materiel received by Sesay from the Accused on his trips to Liberia during 2000 and 2001.
- (xv) The Prosecution has proved beyond reasonable doubt that during Issa Sesay's reign as Interim Leader of the RUF, TF1-567 was involved in the transportation of materiel frequently over the course of one year and that materiel was provided by the Accused from Liberia to the RUF in Sierra Leone.
- (xvi) The Peosecution has proved beyond reasonable doubt that in 2000, Albert Saidu brought back two vehicles of ammunition and medicine from Yeaten in response to a request from Issa Sesay.
- (xvii) The Prosecution failed to prove beyond reasonable doubt that during Issa Sesay's reign as Interim Leader of the RUF, TF1-375 was involved in the transportation of materiel to Sierra Leone from Liberia on four occasions.
- (xviii) Sankoh gave Bockarie \$USD 7,000 which was used to purchase arms and ammunition from ULIMO from around late 1996. The Prosecution failed to prove beyond reasonable doubt that the Accused was involved in the arms and ammunition transactions between the RUF and ULIMO between November 1996 and May 1997.
- (xix) The Prosecution has proved beyond reasonable doubt that the Accused sent Varmuyan Sherif to open a corridor to facilitate the existing trade of the purchase and sale of arms and ammunition between the RUF and

ULIMO between Lofa County and RUF-held-territories after 14 February 1998, that Sherif fulfilled his assignment, as result of which members of ULIMO who were supposed to disarms and surrender their arms to the UN, instead sold or bartered them to the RUF.

- (xx) The prosecution has proved beyond reasonable doubt that the Accused provided financial support to the RUF/AFRC in order to facilitate their purchases of arms and ammunition from ex-ULIMO combatants.
- (xxi) The Prosecution failed to prove beyond reasonable doubt that the Accused used one of his superior commanders, Saye Boayou, in an attempt to help the RUF purchase arms and ammunition from ECOMOG in November 1996.
- (xxii) The Prosecution has proved beyond reasonable doubt that the Accused sent Ibrahim Bah on his behalf to Freetown to meet with Sam Bockarie and Johnny Paul Koroma to make arrangements for the procurement of arms and ammunition. Bah was given 90 carats of diamonds and \$USD 90,000 to pay for the shipment.
- (xxiii) The Trial Chamber finds that the Accused travelled to a number of African countries, including South Africa, from September to 3 October 1997. On September 25 September 1997 he attended a dinner at the Presidential House of Nelson Mandela, which was also attended by Naomi Campbell. Following the dinner two men sent by the Accused delivered diamonds to Naomi Campbell. However, there is insufficient evidence to establish that the Accused made arrangements during the course of these travels for the purchase of arms and ammunition to be shipped to Sierra Leone.
- (xxiv) The Prosecution has proved beyond reasonable doubt that the shipment of materiel negotiated with Bockarie and Koroma by Ibrahim Bah in Freetown on behalf of the Accused was delivered by plane to Magburaka in Sierra Leone sometime between September and December 1997, and that members of the AFRC/RUF Junta were present for the delivery. There is insufficient evidence to determine where the flight to Magburaka originated.



- (xxv) The shipment of materiel delivered to Magburaka included arms and ammunition, which were distributed among the AFRC/RUF Junta, and was very large.
- (xxvi) The Prosecution has proved beyond a reasonable doubt that around November/December 1998, the Accused was instrumental in procuring a large quantity of arms and ammunition for the RUF from Burkina Faso. These arms and ammunitions were distributed to RUF and AFRC commanders in Buedu.
- (xxvii) The arms and ammunition delivered in the Magburaka shipment were used by the AFRC/RUF forces in fighting ECOMOG and SLPP forces in Freetown before, during and after the Intervention and that this included offensives against the civilian population. Weapons from the Magburaka shipment were used in the Junta mining operations at Tongo Fields prior to the ECOMOG Intervention, in both "Operation Pay Yourself" and subsequent offensives on Kono, as well as the commission of crimes during those operations.
- (xxviii) Ammunition delivered by Daniel Tamba (a.k.a. Jungle) and supplied by the Accused during the Junta period was kept by Sam Bockarie in the Kenema District, and used in the course of their activities in the Kenema District, which included the commission of crimes in that area.
- (xxix) The Prosecution has proved beyond reasonable doubt that materiel supplied by the Accused was used in operations in the Kono District in early 1998, before Operation Fitti-Fatta and the commission of crimes during those operations.
- (xxx) The Prosecution has proved beyond reasonable doubt that materiel supplied by the Accused was used in Operation Fitti-Fatta in Kono in mid-1998.
- (xxxi) The Prosecution has proved beyond reasonable doubt that materiel supplied by the Accused was used by SAJ Musa and Denis Mingo (a.k.a. Superman) in attacks on Mongor Bendugu and Kabala shortly after

Operation Fitti-Fatta in mid-1998, which included the commission of crimes.

- (xxxii) The Prosecution has proved beyond reasonable doubt that materiel supplied by the Accused was used by the AFRC group led by Alex Tamba Brima (a.k.a. Gullit), Hassan Papa Bangura (a.k.a. Bomb Blast), and Ibrahim Kamara (a.k.a. Bazzy) in their activities in the Koinadugu and Bombali Districts from June to October 1998, which included the commission of crimes.
- (xxxiii) The Prosecution has proved beyond reasonable doubt that the arms and ammunition from the Burkina Faso shipment were distributed to RUF and AFRC commanders in Buedu and used in attacks in Kono and Kenema in December 1998, where further arms and ammunition were captured, and in the commission of crimes in the Kono and Makeni Districts.
- (xxxiv) The Prosecution has proved beyond reasonable doubt that part of the materiel from the Burkina Faso shipment was taken by a contingent of fighters led by Idrissa Kamara (a.k.a. Rambo Red Goat) to reinforce the troops in Freetown some time before the third week of January, and was used in the commission of crimes in Freetown and the Western Area.
- (xxxv) The Prosecution has proved beyond reasonable doubt that the Burkina Faso shipment, the materiel captured from the December 1998 offensives in Kono and the shipment brought by Dauda Aruna Fornie together formed an amalgamate of fungible resources which was used in attacks by the RUF and AFRC on the outskirts of Freetown after the withdrawal of Gullit's forces from the city, and in the commission of crimes in the Western Area.
- (xxxvi) The Prosecution has proved beyond a reasonable doubt that the arms and ammunition sent by the Accused to the RUF during 1999 were used in fighting in Sierra Leone, against Kamajors throughout 1999, and against ECOMOG and the "West Side Boys" in March to April 1999, and were part of the overall supply of materiel used by the RUF in its activities, including the commission of crimes.





- (xxxvii) The Prosecution has proved beyond a reasonable doubt that the arms and ammunition sent by the Accused to the RUF during 2000 to 2001 were part of the overall supply of materiel used by the RUF in its activities, including the commission of crimes.
- (xxxviii) In addition to receiving materiel supplies from the Accused, the RUF and the AFRC also obtained arms and ammunition (a) from the stockpiles of arms and ammunition held by the Junta government; (b) by capturing them from ECOMOG and other pro-government forces; (c) through trade with ULIMO and sources in Guinea; (c) through trade with AFL and ECOMOG commanders; and (d) by capturing materiel from UN peacekeepers in May 2000.
- (xxxix) These alternative sources of materiel were of minor importance in comparison to that supplied or facilitated by the Accused.
- (xl) The Prosecution has proved beyond reasonable doubt that the materiel provided or facilitated by the Accused, beginning with the arrival of the Magburaka shipment in October 1997, was critical in enabling the RUF and the AFRC to carry out offensives and maintain territories until the end of the Indictment period.

### Conclusion

5839. In reviewing the allegations of the Prosecution relating to the role of the Accused in providing military support to the RUF/AFRC, the Trial Chamber first considered two preliminary issues raised by the Defence, one relating to the status of the border between Sierra Leone and Liberia, and the other relating to disarmament in Liberia. The Trial Chamber has found that at no relevant time in the Indictment period was the ECOMOG presence on the Liberia/Sierra Leone border, or the official closure of the border by the Liberian government, sufficient to prevent the cross-border movement of arms and ammunition. With regard to the claim that as a result of disarmament and the destruction of arms, as well as the arms embargo, Liberia had insufficient arms and ammunition to supply Sierra Leone, the Trial Chamber has found that despite these measures, the Accused was able to obtain arms and had the capacity to supply arms and ammunitions from Liberia to the rebel groups in Sierra Leone. Moreover, he had the capacity to facilitate larger arms

shipments through third countries. Of the arms shipments to the RUF and AFRC linked to the Accused during the Indictment period, the largest arrived not from Liberia, but through Liberia from third party states, primarily Burkina Faso.

5840. The Accused directly supplied arms and ammunition to the RUF/AFRC, as well as facilitated the supply of arms and ammunition to the RUF/AFRC from outside Liberia. During the Junta period, the Accused sent ammunition to Bockarie via Daniel Tamba (a.k.a. Jungle) in 1997. The Trial Chamber finds that the Accused was the source of the materiel delivered by Tamba, Joseph (a.k.a Zizgag) Marzah and Sampson Weah, among others, to Sierra Leone throughout 1998 and 1999, such supplies consisting of both arms and ammunition. Bockarie himself made trips to Liberia in 1998 and 1999 during which he obtained arms and ammunition from the Accused. During Issa Sesay's leadership of the RUF, the Accused continued to deliver arms and ammunition to the RUF in 2000 and 2001 via Tamba, Marzah, Weah and others. As well as sending subordinates, Sesay himself made trips to Liberia, including a trip in May 2000 and at least two trips in the second half of 2000 and early 2001, during which he obtained arms and ammunition from the Accused.

5841. Although the materiel delivered through, *inter alia*, Tamba, Weah and Marzah was limited in quantity, certain shipments provided by the Accused on Bockarie's trips to Liberia in 1998 and 1999 did contain substantial amounts of materiel.

5842. After 14 February 1998, the Accused sent Varmuyan Sherif to open a corridor between Lofa County and RUF-held territories to facilitate the trade of arms and ammunition between the RUF/AFRC and ULIMO. As a result, members of ULIMO who were supposed to disarm and surrender their arms to the UN, instead sold or bartered them to the RUF. The Accused also provided financial support to the RUF/AFRC in order to facilitate their purchases of arms and ammunition from ex-ULIMO combatants. However, the evidence was insufficient to establish that the Accused attempted to help the RUF purchase arms and ammunition from ULIMO and ECOMOG prior to the Junta period.

5843. The Accused facilitated two large shipments of ammunition. The first occurred in late 1997. In around September 1997, the Accused sent Ibrahim Bah to Freetown to meet with Sam Bockarie and Johnny Paul Koroma to make arrangements for the procurement of arms and ammunition. Bah was given 90 carats of diamonds and \$USD 90,000 to pay for the shipment. This shipment of arms and ammunition was delivered by plane to Magburaka

in Sierra Leone sometime between September and December 1997 and was distributed amongst members of the AFRC/RUF Junta. The Trial Chamber finds that materiel from this shipment was used by the AFRC/RUF forces in fighting ECOMOG and SLPP forces in Freetown before, during and after the Intervention, in the Junta mining operations at Tongo Fields prior to the ECOMOG Intervention, in "Operation Pay Yourself" and subsequent offensives on Kono, as well as in the commission of crimes during those operations.

5844. The Accused to have facilitated a shipment of materiel in around November 1998 from Burkina Faso. Ibrahim Bah and Musa Cissé, Charles Taylor's Chief of Protocol, accompanied a delegation led by Bockarie to Burkina Faso where a shipment of arms and ammunition was arranged and brought back by plane to Liberia, and then transported by trucks provided by the Accused to Sierra Leone. The Trial Chamber has found that the Accused was instrumental in procuring this large quantity of arms and ammunition for the RUF, that he was paid for it with diamonds, and that he kept some of the shipment for his own purposes. The Trial Chamber finds that the shipment from Burkina Faso was unprecedented in volume and was critical in the December 1998 and January 1999 offensives.

5845. The Trial Chamber considered the Defence submission that other sources of military equipment for the RUF and AFRC far outweighed supplies allegedly provided by the Accused. In addition to receiving arms and ammunition from the Accused, the Trial Chamber finds that the RUF and the AFRC also obtained supplies from the existing stockpiles of the former government when they took over power in May 1997, by capturing them from ECOMOG and UN peacekeepers, and through trade with ULIMO, AFL and ECOMOG commanders. However, these sources of materiel were of minor importance in comparison to that supplied or facilitated by the Accused. Significantly, the RUF/AFRC in fact heavily and frequently relied on the materiel supplied and facilitated by the Accused; the Accused's support often satisfied a need or request for materiel at a particular time; and shipments of materiel supplied by or facilitated by the Accused often contributed to and were causally linked to the capture of further supplies by the RUF and AFRC. Although there were instances in which the materiel that the Accused gave to the RUF/AFRC was more limited in quantity, on a number of occasions the arms and ammunitions which he supplied or facilitated were indispensable for the RUF/AFRC military offensives. The

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materiel provided or facilitated by the Accused was critical in enabling the operational strategy of the RUF and the AFRC during the Indictment period.

## G. Diamonds

### 1. Alleged Delivery of Diamonds to the Accused

#### General Submissions by the Parties

5846. The Parties agree that the AFRC/RUF was engaged in active mining in both Tongo Fields and Kono beginning in 1997.<sup>13027</sup> The Prosecution acknowledges that the RUF's hold over Kono during 1998 was not continuous, and the Defence asserts that, in addition to the AFRC/RUF's mining activity, ECOMOG, the CDF and "international actors" (referring to a private company called Sandline) also engaged in mining in Kono during times in 1998 when the AFRC/RUF was not in control of the area.<sup>13028</sup> Defence witnesses testified that although mining operations continued in Kono in 1999, the RUF was not engaged in mining in Tongo during that time.<sup>13029</sup> Evidence adduced by the Prosecution was consistent with that testimony. Mining later resumed in Tongo Fields around 2000, and the RUF continued mining in Tongo Fields and Kono until disarmament.<sup>13030</sup>

5847. The parties' disputes regarding diamonds and diamond mining relate to: whether the Accused assisted the Junta and/or RUF with its mining activities by supplying equipment and other materials; whether the Accused received diamonds from the Junta and/or RUF in return for arms and ammunitions and other supplies, or for "safekeeping;" and, whether the Accused introduced the RUF to diamond buyers to enable the RUF to sell diamonds and use the proceeds to purchase arms and ammunitions and other supplies needed to sustain its operations. The Prosecution submits that the Accused was involved in many facets of the AFRC/RUF's activities and that one of the many benefits the Accused received from his "multi-faceted participation, involvement" and "concerted action" with the rebel groups was

<sup>13027</sup> Prosecution Final Trial Brief, paras 349-350; Defence Final Trial Brief, paras 1209-1211. *See also* TF1-371, Transcript 8 January 2008, p.2723; TF1-367, Transcript 1 September 2008, pp. 15040-15043; Issa Sesay, Transcript 26 July 2010, p. 44635.

<sup>13028</sup> Prosecution Final Trial Brief, paras 358-359 (discussing the Junta's need to regain control over Koidu Town and Kono District); Defence Final Trial Brief, paras 1210-1211. *See also* Stephen Smith, Transcript 22 September 2008, pp. 16824-16827; TF1-367, Transcript 1 September 2008, p. 15044; Issa Sesay, Transcript 28 July 2010, p. 44853.

<sup>13029</sup> Prosecution Final Trial Brief, paras 360-362 (discussing mining in Kono throughout 1998 and 1999; no mention of mining in Tongo Fields in 1999); Issa Sesay, Transcript 23 August 2010, pp. 46825-46826, 46913-46917. This is also consistent with the Trial Chamber's findings in the crime base portion of this judgement. *See* Factual and Legal Findings on Alleged Crimes: Count 10 (Enslavement).

<sup>13030</sup> *See* Factual and Legal Findings on Alleged Crimes: Count 10 (Enslavement).

the ability to pillage Sierra Leone's diamond resources.<sup>13031</sup> According to the Prosecution, the RUF began taking diamonds to the Accused as early as 1992 when the RUF attacked Koidu Town.<sup>13032</sup> However, during the Junta government period, the Accused began to "taste the real benefits of Sierra Leone's abundant diamond resources", receiving diamonds mined by forced labourers in Kenema District under the control of Sam Bockarie, and delivered by Daniel Tamba (a.k.a. Jungle),<sup>13033</sup> and from Kono under the watch of Johnny Paul Koroma.<sup>13034</sup> The Prosecution alleges that the Accused sent arms and ammunition as well as other "varied assistance", including machinery, fuel and mining experts to assist the RUF,<sup>13035</sup> in return for some of the diamonds delivered to him.<sup>13036</sup> As a consequence of his assistance with mining operations, which the Accused was regularly updated about via radio,<sup>13037</sup> diamond production increased.<sup>13038</sup> Later, from 2000 to 2002, these diamonds, estimated to be worth millions of dollars, were delivered by Issa Sesay and other "liaison officers" and "trusted subordinates".<sup>13039</sup> The Prosecution submits that these deliveries were monitored via radios controlled by the Accused.<sup>13040</sup>

5848. The Defence denies all allegations that the Accused ever received diamonds from the RUF and that he gave arms, ammunitions and other supplies to the RUF and/or Junta in exchange for diamonds.<sup>13041</sup> The Defence calls the Trial Chamber's attention to the fact that only two of the Prosecution's witnesses provided first hand accounts of the Accused receiving diamonds, and the Defence heavily challenges the credibility of both of those witnesses.<sup>13042</sup> The Defence further challenges the general credibility of the Prosecution's relevant evidence, contending that witnesses were told by the Prosecution that they wanted to "hear about diamonds to Taylor and arms to the RUF", and that the Prosecution gave financial incentives for such testimony.<sup>13043</sup> The Defence further contends that all of the

<sup>13031</sup> Prosecution Final Trial Brief, para. 341.

<sup>13032</sup> Prosecution Final Trial Brief, para. 18.

<sup>13033</sup> Prosecution Final Trial Brief, para. 18.

<sup>13034</sup> Prosecution Final Trial Brief, paras 349, 353-354.

<sup>13035</sup> Prosecution Final Trial Brief, paras 20, 343, 360, 372.

<sup>13036</sup> Prosecution Final Trial Brief, paras 349-359, 364.

<sup>13037</sup> Prosecution Final Trial Brief, para. 372.

<sup>13038</sup> Prosecution Final Trial Brief, paras 20, 343, 372.

<sup>13039</sup> Prosecution Final Trial Brief, paras 21, 341-382.

<sup>13040</sup> Prosecution Final Trial Brief, paras 373, 382.

<sup>13041</sup> Defence Final Trial Brief, paras 1198-1229.

<sup>13042</sup> Defence Final Trial Brief, para. 1198.

<sup>13043</sup> Defence Final Trial Brief, para. 1199. The Trial Chamber has considered the Defence's submissions

Prosecution's evidence that Taylor obtained diamonds from Sierra Leone is based on circumstantial evidence,<sup>13044</sup> and that all of the transactions referred to by the Prosecution link the RUF to middle men, not to the Accused.<sup>13045</sup> The Defence recalls that a link must be proved directly between the Accused, not just Monrovia, and practical assistance provided by him along with his awareness of a substantial likelihood that his actions would result in the commission of a crime.<sup>13046</sup> The defence contends that the diamond trade with Liberia was a private enterprise conducted between the RUF and the Accused's alleged subordinates, without Taylor's knowledge and approval".<sup>13047</sup>

(a) Junta Period

Submissions of the Parties

5849. The Prosecution submits that the formation of the Junta granted the Accused access to Sierra Leone's mining areas in Kono and Kenema Districts, including Tongo Fields.<sup>13048</sup> During this time, the AFRC/RUF focused its efforts on raising revenue through the trade of diamonds mined by civilians under conditions amounting to forced labour. According to the Prosecution, this trade was executed through an exchange of diamonds for arms and ammunitions with the Accused, the "most significant" of which was the Magburaka shipment.<sup>13049</sup>

5850. The Prosecution submits that during this time, some of the diamonds that the Accused received were forcibly mined by civilians in Kenema District, including Tongo Fields, under the supervisory command of Sam Bockarie, who was based in Kenema Town at that time.<sup>13050</sup> Bockarie received diamonds mined from Tongo Fields from his subordinate RUF officers, including Karmoh Kanneh (a.k.a. Captain Eagle) and Amuyepheh. Those

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regarding the testimony of witnesses Sam Koleh, Transcript 3 November 2010, pp. 48584-48587, 48606, and Martin George, Transcript 12 March 2010, p. 37204. The Trial Chamber has addressed such issues of alleged Prosecutorial impropriety in another section of the judgement. See Preliminary Issues: Discretionary Payments and Other Inducements to Witnesses by the Prosecution.

<sup>13044</sup> Defence Final Trial Brief, para. 1199.

<sup>13045</sup> Defence Final Trial Brief, para. 1201.

<sup>13046</sup> Defence Final Trial Brief, para. 1202.

<sup>13047</sup> Defence Final Trial Brief, para. 1203.

<sup>13048</sup> Prosecution Final Trial Brief, para. 349.

<sup>13049</sup> The allegations and evidence regarding the Magburaka Shipment is considered in the section of this judgement on the Magburaka Shipment. See Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Magburaka Shipment.

<sup>13050</sup> Prosecution Final Trial Brief, paras 349, 351.

diamonds, as well as diamonds mined in Kono, were delivered to the Accused in Liberia by Daniel Tamba (a.k.a. Jungle), and in exchange, the Accused sent arms and ammunition that was later used by the Junta to hold power against threats from ECOMOG and the Kamajors.<sup>13051</sup> Furthermore, the AFRC component of the Junta had commanders in Tongo Fields, including Captain Yamao Kati and Sergeant Junior, who delivered diamonds to Eddie Kanneh. Kanneh then passed the diamonds on to Johnny Paul Koroma in Freetown, and the Accused ultimately received them from Koroma.<sup>13052</sup>

5851. The AFRC Secretariat in Koidu Town was responsible for mining in Kono District, with Alex Tamba Brima and Cobra overseeing operations in Kono. Additionally, Captain Moriba oversaw mining in Kono on behalf of the RUF, along with representatives of Morris Kallon and Issa Sesay. Mining in Tombodu in 1998, near Koidu, was supervised by Superman.<sup>13053</sup> Diamonds mined from Kono during this period were delivered to designated AFRC and RUF commanders and taken to Koroma or Bockarie. Ultimately, those diamonds reached the Accused. The Prosecution relies upon witnesses Isaac Mongor, Augustine Mallah, Karmoh Kanneh, TF1-375, TF1-567 and Abdul Conteh in support of its submissions.<sup>13054</sup>

5852. The Defence generally denies that the Accused ever received diamonds from any member of the RUF.<sup>13055</sup> Additionally, the Defence contends that the only allegation of shipments of arms and ammunition in exchange for diamonds during this time occurred in the context of the Magburaka shipment. The Defence refutes the Accused's involvement in the Magburaka shipment, highlighting the inconsistencies among Prosecution witnesses' accounts of whether the shipment was actually paid for with diamonds and by whom.<sup>13056</sup> The Trial Chamber has considered this evidence, including the relevant testimony of TF1-371 and Samuel Kargbo, in the context of its deliberations on the Magburaka shipment.<sup>13057</sup> Below, in response to the Prosecution's more general allegations that the Accused received

<sup>13051</sup> Prosecution Final Trial Brief, paras 349, 351.

<sup>13052</sup> Prosecution Final Trial Brief, paras 351, 353. This allegation is considered in the section of this judgement on the Magburaka Shipment. See Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Magburaka Shipment

<sup>13053</sup> Prosecution Final Trial Brief, para.350.

<sup>13054</sup> Prosecution Final Trial Brief, para. 350.

<sup>13055</sup> Defence Final Trial Brief, para. 1198.

<sup>13056</sup> Defence Final Trial Brief, paras 592, 1212.

<sup>13057</sup> See Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Magburaka Shipment.



AFRC/RUF diamonds during this time period, the Trial Chamber has considered the testimony of the Accused Issa Sesay, DCT-190 and Exhibit P-033B.

### Evidence

#### Prosecution Witness Isaac Mongor

5853. Witness Isaac Mongor, an RUF senior commander,<sup>13058</sup> testified that during 1997<sup>13059</sup> Johnny Paul Koroma organized mining in Kono and “sent people” to mine there under Gullit’s supervision.<sup>13060</sup> Mongor testified that the AFRC and RUF were both mining at that time, and that the RUF was mining at different sites in Kono and in Tongo.<sup>13061</sup> According to Mongor, the Supreme Council did not have an operating budget and so it sought to use diamonds as currency to pay for weapons purchases.<sup>13062</sup> The witness saw these diamonds during Supreme Council meetings. The diamonds were kept in jam jars of about 250 millilitres and then taken to the “big Pa, that is Mr Taylor” to get the things they wanted and “those were the ammunition and the arms”.<sup>13063</sup>

#### Prosecution Witness Augustine Mallah

5854. Witness Augustine Mallah, a security officer to Mike Lamin from 1996 to disarmament,<sup>13064</sup> testified that he visited Kenema around July 1997<sup>13065</sup> and saw Sam Bockarie (a.k.a. Mosquito) with Karmoh Kanneh (a.k.a. Captain Eagle)<sup>13066</sup> and Daniel Tamba (a.k.a. Colonel Jungle). Mosquito said to Mallah, in reference to Jungle, “Charles

<sup>13058</sup> See for example: Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March 2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>13059</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5717-5718. Although the witness did not testify explicitly regarding the date, the Trial Chamber notes that this testimony was included in other testimony regarding events in 1997.

<sup>13060</sup> Isaac Mongor, Transcript 11 March 2008, p. 5719.

<sup>13061</sup> Isaac Mongor, Transcript 11 March 2008, p. 5720.

<sup>13062</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5718-5719.

<sup>13063</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5719-5721.

<sup>13064</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20092-200923, 20102-20103; Transcript 13 November 2008, pp. 20209-20210.

<sup>13065</sup> Augustine Mallah, Transcript 12 November 2008, p. 20139.

<sup>13066</sup> Augustine Mallah, Transcript 12 November 2008, p. 20141.

Taylor ...sent him for us to give him some parcels of diamonds".<sup>13067</sup> Mallah then observed Mosquito, Captain Jungle and Captain Eagle board a vehicle and head towards Tongo.<sup>13068</sup>

Prosecution Witness Karmoh Kanneh

5855. Witness Karmoh Kanneh (a.k.a. Captain Eagle), an RUF mining commander at Tongo Fields,<sup>13069</sup> testified that, after the RUF had captured the diamond mining areas at Tongo Field, he was present in the room when the Accused thanked and congratulated Bockarie over a satellite phone for capturing Tongo Field. Bockarie first informed Johnny Paul Koroma that Tongo Fields had been captured, then Bockarie informed "Pa Taylor".<sup>13070</sup> Jungle, who was the "Pa's representative" was also present during this conversation.<sup>13071</sup> Kanneh testified that he mined Tongo Fields for the RUF for about one month in 1997.<sup>13072</sup> At Tongo Fields, civilians were forced to mine and were flogged if they refused.<sup>13073</sup> During this time when "they" found a diamond they took it to a two-storey house in Tongo where Jungle, JR and Lion all assembled.<sup>13074</sup> There, the witness and others counted the diamonds and parcelled them in paper and Sellotape before they were taken to Liberia.<sup>13075</sup> The witness testified about two specific instances where he witnessed the preparation of diamonds for delivery to Liberia. The first package of diamonds contained 43 pieces. After they were parcelled, Mr Bockarie called Mr Taylor on a satellite phone and told him the total.<sup>13076</sup> The witness heard Mr Taylor thank Bockarie and tell Bockarie to hand the diamonds over to Jungle who would travel with them.<sup>13077</sup> Jungle then confirmed the total of diamonds to Mr Taylor over the satellite phone.<sup>13078</sup> Mr Taylor told Jungle he should "move with it", and then Jungle left.<sup>13079</sup> CO Lion escorted Jungle as far as Foya,

<sup>13067</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20148-20149.

<sup>13068</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20148-20149.

<sup>13069</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9385-9586.

<sup>13070</sup> Karmoh Kanneh, Transcript. 8 May 2008, pp. 9369-9371. See also Factual and Legal Findings on Alleged Crimes: Counts 2 and 3 (Unlawful Killings).

<sup>13071</sup> Karmoh Kanneh, Transcript. 8 May 2008, p. 9371.

<sup>13072</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9386-9387. Regarding timing, the witness testified that he was in Kenema Town at the time of the Intervention and had been there for about three or four months before the Intervention.

<sup>13073</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9371-9372.

<sup>13074</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9380-9381.

<sup>13075</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9380-9381.

<sup>13076</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9381.

<sup>13077</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9381-9382.

<sup>13078</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9382.

<sup>13079</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9382.

which was “always the station” where the helicopter would pick him up to go to Monrovia.<sup>13080</sup> The second batch of diamonds included 18 pieces of diamonds, and one big diamond.<sup>13081</sup> The witness testified that they followed the same procedure with the second batch of diamonds: the diamonds were shown to Jungle at Bockarie’s place, and were counted and parcelled.<sup>13082</sup> Then, just as before, the witness heard Bockarie call Mr Taylor and inform him of the total, and then Jungle confirmed the total.<sup>13083</sup> Again, Mr Taylor thanked Mr Bockarie and Jungle was given the parcel and he was escorted to the border.<sup>13084</sup> The witness further testified that Jungle was always with the “top commanders”.<sup>13085</sup>

#### Prosecution Witness TF1-375

5856. Witness TF1-375, an RUF fighter,<sup>13086</sup> testified that Daniel Tamba (a.k.a. Jungle), told him that Jungle served as a liaison between Sam Bockarie and President Taylor.<sup>13087</sup> Jungle also told the witness that he took diamonds to President Taylor who gave him ammunition to take back to Sierra Leone.<sup>13088</sup>

#### Prosecution Witness TF1-567

5857. Witness TF1-567, an RUF member,<sup>13089</sup> testified that he saw Mohammed Kanneh<sup>13090</sup> give Sam Bockarie diamonds mined in Tongo Field on numerous occasions in 1997,<sup>13091</sup> and that Eddie Kanneh also received diamonds, but the witness did not actually observe Eddie Kanneh receiving diamonds.<sup>13092</sup> TF1-567 further testified that towards the end of 1997,<sup>13093</sup> he was in Kenema, where he went to visit Sam Bockarie, and he met Daniel Tamba (a.k.a. Jungle) who told the witness that “the Pa had sent him; that is Charles

<sup>13080</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9382.

<sup>13081</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9383.

<sup>13082</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9383-9384.

<sup>13083</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9384.

<sup>13084</sup> Karmoh Kanneh, 8 May 2008, p. 9384.

<sup>13085</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9371.

<sup>13086</sup> TF1-375, Transcript 23 June 2008, p. 12485.

<sup>13087</sup> TF1-375, Transcript 23 June 2008, p. 12492.

<sup>13088</sup> TF1-375, Transcript 23 June 2008, pp. 12492, 12494.

<sup>13089</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS); Transcript 4 July 2008, pp. 12986-12988 (PS).

<sup>13090</sup> The Trial Chamber is satisfied that although the witness testified about “Mohammed Kanneh”, the context of his testimony makes it clear that he is referring to Karmoh Kanneh.

<sup>13091</sup> TF1-567, Transcript 2 July 2008, pp. 12884-12886. Mohammed Kanneh was one of Sam Bockarie’s “securities” appointed to receive diamonds from the miners.

<sup>13092</sup> TF1-567, Transcript 2 July 2008, pp. 12884-12886.

<sup>13093</sup> TF1-567, Transcript, 2 July 2008, p. 12883.

Taylor”.<sup>13094</sup> The witness did not testify as to what Charles Taylor had sent him to do, but Jungle did tell the witness that Charles Taylor had told him not to “be involved that much” in the AFRC government.<sup>13095</sup>

Prosecution Witness Abdul Conteh

5858. Witness Abdul Conteh, a school teacher and diamond miner,<sup>13096</sup> testified that while he was in Tongo Fields in August of 1997<sup>13097</sup> Captain Eagle, a “rebel commando”, told him that they were supported by Charles Taylor and that “all the diamonds they were getting in that place” were sent to Charles Taylor.<sup>13098</sup> The witness further testified that Charles Taylor was getting ammunition for the RUF at this time.<sup>13099</sup>

5859. Conteh also testified that twice, when he delivered reports to OC Secretariat Sekou Kunnateh in Tongo, he saw Kunnateh counting diamonds in the presence of Kamara, a “second in charge”.<sup>13100</sup> Kunnateh told the witness that he was taking the diamonds to Sam Bockarie (a.k.a. Mosquito).<sup>13101</sup> Conteh testified that he saw Sam Bockarie once on 16 August 1997 at the office of Kunnateh, and that Bockarie used to come to Tongo with “his troops”, who were “rebels”, around that time to collect diamonds and take them back to Kenema Town.<sup>13102</sup>

Prosecution Witness Jabaty Jaward

5860. Witness Jabaty Jaward, a clerk for Issa Sesay and Sam Bockarie and Bockarie’s storekeeper,<sup>13103</sup> testified that in 1998, after Daniel Tamba (a.k.a. Jungle) arrived in Kenema from Liberia, he reported to Sam Bockarie that he brought along a truck full of ammunition that had become stuck on the road before Buedu.<sup>13104</sup> Jaward testified that he did not know who had directly given Jungle the ammunitions but he knew that “he wouldn’t have had

<sup>13094</sup> TF1-567, Transcript, 2 July 2008, p. 12889.

<sup>13095</sup> TF1-567, Transcript, 2 July 2008, p. 12889.

<sup>13096</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17495-17500.

<sup>13097</sup> Abdul Conteh, Transcript 29 September 2008, p. 17540.

<sup>13098</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17545-17546.

<sup>13099</sup> Abdul Conteh, Transcript 29 September 2008, p. 17546.

<sup>13100</sup> Abdul Conteh, Transcript 29 September 2008, p. 17543.

<sup>13101</sup> Abdul Conteh, Transcript 29 September 2008, p. 17544.

<sup>13102</sup> Abdul Conteh, Transcript 29 September 2008, pp. 17540-17541.

<sup>13103</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13306, 13332; Transcript 10 July 2008, p. 13383.

<sup>13104</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13354-13355.

ammunition all by himself in Liberia rather than getting it through the orders of Charles Taylor".<sup>13105</sup> The witness heard that Bockarie sent an envoy in the direction of the stuck truck with the ammunition, and Jaward "believed" that they were going for that ammunition but did not know if it was actually ever retrieved.<sup>13106</sup> Jaward was present the day after Jungle arrived when Bockarie gave Jungle a parcel of diamonds.<sup>13107</sup> Jaward testified that he knew that the parcel contained diamonds because they always referred to packages of diamonds as "parcels".<sup>13108</sup> The witness also testified that he saw the parcel, but was not specific as to whether he actually saw its contents.<sup>13109</sup> When Bockarie handed Jungle the parcel, he said "this is what I have now for the old man" and the witness understood that the "old man" was Charles Taylor because they always referred to Foday Sankoh and Charles Taylor as 'papay' or 'the old man.'<sup>13110</sup>

### The Accused

5861. The Accused denied that he was in possession of diamonds at any point during this period.<sup>13111</sup> In response to the testimony of Augustine Mallah, the Accused denied that Jungle was his runner.<sup>13112</sup> The Accused further denied knowing Jungle and denied that Jungle, Mosquito or Issa Sesay ever brought diamonds to him.<sup>13113</sup>

5862. The Accused asserted that Karmoh Kanneh's evidence that he instructed Bockarie over a satellite phone to hand 43 diamonds over to Jungle is a lie because it is impossible to make a satellite phone call indoors and this must have occurred when Johnny Paul Koroma was still in control.<sup>13114</sup> Regarding the second occasion, about which Kanneh testified, that the Accused instructed Bockarie to send diamonds via Jungle the Accused testified that it

<sup>13105</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13354-13355.

<sup>13106</sup> Jabaty Jaward, Transcript 9 July 2008, p. 13355.

<sup>13107</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13356-13357.

<sup>13108</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13356-13357.

<sup>13109</sup> Jabaty Jaward, Transcript 9 July 2008, p. 13357.

<sup>13110</sup> Jabaty Jaward, Transcript 9 July 2008, p. 13357.

<sup>13111</sup> Charles Ghankay Taylor, Transcript 14 January 2010, pp. 33336-33338. The Trial Chamber has considered the Accused's denials in the context of the Magburaka shipment in that section of the judgement. Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Magburaka Shipment.

<sup>13112</sup> Charles Ghankay Taylor, Transcript 1 October 2009, pp 30089-30091.

<sup>13113</sup> Charles Ghankay Taylor, Transcript 1 October 2009, pp. 30100-30103. For a discussion on the role of Daniel Tamba (a.k.a. Jungle) and other intermediaries, *see* The Role of Intermediaries: Daniel Tamba (a.k.a. Jungle).

<sup>13114</sup> Charles Ghankay Taylor, Transcript 28 October 2009, pp. 30567-30571.

did not happen and remarked that none of the people who testified about diamond transfers claimed that they were present.<sup>13115</sup>

Defence Witness Issa Sesay

5863. Witness Issa Sesay, a senior RUF commander,<sup>13116</sup> testified that from late May to July 1997, he was not aware of any “external assistance” coming to the RUF from Liberia.<sup>13117</sup>

DCT-190

5864. Witness DCT-190, a former member of one of the Liberian forces,<sup>13118</sup> testified that in 1998, just before ECOMOG pushed the AFRC out of power, the witnesses and his forces were told to leave Tongo to go to Kenema so that ECOMOG could secure the mines. Once the witness and his group moved to Kenema, ECOMOG began “doing business” with the mines.<sup>13119</sup>

Prosecution Exhibit P-033B

5865. Exhibit P-033B is an article appearing in *Le Monde* on 15 November 2000, entitled “Charles Taylor, former warlord and President of Liberia, ‘British Officials are after Sierra Leone’s diamonds.’” In relevant part, the article contains a statement by the Accused that the British were involved in peace keeping in Sierra Leone because the British wanted Sierra Leone’s diamonds. Furthermore, the Accused was quoted that the war in Sierra Leone was a “war for diamonds”, but that not because Liberia wants diamonds, as Liberia has its own diamonds.<sup>13120</sup>

Deliberations

5866. The Trial Chamber has considered the evidence in support of the Prosecution’s allegation that additional exchanges of diamonds for arms and ammunitions, apart from

<sup>13115</sup> Charles Ghankay Taylor, Transcript 28 October 2009, pp. 30571-30574.

<sup>13116</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>13117</sup> Issa Sesay, Transcript 6 July 2010, p. 43840.

<sup>13118</sup> DCT-190, Transcript 7 June 2010, pp. 42185, 42186.

<sup>13119</sup> DCT-190, Transcript 7 June 2010, pp. 42259, 42260.

<sup>13120</sup> Exhibit P-033B, “Charles Taylor, former warlord and President of Liberia, ‘British Officials are after Sierra Leone’s diamonds’”, p. 1, ERN 43984.

those in the context of the Magburaka shipment, occurred between May 1997 and February 1998.

5867. The Trial Chamber notes that Augustine Mallah, TF1-567, TF1-375, Karmoh Kanneh and Jabaty Jaward all testified that Jungle delivered diamonds to the Accused during this period. The Trial Chamber also notes its previous findings that Mallah, TF1-567, Kanneh and Jaward are generally credible witnesses<sup>13121</sup> and that the evidence of TF1-375 is to be considered with caution and requires corroboration.<sup>13122</sup> Bockarie told Mallah that Jungle had been sent by the Accused so that they could “give him some parcels of diamonds”.<sup>13123</sup> Mallah then observed Jungle, Sam Bockarie and Karmoh Kanneh drive off towards Tongo.<sup>13124</sup> Jungle told TF1-567 directly that he had been sent to Tongo by the Accused. TF1-375 testified that Jungle also told him that he was a liaison between the RUF and the Accused and that he brought arms and ammunitions to Sierra Leone in exchange for the diamonds that he delivered to the Accused. Karmoh Kanneh gave direct evidence of Sam Bockarie giving diamonds from Tongo to Jungle on two occasions in 1997. Kanneh also testified that he heard the Accused speak to Bockarie and Jungle over a satellite phone and heard the Accused instruct Jungle to “move” with the diamonds. Abdul Conteh also mentioned delivery of diamonds to the Accused and supply of arms and ammunitions from the Accused in his testimony, although he did not testify that Jungle was a runner of diamonds to the Accused. The Trial Chamber notes the Defence’s assertion that Kanneh’s evidence has not been properly corroborated by Abdul Conteh.<sup>13125</sup> Given that Kanneh is also corroborated by other witnesses, including Augustine Mallah, the challenge to Conteh’s evidence as not corroborative is irrelevant.

5868. The Trial Chamber notes that on cross-examination Kanneh was confronted with an inconsistency between his testimony, in which he denied that diamonds taken to Liberia were seized at checkpoints, and a prior statement in which he had said they were. Kanneh testified that this erroneous statement had not come to his attention before, although he admitted that the interview had previously been read back to him. The Trial Chamber found

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<sup>13121</sup> Credibility Assessment, TF1-567, paras 313-317; Credibility Assessment, Augustine Mallah, Pre-Indictment period (1988-1996), para. 2522; Credibility Assessment, Karmoh Kanneh, The Role of Intermediaries, para. 2704; Credibility Assessment, Jabaty Jaward, The Role of Intermediaries, para. 2708.

<sup>13122</sup> Credibility Assessment, TF1-375, paras 308-312.

<sup>13123</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20148-20149.

<sup>13124</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20148-20149.

<sup>13125</sup> Defence Response to Prosecution Final Trial Brief, para. 76.



Kanneh's testimony to be clear and consistent and accepts his testimony that the prior statement was erroneous, without detriment to his credibility.

5869. Although Karmoh Kanneh provided direct evidence that Sam Bockarie gave diamonds to Jungle and testified that he was present when Bockarie and Jungle spoke with the Accused, the Trial Chamber notes that the witness first testified that he heard the Accused's voice, but when asked how he was able to hear the voice, he said they told him, or Bockarie told him, that they had been talking to the Accused. In light of Kanneh's detailed report of the conversations with both Bockarie and Jungle, on several occasions, and the fact that the witness was present and directly heard the conversation on his side, the Trial Chamber is satisfied that his testimony that Bockarie and Jungle were talking to the Accused is credible. Moreover, his testimony is corroborated by the testimony of Mallah, TF1-567, and TF1-375 that Jungle was sent by the Accused.

5870. The Trial Chamber notes that on cross-examination, Augustine Mallah testified that he did not see the diamonds himself, nor did he accompany the men when he saw them drive off towards Tongo. However, Bockarie told Mallah that Jungle had been sent to pick up diamonds for Charles Taylor. While Mallah did not see the diamonds, the testimony of several witnesses that diamonds were taken from Tongo to Bockarie, corroborates Mallah's account. For example, Abdul Conteh saw Bockarie in Tongo and testified that he came there or that others came on his behalf to collect diamonds. TF1-567 also witnessed diamonds from mines in Tongo being given to Bockarie.

5871. The Trial Chamber notes that TF1-375, Abdul Conteh and Isaac Mongor testified that the diamonds were taken to the Accused in exchange for arms and ammunition. TF1-375 testified that Jungle told him that he took diamonds to Taylor who gave him ammunition to take back to Sierra Leone. The Trial Chamber recalls its finding that the testimony of TF1-375 requires corroboration but considers that the testimony of Conteh and Mongor corroborates TF1-375's account. In that regard, the Trial Chamber recalls that Mongor is a generally credible witness.<sup>13126</sup> Abdul Conteh also testified that diamonds were sent to Taylor and Taylor was getting ammunition for the RUF at that time. He heard this from Captain Eagle, a rebel commando. Isaac Mongor testified generally that diamonds were kept in jam jars and then taken to Taylor to get arms and ammunition.

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<sup>13126</sup> Credibility Assessment, Isaac Mongor, paras 269-274.





5872. The Trial Chamber notes that on cross-examination Conteh was confronted with a prior statement in which he told the Prosecution that he did not know what happened to the diamonds that were being mined at that time. The witness explained this as an error and reiterated his earlier testimony that he twice witnessed the diamonds being counted by Kunnateh, who told Conteh that he was taking the diamonds to Bockarie. Conteh was also confronted with a prior statement in which he had said that the arms that the rebels brought had come from the bush and that the rebels were already armed when they entered Tongo,<sup>13127</sup> while he testified that Captain Eagle told him that the arms came from Taylor. Conteh clarified that the rebels had arrived with arms but that when they ran out they were replenished by Taylor. The Trial Chamber accepts Conteh's explanations of his prior statements but notes that his evidence does not indicate that the diamonds were specifically exchanged for arms. The evidence of Mongor, however, does make this specific link indicating that the diamonds were given to Taylor in exchange for arms and ammunition, corroborating the evidence of TF1-375 in this regard.

5873. With regard to the testimony of Jabaty Jaward that when Jungle attempted to bring a truckload of ammunition to Buedu, Bockarie gave him a "parcel", and stated "this is what I have for the old man", referring to the Accused, the Trial Chamber notes that although Jaward saw the parcel, he did not see the actual diamonds it allegedly contained. He said he knew it contained diamonds because "parcel" was the word that Bockarie always used to refer to diamonds.<sup>13128</sup> The Trial Chamber notes that Jaward's prior statement did not contain the word "parcel".<sup>13129</sup> The Trial Chamber further recalls Jaward's testimony that he did not know who had given the ammunition to Jungle, but concluded that it must have been the Accused, as well as his prior statement in which he said that he did not know if diamonds were handed to Jungle or whether Jungle brought any arms and ammunitions at this time.<sup>13130</sup> Jaward clarified that he did not know where Sam Bockarie put the diamonds that were handed to him by Pa Abdul and also by Mohammed Kanneh, or whether those diamonds were the same diamonds given to Jungle,<sup>13131</sup> but he did know that the diamonds that Sam Bockarie handed to Jungle were to be taken to the Accused in Liberia in order to

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<sup>13127</sup> Abdul Conteh, Transcript 30 September 2008, pp. 17591-17592.

<sup>13128</sup> Jabaty Jaward, Transcript 16 July 2008, pp. 13832-13834, 13838.

<sup>13129</sup> Jabaty Jaward, Transcript 16 July 2008, p. 13834.

<sup>13130</sup> Jabaty Jaward, Transcript 16 July 2008, p. 13830.

<sup>13131</sup> Jabaty Jaward, Transcript 16 July 2008, p. 13826.

receive arms and ammunitions.<sup>13132</sup> Given Jaward's detailed and consistent testimony, and given that his evidence was not effectively challenged on cross-examination, the Trial Chamber accepts his evidence on this point.

5874. The Trial Chamber has considered the Accused's denial that he received diamonds in exchange for arms and ammunitions during this time period as well as his testimony that he did not know Jungle. However, the Trial Chamber is of the view that his testimony does not raise doubts regarding these allegations, in light of the overwhelming evidence to the contrary. Furthermore, the Trial Chamber considers that whether or not the Accused personally knew Jungle, is not a relevant consideration as to whether Jungle delivered diamonds to the Accused.

5875. Furthermore, the Trial Chamber has considered the evidence of DCT-190 who testified that ECOMOG as well as other fighting forces were engaged in mining in Tongo Fields prior to the Intervention. The Trial Chamber considers that, in light of the overwhelming evidence that the AFRC/RUF mined in Kono and Tongo Fields during the junta period, and that those diamonds were delivered to the Accused, mining by ECOMOG or other forces at times during this period does not raise doubt that the Accused received AFRC/RUF diamonds mined in Kono and Tongo Fields during the junta period. Likewise, any interest that the British may have had in Sierra Leone's diamonds, as asserted by the Accused in P-033B, does not raise doubt as to his receipt of those diamonds during that time.

5876. In light of the evidence, the Trial Chamber does not find the blanket denials of the Accused to be credible, and finds beyond reasonable doubt that during this period Daniel Tamba (a.k.a. Jungle) delivered diamonds to the Accused in exchange for arms and ammunition. Having addressed the credibility concerns of Kanneh brought out in cross-examination, recalling its finding that TF1-567 is generally credible and noting that neither Mallah's nor Mongor's testimony about these events was successfully challenged on cross-examination, the Trial Chamber considers the testimony of these witnesses to be reliable. While the evidence of Augustine Mallah, Karmoh Kanneh, TF1-567 and Abdul Conteh is specific to Tongo Fields, Isaac Mongor and TF1-375 both testified more generally, and Mongor testified as to the diamonds mined at different sites in Kono and in Tongo. The

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<sup>13132</sup> Jabaty Jaward, Transcript 16 July 2008, pp. 13826-13827.

Trial Chamber is satisfied on the basis of his evidence that diamonds mined in both Kono and Kenema Districts were sent to the Accused in exchange for arms and ammunition.

### Findings

5877. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that diamonds mined in Kono and Tongo Fields were delivered from the AFRC/RUF to the Accused by Daniel Tamba (a.k.a. Jungle) in exchange for arms and ammunitions during the period May 1997 to February 1998.

#### (b) February 1998-July 1999

### Submissions of the Parties

5878. The Prosecution submits that, during this period, after near total defeat, the AFRC/RUF was able to revitalize itself in large measure through their capture of Kono District. According to the Prosecution, during the first half of 1999, the Accused remained focused on the AFRC/RUF's mining capabilities in Kono and directly assisted these efforts through the provision of mining equipment, mining experts and other material.<sup>13133</sup> As a result of his efforts, the Accused was supplied with diamonds mined in Kono District throughout 1998 and 1999<sup>13134</sup> delivered by Sam Bockarie,<sup>13135</sup> as well as "liaison officers", trusted subordinates, and other members of the RUF".<sup>13136</sup> In return for these diamonds, the AFRC/RUF received arms and ammunitions and other materials, which allowed the AFRC/RUF to undertake offensives like the one in Koidu Town.<sup>13137</sup> The Prosecution submits that the shipment of materiel from Burkina Faso was the most significant shipment of arms and ammunitions during this time period, and following the shipment and the capture of the entirety of Kono District, diamond traffic increased and the Accused was "handsomely rewarded for his direction and support during this period".<sup>13138</sup> The Prosecution further submits that Sam Bockarie's movements with diamonds were monitored

<sup>13133</sup> Prosecution Final Trial Brief, para. 360. See Diamonds: Provision of Mining Equipment and Mining Experts.

<sup>13134</sup> Prosecution Final Trial Brief, paras 358-359.

<sup>13135</sup> Prosecution Final Trial Brief, paras 363-367.

<sup>13136</sup> Prosecution Final Trial Brief, paras 368-369.

<sup>13137</sup> Prosecution Final Trial Brief, para. 358.

<sup>13138</sup> Prosecution Final Trial Brief, para. 358.

and coordinated via RUF stations and stations under the command of the Accused.<sup>13139</sup> The Trial Chamber has considered the evidence of witnesses TF1-371, Varmuyan Sherif, TF1-585, Perry Kamara, TF1-516, TF1-367, TF1-579, TF1-375, TF1-539, Suwandi Camara, Abu Keita, Jabaty Jaward, Augustine Mallah, Isaac Mongor, Mohamed Kabbah and TF1-590, Dauda Aruna Fornie, as well as Exhibits P-063, P-018, D-008 and D-009 in support of the Prosecution's submissions.

5879. The Accused generally denied that he received diamonds in exchange for arms and ammunition from the RUF, or that he received diamonds from the RUF at all. The Defence asserts that Eddie Kanneh became a key player during this time, as he served as a liaison and business man for the RUF and oversaw mining in Tongo Field during the Junta period. As Eddie Kanneh also became close to Bockarie during this time, he eventually conducted diamond transactions in Liberia on the RUF's behalf.<sup>13140</sup> In support of its submissions, the Defence relied upon the evidence of the Accused, Issa Sesay, Ian Smillie and Exhibit D-393.

### Evidence

#### Prosecution Witness TF1-371

5880. Witness TF1-371, a member of the RUF,<sup>13141</sup> testified that Bockarie took a series of trips to Monrovia throughout 1998, three of which the witness characterized as "very essential", and one "major trip" in November/December.<sup>13142</sup> Regarding the "series of trips", the witness testified that Bockarie always made sure that when he went to Monrovia he carried "at least some diamonds with him".<sup>13143</sup> The witness could not specify how many diamonds Bockarie took to Monrovia, but stated that Bockarie had intensified the mining operation and that there was "a lot of mining going on" and that "they" would bring diamonds to Bockarie from Kono and Tongo and go back with food and cigarettes for the fighters.<sup>13144</sup> Bockarie would also bring back ammunition, including AK rounds, RPG bombs and hand grenades, from his trips to Monrovia and would be escorted by three

<sup>13139</sup> Prosecution Final Trial Brief, para. 363.

<sup>13140</sup> Defence Final Trial Brief, para. 1213.

<sup>13141</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>13142</sup> TF1-371, Transcript 28 January 2008, pp. 2382-2383 (CS).

<sup>13143</sup> TF1-371, Transcript 28 January 2008, pp. 2382-2383 (CS).

<sup>13144</sup> TF1-371, Transcript 28 January 2008, p. 2383 (CS).

members of the SSS. Once, in late 1998, Dopoe Menkarzon came back with Bockarie.<sup>13145</sup> On one occasion when he returned from Monrovia, Bockarie briefed “them” about his trip and was excited because he had made contact with Taylor and confirmed that the diamonds that had been taken from Johnny Paul Koroma were in Taylor’s possession.<sup>13146</sup>

5881. TF1-371 testified that sometime in March 1998, he arrived in Buedu.<sup>13147</sup> At Buedu, Bockarie instructed Issa Sesay and others to travel to Kailahun to take diamonds from Gullit to sell and use the proceeds for food and supplies for the SLA and RUF. At this time, Koroma also appointed Bockarie as Chief of Defence Staff and “brigadier”.<sup>13148</sup> Once in Kailahun, Sesay searched Gullit and retrieved about 15 pieces of diamonds of various carats contained in a white “plastic” that was about five inches long and three inches wide.<sup>13149</sup> Sesay took the diamonds and Gullit with him back to Buedu.<sup>13150</sup> Once in Buedu, Sesay handed the diamonds over to Bockarie.<sup>13151</sup>

5882. Sometime later, Sesay and Kallon confiscated 9 “plastics” of diamonds from Johnny Paul Koroma.<sup>13152</sup> Bockarie later took possession of those diamonds, and Koroma was relocated to Kangama.<sup>13153</sup> The diamonds were examined in Bockarie’s bedroom, and were about 1000 pieces in total.<sup>13154</sup> Bockarie then said that Bah was going to take the diamonds to Monrovia to Mr Taylor to try to get more arms and ammunition.<sup>13155</sup> Bah and Bockarie then left with the diamonds they had taken from Koroma as well as the diamonds that they had taken from Gullit.<sup>13156</sup>

5883. Bockarie returned four or five days later and told the witness that he had trouble meeting the Accused because of a “problem with ECOMOG”. Consequently, Bockarie had made arrangements with Musa Cissé and Benjamin Yeaten whereby they gave the diamonds

<sup>13145</sup> TF1-371, Transcript 28 January 2008, p. 2384 (CS).

<sup>13146</sup> TF1-371, Transcript 28 January 2008, p. 2384 (CS).

<sup>13147</sup> TF1-371, Transcript 28 January 2008, p. 2362 (CS).

<sup>13148</sup> TF1-371, Transcript 28 January 2008, p. 2364 (CS).

<sup>13149</sup> TF1-371, Transcript 28 January 2008, p. 2365 (CS).

<sup>13150</sup> TF1-371, Transcript 28 January 2008, p. 2365 (CS).

<sup>13151</sup> TF1-371, Transcript 28 January 2008, p. 2366 (CS).

<sup>13152</sup> TF1-371, Transcript 28 January 2008, pp. 2369-2370 (CS).

<sup>13153</sup> TF1-371, Transcript 28 January 2008, p. 2370 (CS).

<sup>13154</sup> TF1-371, Transcript 28 January 2008, p. 2370 (CS).

<sup>13155</sup> TF1-371, Transcript 28 January 2008, pp. 2370-2371 (CS).

<sup>13156</sup> TF1-371, Transcript 28 January 2008, pp. 2370-2371 (CS).

to Yeaten to transfer to Mr Taylor.<sup>13157</sup> When Bockarie returned to Buedu, he came along with Rashid Mansaray and Dennis Tamba (a.k.a. Jungle). When Bockarie, Jungle, and Mansaray returned from this trip to Monrovia, the witness did not see them bring anything with them.<sup>13158</sup> About one week later Bockarie, Jungle and Rashid Sandy returned to Monrovia with diamonds.<sup>13159</sup> The witness testified that he saw the diamonds Bockarie took on the second trip, which amounted to about 20 to 30 pieces of six to ten carat diamonds.<sup>13160</sup> Some of the diamonds came from Tongo, while others were diamonds that CO Med, a mining commander, brought from Kono.<sup>13161</sup> TF1-371 testified that Bockarie went to Monrovia on this occasion because “the mission was to meet Mr Taylor by all means...Sam Bockarie had the diamonds and he wanted the materials. He needed the arms and ammunitions”.<sup>13162</sup>

5884. Between Bockarie’s first and second trips to Monrovia he communicated via VHF with Benjamin Yeaten, and the witness overheard Yeaten tell Bockarie that he had delivered the diamonds that Bockarie had been unable to deliver himself on the first trip to the Accused. Those diamonds were the same diamonds that had been taken from Johnny Paul Koroma.<sup>13163</sup> When Bockarie returned from his second trip he came back with some of Mr Taylor’s security and 15 to 20 boxes of AK-47 ammunition, a few RPG bombs, salt, Maggi, rice and cigarettes.<sup>13164</sup> Bockarie also reported that he had met with Mr Taylor on that trip and that he had seen “the parcels” and that Mr Taylor had said he would keep them for Mr Sankoh when Mr Sankoh came from prison, and that Mr Taylor instructed Benjamin Yeaten to give Bockarie the ammunition.<sup>13165</sup>

5885. TF1-371 testified that after the retreat from Freetown, in January 1999, Sam Bockarie, along with his security and Jungle, went to Monrovia.<sup>13166</sup> Bockarie took along diamonds brought to him by CO Med, who was the mining commander in Kono at that

<sup>13157</sup>TF1-371, Transcript 28 January 2008, pp. 2371, 2375 (CS).

<sup>13158</sup>TF1-371, Transcript 28 January 2008, p. 2375 (CS).

<sup>13159</sup>TF1-371, Transcript 28 January 2008, pp. 2375 (CS).

<sup>13160</sup>TF1-371, Transcript 28 January 2008, p. 2376 (CS).

<sup>13161</sup>TF1-371, Transcript 28 January 2008, pp. 2375-2376 (CS).

<sup>13162</sup>TF1-371, Transcript 28 January 2008, p. 2374 (CS).

<sup>13163</sup>TF1-371, Transcript 28 January 2008, pp. 2377-2378 (CS).

<sup>13164</sup>TF1-371, Transcript 28 January 2008, p. 2378 (CS).

<sup>13165</sup>TF1-371, Transcript 28 January 2008, pp. 2378-2379 (CS).

<sup>13166</sup>TF1-371, Transcript 28 January 2008, p. 2429 (CS).

time.<sup>13167</sup> Bockarie said that he was going to meet Mr Taylor, and when Bockarie arrived he sent a message to Issa Sesay, who was in charge during Bockarie's absence, that he was with Benjamin Yeaten and was waiting to meet with Mr Taylor.<sup>13168</sup> When Bockarie returned from that trip he was received by a group of RUF members, including the witness, and told them that Mr Taylor had appointed him as a two-star general "for mission accomplished", which the witness explained was the capture of Koidu and Freetown.<sup>13169</sup>

Prosecution Witness Varmuyan Sherif

5886. Witness Varmuyan Sherif, a former ULIMO-K fighter who became an officer in the SSS,<sup>13170</sup> testified that around the end of 1998, or the beginning of 1999, Mr Taylor asked him to go to James Sprigg airfield to meet an AFRC delegation and bring them to Mr Taylor's office. Sherif was unable to meet them as requested because ECOMOG intercepted their arrival.<sup>13171</sup> Later, Mr Taylor called Sherif to his office and in front of Musa Cissé, Joe Tuah, Benjamin Yeaten, Mommoh Jibba, and Joseph Montgomery, Mr Taylor asked the witness to go to "the territory of the RUF" to retrieve Sam Bockarie and bring him to Liberia.<sup>13172</sup> While Sherif was escorting Bockarie from Buedu to Liberia, they stopped off at the witness' house in Voinjama. When Bockarie removed his coat and left it to go have a bath, the witness observed a mayonnaise jar containing diamonds inside the coat pocket.<sup>13173</sup>

5887. Sherif further testified that he definitely knew that Sam Bockarie was involved in diamond mining and in bringing diamonds to Monrovia, to Mr Taylor, and that was why "Bockarie was being supplied with arms and ammunitions quickly".<sup>13174</sup> Sherif was told by Eddie Kanneh that he was the "diamond manager" and Sherif then "put together" all of his information and "ended up concluding that Mr Taylor was involved in diamond

<sup>13167</sup> TF1-371, Transcript 28 January 2008, p. 2429 (CS).

<sup>13168</sup> TF1-371, Transcript 28 January 2008, p. 2430 (CS).

<sup>13169</sup> TF1-371, Transcript 28 January 2008, pp. 2430-2431 (CS).

<sup>13170</sup> Varmuyan Sherif, Transcript, 9 January 2008, pp. 806, 820, 834, 836; Transcript 10 January 2008, pp. 940, 986-987.

<sup>13171</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 825-826.

<sup>13172</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 825.

<sup>13173</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 845.

<sup>13174</sup> Varmuyan Sherif, Transcript 14 January 2008, p. 1201.

business”.<sup>13175</sup> Sherif further explained however that he did not see “with his naked eyes” the Accused discussing diamond business with Sam Bockarie.<sup>13176</sup>

Prosecution Witness TF1-585

5888. Witness TF1-585, an RUF member,<sup>13177</sup> testified that from early 1998 to mid-1999, Jungle used to come from Monrovia with food, clothing and arms and ammunition, every time that Sam Bockarie requested ammunition, which occurred frequently, perhaps every two or three weeks.<sup>13178</sup> TF1-585 testified that Sam Bockarie used to also go to Monrovia himself after mid-1999, sometimes every two weeks and sometimes every month.<sup>13179</sup> The witness clarified that in 1998, Bockarie would go to Monrovia, but the trips were not as frequent as they were in 1999, but that Jungle made frequent trips in 1999.<sup>13180</sup> TF1-585 testified that Bockarie would go to Monrovia within two days after every time diamonds were brought to him from Kono.<sup>13181</sup> The witness knew that the RUF brought diamonds to Bockarie because the witness heard about it from Bockarie and his wife.<sup>13182</sup> On many occasions Sam Bockarie’s wife told the witness that Bockarie would be going to Monrovia because he had received some diamonds and Charles Taylor or Benjamin Yeaten (a.k.a. 50) had requested him to go.<sup>13183</sup>

Prosecution Witness Perry Kamara

5889. Witness Perry Kamara, an RUF radio operator,<sup>13184</sup> testified that in 1998,<sup>13185</sup> diamonds taken from mining sites were recorded in a record book and then handed to a mining commander who then gave them to Sam Bockarie.<sup>13186</sup> When Bockarie received a good amount of diamonds from Superman Ground, via “Kamara” or “Gugumeh” or whoever was sent to retrieve them, Bockarie would send a message that he was “going to

<sup>13175</sup> Varmuyan Sherif, Transcript 14 January 2008, p. 1201.

<sup>13176</sup> Varmuyan Sherif, Transcript 14 January 2008, p. 1201.

<sup>13177</sup> TF1-585, Transcript 5 September 2008, pp. 15589-15592 (PS).

<sup>13178</sup> TF1-585, Transcript 8 September 2008, p. 15682.

<sup>13179</sup> TF1-585, Transcript 8 September 2008, p. 15682.

<sup>13180</sup> TF1-585, Transcript 8 September 2008, p. 15683.

<sup>13181</sup> TF1-585, Transcript 8 September 2008, pp. 15683-15684.

<sup>13182</sup> TF1-585, Transcript 8 September 2008, pp. 15684-15685.

<sup>13183</sup> TF1-585, Transcript 8 September 2008, p. 15685.

<sup>13184</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>13185</sup> Perry Kamara, Transcript 5 February 2008, p. 3143.

<sup>13186</sup> Perry Kamara, Transcript 5 February 2008, p. 3148.



Liberia to Mr Taylor for ammunition".<sup>13187</sup> When he returned, Bockarie would inform them that he had come back with ammunition from Mr Taylor.<sup>13188</sup>

5890. In 1998,<sup>13189</sup> Bockarie sent coded messages from Buedu to Kono regarding mining.<sup>13190</sup> The first message said that the men should not lose Kono because they could get diamonds from there to give to Mr Taylor in return for ammunition.<sup>13191</sup> The men then moved to Superman Ground, where Superman organised mining according to Bockarie's instructions.<sup>13192</sup> Bockarie came to Superman Ground from Monrovia with ammunition and "insisted on the same message".<sup>13193</sup> During this time, Bockarie sent several radio messages about mining from Buedu, and he also sent people, including Mr Kamara, to see that the mining was going on in the way that Bockarie expected.<sup>13194</sup>

5891. Kamara also testified that he attended a meeting at Sam Bockarie's house sometime after April or May of 1998 where Bockarie showed the witness and others an "arms and ammunitions pile" as well as a satellite phone and FM commercial radio. Bockarie then said that all of the diamonds and monies they had been sending from Kono "these are the things in return for them, that Mr Taylor has given" and that they were expecting more.<sup>13195</sup> During the meeting the issue of Issa Sesay losing diamonds in Monrovia was also discussed. The diamonds Sesay lost were diamonds that had been taken from Johnny Paul Koroma and given to Sesay by Bockarie to take to Charles Taylor in Liberia.<sup>13196</sup>

#### Prosecution Witness TF1-516

5892. Witness TF1-516, an RUF radio operator,<sup>13197</sup> saw the RUF mining commander in Buedu with diamonds, and since the mining commander had sent a previous communication about bringing diamonds from Kono to Sam Bockarie, the witness deduced that the mining

<sup>13187</sup> Perry Kamara, Transcript 5 February 2008, pp. 3148-3149.

<sup>13188</sup> Perry Kamara, Transcript 5 February 2008, p. 3148.

<sup>13189</sup> Perry Kamara, Transcript 5 February 2008, p. 3143.

<sup>13190</sup> Perry Kamara, Transcript 5 February 2008, pp. 3141-3142.

<sup>13191</sup> Perry Kamara, Transcript 5 February 2008, p. 3142.

<sup>13192</sup> Perry Kamara, Transcript 5 February 2008, p. 3144.

<sup>13193</sup> Perry Kamara, Transcript 5 February 2008, p. 3142.

<sup>13194</sup> Perry Kamara, Transcript 5 February 2008, p. 3146.

<sup>13195</sup> Perry Kamara, Transcript 5 February 2008, pp. 3159-3162. See *Diamonds: Alleged Delivery of Diamonds to the Accused*, June 2000-2002.

<sup>13196</sup> Perry Kamara, Transcript 5 February 2008, pp. 3146-3147.

<sup>13197</sup> TF1-516, Transcript 8 April 2008, p. 6845.

commander was in Buedu with those diamonds.<sup>13198</sup> Bockarie would then give the diamonds to Eddie Kanneh who would take them to Monrovia, and his movement would be monitored by radio in code.<sup>13199</sup> Kanneh himself would announce his arrival in Monrovia from either Base 1 or from 020, although sometimes when he announced his arrival, he had not yet met with “the chief”.<sup>13200</sup> TF1-516 himself sent some of the messages to Base 1 or 020 about Kanneh’s movement, but he was not sure how many times.<sup>13201</sup> Bockarie told TF1-516 and others many times in 1999 that Kanneh went to Monrovia to see “his chief, Charles Taylor”.<sup>13202</sup>

5893. TF1-516 was also at Bockarie’s house when the mining commander and Bockarie went together to Monrovia and called from 020 to the radio base in Buedu when they arrived.<sup>13203</sup> Bockarie had told TF1-516 that they were going to see “his chief, Charles Taylor”. TF1-516 knew that they took diamonds with them because the mining commander had messaged to Bockarie that he had diamonds, and when the mining commander arrived, they left for Monrovia.<sup>13204</sup> Bockarie also went with Eddie Kanneh to deliver diamonds to Monrovia. The witness testified that Bockarie went more often to Monrovia with Kanneh than with the mining commander, but most often Kanneh went to Monrovia on his own.<sup>13205</sup> TF1-516 testified that Bockarie would order the mining commander to bring diamonds from Kono to Buedu about every two weeks to one month, and that those trips would then “trigger” Kanneh to take a trip to Monrovia.<sup>13206</sup>

5894. The witness testified that messages about diamonds continued coming at least until the time the witness left in late 2001.<sup>13207</sup> The witness knew Eddie Kanneh moved with diamonds to Liberia because “it was not a secret”, and Sam Bockarie used to talk about Kanneh moving with diamonds to see the Chief.<sup>13208</sup> Sometimes after Kanneh would move

<sup>13198</sup> TF1-516, Transcript 10 April 2008, p. 7164.

<sup>13199</sup> TF1-516, Transcript 10 April 2008, p. 7164.

<sup>13200</sup> TF1-516, Transcript 10 April 2008, pp. 7164-7165.

<sup>13201</sup> TF1-516, Transcript 10 April 2008, p. 7165.

<sup>13202</sup> TF1-516, Transcript 10 April 2008, pp. 7165-7166.

<sup>13203</sup> TF1-516, Transcript 10 April 2008, pp. 7166-7167.

<sup>13204</sup> TF1-516, Transcript 10 April 2008, p. 7167.

<sup>13205</sup> TF1-516, Transcript 10 April 2008, pp. 7167-7168.

<sup>13206</sup> TF1-516, Transcript 10 April 2008, p. 7168.

<sup>13207</sup> TF1-516, Transcript 10 April 2008, p. 7172.

<sup>13208</sup> TF1-516, Transcript 10 April 2008, p. 7173.

to Liberia with diamonds, Bockarie would get a call “to report to call sign 020 and thereafter he would come with materials into Buedu”.<sup>13209</sup>

5895. The witness testified that after the AFRC coup,<sup>13210</sup> Captain Moriba was the overall mining commander in Kono and that it was “the routine” for diamonds to be reported to the overall mining commander who then reported to Sam Bockarie.<sup>13211</sup> In 1999, there were increasing radio communications between Sam Bockarie and Benjamin Yeaten concerning Bockarie’s delivery of diamond parcels to the Accused either by himself directly or through Eddie Kanneh.<sup>13212</sup>

Prosecution Witness TF1-367

5896. Witness TF1-367, a member of the RUF,<sup>13213</sup> testified that during the time he was in the mines in Kono in 1998, when he took diamonds to Sam Bockarie, Bockarie took them to Monrovia to Charles Taylor.<sup>13214</sup> The witness knew that Bockarie took the diamonds to Taylor because the witness was close to Bockarie and used to get a lot of information from him.<sup>13215</sup> The witness further testified that those who had travelled with Foday Sankoh to Nigeria, came back and gave a message that Sankoh advised that Sesay and Bockarie shouldn’t abuse any government property, especially diamonds and that they should give them to Charles Taylor for safe keeping.<sup>13216</sup> TF1-367 stated that “the diamonds that we got were the diamonds that [Sam Bockarie] took to Monrovia to Charles Taylor for us to get our supply of arms and ammunitions”.<sup>13217</sup>

Prosecution Witness TF1-579

5897. Witness TF1-579, a member of the SSS,<sup>13218</sup> testified that in late 1999,<sup>13219</sup> Sam Bockarie told him that they used to take a certain portion of diamonds to Mr Taylor to

<sup>13209</sup> TF1-516, Transcript 10 April 2008, p. 7173.

<sup>13210</sup> TF1-516, Transcript 9 April 2008, p. 7119.

<sup>13211</sup> TF1-516, Transcript 10 April 2008, p. 7156.

<sup>13212</sup> TF1-516, Transcript 10 April 2008, pp. 7164-7172.

<sup>13213</sup> TF1-367, Transcript 20 August 2008, p. 14158.

<sup>13214</sup> TF1-367, Transcript 21 August 2008, p. 14228.

<sup>13215</sup> TF1-367, Transcript 21 August 2008, pp. 14228-14229.

<sup>13216</sup> TF1-367, Transcript 21 August 2008, p. 14229.

<sup>13217</sup> TF1-367, Transcript 21 August 2008, p. 14230.

<sup>13218</sup> TF1-579, Transcript 5 November 2008, pp. 19822-19823.

<sup>13219</sup> TF1-579, Transcript 5 November 2008, p. 19856.

purchase arms and ammunitions, and that another portion was shared among commanders, like Issa Sesay, and a third portion was saved for Foday Sankoh.<sup>13220</sup> Bockarie never told the witness about anywhere that they used to get arms and ammunition. He only told the witness that “it (referring to arms and ammunition) was directly from Mr Taylor to the RUF”, and the witness was not told if “any other thing” was received from elsewhere.<sup>13221</sup> Sam Bockarie explained to the witness that these diamonds had been mined from the Kono area in Sierra Leone.<sup>13222</sup>

Prosecution Witness TF1-375

5898. Witness TF1-375, an RUF fighter,<sup>13223</sup> testified that he spoke to Bockarie while Bockarie was in Côte d’Ivoire in 2002, and Bockarie told the witness:

The amount of diamonds that he had cross with -- he said he was told to turn the diamonds over to President Taylor, by President Taylor himself, and that President Taylor will support him and later he did not see the support.<sup>13224</sup>

Prosecution Witness TF1-539

5899. Witness TF1-539 testified that he was present in 1999 when Bockarie delivered diamonds to Benjamin Yeaten. As Yeaten, Marzah, Bockarie, Kamara, and two Arab nationals sat on Yeaten’s veranda, Bockarie called to his bodyguard, Major Foday, who brought out a suitcase.<sup>13225</sup> Bockarie then removed from the suitcase three small mayonnaise jars, which contained diamonds.<sup>13226</sup> Bockarie put the diamonds from the “bottles” onto a tray and the two Arabs, along with a Lebanese named Mohamed Saleh, split them into smaller plastic bags and handed them to Yeaten.<sup>13227</sup> Then, Bockarie, Yeaten and the two Lebanese, including Mohamed Saleh, left in a car, but the witness did know where they

<sup>13220</sup> TF1-579, Transcript 5 November 2008, pp. 19860-19861.

<sup>13221</sup> TF1-579, Transcript 5 November 2008, pp. 19861-19863.

<sup>13222</sup> TF1-579, Transcript 5 November 2008, p. 19863.

<sup>13223</sup> TF1-375, Transcript 23 June 2008, p. 12485.

<sup>13224</sup> TF1-375, Transcript 24 June 2008, p. 12649.

<sup>13225</sup> TF1-539, Transcript 10 June 2008, p. 11450.

<sup>13226</sup> TF1-539, Transcript 10 June 2008, pp. 11450-11451.

<sup>13227</sup> TF1-539, Transcript 10 June 2008, pp. 11449-11454.





went.<sup>13228</sup> The witness testified that on this same evening, Bockarie left to return to Buedu with three trucks of ammunition loaded from a store in the back of Yeaten's house.<sup>13229</sup>

Prosecution Witness Suwandi Camara

5900. Witness Suwandi Camara, a member of and instructor under the SSS,<sup>13230</sup> testified that when he returned to Liberia in October of 2002, his nephew Mustapha Jallow told him that while the witness was gone, Ibrahim Bah had been a liaison officer between the RUF and NPFL.<sup>13231</sup> Jallow explained to the witness that Bah "used to go to Sierra Leone and come back" and that Bah was "engaged in diamond business between Charles Taylor and the RUF".<sup>13232</sup> The witness clarified that Bah had "brought some diamonds for Charles" and that "Charles" was supposed to give Ibrahim Bah something that he would take back to the RUF soldiers.<sup>13233</sup> Camara testified that Jallow knew that this happened to Bah because Jallow was close to Bah and they used to "discuss secrets".<sup>13234</sup>

Prosecution Witness Abu Keita

5901. Witness Abu Keita, a former deputy chief of staff and commander of ULIMO-K, who later became commander of the Scorpion Unit,<sup>13235</sup> testified that at a meeting in Benjamin Yeaten's house in September 1998,<sup>13236</sup> Eddie Kanneh told him that he would be "the liaison between Sierra Leone and Liberia for the diamond business of the RUF".<sup>13237</sup> During the meeting the witness saw Bockarie with a satellite phone, which Bockarie said he had received from Yeaten.<sup>13238</sup> After this meeting they went to the Boulevard Hotel where they met with General Ibrahim Bah and discussed "how best General Bah should ensure to find a buyer for the RUF diamonds and also that General Bah should help them get radio

<sup>13228</sup> TF1-539, Transcript 10 June 2008, p. 11454.

<sup>13229</sup> TF1-539, Transcript 10 June 2008, pp. 11475-11477.

<sup>13230</sup> Suwandi Camara, Transcript 8 February 2008, pp. 3458-3459, 3472, 3477-3479; Transcript 11 February 2008, pp. 3523, 3525.

<sup>13231</sup> Suwandi Camara, Transcript 11 February 2008, p. 3572.

<sup>13232</sup> Suwandi Camara, Transcript 11 February 2008, p. 3572.

<sup>13233</sup> Suwandi Camara, Transcript 11 February 2008, p. 3573.

<sup>13234</sup> Suwandi Camara, Transcript 11 February 2008, p. 3574.

<sup>13235</sup> Abu Keita, Transcript 22 January 2008, pp. 1953-1954; Transcript 23 January 2008, pp. 1970, 2000; Transcript 24 January 2008, pp. 2110, 2145.

<sup>13236</sup> Abu Keita, Transcript 24 January 2008, p. 2109.

<sup>13237</sup> Abu Keita, Transcript 23 January 2008, p. 1972.

<sup>13238</sup> Abu Keita, Transcript 23 January 2008, p. 1974.

communication for the RUF".<sup>13239</sup> Ibrahim Bah, Eddie Kanneh, Sam Bockarie, Benjamin Yeaten, SB Rogers (the War Council leader of the RUF<sup>13240</sup>), Rashid and General Ibrahim's bodyguard called CR were present at the meeting. During the meeting Bockarie showed diamonds to Bah, but he did not give Bah any diamonds.<sup>13241</sup>

Prosecution Witness Augustine Mallah

5902. Witness Augustine Mallah, a security officer to Mike Lamin from 1996 to disarmament,<sup>13242</sup> testified that Jungle delivered ammunition to Buedu three times. Mallah did not see the ammunition but he saw Jungle and Jungle said that he brought it.<sup>13243</sup> On cross-examination, Mallah stated that he "was actually more sure" of seeing Jungle on the second and third occasion.<sup>13244</sup> Mosquito said he was giving diamonds and money for the ammunition, and Jungle said that he always took the diamonds for those things directly to Charles Taylor.<sup>13245</sup> The witness testified that he did not see Mosquito handing the things over to Jungle, and that he also never went to Monrovia but he "used to see what was happening and what they used to tell [him]".<sup>13246</sup>

Prosecution Witness Isaac Mongor

5903. Witness Isaac Mongor, a senior commander in the RUF,<sup>13247</sup> testified that all diamonds mined in Tongo Fields were handed over to Sam Bockarie (a.k.a. Mosquito) and that Bockarie told the witness that the diamonds he received were "always taken to Monrovia to Mr Taylor in exchange of ammunitions".<sup>13248</sup> Mongor further testified that giving diamonds to the Accused became a source of tension, and that when Foday Sankoh returned from Lomé, he visited the Accused who showed him the diamonds, but Sankoh did

<sup>13239</sup> Abu Keita, Transcript 23 January 2008, p. 1975.

<sup>13240</sup> Abu Keita, Transcript 23 January 2008, p. 1969.

<sup>13241</sup> Abu Keita, Transcript 23 January 2008, pp. 1975-1976.

<sup>13242</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20092-200923, 20102-20103; Transcript 13 November 2008, pp. 20209-20210.

<sup>13243</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20216-20217.

<sup>13244</sup> Augustine Mallah, Transcript 17 November 2008, p. 20433, see *also* pp. 20423, 20428, 20430.

<sup>13245</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20216-20217.

<sup>13246</sup> Augustine Mallah, Transcript 13 November 2008, p. 20217.

<sup>13247</sup> See for example: Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March 2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>13248</sup> Isaac Mongor, Transcript 31 March 2008, pp. 6193-6194.

not take them. Sankoh then confronted Mongor and others about how he was angry that diamonds had been taken to the Accused, and he had not been told about it.<sup>13249</sup>

Prosecution Witness Mohamed Kabbah

5904. Witness Mohamed Kabbah, an RUF radio operator,<sup>13250</sup> testified that when he was assigned as a radio operator in Buedu from early 1998 until late 1999,<sup>13251</sup> Samuel Bockarie made frequent trips to Monrovia.<sup>13252</sup> When the RUF needed ammunition, Bockarie would give the radio operators a message, and they would communicate with Sunlight in Liberia in order to inform Taylor. Bockarie would go to Monrovia and return to Sierra Leone with ammunition, food, used clothing and other items. In one instance, Bockarie brought diamonds from Kono to Monrovia, and returned with a large truck filled with ammunition, “rubbers”, wine, rice, Maggi, salt and other condiments.<sup>13253</sup>

Prosecution Witness TF1-590

5905. Witness TF1-590, a businessman who fled to Liberia to escape the RUF,<sup>13254</sup> testified that in September 1998 he saw Mosquito in Voinjama on his way from Sierra Leone to Monrovia.<sup>13255</sup> Within one or two weeks later, Mosquito returned to Voinjama on his way back Sierra Leone with a convoy including Chucky Taylor, Campare, who was a “special protocol officer to Charles Taylor”, some ATU members and “two Arab looking guys”.<sup>13256</sup> TF1-590 understood that the two “Arab looking guys” were Charles Taylor’s diamond or gem dealers, one of whom was a member of the Saad group in Freetown, Sierra Leone.<sup>13257</sup> The witness did not see any diamonds in Voinjama. Before leaving for Sierra Leone the convoy remained in Voinjama for about two weeks recruiting people to train at Gbarnga and then go to Sierra Leone.<sup>13258</sup> The witness “got to know” this information

<sup>13249</sup> Isaac Mongor, Transcript 31 March 2008, pp. 6193-6194.

<sup>13250</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>13251</sup> Mohamed Kabbah, Transcript 12 September 2008 p. 16126; Transcript 17 September 2008 p. 16413 (Witness moved to Buedu approximately three weeks after killings in Kailahun that he states occurred in February or March 1998, and left in late 1999).

<sup>13252</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16136-16137.

<sup>13253</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16138-16140.

<sup>13254</sup> TF1-590, Transcript 12 June 2008, pp. 11732, 11734.

<sup>13255</sup> TF1-590, Transcript 13 June 2008, p. 11764.

<sup>13256</sup> TF1-590, Transcript 13 June 2008, pp. 11764-11768.

<sup>13257</sup> TF1-590, Transcript 16 June 2008, pp. 11830, 11959-11960.

<sup>13258</sup> TF1-590, Transcript 13 June 2008, pp. 11766-11767.

because the men visited his kiosk during the time that they were in Voinjama.<sup>13259</sup> The witness knew that the men left Voinjama to go to Sierra Leone because the road they took was one that “could lead you to Sierra Leone”.<sup>13260</sup>

Prosecution Witness Dauda Aruna Fornie

5906. Witness Dauda Aruna Fornie, an RUF radio operator, testified that the diamonds taken from “Johnny”, referring to Johnny Paul Koroma, were given to Issa Sesay and Sesay later lost them in Monrovia.<sup>13261</sup>

Prosecution Witness Foday Lansana

5907. Witness Foday Lansana, an RUF radio operator,<sup>13262</sup> testified that Denis Mingo attended a meeting in Buedu in 1998. When Mingo returned with arms and ammunition, he told the witness that Issa Sesay had been sent to Monrovia with diamonds confiscated from Johnny Paul Koroma, to try to secure arms and ammunition from Charles Taylor, but Sesay had lost the diamonds while in Monrovia.<sup>13263</sup>

Prosecution Witness Ian Smillie

5908. Expert Witness Ian Smillie,<sup>13264</sup> author of Exhibit P-019 and co-author of Exhibit P-018, testified that diamond smuggling between Liberia and Sierra Leone began long before Mr Taylor’s presidency.<sup>13265</sup>

The Accused

5909. The Accused testified that he never received diamonds from Sam Bockarie or any member of the RUF, and further denied allegations that he supplied arms and ammunitions in return for diamonds.<sup>13266</sup>

<sup>13259</sup> TF1-590, Transcript 13 June 2008, pp. 11766-11767.

<sup>13260</sup> TF1-590, Transcript 13 June 2008, p. 11768.

<sup>13261</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21690.

<sup>13262</sup> Foday Lansana, Transcript 20 February 2008, pp. 4361-4362.

<sup>13263</sup> Foday Lansana, Transcript 21 February 2008, pp. 4510-4511.

<sup>13264</sup> Ian Smillie, Transcript 8 January 2008, p. 674.

<sup>13265</sup> Ian Smillie, Transcript 8 January 2008, p. 600.

<sup>13266</sup> Charles Ghankay Taylor, Transcript 5 August 2009, pp. 26011-26015.



5910. In response to the testimony of witness TF1-371, the Accused denied that Bockarie came to Monrovia before Sept 1998,<sup>13267</sup> and stated that he did not recall Sam Bockarie attempting to get in touch with him while in Monrovia. The Accused testified that TF1-371's allegation that Bockarie turned diamonds over to Yeaten, Bah and Cissé and instructed them to give the diamonds to the Accused was a "lie".<sup>13268</sup> The Accused further denied that Bockarie brought him diamonds from Kono on a second trip about one week later, stating that he knew "nothing about this".<sup>13269</sup> The Accused also asserted that the alleged radio communication between Yeaten and Bockarie, in which Yeaten confirmed to Bockarie that he had delivered the diamonds to the Accused on Bockarie's behalf never occurred.<sup>13270</sup> The Accused did acknowledge the possibility that Bockarie could have been bringing diamonds to Liberia in this time, but stated that he knew nothing about it.<sup>13271</sup>

5911. In response to the testimony of TF1-367, the Accused testified that he was unaware that Foday Sankoh had instructed the RUF to deliver diamonds to him during 1998 and 1999. The Accused denied that Sam Bockarie brought diamonds to him in Monrovia although he acknowledged that from September 1998 to December 1999, Sam Bockarie made a dozen trips to Liberia.<sup>13272</sup> The Accused further denied "safekeeping" diamonds for the RUF.<sup>13273</sup>

5912. The Accused vehemently denied that Varmuyan Sherif was present during the Accused's first meeting with Bockarie and further testified that Bockarie did not bring a mayonnaise jar of diamonds to the meeting.<sup>13274</sup>

5913. The Accused denied Jabaty Jaward's testimony that Jungle took diamonds from Sam Bockarie to him in 1998 and that Jungle was a coordinator between Sam Bockarie and the Accused.<sup>13275</sup>

<sup>13267</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29552-29554.

<sup>13268</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29563-29564.

<sup>13269</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29564-29565.

<sup>13270</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29565-29566.

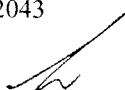
<sup>13271</sup> Charles Ghankay Taylor, Transcript 23 September 2009, p. 29571.

<sup>13272</sup> Charles Ghankay Taylor, Transcript 10 September 2009, pp. 28628-28629.

<sup>13273</sup> Charles Ghankay Taylor, Transcript 10 September 2009, pp. 28625-28626.

<sup>13274</sup> Charles Ghankay Taylor, Transcript 3 August 2009, pp. 25811-25813.

<sup>13275</sup> Charles Ghankay Taylor, Transcript 26 October 2009, pp. 30267-30268.





5914. In response to TF1-579's testimony that Sam Bockarie divided the RUF diamonds into different portions: some for Mr Taylor in exchange for arms and ammunition, some for Foday Sankoh and some for himself, Issa Sesay and other deputies, the Accused testified that he was not taking a share and had no idea if Bockarie was taking a share. The Accused further noted that Sam Bockarie's report to Foday Sankoh omitted any reference to giving Mr Taylor diamonds.<sup>13276</sup> The Accused further expressed doubt that Sam Bockarie would tell his security personnel this type of information.<sup>13277</sup>

5915. In response to Exhibit P-018, the Accused denied allegations that diamonds were regularly taken from Buedu to Monrovia by Eddie Kanneh, Sam Bockarie and Issa Sesay. He said he did not have knowledge of Sam Bockarie bringing diamonds to Liberia.<sup>13278</sup> The Accused further denied knowledge of the RUF dealing with "a Lebanese businessman for diamonds", as indicated in Exhibit D-009.<sup>13279</sup>

#### Defence Witness Issa Sesay

5916. Witness Issa Sesay, an RUF member,<sup>13280</sup> testified that a mining unit was established in Kono in July 1998 and Bockarie appointed a mining commander. The RUF maintained a mining unit from 1998 until August 2001 when Kono was disarmed. Sesay testified that mining activity was low throughout 1998 because ECOMOG controlled Koidu and its surrounding areas. The RUF were in the jungles from July-December 1998 and constantly under attack, consequently, there were only about 60 miners under the command of the mining commander.<sup>13281</sup>

5917. Sesay testified that the diamonds taken from Johnny Paul Koroma were given to him by Sam Bockarie in April 1998 to meet Memunatu Deen in Monrovia, for an onward journey to Burkina Faso to purchase arms and ammunition from General Diendere. While in Monrovia, Sesay lost the diamonds.<sup>13282</sup> Sesay denied that the diamonds given to him on this

<sup>13276</sup> Charles Ghankay Taylor, Transcript 29 October 2009, pp. 30646-30647.

<sup>13277</sup> Charles Ghankay Taylor, Transcript 29 October 2009, pp. 30648-30649.

<sup>13278</sup> Charles Ghankay Taylor, Transcript 25 August 2009, pp. 27574-27575.

<sup>13279</sup> Charles Ghankay Taylor, Transcript 13 August 2009, pp. 26777-26780.

<sup>13280</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>13281</sup> Issa Sesay, Transcript 12 July 2010, pp. 44248-44249.

<sup>13282</sup> Issa Sesay, Transcript 8 July 2008, pp. 44046-44047, 44050, 44055.





occasion, that he subsequently lost, were diamonds mined in Kono, and maintained that they were the same diamonds that were taken from Koroma.<sup>13283</sup>

#### Prosecution Exhibit P-063

5918. Exhibit P-063 is entitled “RUF Headquarters Forum with the External Delegates Led by the RUF Defence Staff” and is dated 2 December 1998.<sup>13284</sup> It is a report on the meeting convened by Sam Bockarie to report on the external mission to Burkina Faso, and as such, the Trial Chamber has assessed this exhibit in the section of this judgement on the Burkina Faso mission.<sup>13285</sup>

#### Prosecution Exhibit P-018

5919. Exhibit P-018 is a UN report entitled “Report of the Panel of Experts Established by Resolution 1306 –S/2000/1195, Adopted on 20 December 2000”.<sup>13286</sup> In its Executive Summary, the report declares that diamonds are an “important resource” for the RUF, and goes on to state that the “bulk of RUF diamonds leave Sierra Leone through Liberia...carried by RUF commanders and trusted Liberian couriers to Foya-Kama or Voinjama and then to Monrovia”.<sup>13287</sup> The report concludes that “such trade cannot be conducted without the permission and the involvement of Liberian government officials at the highest level”.<sup>13288</sup> In its section on diamonds, the report states that, beginning in the 1980s, the diamond industry in Sierra Leone fell prey to corruption, mismanagement and illegal export, and thus the export of diamonds between 1992 and 1996 was less than 200,000 carats, compared to 2 million carats annually in the 1960s. The report attributes the decline to smuggling and further states that between 1997 and 1999, only 36,384 carats of diamonds were officially exported from Sierra Leone because of the war.<sup>13289</sup> The report

<sup>13283</sup> Issa Sesay, Transcript 12 July 2010, p. 44307.

<sup>13284</sup> Exhibit P-063, “RUF Defence Headquarters, Forum with the External Delegates led by the RUF Defence Staff, 2 December 1998”. The authenticity of this document has been challenged by the Defence. For a finding on its authenticity. See Evaluation of Evidence: Authenticity of Documents.

<sup>13285</sup> See Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Burkina Faso Shipment.

<sup>13286</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306—S/2000/1195, Adopted on 20 December 2000”.

<sup>13287</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306—S/2000/1195, Adopted on 20 December 2000”, p. 8, ERN4378.

<sup>13288</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306—S/2000/1195, Adopted on 20 December 2000”, p. 8, ERN4378.

<sup>13289</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306—S/2000/1195, Adopted on 20 December 2000”, p. 16, ERN4386.

further notes that “estimates of the volume of diamonds mined by the RUF vary widely”—some estimates leave a gap as large as USD\$ 100 million, and further acknowledges that years of illicit mining and export have reduced all official historical production figures to the extent that they provide “no reliable statistics for at least two decades on what has actually been mined in Sierra Leone”.<sup>13290</sup> Based upon production data from the 1960s, the report then concludes that the production data from 1999 could be anywhere between USD\$ 20 million and USD\$ 125 million, but that no matter which amount, it is the “primary source of income to the RUF”.<sup>13291</sup>

5920. In its assessment of how the RUF’s diamonds moved out of Sierra Leone, the report acknowledges what was the continuing diamond trade in Kenema and the presence of Lebanese diamond dealers there. The report considers that these diamonds either enter the “official export system” or are smuggled out to neighbouring countries.<sup>13292</sup> The report however notes that the “bulk of the RUF trade in diamonds leaves Sierra Leone through Liberia”.<sup>13293</sup> In paragraph 86, the report asserts that “a Liberian is said to be President Taylor’s representative in Kono, with a mandate to supervise mining operations”, and remarks upon the delivery of diamonds to Monrovia by Eddie Kanneh, Sam Bockarie and Issa Sesay, acknowledging tensions that occasionally arose regarding whether Taylor was in fact keeping the diamonds safe or selling them.<sup>13294</sup> The panel writes that due to “time constraints” it was unable “to go into details” of the movement of RUF diamonds out of Liberia, but stated that there was “sufficient evidence to prove that this trade cannot be conducted in Liberia without the permission and involvement of government officials at the highest level”, referencing “uncorroborated stories” of high-level go-betweens and senior government officials transacting with other countries.<sup>13295</sup> The report further states:

<sup>13290</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306—S/2000/1195, Adopted on 20 December 2000”, p. 17, ERN4387.

<sup>13291</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306—S/2000/1195, Adopted on 20 December 2000”, p. 18, ERN4388.

<sup>13292</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306—S/2000/1195, Adopted on 20 December 2000”, p. 18, ERN4388.

<sup>13293</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306—S/2000/1195, Adopted on 20 December 2000”, p. 18, ERN4388.

<sup>13294</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306—S/2000/1195, Adopted on 20 December 2000”, p. 18, ERN4388.

<sup>13295</sup> Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306—S/2000/1195, Adopted on 20 December 2000”, p.19, ERN4389.

[I]n a country where most of the diamond traders are foreigners and where the movement of foreigners, money and supplies is as carefully watched, as is the case in Liberia, it is not conceivable that...the significantly greater volumes of high-value Sierra Leone diamonds moving through Liberia could avoid detection by government.<sup>13296</sup>

Defence Exhibit D-008

5921. Exhibit D-008 is a document entitled “Verbatim Report on a Recorded Discussion Between Cpl. Foday Sankoh and his Cohorts on his Return From Detention”.<sup>13297</sup> The document is an unofficial translation of a verbatim report of a recorded discussion between Corporal Foday Sankoh and his cohorts regarding their activities during Sankoh’s detention from 1996 to 1999, particularly the activities of 6 January.<sup>13298</sup> According to this document, Mike Lamin told Sankoh during this briefing that he went with Brigadier Issa to meet Gullit in Kailahun, where they collected 115 pieces of diamonds from Gullit. The diamonds were valued at USD\$ 15,000.<sup>13299</sup> They returned to Mosquito the next day and gave him the diamonds. Mosquito then gave those diamonds to Koroma. The men were later told by Rambo, Koroma’s CSO, that Koroma was in possession of diamonds and that he intended to escape with them. Lamin and Sesay then confronted Koroma who handed over “nine plastics containing diamonds”, later confirmed to be 1,832 pieces,<sup>13300</sup> which the men then handed over to Mosquito for “safe keeping and utility”.<sup>13301</sup> Lamin stated that Mosquito informed him that he needed “some of them gem stones to give to the leader in Monrovia” to facilitate contacts with the “other brothers in Monrovia”.<sup>13302</sup>

Defence Exhibit D-009

5922. Defence Exhibit D-009 is a document entitled “RUF Defence Headquarters, Salute Report to the Leader of the Revolution From Major General Sam Bockarie” and is dated 26

<sup>13296</sup>Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306—S/2000/1195, Adopted on 20 December 2000”, p.19, ERN4389.

<sup>13297</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”.

<sup>13298</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”.

<sup>13299</sup>Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, pp. 3-4, ERN12956-12957.

<sup>13300</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, p.5, ERN12959.

<sup>13301</sup>Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12957.

<sup>13302</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12957.

September 1999.<sup>13303</sup> The report refers to a transaction undertaken within the “marriage” of the AFRC and RUF, in which a diamond was sold by a Lebanese businessman and the commission was given to the government. From this sum, nine million Leones was given to Colonel Superman for the RUF movement, but he embezzled it.<sup>13304</sup>

### Deliberations

5923. The Trial Chamber notes that a number of witnesses testified generally about the delivery of diamonds to the Accused during this period, and a number of witnesses described specific occasions on which diamonds were delivered to the Accused.

5924. Witness TF1-371 testified about three specific occasions on which Sam Bockarie delivered diamonds to the Accused. On the first trip, the witness testified that the diamonds taken to the Accused were those taken from Koroma and Gullit, and thus would have amounted to about 1,115 diamonds. TF1-371 knew that these diamonds were delivered to the Accused because he overheard a radio communication between Yeaten and Bockarie several days after Bockarie returned, in which Yeaten told Bockarie that the diamonds had been delivered to the Accused. On Bockarie’s second trip, one week later, TF1-371 testified that 20 to 30 10-carat diamonds were delivered to the Accused, and on this occasion Bockarie returned with ammunition and some supplies. On the third occasion, Bockarie delivered diamonds in an unspecified amount to the Accused. TF1-371 testified on cross-examination that he never accompanied Sam Bockarie on any of his trips to carry diamonds to Monrovia, nor was he present when any RUF senior commander gave diamonds to the Accused.<sup>13305</sup> However, the Trial Chamber notes his testimony that he heard radio confirmation of the first delivery and recalls its finding that TF1-371 is a generally credible witness.<sup>13306</sup> Furthermore, the Trial Chamber notes that several details of TF1-371’s testimony are corroborated by Defence Exhibit D-008.

5925. The Trial Chamber also notes TF1-371’s more general testimony on the delivery of diamonds to the Accused, testifying that the Accused “will not deny” that he received

<sup>13303</sup> Exhibit D-009, “RUF Defence Headquarters, Salute Report to the Leader of the Revolution From Major General Sam Bockarie”.

<sup>13304</sup> Exhibit D-009, “RUF Defence Headquarters, Salute Report to the Leader of the Revolution From Major General Sam Bockarie”, p. 2, ERN9659.

<sup>13305</sup> TF1-371, Transcript 31 January 2008, p. 2772 (CS).

<sup>13306</sup> Credibility Assessment, TF1-371, paras 220-226.

diamonds and that he gave money and arms and ammunition.<sup>13307</sup> In cross-examination, TF1-371 testified that all the transactions that took place, especially from the latter part of 1998 up to 2001 in terms of securing materials predominantly from Liberia, were financed by diamonds. The witness could not give an exact number of transactions, but described them as “plenty” and agreed with the Defence’s proposition that they were “numerous to the extent that they were beyond counting”.<sup>13308</sup>

5926. TF1-371’s testimony that Bockarie took a “series of trips” throughout 1998 to deliver diamonds to the Accused is corroborated by the testimony of a number of other witnesses who gave general testimony about Bockarie’s trips to the Accused with diamonds during this time. TF1-585, TF1-516, TF1-539, TF1-579, TF1-367, Varmuyan Sherif and Isaac Mongor all testified about Bockarie’s trips to Monrovia and to the Accused with diamonds during this time period. TF1-516 testified that following the AFRC coup, it was the “routine” for diamonds to be reported to the overall mining commander and then to Bockarie, and that in 1999 there was regular radio communication between Bockarie and Yeaten regarding Bockarie’s and/or Kanneh’s delivery of diamonds to the Accused. Likewise, Varmuyan Sherif testified to his general knowledge that Sam Bockarie was involved in diamond mining and supplying diamonds to the Accused. Sherif was clear that he had not seen the Accused and Bockarie discussing diamonds, but concluded, based on what he observed, that the Accused was “involved in diamond business”.<sup>13309</sup> TF1-585 testified, based on hearsay, that in the second half of 1999, Bockarie went to Monrovia every two to four weeks, and usually within two days of receiving diamonds from Kono. The witness was told by Bockarie’s wife that Bockarie went to Monrovia because he had diamonds and had been asked by Benjamin Yeaten or the Accused to go there. TF1-367, TF1-579 and Isaac Mongor were all told by Bockarie that he took diamonds to the Accused during this time period. Mohamed Kabbah also testified about radio reports regarding Bockarie’s frequent trips to Monrovia from early 1998 to late 1999.

5927. The Trial Chamber notes that in the cross-examination these witnesses each confirmed that he/she had not actually witnessed the transactions occurring in Monrovia with the Accused. Sherif conceded on cross-examination that he never saw Bockarie and

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<sup>13307</sup> TF1-371, Transcript 31 January 2008, p. 2763 (CS).

<sup>13308</sup> TF1-371, Transcript 31 January 2008, pp. 2764-2765 (CS).

<sup>13309</sup> Varmuyan Sherif, Transcript 14 January 2008, p. 1201.



the Accused together and never saw Bockarie give diamonds to the Accused.<sup>13310</sup> Furthermore, on cross-examination, TF1-367 testified that he never gave diamonds to Charles Taylor but gave them to Sam Bockarie and Issa Sesay.<sup>13311</sup> When confronted with prior statements to the Prosecution that he did not know what Sesay did with the diamonds, TF1-367 explained that he knew what happened with the diamonds, but that he had limited the information that he gave to the Prosecution because he could not explain everything, and he was not asked about everything.<sup>13312</sup> The Trial Chamber accepts this explanation, and considers TF1-367's testimony on this point to be reliable.

5928. The Trial Chamber observes that TF1-516 gave more specific evidence that he was present at Bockarie's house when the mining commander and Bockarie went to Monrovia. TF1-516 had been told by Bockarie that they were going to see the Accused, and although TF1-516 did not see the men take diamonds with them, he knew that they took them because the mining commander had messaged Bockarie that he was bringing diamonds and when the mining commander arrived they left for Monrovia. As highlighted by the Defence, the Trial Chamber notes that, in his prior statement, the witness had said that he "was not allowed to be around Sam Bockarie and the senior officers when the mining commanders reported to Bockarie. The mining commanders were expected to bring diamonds, but [the] witness never actually saw diamonds exchange hands". The witness testified that he would be around when mining commanders came and that he would see Bockarie putting diamonds on the table and playing with them. The Trial Chamber accepts the witness's explanation that the radio operators were not allowed around the very table at Bockarie's meetings with the commanders but that they could still see him sitting on the veranda playing with the diamonds from their station. The Trial Chamber recognises that seeing Bockarie in this manner is not the same as seeing an exchange of diamonds and does not therefore consider this aspect of his testimony inconsistent with his prior statement.<sup>13313</sup> The Trial Chamber has found TF1-516 to be a generally credible witness<sup>13314</sup> and accepts his testimony on this point.

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<sup>13310</sup> Varmuyan Sherif, Transcript 11 January 2008, pp. 1031-1032.

<sup>13311</sup> TF1-367, Transcript 21 August 2008, pp. 14266-14267.

<sup>13312</sup> TF1-367, Transcript 28 August 2008, pp. 14908-14910.

<sup>13313</sup> TF1-516, Transcript 14 April 2008, pp. 7548-7552.

<sup>13314</sup> Credibility Assessment, TF1-516, paras 275-284.



5929. TF1-539 and Varmuyan Sherif both saw Bockarie in possession of diamonds contained in mayonnaise jars, and TF1-539 testified that he was present when Bockarie delivered diamonds in mayonnaise jars to Benjamin Yeaten. On cross-examination, Sherif testified that he never saw Bockarie give diamonds to the Accused.<sup>13315</sup> Furthermore, on cross-examination, Sherif was confronted with prior inconsistent statements about the diamonds in a mayonnaise jar. The witness had not mentioned the mayonnaise jar in an earlier interview although he mentioned it in three later interviews.<sup>13316</sup> Sherif maintained that he saw the diamonds in Bockarie's pocket,<sup>13317</sup> and explained that he did not mention seeing Bockarie with the diamonds earlier because he had received misleading information regarding the Prosecution and he was afraid that he would get himself in trouble.<sup>13318</sup> While noting that Sherif's testimony on direct examination does not accurately reflect the entirety of his evidence regarding this incident, and recalling that Sherif is a generally credible witness,<sup>13319</sup> the Trial Chamber accepts Sherif's explanation that he was not forthright in all of his prior statements out of fear of facing prosecution. Therefore, the Trial Chamber finds Sherif's testimony about this incident to be credible.

5930. Similarly, on cross-examination TF1-539 was confronted with a number of inconsistencies regarding his testimony about Bockarie and the mayonnaise jars containing diamonds. The Defence submits that during interviews with the Prosecution, TF1-539 stated that he witnessed Sam Bockarie in possession of diamonds at White Flower and that the diamonds were in large cardboard taped boxes in contrast to his testimony that they were in mayonnaise jars in brown suitcases<sup>13320</sup> but corrections "clarified" his statement to reflect that the diamonds were contained in mayonnaise jars, which were inside the cardboard boxes, which were inside a brown suitcase.<sup>13321</sup> The Trial Chamber notes that the witness explained that the record was not read back to him.<sup>13322</sup> The Trial Chamber recalls that the Defence made specific objections to TF1-539's credibility, particularly on this issue, and that the Defence asserts that TF1-539 tailored his evidence of the mayonnaise jars after

<sup>13315</sup> Varmuyan Sherif, Transcript 11 January 2008, pp. 1031-1033.

<sup>13316</sup> Varmuyan Sherif, Transcript 11 January 2008, pp. 1098-1099; Transcript 14 January 2008, pp. 1111-1112, 1179-1180, 1158-1160, 1171.

<sup>13317</sup> Varmuyan Sherif, Transcript 11 January 2008, pp. 1101; Transcript 14 January 2008, pp. 1180-1181.

<sup>13318</sup> Varmuyan Sherif, Transcript 14 January 2008, pp. 1160-1162, 1172, 1180-1181.

<sup>13319</sup> Credibility Assessment, Varmuyan Sherif, Arms and Ammunition, para. 5324.

<sup>13320</sup> Defence Final Trial Brief, para. 1454.

<sup>13321</sup> Defence Final Trial Brief, para. 1454, citing TF1-539, Transcript 11 June 2008, pp. 11684-11685, 11688.

<sup>13322</sup> TF1-539, Transcript 12 June 2008, pp. 11674-11689.

hearing Moses Blah testify about the mayonnaise jars.<sup>13323</sup> The Trial Chamber has considered generally the credibility concerns that have been raised in relation to TF1-539 in the witness credibility section of this judgement.<sup>13324</sup> In light of its finding that the testimony of TF1-539 should be treated with caution, the Trial Chamber is of the view that TF1-539's testimony on this issue is not credible.

5931. Although the Trial Chamber considers the issue of the diamonds lost by Issa Sesay in the section in another section of the Judgement,<sup>13325</sup> the Trial Chamber notes that the evidence of Kamara, Fornie, Lansana and Sesay who testified that the diamonds taken from Koroma were given to Sesay and later lost by him in Monrovia, contradicts TF1-371's evidence that those diamonds, along with the diamonds taken from Gullit, were given to Bockarie and ultimately delivered to the Accused by Yeaten. In considering this contradiction, the Trial Chamber recalls its finding that Sesay's evidence requires corroboration.<sup>13326</sup> While the Trial Chamber notes that Sesay's testimony on this issue is corroborated by the testimony of Lansana, Fornie and Kamara, the Trial Chamber also notes that Lansana's testimony was based on hearsay and that Fornie and Kamara did not testify as to the basis of their knowledge of those events. Furthermore, in light of the fact that TF1-371's testimony on this issue was consistent and not effectively challenged on cross-examination, and corroborated by a number of witnesses and exhibits,<sup>13327</sup> the Trial Chamber accepts TF1-371's testimony that the diamonds taken from Koroma were given to Bockarie and ultimately delivered to the Accused by Yeaten.

5932. The Trial Chamber has considered the evidence of TF1-375 regarding his conversation with Bockarie in 2002, in which Bockarie intimated to him that he had delivered diamonds to the Accused but later did not see the support that he was promised. Recalling its finding that TF1-375's evidence should be approached with caution,<sup>13328</sup> the Trial Chamber has considered this testimony as generally corroborative of Bockarie's delivery of diamonds to the Accused during this time, but has not relied solely on this evidence in its findings. Additionally, the Trial Chamber considers the evidence of TF1-590

<sup>13323</sup> Defence Response to Prosecution Final Trial Brief, para. 79.

<sup>13324</sup> Credibility Assessment, TF1-539 paras 296-303.

<sup>13325</sup> See Diamonds: Loss of Diamonds by Sesay.

<sup>13326</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>13327</sup> See Diamonds: Loss of Diamonds by Sesay.

<sup>13328</sup> Credibility Assessment, TF1-375, paras 308-312.

to corroborate Bockarie's travels from Sierra Leone through Liberia and back during this time, but considers it too general to be reliable on the issue of delivery of diamonds in exchange of arms and ammunition.

5933. The Trial Chamber finds, without taking into account the testimony of TF1-539, that there is substantial and credible evidence indicating that diamonds were delivered regularly from Bockarie to the Accused.

5934. The Trial Chamber notes that of the witnesses who testified that diamonds were delivered to the Accused during this time period, TF1-371, Varmuyan Sherif, TF1-585, Perry Kamara, TF1-579, TF1-539, Augustine Mallah, Isaac Mongor and Mohamed Kabbah all mentioned arms and ammunitions in connection with these diamond deliveries. For example, Sherif testified that he knew that Bockarie was bringing diamonds to the Accused because that was the reason that Bockarie was being "supplied with arms and ammunitions so quickly". TF1-585 testified that Jungle came from Monrovia "every time" that Bockarie requested ammunition, which occurred frequently, possibly even every two to three weeks. Augustine Mallah testified that Jungle delivered ammunition to Buedu two or three times, and that Sam Bockarie (a.k.a. Mosquito) said that he was giving diamonds and money in exchange for the arms and ammunitions. Likewise, the Trial Chamber recalls Isaac Mongor's testimony that Bockarie told him that the diamonds he received were "always" taken to the Accused in exchange for arms and ammunitions, which later became a source of tension when Sankoh returned to find that diamonds had been taken to the Accused in quantities that Sankoh was not aware of. Mohamed Kabbah also testified about Bockarie's "frequent" trips to Monrovia from early 1998 to late 1999, and the one occasion that Bockarie took diamonds mined in Kono to Monrovia and returned with a large truck filled with ammunition and other supplies.

5935. In addition to this general testimony of arms and ammunitions in exchange for diamonds, witness Perry Kamara testified about a specific occasion on which he was shown an "arms and ammunitions pile", as well as some satellite phones and commercial radio, at Bockarie's house in April or May of 1998. Kamara was then told by Bockarie that the arms and ammunitions and other things were things that had been given by the Accused "in return" for the diamonds and the money. Kamara further testified that when Bockarie took diamonds to the Accused throughout 1998 he would return with arms and ammunition from the Accused. The Trial Chamber notes that Kamara's knowledge of these trips and

Bockarie's return with arms and ammunition is through radio communication. Additionally, he saw the "pile" of arms and ammunition already at Bockarie's house, although he did not witness Bockarie's trips to Monrovia with diamonds or his returns with arms and ammunition.

5936. On cross-examination Kamara agreed that Bockarie transmitted messages received on the satellite phone "about movements between him and Charles Taylor" to all RUF stations.<sup>13329</sup> The Defence referred to several messages transmitted during this time about ammunitions and food,<sup>13330</sup> and put to the witness that none of the messages referred to the Accused providing ammunition.<sup>13331</sup> Kamara stated that Sam Bockarie's messages concerning diamonds mined in order to secure supplies from the Accused were "continuous"<sup>13332</sup> and identified a log book from Bockarie's radio station in Buedu covering the period September to December 1999,<sup>13333</sup> but clarified that while most of the messages were written down in these logbooks, messages for Sam Bockarie, Foday Sankoh and Charles Taylor were recorded in separate books.<sup>13334</sup> When further challenged, the witness reaffirmed his testimony that messages concerning Mr Taylor's provision of ammunition to Bockarie were not in this particular log book but were in a separate log book.<sup>13335</sup> Recalling that Kamara is a generally reliable witness,<sup>13336</sup> the Trial Chamber found this response credible and accepts Kamara's explanation.

5937. TF1-579 testified that he was told by Bockarie that "they used to" give a certain portion of diamonds mined in Kono to the Accused to purchase arms and ammunitions while the other diamonds were shared among the commanders and some were kept for Foday Sankoh. TF1-579 further stated that Bockarie never told him that they received arms and ammunitions from any source other than the Accused. The Trial Chamber notes that TF1-579 also testified that after Bockarie gave the diamonds to Yeaten he left to return to Buedu with three trucks of ammunition loaded from a store in the back of Yeaten's house. The Trial Chamber recalls its finding that the testimony of TF1-579 should be treated with

<sup>13329</sup> Perry Kamara, Transcript 7 February 2008, pp. 3332-3333.

<sup>13330</sup> Perry Kamara, Transcript 7 February 2008, pp. 3333-3339.

<sup>13331</sup> Perry Kamara, Transcript 7 February 2008, p. 3340.

<sup>13332</sup> Perry Kamara, Transcript 7 February 2008, p. 3333.

<sup>13333</sup> Perry Kamara, Transcript 7 February 2008, pp. 3334-3336, 3341.

<sup>13334</sup> Perry Kamara, Transcript 7 February 2008, pp. 3335, 3341.

<sup>13335</sup> Perry Kamara, Transcript 7 February 2008, p. 3341.

<sup>13336</sup> Credibility Assessment, Perry Kamara, paras 227-236.

caution.<sup>13337</sup> However, the Trial Chamber notes that there is substantial corroboration of his evidence with regard to the exchange of diamonds for arms and ammunitions from the Accused.<sup>13338</sup>

5938. In addition to the specific incident testified to by Kamara, the Trial Chamber also recalls TF1-371's testimony that following a delivery of 20 to 30 10-carat diamonds to the Accused, Bockarie returned with Jungle and arms and ammunition.

5939. While the evidence does not establish that every delivery of diamonds to the Accused was matched by a delivery of arms and/or ammunition for the RUF, the Trial Chamber notes that the reliable evidence of the witnesses Kamara and TF1-371 clearly indicates that diamonds were given to the Accused in order to get arms and ammunition from him.

5940. In addition to the testimony regarding Sam Bockarie's involvement in the transfer of diamonds to the Accused in return for arms and ammunitions, the Trial Chamber also notes that so-called liaisons were allegedly involved in these transfers. For example, Varmuyan Sherif testified that Eddie Kanneh told him that he was a "diamond business manager between the RUF and Taylor and the Liberian government".<sup>13339</sup> Similarly, Abu Keita was told by Eddie Kanneh himself that Kanneh was a liaison between Sierra Leone and Liberia for the RUF's "diamond business". TF1-516 also testified that Bockarie gave diamonds to Eddie Kanneh, who went to Monrovia and announced his arrival via either Base 1 or 020. Bockarie told TF1-516 and others that Kanneh went to Monrovia to see the Accused many times in 1999. TF1-516 also testified that Bockarie went with Kanneh to Monrovia on some occasions, but that Kanneh mostly went on his own, usually about every two to four weeks, which was how often the mining commander brought diamonds to Buedu. The Trial Chamber notes that TF1-516's knowledge of Kanneh's trips to take diamonds to the Accused was based on his monitoring of radio messages that Bockarie received.

5941. The Defence relies upon Sherif and Keita's evidence regarding Kanneh's statements about his role as a liaison between the RUF and Taylor and his government for diamond business to demonstrate that Kanneh played a "key role" in the diamond business during this

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<sup>13337</sup> Credibility Assessment, TF1-579, paras 339-345.

<sup>13338</sup> See *infra* the testimony of Perry Kamara and Jabaty Jaward.

<sup>13339</sup> Varmuyan Sherif, Transcript 11 January 2008, p. 1103.

period.<sup>13340</sup> While the Trial Chamber accepts Kanneh's role in diamond transactions during this time, in the Trial Chamber's view, Kanneh's involvement in diamond business does not create doubt about the Accused's own involvement.

5942. Other witnesses testified that Jungle was involved in the delivery of diamonds to the Accused in exchange for arms and ammunition. The Trial Chamber recalls the testimony of Augustine Mallah, who testified that Jungle brought arms and ammunitions to Buedu and that Jungle took diamonds to the Accused. TF1-371 testified on cross-examination that he had been told by Issa Sesay and Mr Sankoh that Jungle was a liaison between the RUF and NPFL, but he also "got to know it" because he had a lot of interaction with Sampson and Jungle and with other securities throughout 1998.<sup>13341</sup> The witness also testified that Jungle was with Musa Cissé, and was used in the early 1990s as a runner between the RUF and NPFL. The witness later got to know that Jungle was part of Mr Taylor's security outfit, an SSS.<sup>13342</sup>

5943. Witnesses Abu Keita and Suwandi Camara also testified that Ibrahim Bah was involved in diamond transactions during this period. The Trial Chamber notes that Bah was present at a meeting in 1998 to determine how best to sell the diamonds in order to secure radio communications, but that Keita's testimony did not connect Bah to the exchange of diamonds for arms and ammunitions with the Accused. Furthermore, Keita testified that Bockarie showed Bah diamonds during the meeting but did not give him diamonds.<sup>13343</sup> Suwandi Camara's evidence of Bah's involvement was based on what he was told by his nephew, who was very close to Bah that Bah was "engaged in diamond business between Charles Taylor and the RUF".<sup>13344</sup> However, the Trial Chamber notes that Camara's testimony was confused when he recounted a story told to him by his cousin about Bah taking diamonds to the mansion to Charles Taylor, and that it was not sufficiently clarified.<sup>13345</sup>

5944. The Trial Chamber does not accept Camara's evidence that Bah served as an intermediary for the delivery of diamonds to the Accused, as it was based on information

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<sup>13340</sup> Defence Final Trial Brief, para. 1213.

<sup>13341</sup> TF1-371, Transcript 28 January 2008, pp. 2372-2373 (CS).

<sup>13342</sup> TF1-371, Transcript 28 January 2008, pp. 2373-2374 (CS).

<sup>13343</sup> Abu Keita, Transcript 23 January 2008, pp. 1975-1976.

<sup>13344</sup> Suwandi Camara, Transcript 11 February 2008, p. 3572.

allegedly told by Bah to Camara's cousin and then to Camara, it was not corroborated by other witnesses, and because his testimony was unclear. The Trial Chamber also notes that Keita's testimony does not indicate that Bah served as an intermediary for the delivery of diamonds to the Accused. Although the Trial Chamber notes evidence indicating that Bah was involved in diamond dealings on behalf of the RUF with private individuals separate of the Accused, the Trial Chamber does not find that Bah was an intermediary between the Accused and the RUF for the purpose of exchanging diamonds for arms and ammunitions. However, the Trial Chamber does find that Eddie Kanneh and Jungle made diamond deliveries from Sierra Leone to the Accused.

5945. Having considered Defence Exhibit D-009, the Trial Chamber accepts that the RUF transacted diamonds with entities and individuals other than the Accused or his government, but does not find that this document negates any dealings that the RUF could have had with the Accused or his government.

5946. The Trial Chamber notes Exhibit P-018's conclusion that diamond smuggling from Sierra Leone to Liberia was "the bulk of the RUF trade in diamonds" and that it was done with the "permission and involvement" of the Liberian government. The report reviews the available export and production statistics and acknowledges that estimates of the volume of diamonds mined by the RUF vary widely by as much as \$USD 100 million and that the production data from 1999 could be anywhere from \$USD 20 million to \$USD 25 million, but notes that whatever the amount, this was the "primary source of income to the RUF". The report states that "a Liberian is said to be President Taylor's representative in Kono", and concludes that the trade of diamonds between Liberia and Sierra Leone "cannot be conducted in Liberia without the permission and the involvement of government officials at the highest level". The Trial Chamber notes that the panel did not cite in its reports the evidence on which this particular conclusion was based. However, it finds that the evidence adduced by the Prosecution of specific involvement of the Accused in the trade of diamonds lends credence to the more general findings of the panel's report.

5947. The Defence relies on Expert Witness Ian Smillie's testimony that diamond smuggling between Sierra Leone and Liberia began long before the Accused's presidency in an effort to raise doubt about the Accused's connection to the diamond traffic between the

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<sup>13345</sup> Suwandi Camara, Transcript 11 February 2008, pp. 3572-3573.

two countries.<sup>13346</sup> The Trial Chamber notes Smillie's statement, but further considers the remainder of his testimony as well as the substance of Exhibits P-019 and P-018, which he authored and co-authored respectively. For example, Smillie testified that he did not know how accurate the figures provided by Liberia in Exhibit P-019 were, and that there was not way of knowing where the diamonds that came into Belgium actually originated, but that the invoices that were checked always went back to Liberia.<sup>13347</sup> According to Smillie, the Belgian statistics of diamonds imported from Liberia between 1985 and 1999 were "essentially useless" as an indication of diamonds mined in Sierra Leone and Liberia.<sup>13348</sup> Smillie admitted that he knew less about the diamond industry in Liberia than in Sierra Leone and acknowledged that Exhibit P-018 cited only one source for its conclusion that Liberia's diamonds are small and of poor quality. However, he testified that many other sources are available to support that fact.<sup>13349</sup> Moreover, the Trial Chamber notes that in spite of the relative uncertainty regarding Belgium import figures of Liberian diamonds and the fact that diamond smuggling between Sierra Leone and Liberia has long occurred, Smillie, and the UN Panel of Experts who authored Exhibit P-018 still came to the conclusion that the Accused bore some responsibility for the movement of diamonds through Liberia.<sup>13350</sup> In the Trial Chamber's view, that diamond smuggling occurred before the Accused became the President of Liberia does not raise doubt as to whether he was involved in the smuggling once he took office, particularly in light of the overwhelming evidence to the contrary.

5948. The Trial Chamber has considered the Accused's denials that he ever received diamonds from Sam Bockarie or any other RUF member, that he ever transacted arms and ammunitions in exchange for diamonds, and that he was aware that Benjamin Yeaten ever received diamonds from the RUF. The Trial Chamber notes the Accused's testimony that it would have been possible for these diamond transactions to have occurred within Liberia without his knowledge, and that he, in fact, did not have knowledge of them. In response to D-008, the Accused testified that Pa Musa probably refers to Musa Cissé and "Big Brother" and "Papay" refer to the Accused himself. The Accused denied having a meeting with Cissé

<sup>13346</sup> Defence Final Trial Brief, para. 1202.

<sup>13347</sup> Ian Smillie, Transcript 8 January 2008, pp. 603-607, 610.

<sup>13348</sup> Ian Smillie, Transcript 8 January 2008, pp. 610-611.

<sup>13349</sup> Ian Smillie, Transcript 8 January 2008, p. 617.

<sup>13350</sup> Ian Smillie, Transcript 8 January 2008, p. 617.



where Cissé informed him some RUF members had come with diamonds to see him. The Accused stated that he would have been “delighted” at that particular time to have been able to make contact with the RUF, but at that point had not been able to. The Accused denied receiving 1,832 pieces of diamonds from Sankoh, in spite of what was stated in D-008.<sup>13351</sup> Nevertheless, in light of the substantial and credible evidence adduced to the contrary, the Trial Chamber does not accept these blanket denials of the Accused.

5949. Regarding the Prosecution’s allegation that Bockarie’s movements were monitored and coordinated by radio stations under the Accused’s command, the Prosecution relies upon the evidence of Perry Kamara, who testified that Bockarie sent radio messages from Buedu to Kono about mining, and sent men to check that the mining was being conducted in the way that Bockarie expected. The Trial Chamber accepts Kamara’s evidence that diamonds were taken to the Accused by Bockarie in exchange for arms and ammunition. However, in the Trial Chamber’s view, this evidence does not demonstrate that the radios played any part in the coordination of Bockarie’s movement or monitoring of his movement, nor does it show that either of those was done under the control of the Accused. Likewise, the allegation is not supported by the remainder of the evidence relied upon by the Prosecution regarding diamond deliveries during this time period. The Trial Chamber has considered additional evidence regarding the use of Liberian radios by the RUF, including the monitoring of Eddie Kanneh’s movements, in the section on Operational Support.<sup>13352</sup>

5950. In addition to its specific credibility findings herein, the Trial Chamber accepts the consistent and unchallenged testimony of Keita, Sherif, Mallah, Kabbah and TF1-371. On the basis of the evidence, the Trial Chamber finds that the Prosecution has established that during this period diamonds were delivered to the Accused by Sam Bockarie directly, as well as indirectly through intermediaries such as Eddie Kanneh and Jungle. The Trial Chamber further finds that these diamonds were delivered to the Accused in order to get arms and ammunition from him.

### Findings

5951. The Prosecution has proved beyond reasonable doubt that diamonds were delivered to the Accused by Sam Bockarie directly, as well as indirectly through intermediaries such

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<sup>13351</sup> Charles Ghankay Taylor, Transcript 24 September 2009, p. 29717-29720.

as Eddie Kanneh and Daniel Tamba (a.k.a. Jungle) from February 1998 to July 1999, and that these diamonds were delivered to the Accused for the purpose of obtaining arms and ammunition from him.

(i) Loss of Diamonds by Issa Sesay

Submissions of the Parties

5952. The Prosecution submits that the Accused was aware that Johnny Paul Koroma had diamonds and wanted those diamonds brought to Monrovia. Under the Accused's instruction, Benjamin Yeaten was to "sneak" Koroma to Monrovia with the diamonds. The Prosecution submits that Bockarie confiscated diamonds from Koroma, Alex Tamba Brima and Sam Koroma and travelled from Buedu to Monrovia to deliver these diamonds to Taylor himself. Owing to Taylor's concerns to keep his links to the RUF secret the diamonds were delivered to Taylor by his "trusted subordinates".<sup>13353</sup> According to the Prosecution, the events surrounding the taking of these diamonds from Koroma and their delivery to the Accused were "treated with great delicacy", and in written briefings of the incident to Foday Sankoh, Bockarie used vague terms. The Prosecution also highlights that Bockarie referred to Monrovia as the "transit point" when Issa Sesay "lost" diamonds and wrote that he could not put in writing his (Bockarie's) dealings with "'sympathizers' who provided them with basic needs and facilitated the move to Kono and beyond".<sup>13354</sup> By referring to diamonds carried by Sesay as "lost", the Prosecution questions whether Sesay actually "lost" those diamonds and the identity of the intended recipient. The Trial Chamber has considered the evidence of witnesses TF1-371, Perry Kamara, TF1-516, Alice Pyne, Dauda Aruna Fornie and Foday Lansana, as well as exhibit P-067.

5953. The Defence submits that in April 1998, Ibrahim Bah coordinated with General Diendere of Burkina Faso to orchestrate an arms and ammunitions shipment from Ouagadougou. However, this shipment never materialised because Issa Sesay, while in Monrovia on his way to meet Diendere, lost the diamonds that were to be used as payment

<sup>13352</sup> Operational Support: Communications, Use of Liberian Communications by the RUF.

<sup>13353</sup> Prosecution Final Trial Brief, paras 145, 367.

<sup>13354</sup> Prosecution Final Trial Brief, para. 145, 146.

for the shipment.<sup>13355</sup> The Accused, Issa Sesay and Exhibits D-008 and D-009 provided relevant evidence.

## Evidence

### Prosecution Witness TF1-371

5954. Witness TF1-371, a senior member of the RUF,<sup>13356</sup> testified that Issa Sesay occasionally took diamonds to Monrovia. Once, Sesay returned with Jungle and explained to Sam Bockarie that he had lost some diamonds while having tea in a guest house in Monrovia. Although Bockarie was furious with Sesay, he and Sesay were good friends so Bockarie did not take drastic measures against Sesay. Bockarie instead sent Sesay to Pendembu, where Sesay remained until he was given a mission to attack Koidu in December 1998.<sup>13357</sup>

5955. Witness TF1-371 testified in detail about diamonds being taken from Johnny Paul Koroma in Buedu around March 1998. TF1-371 testified that those diamonds were given to Sam Bockarie and Ibrahim Bah and taken to the Accused in Monrovia, and that they were not the same diamonds that were given to Issa Sesay and subsequently lost by him. That testimony has been considered in the section on deliveries of diamonds to the Accused during the Intervention period.<sup>13358</sup>

### Prosecution Witness Perry Kamara

5956. Perry Kamara, an RUF radio operator,<sup>13359</sup> testified that during the time that he was engaged in mining, Johnny Paul Koroma went to Buedu and, when he arrived in Buedu, there was information that he had diamonds on him.<sup>13360</sup> Kamara testified that “Sam Bockarie went and Issa Sesay attacked Johnny Paul Koroma and took these diamonds from him”.<sup>13361</sup> The witness testified that the diamonds were then counted and Mosquito sent a message to all stations that Koroma had tried to escape with diamonds and they had been

<sup>13355</sup> Defence Final Trial Brief, para. 1073.

<sup>13356</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>13357</sup> TF1-371, Transcript 28 January 2008, p. 2395.

<sup>13358</sup> See Diamonds: Loss of Diamonds by Sesay.

<sup>13359</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>13360</sup> Perry Kamara, Transcript 5 February 2008, p. 3146.

<sup>13361</sup> Perry Kamara, Transcript 5 February 2008, p. 3146.

confiscated from him.<sup>13362</sup> Kamara understood that the diamonds amounted to “two plastic[s] full”, including one 40 carat diamond.<sup>13363</sup> Kamara testified that Bockarie “said he was giving that diamond to Issa Sesay to take it to Liberia to Charles Taylor”, and that Sesay went with the diamonds, but later returned saying that the diamonds had been stolen from him.<sup>13364</sup> Kamara further testified that around April or May 1998, he accompanied Superman to Buedu where they attended a meeting convened by Sam Bockarie. At the meeting, among other topics, the issue of Sesay losing the diamonds was discussed.<sup>13365</sup>

Prosecution Witness TF1-516

5957. Witness TF1-516, an RUF radio operator,<sup>13366</sup> testified that Issa Sesay travelled to Liberia during the time that Bockarie was the leader. Once, Sesay was given diamonds to take to Liberia. He stayed in Liberia for some time and, upon his return to Buedu, Sesay said that the diamonds were taken from him by gangsters. A forum was then held to discuss the matter and the people and officers were grumbling.<sup>13367</sup>

Prosecution Witness Alice Pyne

5958. Witness Alice Pyne, an RUF radio operator,<sup>13368</sup> testified that on one occasion she and Superman were called by Sam Bockarie to a meeting in Buedu to discuss the issue of Issa Sesay losing diamonds that he had been given by Sam Bockarie.<sup>13369</sup> In Buedu, Pyne was informed by Major Sellay and Sebatu that Issa Sesay had been given the diamonds in order to take them to Charles Taylor in exchange for arms and ammunition.<sup>13370</sup> Pyne learned that diamonds taken from Johnny Paul Koroma’s wife were included in the diamonds that “went missing”<sup>13371</sup> and that Sesay lost the diamonds while staying in a hotel

<sup>13362</sup> Perry Kamara, Transcript 5 February 2008, p. 3146.

<sup>13363</sup> Perry Kamara, Transcript 5 February 2008, pp. 3146-3147.

<sup>13364</sup> Perry Kamara, Transcript 5 February 2008, pp. 3146-3147.

<sup>13365</sup> Perry Kamara, Transcript 5 February 2008, pp. 3159-3162.

<sup>13366</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>13367</sup> TF1-516, Transcript 15 April 2008, p. 7594.

<sup>13368</sup> Alice Pyne, Transcript 17 June 2008, p. 12074.

<sup>13369</sup> Alice Pyne, Transcript 18 June 2008, pp. 12209, 12212; Transcript 19 June 2008, pp. 12231, 12233.

<sup>13370</sup> Alice Pyne, Transcript 19 June 2008, p. 12231.

<sup>13371</sup> Alice Pyne, Transcript 18 June 2008, p. 12212.

in Liberia.<sup>13372</sup> Based on Pyne's testimony, the meeting in which they discussed Sesay losing the diamonds occurred sometime around June 1998.<sup>13373</sup>

Prosecution Witness Dauda Aruna Fornie

5959. Witness Dauda Aruna Fornie, an RUF radio operator,<sup>13374</sup> testified that around mid-1998 a dispute arose between Superman and Mosquito.<sup>13375</sup> The main cause of the dispute was that Mr Mosquito had given Mr Issa diamonds for Mr Issa to take to Mr Taylor in Monrovia, but Mr Issa came back stating that he had lost the diamonds.<sup>13376</sup> When asked why Superman went to join SAJ Musa in Koinadugu after the intervention, the witness attempted to respond that it was because "Mosquito had given diamonds to Issa and those were the diamonds that they took from Johnny".<sup>13377</sup>

Prosecution Witness Foday Lansana

5960. Witness Foday Lansana, an RUF radio operator,<sup>13378</sup> testified that he was in Kono District from January 1998 to September 1998, and that for about four months of that time he was in Tefiya.<sup>13379</sup> Sometime during Lansana's presence in Tefiya, Denis Mingo (a.k.a. Superman) was in regular contact with Sam Bockarie over the radio about how to get arms and ammunitions in order to gain back Koidu. Mingo requested arms and ammunitions to enable them to advance on ECOMOG and Bockarie informed him that they were always trying to make ways of getting arms and ammunitions to for the defensive positions around Koidu.<sup>13380</sup> Lansana testified that this was one of the reasons that Bockarie decided to send Issa Sesay to Monrovia with "some quantities" of diamonds to try to secure arms and ammunitions.<sup>13381</sup> The witness came to know that Issa Sesay was sent to Monrovia with

<sup>13372</sup> Alice Pyne, Transcript 18 June 2008, pp. 12233-12234; Transcript 19 June 2008, pp. 12192-12193, 12209-12210. Pyne testified that she first came to PC Ground in March 1998 and that two shipments of arms and ammunitions came after that. The first came almost two months after she arrived at PC Ground and the second was brought after the meeting in Buedu where the issue of Sesay losing the diamonds was discussed, which happened about two months after the first shipment.

<sup>13373</sup> Alice Pyne, Transcript 19 June 2008, pp. 12192-12193, 12209-12210.

<sup>13374</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21395; Transcript 2 December 2008, p. 21418.

<sup>13375</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21689.

<sup>13376</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21691.

<sup>13377</sup> Dauda Aruna Fornie, Transcript 4 December 2008, p. 21690.

<sup>13378</sup> Foday Lansana, Transcript 20 February 2008, pp. 4361-4362.

<sup>13379</sup> Foday Lansana, Transcript 21 February 2008, pp. 4513-4514.

<sup>13380</sup> Foday Lansana, Transcript 21 February 2008, p. 4510.

<sup>13381</sup> Foday Lansana, Transcript 21 February 2008, p. 4510.

diamonds that had been confiscated from Johnny Paul Koroma to get arms and ammunitions from Charles Taylor.<sup>13382</sup> The witness was told this by Mingo when he returned from a meeting in Buedu with arms and ammunitions.<sup>13383</sup> Lansana also testified that Sesay had lost the diamonds in Monrovia, but that Fonti Kanu made an arrangement with an ECOMOG general for them to get arms and ammunitions.<sup>13384</sup>

Prosecution Witness Albert Saidu

5961. Witness Albert Saidu, an RUF adjutant from 1991 to 2001,<sup>13385</sup> testified that around April 1998<sup>13386</sup> he was present at a meeting, along with Colonel Jungle and General Ibrahim,<sup>13387</sup> in a secret location between Buedu and Dawa.<sup>13388</sup> Bockarie had given Sesay diamonds to take to Charles Taylor in Liberia, but Sesay returned after about one week claiming to have lost the diamonds. Sam Bockarie called the meeting in order for Sesay to explain how he had lost the diamonds. Those assembled considered what they should do next as the diamonds Sesay lost were the RUF's source of gaining arms and ammunitions.<sup>13389</sup>

Prosecution Witness Karmoh Kanneh

5962. Witness Karmoh Kanneh, an RUF commander,<sup>13390</sup> testified that he attended a meeting convened by Bockarie between April and June of 1998, near Buedu. The meeting was attended by many commanders and discussed at the meeting, among other things, was the topic of Issa Sesay losing diamonds.<sup>13391</sup>

Prosecution Witness TF1-585

5963. Witness TF1-585, an RUF radio operator,<sup>13392</sup> testified that around September 1998,<sup>13393</sup> Sam Bockarie convened a meeting in his compound with Issa Sesay, Junior

<sup>13382</sup> Foday Lansana, Transcript 21 February 2008, pp. 4510-4511.

<sup>13383</sup> Foday Lansana, Transcript 21 February 2008, p. 4511.

<sup>13384</sup> Foday Lansana, Transcript 21 February 2008, pp. 4511, 4517.

<sup>13385</sup> Albert Saidu, Transcript 4 June 2008, p. 10895.

<sup>13386</sup> Albert Saidu, Transcript 9 June 2008, p. 11353.

<sup>13387</sup> Albert Saidu, Transcript 5 June 2008, p. 11055.

<sup>13388</sup> Albert Saidu, Transcript 5 June 2008, p. 11054.

<sup>13389</sup> Albert Saidu, Transcript 5 June 2008, p. 11055.

<sup>13390</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9390.

<sup>13391</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9390; Transcript 13 May 2008, pp. 9683-9684, 9689.

Rambo (CO Isaac), Five-Five and Jungle. Among other things, the purpose of the meeting was to discuss Sesay's punishment for losing diamonds in Monrovia. TF1-585 did not attend the meeting although she testified that those in attendance told her things about the meeting, and that she overheard Bockarie discussing the issue of Sesay losing the diamonds with Eddie Kanneh.<sup>13394</sup>

### The Accused

5964. In response to the testimony of Alice Pyne, the Accused testified that he knew nothing about this episode. The Accused noted the inconsistency in witness testimony on this issue, including some witnesses who stated that the diamonds were intended to go to Burkina Faso and others who stated that the diamonds were intended to go to him. The Accused reiterated that Sesay never had and could never have brought any diamonds to him. The Accused testified that he was not the person who would have received any diamonds from "any one of them".<sup>13395</sup>

### Defence Witness Issa Sesay

5965. Witness Issa Sesay, a senior RUF commander,<sup>13396</sup> testified that Bockarie held onto the diamonds taken from Johnny Paul Koroma until about 20 April 1998.<sup>13397</sup> At that time, Bockarie sent Sesay with the diamonds to meet Memunatu Deen in Monrovia. Upon Sesay's arrival in Monrovia, Deen was to contact Ibrahim Bah who would come to pick up Sesay and take him to meet General Diendere in Ouagadougou.<sup>13398</sup> The purpose of his travel was to take the diamonds to Bah and Diendere to get "fighting materials" to go back and fight ECOMOG.<sup>13399</sup> Sesay explained that while he was in Monrovia, the diamonds went

<sup>13392</sup> TF1-590, Transcript 5 September 2008, pp. 15582-15584, 15589-15592 (PS).

<sup>13393</sup> During the witness' examination-in-chief, TF1-585 testified that three meetings took place in June, September and December 1999. On cross-examination, the witness corrected her testimony to say that they occurred in 1998 (TF1-585, Transcript 11 September 2008, pp. 15972-15973). In view of TF1-585's testimony in chief that the three meetings took place in the June, September and December before "January 6" (TF1-585, Transcript 8 September 2008, p. 15682), and that they took place within the same year that Johnny Paul Koroma was removed from power in Freetown, TF1-585, Transcript 8 September 1998, p. 15672, together with the witness's correction during her cross-examination, the Trial Chamber is satisfied that the witness is referring to events that she recalled occurring in 1998.

<sup>13394</sup> TF1-585, Transcript 8 September 2008, pp. 15668-15669.

<sup>13395</sup> Charles Ghankay Taylor, Transcript 30 September 2009, pp. 29978-29979.

<sup>13396</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>13397</sup> Issa Sesay, Transcript 8 July 2010, pp. 44046, 44050.

<sup>13398</sup> Issa Sesay, Transcript 8 July 2010, p. 44046.

<sup>13399</sup> Issa Sesay, Transcript 8 July 2010, p. 44055.

missing.<sup>13400</sup> Sesay was in Monrovia for about five days and then Bockarie sent Major Mulbah to “check what happened” and then Sesay and Mulbah returned to Sierra Leone.<sup>13401</sup>

Prosecution Exhibit P-067

5966. Exhibit P-067 is a handwritten ‘Situation Report’ from the Black Revolutionary Guards to ‘The Leader.’<sup>13402</sup> The document’s author writes that upon Johnny Paul Koroma’s arrival in Buedu, he denied possessing diamonds. “High Command” however had information to the contrary and gave Brigadier Issah [sic] Sesay and Brigadier Mike Lamin instructions to search Koroma. The search revealed a “large quantity of diamonds”, which was then taken from Koroma. That parcel of diamonds was later given to “Mr Ibrahim (General)” and “sister Memuna” to travel with them directly to president Taylor.<sup>13403</sup> “Through this development, the High Command was able to receive the first satellite phone from General Ibrahim which he was use to [sic] to do some important contacts with”.<sup>13404</sup> The document states that once General Ibrahim returned to Burkina Faso, the High Command also received a “good caraiage” [sic] of diamonds from Kono,<sup>13405</sup> and the High Command planned to send “another good parcel” to General Ibrahim in Burkina Faso in exchange for arms and ammunitions.<sup>13406</sup> The “High Command” then handed over a parcel of diamonds to the B.G.C. Brigadier Issah [sic] Sesay for him to pass through Monrovia and make his way to Burkina Faso to meet General Ibrahim to work out modalities and get some materials. Sesay travelled with Jungle and some Liberian securities to Monrovia.<sup>13407</sup> While in Monrovia, information was received by the High Command that the parcel of diamonds had “dropped from Sesay”. Sesay then returned to the base and gave the same report to the High Command. The joint security investigated Sesay and took a statement from

<sup>13400</sup> Issa Sesay, Transcript 8 July 2010, p. 44047.

<sup>13401</sup> Issa Sesay, Transcript 8 July 2010, p. 44047.

<sup>13402</sup> Exhibit P-067, “RUF People’s Army—Situation Report to Foday Sankoh from the Black Guard Commander”.

<sup>13403</sup> Exhibit P-067, “RUF People’s Army—Situation Report to Foday Sankoh from the Black Guard Commander”, ERN9675.

<sup>13404</sup> Exhibit P-067, “RUF People’s Army—Situation Report to Foday Sankoh from the Black Guard Commander”, ERN9675.

<sup>13405</sup> Exhibit P-067, “RUF People’s Army—Situation Report to Foday Sankoh from the Black Guard Commander”, ERN9675.

<sup>13406</sup> Exhibit P-067, “RUF People’s Army—Situation Report to Foday Sankoh from the Black Guard Commander”, ERN9676.

<sup>13407</sup> Exhibit P-067, “RUF People’s Army—Situation Report to Foday Sankoh from the Black Guard Commander”, ERN9676.



him.<sup>13408</sup> The document states, “[m]oreso, President Taylor continues to give helping hands with logistics which involves food stuffs and materials”.<sup>13409</sup>

Defence Exhibit D-008

5967. Exhibit D-008 is a document entitled “Verbatim Report on a Recorded Discussion Between Cpl. Foday Sankoh and his Cohorts on his Return From Detention”.<sup>13410</sup> The document is an unofficial translation of a verbatim report of a recorded discussion between Corporal Foday Sankoh and his cohorts regarding their activities during Sankoh’s detention from 1996 to 1999, particularly the activities of 6 January.<sup>13411</sup> The conversation occurred in 1999, following Sankoh’s release from detention. In addition to the contents in the exhibit related to the diamonds taken from Koroma and Gullit, the document reflects that in the meeting, Lamin was “aware that some transactions” had already been “going on” as Mosquito had made several visits to Monrovia through the help of “Benjamin Legon” and the Adjutant General. Lamin stated that the Adjutant General “knows about some demands given to Benjamin Legon for onward handing over to the leader of Liberia”.<sup>13412</sup> It was later decided that they should send someone to “the Brother in Burkina” for “logistical materials” and Mosquito decided to send Brigadier Issa.<sup>13413</sup> Lamin continued:

In this way, some parcels of diamonds among which was [a] fifteen carats diamond that I have seen myself handed over personally by General Mosquito and myself to him. We left for Monrovia but we understood later from Issa himself that he had lost the diamonds in Monrovia.<sup>13414</sup>

5968. Lamin then explained that upon Sesay’s return after losing the diamonds Sesay was sent to Pendembu and it was decided to investigate the issue later as the pressure from the enemy was increasing. Pa Rogers stated that “In addition, we captured Kono the other day and started some mining operations there...all the diamonds were handed over to Mosquito

<sup>13408</sup> Exhibit P-067, “RUF People’s Army– Situation Report to Foday Sankoh from the Black Guard Commander”, ERN. 9676.

<sup>13409</sup> Exhibit P-067, “RUF People’s Army—Situation Report to Foday Sankoh from the Black Guard Commander”, ERN9676.

<sup>13410</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”.

<sup>13411</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”.

<sup>13412</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12957.

<sup>13413</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12957.

<sup>13414</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12958.

and sold at seventeen thousand united states [sic] dollars at Buedu in the presence of Pa Rogers, Johnny Paul Koroma and other senior members”.<sup>13415</sup>

5969. Pa Rogers then stated that he was not present during the issue with Koroma but understood that Ibrahim Bah was present. According to the document, the “Adjutant General”<sup>13416</sup> spoke next and stated that the diamonds were with Mosquito until it was decided that they should use them to make “outside contacts” because of the pressure they were facing.<sup>13417</sup> General Ibrahim arrived that same day and it was agreed to “move to Monrovia to meet the big brother” and that move “coincided with Benjamin leaving for Monrovia also”.<sup>13418</sup> He goes on to say that “[i]n this way, we met at Koindu were [sic], we checked the 1832 pieces of diamonds in 9 plastics which was intact. In lieu of this, Bra<sup>13419</sup> told Benjamin that they had something that they wanted to presence [sic] to the Big Brother in Monrovia so that he will help us”.<sup>13420</sup>

5970. The report records Benjamin’s advice about leaving Liberia because of ECOMOG and, acting on that advice, the men left that night. Upon arriving in Koindu, they met Benjamin and Memuna, and then wrote a letter and handed over the 1832 pieces in 9 plastics for the Papay. “Bra approved the letter” and General Ibrahim, Memuna and Jungle went to Liberia while the others (“we”) returned to Buedu.<sup>13421</sup> Later, when Pa Rogers “and others” went to Gbanga [sic], the diamonds were shown to them and the Big Brother told them that he would keep them until Sankoh returned.<sup>13422</sup>

<sup>13415</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12958.

<sup>13416</sup> The Trial Chamber recalls that the Adjutant General is Rashid Sandy. TF1-371, Transcript 1 February 2008, pp. 2841-2846 (CS).

<sup>13417</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12959.

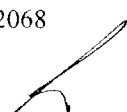
<sup>13418</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12959.

<sup>13419</sup> The Trial Chamber is satisfied that “Bra” is Sam Bockarie. See Alex Tamba Teh, Transcript 8 January 2008 p. 272; TF1-371, Transcript 1 February 2008 pp. 2940, 2943 (CS); TF1-362, Transcript 3 March 2008 p. 5094; TF1-585, Transcript 8 September 2008 p. 15739; Issa Sesay, Transcript 30 July 2010 p. 45173.

<sup>13420</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12959.

<sup>13421</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12960.

<sup>13422</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12960.





5971. JRR, or Junior Rambo, then told Sankoh that diamonds, including one 11 carat diamond, were brought from Kono and given to Brigadier Issa.<sup>13423</sup> General (referring to Adjutant General) then had a meeting with senior officers in which he explained that the war had reached a stage where they required “external assistants [sic] to make contacts for ammunition in Burkina Faso”.<sup>13424</sup> Thus, Sesay was given a document and the diamonds to hand over to General Ibrahim in Burkina Faso.<sup>13425</sup> Jungle accompanied Sesay to Liberia and Sesay was told to try his best to reach General Ibrahim in Burkina Faso for the diamond sales. They then heard from Jungle that Sesay had dropped the diamonds in Monrovia and the commander immediately summoned Brigadier Issa to report back to base.<sup>13426</sup>

#### Defence Exhibit D-009

5972. Defence Exhibit D-009 is a document entitled “RUF Defence Headquarters, Salute Report to the Leader of the Revolution From Major General Sam Bockarie” and is dated 26 September 1999.<sup>13427</sup> Bockarie writes, in relevant part, that prior to his quarrel with Superman, “diamonds mined from Kono were given to Brigadier Issa in order for him to make contact and delivery to a business associate of yours”.<sup>13428</sup> The report explains that, at his “transit point”, when Sesay returned from a tea shop to his hotel he discovered that the “diamonds were missing from his pocket”.<sup>13429</sup> Sesay’s claim of losing the diamonds was substantiated by local news reports of diamonds found on the street of the city.<sup>13430</sup> The report states that Colonel Jungle was with “Brig. Issa” and thus that the two of them could better explain the “events surrounding the loss of the diamonds”.<sup>13431</sup> Bockarie then

<sup>13423</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12961.

<sup>13424</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12961.

<sup>13425</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12961.

<sup>13426</sup> Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12961.

<sup>13427</sup> Exhibit D-009, “RUF Defence Headquarters, Salute Report to the Leader of the Revolution From Major General Sam Bockarie”.

<sup>13428</sup> Exhibit D-009, “RUF Defence Headquarters, Salute Report to the Leader of the Revolution From Major General Sam Bockarie”, p. 6, ERN00009663.

<sup>13429</sup> Exhibit D-009, “RUF Defence Headquarters, Salute Report to the Leader of the Revolution From Major General Sam Bockarie”, p. 6, ERN00009663.

<sup>13430</sup> Exhibit D-009, “RUF Defence Headquarters, Salute Report to the Leader of the Revolution From Major General Sam Bockarie”, p. 6, ERN00009663.

<sup>13431</sup> Exhibit D-009, “RUF Defence Headquarters, Salute Report to the Leader of the Revolution From Major General Sam Bockarie”, p. 6, ERN00009663.

expressed his disappointment at the loss of the diamonds because he had “planned against revenues generated from the proceeds”, then expressed his confidence in Sesay’s story and his ability as a commander.<sup>13432</sup> Bockarie then stated that he had decided to “refer the matter to [Foday Sankoh] on [his] arrival whilst assigning [Bockarie] to the front-line...”<sup>13433</sup>

### Deliberations

5973. The Trial Chamber notes that in its Final Trial Brief the Prosecution submits that the diamonds taken from Koroma were ultimately delivered to the Accused. In support of this submission, the Prosecution relies upon the evidence of TF1-371 who testified that it was Bockarie who delivered the diamonds taken from Koroma to the Accused.<sup>13434</sup> However, the Prosecution also submits that Sesay took diamonds to Monrovia and seems to question whether they were lost.<sup>13435</sup> The Trial Chamber considers the use of the terms “transit point” and “sympathizer” are vague, and that such terminology is intended to conceal the relationship between the RUF and the Accused. Based upon the overwhelming evidence adduced by both the Prosecution and Defence that Sesay lost the diamonds in Monrovia, including direct evidence from Sesay, the Trial Chamber is satisfied that the diamonds Sesay took to Monrovia were lost in Monrovia.<sup>13436</sup> Here, the Trial Chamber considers whether the Accused was the intended recipient of the diamonds that Sesay lost.

5974. Regarding the source of the diamonds, the Trial Chamber notes at the outset that the Prosecution’s evidence is inconsistent regarding the source of the diamonds given to Issa Sesay and subsequently lost by him. Witnesses Perry Kamara, Dauda Aruna Fornie, and Foday Lansana all testified that Sesay received at least some of the diamonds taken from

<sup>13432</sup> Exhibit D-009, “RUF Defence Headquarters, Salute Report to the Leader of the Revolution From Major General Sam Bockarie”, p. 6, ERN00009663.

<sup>13433</sup> Exhibit D-009, “RUF Defence Headquarters, Salute Report to the Leader of the Revolution From Major General Sam Bockarie”, p. 6, ERN00009663.

<sup>13434</sup> Prosecution Final Trial Brief, paras 145-146, citing TF1-371, Transcript 28 January 2008, pp. 2369-2371 (CS). TF1-371’s evidence regarding the taking of diamonds from Koroma and their ultimate delivery to the Accused is addressed in the section on alleged deliveries of diamonds to the Accused from February 1998 to July 1999. See *Diamonds: Alleged Delivery of Diamonds to the Accused, February 1998-July 1999*.

<sup>13435</sup> Prosecution Final Trial Brief, para. 146.

<sup>13436</sup> Issa Sesay, Transcript 8 July 2010, pp. 44046-44047; TF1-371, Transcript 28 January 2008, p. 2395; Alice Pyne, Transcript 18 June 2008, p. 12212; Foday Lansana, Transcript 21 February 2008, pp. 4511, 4517; Albert Saidu, Transcript 5 June 2008, p. 11055; Karmoh Kanneh, Transcript 8 May 2008, p. 9390; Transcript 13 May 2008, pp. 9683-9684, 9689; TF1-585, Transcript 8 September 2008, pp. 15668-15669; Exhibit P-067, “RUF People’s Arm—Situation Report to Foday Sankoh from the Black Guard Commander”, ERN9676; Exhibit D-008, “Unofficial Translation—Verbatim Report on a Recorded Discussion Between Corporal Foday Sankoh and his Cohorts on his Return from Detention”, ERN12958; Exhibit D-009, “RUF Defence Headquarters, Salute

Koroma and that those were the same diamonds that he lost. Witness TF1-371 as well as Exhibits P-067 and D-008 indicate that the diamonds taken from Koroma were ultimately delivered to the Accused, while TF1-371, P-067, D-008 and and D-009 all indicate that the diamonds Sesay lost were diamonds mined in Kono, not the same diamonds taken from Koroma. Issa Sesay, gave first hand evidence that the diamonds he lost in Monrovia were the same diamonds taken from Koroma, stating that the only diamond of any value among them was a 14 carat diamond.<sup>13437</sup> The Trial Chamber recalls its finding that the diamonds taken from Koroma were delivered to the Accused in exchange for arms and ammunitions by Bockarie and Bah.<sup>13438</sup> However, in the Trial Chamber's view, the source of the diamonds lost by Sesay is irrelevant to the consideration of who was the intended recipient of the diamonds that Sesay lost.

5975. Regarding the intended recipient of the diamonds that Sesay lost, the Trial Chamber notes that witnesses Alice Pyne, Dauda Aruna Fornie, Foday Lansana and Albert Saidu all testified that the diamonds Sesay was given were intended to be taken by him to the Accused. Pyne and Lansana both further testified that those diamonds were to be given to the Accused in exchange for arms and ammunitions. Saidu testified that he was present in a meeting where the issue of Sesay losing the diamonds was discussed and it "was said" that the diamonds had been intended for Charles Taylor in return for arms and ammunitions. The Trial Chamber further notes that witnesses TF1-371 and TF1-516 testified that the diamonds were intended to be taken to Monrovia or Liberia generally, without specifying who was to receive them. However, the Trial Chamber notes Exhibit D-008 which indicates that the parcels of diamonds, including a 15-carat diamond, that were handed to Issa Sesay and were later lost by him in Monrovia had been intended for delivery to Ibrahim Bah in Burkina Faso.<sup>13439</sup>

5976. Exhibits P-067, D-008 and D-009 all state that the diamonds Sesay lost were intended to be taken to Burkina Faso. P-067 and D-008 both state that Sesay was to take the

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Report to the Leader of the Revolution From Major General Sam Bockarie", p. 6, ERN00009663.

<sup>13437</sup> Issa Sesay, Transcript 18 August 2010, p. 46589. The Trial Chamber notes a number of inconsistencies in Sesay's testimony regarding the details of his trip to Monrovia and the subsequent loss of the diamonds. As those inconsistencies are mostly relevant to the Sesay's credibility, they have been considered fully in the section on Sesay's credibility. Credibility Assessment, Issa Sesay, paras 359-372.

<sup>13438</sup> See Diamonds: Alleged Delivery of Diamonds to the Accused, February 1998-July 1999.

<sup>13439</sup> TF1-371, Transcript 1 February 2008, pp. 2846-2849.

diamonds to Burkina Faso to meet Ibrahim Bah, while D-009 states that the plan was for Sesay to “make contact” with a “business associate” of Sankoh’s.

5977. Sesay testified that the instructions he received when he was given the diamonds taken from Koroma was that he would meet Ibrahim Bah in Monrovia to take him to Burkina Faso to meet General Diendere.<sup>13440</sup> Sesay had no other option than this arrangement because this was what he was told to do.<sup>13441</sup> Sesay did not know the amount of ammunition to be received and he never found out because he lost the diamonds.<sup>13442</sup> The Trial Chamber has noted a number of inconsistencies in the details of Sesay’s testimony regarding this trip. Given the nature of the inconsistencies and the passage of time, the Trial Chamber considers them to be relatively minor, but the Trial Chamber recalls its finding that Sesay’s evidence must be considered with caution and cannot be relied upon without corroboration.<sup>13443</sup> Here, the Trial Chamber notes that Sesay’s testimony that the diamonds were intended for a transaction with Bah and Diendere in Burkina Faso is corroborated by the evidence of witness TF1-371, as well as exhibits P-067, D-008 and D-009.

5978. The Trial Chamber notes that the evidence of Perry Kamara, Alice Pyne, Lansana, Dauda Aruna Fornie, Albert Saidu and Karmoh Kanneh is based on hearsay whilst Issa Sesay and TF1-371, more senior members of the RUF with first hand information of events, stated that the diamonds were to be delivered to Ibrahim Bah. The Trial Chamber accepts the evidence of TF1-371 and Sesay that the diamonds were intended for delivery to Ibrahim Bah.

5979. The Trial Chamber has further considered the Accused’s testimony that he was unaware of these events and his denial that he ever received diamonds, taken from Koroma or otherwise. Regarding Exhibit P-067, the Accused was asked why he would allow the RUF to bring diamonds through his country without taking them. The Accused responded that he was not in control of the diamonds, and expressed doubt that the incident of Sesay losing the diamonds ever occurred in the first place. The Accused seemed to imply that the conflicting evidence on this issue, both that Sesay brought diamonds intended for the Accused that were later lost, and that Sesay was travelling through Monrovia to Burkina

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<sup>13440</sup> Issa Sesay, Transcript 18 August 2010, pp. 46590-45691.

<sup>13441</sup> Issa Sesay, Transcript 26 August 2010, pp. 47260-47263.

<sup>13442</sup> Issa Sesay, Transcript 18 August 2010, p. 46591.

<sup>13443</sup> Credibility Assessment, Issa Sesay, paras 359-372.

Faso with diamonds that were lost in Monrovia, is a lie.<sup>13444</sup> However, given that they were ultimately lost before reaching their destination, the Accused's denial that he received them is not probative of where they were intended to be delivered.

5980. Regarding the timing of these events, the Trial Chamber notes the Defence's submission, as well as Issa Sesay's testimony, that the diamonds were lost in April 1998. The Trial Chamber further recalls its finding that the meeting convened by Bockarie in Buedu at which Perry Kamara, Alice Pyne, Dauda Aruna Fornie, Albert Saidu, TF1-585 and Karmoh Kanneh all testified that the issue of Sesay losing the diamonds was discussed occurred in April 1998.<sup>13445</sup> As such, the Trial Chamber finds that Sesay lost the diamonds in Monrovia in around April 1998.

### Findings

5981. Based on the foregoing, the Trial Chamber finds that around April 1998, diamonds given to Issa Sesay were lost by him in Monrovia, but the Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that those diamonds were intended for delivery to the Accused.

### (c) July 1999-May 2000

### Submissions of the Parties

5982. The Prosecution submits that the Accused encouraged the AFRC/RUF to sign the Lomé Peace Accord, which granted the RUF control over Sierra Leone's diamonds resources.<sup>13446</sup> Consequently, the RUF was able to continue to deliver diamonds to the Accused during the conflict's final years.<sup>13447</sup> The Prosecution adduced evidence of delivery of diamonds to the Accused during this period through witnesses TF1-567, TF1-371 and TF1-367.

<sup>13444</sup> Charles Ghankay Taylor, Transcript 24 September 2009, p. 29671-29673.

<sup>13445</sup> Military Operations: Operation Fitti-Fatta.

<sup>13446</sup> Prosecution Final Trial Brief, para. 370. The allegation regarding the Accused's involvement with the RUF at Lomé is considered elsewhere in the judgement. See Peace Process: Lomé

<sup>13447</sup> Prosecution Final Trial Brief, para. 370.

5983. The Trial Chamber recalls the Defence's general denial that the Accused ever received any diamonds from the RUF in exchange for arms and ammunitions or other supplies.<sup>13448</sup> This denial is reflected in the testimony of the Accused.

## Evidence

### Prosecution Witness TF1-567

5984. Witness TF1-567, an RUF member,<sup>13449</sup> testified that Foday Sankoh arrived at Roberts International Airport in 2000 when Sankoh returned from a trip to South Africa.<sup>13450</sup> Following his arrival at the airport, Sankoh and "his brother" Charles Taylor to the ATU graduation in Gbatala. The president of Niger was also in attendance. Following the graduation, Sankoh returned to where he was staying. Sankoh then dined with the American Ambassador at the American Embassy.<sup>13451</sup> Sankoh told the witness that he had "brought something with him that he wanted to give to his brother, that is Charles Taylor, and they were diamonds".<sup>13452</sup> Sankoh then showed the witness a "45 carat and some other three pieces that were each 25 carat" and said "he wanted to give something to his brother".<sup>13453</sup> After that, Benjamin Yeaten brought Sankoh and the witness to White Flower. Upon their arrival, the witness waited in the waiting room while Sankoh and Yeaten "went inside".<sup>13454</sup> After some time, Yeaten came out followed by Sankoh sometime later. Yeaten then escorted Sankoh and the witness to the to where Sankoh was staying. Sankoh said to the witness in Krio "when we get there I will tell you something that is very interesting, but I wouldn't want these people to hear what I have to say, these securities".<sup>13455</sup> When they arrived, Sankoh told the witness that during the meeting he had given one 45 carat diamond and two 25 carat diamonds to Charles Taylor who, upon receiving the diamonds, was "over-happy" and that Sankoh and Taylor then drank champagne together.<sup>13456</sup>

<sup>13448</sup> Defence Final Trial Brief, para. 1198.

<sup>13449</sup> TF1-367, Transcript 20 August 2008, p. 14158.

<sup>13450</sup> TF1-567, Transcript 7 July 2008, p. 13012 (PS).

<sup>13451</sup> TF1-567, Transcript 7 July 2008, pp. 13012-13013 (PS).

<sup>13452</sup> TF1-567, Transcript, 7 July 2008, p. 13013 (PS).

<sup>13453</sup> TF1-567, Transcript, 7 July 2008, p. 13013 (PS).

<sup>13454</sup> TF1-567, Transcript, 7 July 2008, p. 13013 (PS).

<sup>13455</sup> TF1-567, Transcript, 7 July 2008, pp. 13013-13014 (PS).

<sup>13456</sup> TF1-567, Transcript, 7 July 2008, p. 13014 (PS).



Prosecution Witness TF1-371

5985. Witness TF1-371, an RUF member,<sup>13457</sup> was told by Foday Sankoh in 1999 that Sankoh had visited Mr Taylor who showed Sankoh the parcels of diamonds that had been delivered to him during Sankoh's incarceration. Upon seeing the diamonds, Sankoh became "bitter" because it was not the same amount of diamonds that he had been told were delivered to Mr Taylor.<sup>13458</sup> Sankoh told the witness that it would have been shameful for him to ask for the diamonds back from the Accused, so he did not.<sup>13459</sup>

Prosecution Witness TF1-367

5986. Prosecution witness TF1-367, a mining commander in the RUF,<sup>13460</sup> was confronted during cross-examination with a prior statement he made to the Prosecution. In that prior statement, the witness expressed that the "escorting of diamonds" started at the time of Foday Sankoh, and that the witness was sent to the Accused at Gbarnga and he and Sankoh would return with condiments and arms and ammunitions. Furthermore, the witness stated that although the RUF wasn't mining at that time, diamonds and other minerals like gold were seized from civilians and taken to Charles Taylor by Sankoh himself. The witness accompanied Sankoh on some of these trips. The witness was also present when Sankoh told Bockarie and Sesay that any diamonds collected in his presence should be taken to Charles Taylor.<sup>13461</sup>

The Accused

5987. During examination-in-chief, the Accused testified that he "never, ever" saw Sankoh after their December 1999 meeting.<sup>13462</sup> The Accused also denied receiving a 45 carat diamond from Foday Sankoh on this occasion, calling the accusation a "blatant lie".<sup>13463</sup> Later, during examination-in-chief, the Accused first testified that he attended the ATU graduation at Gbatala in early 2000, but denied that Foday Sankoh was present,<sup>13464</sup> although

<sup>13457</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>13458</sup> TF1-371, Transcript 31 January 2008, p. 2773 (CS).

<sup>13459</sup> TF1-371, Transcript 31 January 2008, p. 2773 (CS).

<sup>13460</sup> TF1-367, Transcript 20 August 2008, p. 14158.

<sup>13461</sup> TF1-367, Transcript 1 September 2008, p. 15058.

<sup>13462</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27113-27114 (PS).

<sup>13463</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27114-27115 (PS).

<sup>13464</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28815, 28818 (PS).



he recalled that the president of Niger was in attendance.<sup>13465</sup> The Accused testified that Sankoh could have been in Monrovia at that time, but that he was not at the graduation. The Accused also knew that when Sankoh was in Monrovia in September 1999 and that he met with many diplomats including the US Ambassador, but the Accused was unaware of any subsequent meetings.<sup>13466</sup> Moments later, the Accused recalled that Foday Sankoh was in Liberia in 2000 en route from South Africa,<sup>13467</sup> but he did not recall that Foday Sankoh was at the graduation.<sup>13468</sup> The Accused thought Sankoh had been in South Africa for medical reasons.<sup>13469</sup> Again, the Accused flatly denied receiving a 45 carat diamond from Foday Sankoh on this occasion, and further stated that Foday Sankoh “never gave [him] any diamonds, none whatsoever”.<sup>13470</sup>

### Deliberations

5988. It is undisputed that Foday Sankoh visited South Africa around February or March of 2000, and that he travelled through Monrovia on his way back to Sierra Leone.<sup>13471</sup> At issue, is whether the Accused met with Foday Sankoh while Sankoh was in Liberia following this trip to South Africa and whether Sankoh gave diamonds to the Accused during that visit.

5989. The Trial Chamber notes that on cross-examination the Accused initially testified that he did not know the reason for Foday Sankoh’s trip to South Africa and that he did not know the details of his visit or his departure.<sup>13472</sup> When the record of his prior testimony was put to him, the Accused initially denied his prior statement. However, when subsequently asked whether Foday Sankoh had come from South Africa to Monrovia to see him, the Accused answered “I can say yes and I can say no.... it has slipped me. I think it is en route back from South Africa...”.<sup>13473</sup> When asked what reason Sankoh gave him for the

<sup>13465</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28815 (PS).

<sup>13466</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28815-28816 (PS).

<sup>13467</sup> Charles Ghankay Taylor, Transcript 25 August 2009, pp. 27593-27596.

<sup>13468</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28818-28819 (PS).

<sup>13469</sup> Charles Ghankay Taylor, Transcript 25 August 2009, pp. 27593-27596.

<sup>13470</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28816-28817.

<sup>13471</sup> Charles Ghankay Taylor, Transcript 25 August 2009, pp. 27596-27597; Transcript 28 January 2010, pp. 34344-34346. During examination-in-chief, the Accused testified that he recalled that Foday Sankoh travelled to South Africa at the end of February 2000. Upon inquiry at that time, the Accused was told that Sankoh had gone to South Africa for health reasons. Issa Sesay, Transcript 26 July 2010, pp. 44544-44546. Issa Sesay testified that Foday Sankoh went to South Africa around March 2000. Sankoh told Sesay that he was going to South Africa to meet an old friend to discuss the “party issue”, referring to the RUF becoming a political party.

<sup>13472</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32553-32554.

<sup>13473</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32557-32558.





trip to South Africa, the Accused responded that Sankoh had told him that he had gone there for medical reasons.<sup>13474</sup> Given the Accused's initial prevarication and subsequent concession, referring to a conversation with Sankoh the Trial Chamber finds that the Accused and Foday Sankoh met in Monrovia in 2000 following Sankoh's trip to South Africa.

5990. The Trial Chamber notes that although TF1-567 was not an eyewitness to the delivery of diamonds to the Accused that he testified about, he did provide testimony about the circumstances and events directly before and after Sankoh's meeting with the Accused. TF1-567 saw the diamonds before they were given to the Accused, accompanied Sankoh to White Flower where the exchange was made, and heard the details of the events of the meeting directly from Sankoh shortly after it happened. The Trial Chamber recalls its finding that TF1-567 is a generally credible witness.<sup>13475</sup> The Trial Chamber also notes that the dates and general details of Sankoh's trip to Monrovia, including the fact that the meeting occurred, were corroborated by the Accused himself on cross-examination. In light of his general credibility and the corroboration of his testimony, the Trial Chamber accepts TF1-567's evidence regarding Sankoh's delivery of diamonds to the Accused during during his visit to Monrovia in early 2000 and rejects the Accused's denials.

5991. The Trial Chamber considers TF1-367's more general evidence of deliveries of diamonds to the Accused under Foday Sankoh corroborative of TF1-567's evidence. The Trial Chamber notes that on cross-examination, the witness confirmed that Sankoh's delivery of diamonds to the Accused was something he knew and did not make assumptions about.<sup>13476</sup> He was then confronted with a prior statement that he did not witness Sankoh giving the Accused diamonds, and that he had assumed that the diamonds were given. The witness stated that he did not know the meaning of the word "assumption" and maintained that he had personally given many diamonds to Sankoh and they took them to Gbarnga.<sup>13477</sup> Considering the witness' confusion surrounding the presence of the word "assumption" in his prior statement, and his adamant testimony that he knew of the deliveries first hand, the Trial Chamber is convinced by the witness's explanation.

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<sup>13474</sup> Charles Ghankay Taylor, Transcript 26 November 2009, p. 32558.

<sup>13475</sup> Credibility Assessment, TF1-567, paras 313-317.

<sup>13476</sup> TF1-367, Transcript 1 September 2008, p. 15059.

<sup>13477</sup> TF1-367, Transcript 1 September 2008, pp. 15059-15060.

5992. With regard to the evidence of TF1-371, the Trial Chamber notes that he is not referring to the same meeting between Sankoh and the Accused as is TF1-567, who testified about a meeting that took place in 2000. TF1-371's testimony refers to a conversation that occurred between the witness and Foday Sankoh in 1999, about a meeting that Sankoh had had with the Accused at an earlier time, in which he saw diamonds that had been delivered to the Accused while he was in detention. Although there is no indication as to the quantity of diamonds, when they were delivered, or by whom, it is clear that they were delivered to the Accused on behalf of Sankoh. The Trial Chamber recalls its finding that TF1-371 is a credible witness.<sup>13478</sup> Accordingly, the Trial Chamber considers this evidence probative of delivery of diamonds to the Accused in or before 1999 while Sankoh was in detention.

### Findings

5993. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that Foday Sankoh delivered diamonds to the Accused in February or March of 2000 and that diamonds were delivered to the Accused on Sankoh's behalf in or before 1999 while he was in detention.

#### (d) June 2000-2002

### Submissions of the Parties

5994. The Prosecution submits that, during this time period, the assistance that the Accused provided via equipment and experts in 1999 had begun to make mining more productive. Thus, during Issa Sesay's tenure until disarmament, the Accused received a greater number of diamonds than before—alleged by the Prosecution to be “thousands of carats”. As the interim leader of the RUF, Issa Sesay “obediently” delivered these diamonds to the Accused. Liaisons, like Eddie Kanneh, also delivered diamonds to the Accused during this time.<sup>13479</sup> The Prosecution further submits that the Accused organised and monitored Sesay's trips to Monrovia using RUF radios and radio stations operated under the Accused's control.<sup>13480</sup>

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<sup>13478</sup> Credibility Assessment, TF1-371, paras 220-226.

<sup>13479</sup> Prosecution Final Trial Brief, paras 371, 381.

<sup>13480</sup> Prosecution Final Trial Brief, para. 373.

5995. The Prosecution relied upon witnesses TF1-516, TF1-371, TF1-338, Perry Kamara, TF1-567, TF1-375, Joseph (a.k.a. Zigzag) Marzah, Mohamed Kabbah, Augustine Mallah and TF1-590 as well as exhibits P-277 and P-019 in support of its allegations.

5996. The Defence generally denied all allegations that RUF diamonds were delivered to the Accused. The Defence also specifically challenged the credibility of witness TF1-338, who testified to Sesay's delivery of diamonds to the Accused. In the Defence's view, the Prosecution's evidence of the Accused's connection to diamonds is based on hearsay that fails to demonstrate a link between Taylor and the RUF's diamonds, and the evidence of TF1-338 is so lacking in credibility that it is wholly unreliable.<sup>13481</sup> The Accused and Issa Sesay provided relevant evidence.

### Evidence

#### Prosecution Witness TF1-338

5997. Witness TF1-338, an RUF member,<sup>13482</sup> testified about three trips Issa Sesay took to deliver diamonds to the Accused in Monrovia during this time period. First, at the end of 2000, Sesay travelled to the Executive Mansion, via the guesthouse, to deliver an unspecified amount of diamonds to Charles Taylor.<sup>13483</sup> Sesay told the witness that he expected food and ammunition in exchange for the diamonds he took on that trip, but when Taylor received the diamonds he said, "No, this one is for safe keeping until your leader returns".<sup>13484</sup> Taylor then showed Sesay plastic bags containing diamonds and told Sesay that those were the diamonds that Bockarie had brought and that he was holding them in safekeeping until Foday Sankoh's release.<sup>13485</sup> Taylor also told Sesay that, in the meantime, he would help with "whatever" was needed for "the revolution in Sierra Leone".<sup>13486</sup> Sesay told the Accused that they lacked materials and that the enemies, including the Kamajors and UN forces, were "threatening their position".<sup>13487</sup> Sesay did not specify what kind of materials they lacked, but the Accused told Sesay that he would speak to Benjamin

<sup>13481</sup> Defence Final Trial Brief, paras 1198-1203, 1215-1227; Defence Response to Prosecution Final Trial Brief, para. 80.

<sup>13482</sup> TF1-338, Transcript 1 September 2008, pp. 15085-15086.

<sup>13483</sup> TF1-338, Transcript 2 September 2008, pp. 15156-15157, 15158-15160.

<sup>13484</sup> TF1-338, Transcript 2 September 2008, p. 15157.

<sup>13485</sup> TF1-338, Transcript 2 September 2008, p. 15157.

<sup>13486</sup> TF1-338, Transcript 2 September 2008, p. 15157.

<sup>13487</sup> TF1-338, Transcript 2 September 2008, p. 15161.

Yeaten.<sup>13488</sup> From there, Sesay returned to the guesthouse. He later went with Yeaten to Camp Schefflin where they saw “AK-47 rounds in large quantities, G3 rounds and RPG rockets”.<sup>13489</sup> Because there was so much materiel, part of it stayed at Camp Schefflin and the other part was flown to Foya. From there, Sesay transported the materiel to Koidu Town on a truck that Sesay had “arrested” from UNAMSIL.<sup>13490</sup>

5998. TF1-338 testified that Sesay made another trip to Monrovia in early 2001 to deliver a similar quantity of diamonds to Taylor.<sup>13491</sup> On this trip Sesay went to the Boulevard Hotel where Benjamin Yeaten later retrieved him and took him to the Executive Mansion to give the diamonds to Charles Taylor.<sup>13492</sup> During this meeting Sesay and Taylor discussed UNAMSIL and the Kamajors and Sesay returned to Foya the next day with diesel and other supplies.<sup>13493</sup>

5999. Sesay also travelled to Monrovia in March, April or May 2001, to deliver diamonds to the Accused.<sup>13494</sup> On this occasion, Yeaten met Sesay in Foya and took him to the Boulevard Hotel in Monrovia. Later that night, Yeaten came back for Sesay and took him to Mansion Ground to deliver the diamonds.<sup>13495</sup> In this meeting, Taylor told Sesay that he should not come so often with diamonds because the UN and the international community were “having eyes on him to see whether he had connections with the RUF”.<sup>13496</sup> Taylor also told Sesay that he was going to try to find someone that Sesay could bring the “small diamonds” to in exchange for money to buy basic needs to use “on the front line” so that Sesay would no longer bring diamonds so often to him.<sup>13497</sup> The next day, the witness was present when Yeaten brought two white men to the Boulevard Hotel to meet Sesay. One of these men was Alpha Bravo, to whom Sesay later brought diamonds.<sup>13498</sup> According to TF1-

<sup>13488</sup> TF1-338, Transcript 2 September 2008, p. 15161.

<sup>13489</sup> TF1-338, Transcript 2 September 2008, p. 15162.

<sup>13490</sup> TF1-338, Transcript 2 September 2008, p. 15163. For discussion of this witness’ evidence on where this materiel was used, See Arms and Ammunition: Use of Materiel Supplied or Facilitated by the Accused; Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Operations Outside of Sierra Leone.

<sup>13491</sup> TF1-338, Transcript 2 September 2008, pp. 15164-15166.

<sup>13492</sup> TF1-338, Transcript 2 September 2008, p. 15165.

<sup>13493</sup> TF1-338, Transcript 2 September 2008, pp. 15165-15166. See also Diamonds: Provision of Mining Equipment and Mining Experts.

<sup>13494</sup> TF1-338, Transcript 2 September 2008, p. 15167.

<sup>13495</sup> TF1-338, Transcript 2 September 2008, p. 15168.

<sup>13496</sup> TF1-338, Transcript 2 September 2008, p. 15168.

<sup>13497</sup> TF1-338, Transcript 2 September 2008, pp. 15168-15170, 15225 (PS).

<sup>13498</sup> TF1-338, Transcript 2 September 2008, pp. 15225-15226 (CS). TF1-338, Transcript 2 September 2008, p.

338's knowledge, Sesay never received those diamonds back from the Accused, nor did anyone in the RUF ever receive the diamonds that Sankoh or Bockarie had deposited with the Accused.<sup>13499</sup>

6000. Sesay said that, by that time in 2002, he "had diamonds with Charles Taylor up to 5,000 carats" as well as the \$USD 150,000 that he had given to Taylor.<sup>13500</sup>

Prosecution Witness TF1-567

6001. Witness TF1-567, an RUF member,<sup>13501</sup> testified that during the time Issa Sesay "took over" leadership of the RUF until 2001, he was present on occasions when Issa Sesay, Eddie Kanneh, and Gibril Massaquoi brought diamonds to Monrovia.<sup>13502</sup> TF1-567 testified that Eddie Kanneh brought diamonds twice during that time,<sup>13503</sup> while Sesay and Massaquoi came with diamonds each on one occasion.<sup>13504</sup> Massaquoi's visit was at the end of 2000.<sup>13505</sup> On these occasions when people brought diamonds, the witness and the others would go from the RUF guesthouse to meet Ibrahim Bah at the Boulevard Hotel to "determine what to do with the diamonds".<sup>13506</sup> The witness recalled going to the Boulevard Hotel to met Bah in this context three times.<sup>13507</sup>

6002. TF1-567 testified in detail about the occasion when he was present when Issa Sesay came to Monrovia with diamonds.<sup>13508</sup> From the RUF guesthouse, they went to meet Bah at the Boulevard Hotel and they sat down with the diamonds and Sesay said:

These are the diamonds I have brought. I would want these diamonds — I would want us to take these diamonds to the Pa, Charles Taylor, and we will sell some to enable us to purchase some other items that we needed.<sup>13509</sup>

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15227 (PS); Transcript 3 September 2008, p. 15321. The witness' testimony regarding the delivery of diamonds to Alpha Bravo is considered elsewhere. See Diamonds: Alleged Delivery of Diamonds to the Accused, June 2000-2002.

<sup>13499</sup> TF1-338, Transcript 2 September 2008, pp. 15192-15193.

<sup>13500</sup> TF1-338, Transcript 2 September 2008, p. 15192.

<sup>13501</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS); Transcript 4 July 2008, pp. 12986-12988 (PS).

<sup>13502</sup> TF1-567, Transcript 4 July 2008, p. 13002 (PS).

<sup>13503</sup> TF1-567, Transcript 4 July 2008, p. 13002 (PS).

<sup>13504</sup> TF1-567, Transcript 4 July 2008, pp. 13002-13003 (PS).

<sup>13505</sup> TF1-567, Transcript 4 July 2008, p. 13001-13002 (PS).

<sup>13506</sup> TF1-567, Transcript 4 July 2008, p. 13006-13007 (PS).

<sup>13507</sup> TF1-567, Transcript 4 July 2008, p. 13007 (PS).

<sup>13508</sup> TF1-567, Transcript 4 July 2008, pp. 13004-13005 (PS).

<sup>13509</sup> TF1-567, Transcript 4 July 2008, pp. 13005-13006 (PS).

6003. Bah agreed with Sesay's plan and they met with Benjamin Yeaten, and Yeaten then took Sesay and Bah to meet Charles Taylor.<sup>13510</sup> When they got to Taylor, Sesay told him that he wanted him to keep the diamonds safe.<sup>13511</sup> Taylor then pulled out and showed them diamonds and said that he had been keeping them safe since Sam Bockarie brought them to him and that if Sesay was to bring anything to him for safe-keeping, he would keep it.<sup>13512</sup> Sesay then gave the diamonds to Taylor and they left. In response to the question of whether the Accused provided anything to Sesay in return for the diamonds on this trip, the witness testified that after this visit when Sesay returned "he went with arms and ammunition".<sup>13513</sup> Sesay gave the other diamonds to Bah because Bah told Sesay that he had his own business partners who were "whites", and he could try to get some satellite phones and computers for the RUF.<sup>13514</sup> Later Ibrahim Bah returned with computers and \$USD 50,000.<sup>13515</sup> TF1-567 saw the diamonds that Sesay brought with him on this trip, but was not sure as to their quantity.<sup>13516</sup>

6004. In early 2001, the witness testified, the caretaker at the RUF guesthouse at Taylor's request because the international community was blaming Taylor for supporting the RUF.<sup>13517</sup> The witness testified that Sesay later sent the caretaker back to Monrovia to work as Eddie Kanneh's representative in the diamond business. During the period that the witness worked with Eddie Kanneh, diamonds came through the guest house "many times".<sup>13518</sup> When the diamonds came they would meet Bah at the Hotel Boulevard and they would divide the diamonds that Bah was to take to "do business" for the RUF from the diamonds that were to be taken to Taylor.<sup>13519</sup> Bah and Kanneh would then take the designated portion to Taylor.<sup>13520</sup> Later, Kanneh escaped with diamonds.<sup>13521</sup>

<sup>13510</sup> TF1-567, Transcript 4 July 2008, p. 13005 (PS).

<sup>13511</sup> TF1-567, Transcript 4 July 2008, pp. 13005-13006 (PS).

<sup>13512</sup> TF1-567, Transcript 4 July 2008, p. 13005 (PS).

<sup>13513</sup> TF1-567, Transcript 4 July 2008, p. 13006 (PS).

<sup>13514</sup> TF1-567, Transcript 4 July 2008, pp. 13005-13006 (PS).

<sup>13515</sup> TF1-567, Transcript 4 July 2008, p. 13006 (PS).

<sup>13516</sup> TF1-567, Transcript 4 July 2008, p. 13006 (PS).

<sup>13517</sup> TF1-567, Transcript 4 July 2008, p. 13003 (PS). See also Operational Support: Provision of RUF Guesthouse in Monrovia.

<sup>13518</sup> TF1-567, Transcript 4 July 2008, pp. 13006-13007 (PS).

<sup>13519</sup> TF1-567, Transcript 4 July 2008, p. 13007 (PS).

<sup>13520</sup> TF1-567, Transcript 7 July 2008, pp. 13012-13013 (PS).

<sup>13521</sup> TF1-567, Transcript 4 July 2008, p. 13003 (PS).



6005. TF1-567 also testified that some of the diamonds the RUF got were given to Taylor for safekeeping for the benefit of Foday Sankoh. However, after Sankoh visited Taylor in Monrovia, he never told the witness that he had received the diamonds back from the Accused.<sup>13522</sup>

6006. In 2002, Eddie Kanneh regularly brought diamonds to Monrovia from Issa Sesay. The witness was Issa Sesay's representative meaning that he was present each time Eddie Kanneh met with Ibrahim Bah in Monrovia to discuss diamond business and would send a report to Issa Sesay on the meeting.<sup>13523</sup>

Prosecution Witness TF1-516

6007. Witness TF1-516, an RUF radio operator,<sup>13524</sup> testified that RUF mining continued in Kono after Sam Bockarie left Sierra Leone at the end of 1999. Issa Sesay then became the overall mining commander and was based in a section of Koidu called Lebanon. The local mining commander was Amara Peleto. The witness was not present in Sierra Leone during this time and only heard about diamond mining activities via radio transmissions from Elevation, Sesay's radio operator. During Sesay's time as overall mining commander, diamond mining intensified, and the witness was told by Elevation<sup>13525</sup> that they were finding "big, big" diamonds.<sup>13526</sup> Under Issa Sesay, diamonds continued to be taken to Monrovia by Eddie Kanneh who, upon his arrival in Monrovia, would tell the witness over the radio to inform Sesay that he had arrived there.<sup>13527</sup> The witness knew that Kanneh travelled to Monrovia to take diamonds to "the Chief, Charles Taylor" because he heard this information via radio from Sesay's station.<sup>13528</sup> Kanneh's trips continued at least until the

<sup>13522</sup> TF1-567, Transcript 8 July 2008, p. 13201.

<sup>13523</sup> TF1-567, Transcript 7 July 2008, pp. 13019-13020.

<sup>13524</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>13525</sup> According to the witness, Elevation was a radio operator working with Issa Sesay at that time, based in Lebanon, Koidu Town. TF1-516, Transcript 10 April 2008, p. 7170.

<sup>13526</sup> TF1-516, Transcript 10 April 2008, p. 7170. The witness heard that someone named Colonel Oslo got a diamond almost 50 carats big and "Peleto took diamonds that was [sic] up to 400 carat, 30 carat, 50 carats, just like that".

<sup>13527</sup> TF1-516, Transcript 10 April 2008, p. 7171.

<sup>13528</sup> TF1-516, Transcript 10 April 2008, p. 7172.

witness left Vahun in late 2001.<sup>13529</sup> On one occasion, the witness saw Eddie Kanneh in Foya accompanied by white diamond traders who were on their way to see Sesay.<sup>13530</sup>

Prosecution Witness TF1-371

6008. Witness TF1-371, a member of the RUF,<sup>13531</sup> testified that in 2001, Issa Sesay informed Mike Lamin that they had been depositing an unspecified amount of diamonds with Mr Taylor.<sup>13532</sup> Sesay told Lamin that they had received ammunition and food items from Yeaten in return for the diamonds but that they also expected money from the Accused in return for the diamonds that they had deposited with him.<sup>13533</sup> Upon arriving around midnight, Sesay and Mr Taylor discussed disarmament, among other things. Sesay asked Mr Taylor for \$USD 100,000 to buy “food and whatever for the men” and Taylor instructed Yeaten to give Sesay \$USD 50,000.<sup>13534</sup> The witness explained that by delivering diamonds to Mr Taylor, Sesay was following up on the relationship that Bockarie had previously had with him, stating that they trusted Mr Taylor and “took him as a father” so they “took all the diamonds they had” to him.<sup>13535</sup> According to TF1-371, after this trip, Sesay was disillusioned and vowed not to return to Mr Taylor, and never did.<sup>13536</sup>

Prosecution Witness Mohamed Kabbah

6009. Witness Mohamed Kabbah, an RUF radio operator,<sup>13537</sup> testified that after Sam Bockarie left Sierra Leone, Issa Sesay was based at Small Lebanon in Kono.<sup>13538</sup> After some time, Sesay appointed Peleto as the overall mining commander because the former commander had not recovered as many diamonds as Sesay expected.<sup>13539</sup> The sub-commanders in Kono would take the washed diamonds and give them to Peleto who would

<sup>13529</sup> TF1-516, Transcript 10 April 2008, pp. 7169-7171.

<sup>13530</sup> TF1-516, Transcript, 10 April 2008, pp. 7171-7172.

<sup>13531</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>13532</sup> TF1-371, Transcript 29 January 2008 pp. 2454, 2457 (CS).

<sup>13533</sup> TF1-371, Transcript 29 January 2008 pp. 2454, 2457 (CS).

<sup>13534</sup> TF1-371, Transcript 29 January 2008 p. 2454 (CS). The facts surrounding this transaction are considered in further detail in the section on Financial Support. See Operational Support: Support and Training, Alleged Financial Support.

<sup>13535</sup> TF1-371, Transcript 29 January 2008, pp. 2456-2457 (CS).

<sup>13536</sup> TF1-371, Transcript 29 January 2008 pp. 2454, 2457 (CS).

<sup>13537</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>13538</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16180.

<sup>13539</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16181.

then take them to Isaa Sesay's office at Small Lebanon.<sup>13540</sup> After bringing the diamonds to Sesay, the witness observed them separate the bigger diamonds from the smaller diamonds on a table, then Sesay would "parcel it" and take it to his room.<sup>13541</sup> Kabbah testified that Sesay sometimes travelled to Liberia and that on these trips "they" would go "as far as mansion ground" taking the diamonds that they had to Charles Taylor.<sup>13542</sup>

6010. Kabbah also testified about an incident when a commander at Tongo found a 36 carat diamond.<sup>13543</sup> He called Small Lebanon in Kono to reach Sesay but he was not around, so the following morning they called Sunlight in Monrovia because they heard Sesay was there.<sup>13544</sup> Sunlight reported that he had not arrived yet, so they called a radio operator in Foya to tell Sesay that a 36 carat diamond had been collected in Tongo.<sup>13545</sup> Unbeknownst to the witness, Benjamin Yeaten was present in the room when they made the call to the radio operator. Yeaten overheard the message and then transmitted the information to Charles Taylor.<sup>13546</sup> By the time Sesay arrived at Foya he was given a message by Yeaten to take that diamond to Charles Taylor.<sup>13547</sup> The witness testified that when Sesay came to Small Lebanon to collect the diamond he was very angry and asked why the men had sent the message.<sup>13548</sup> According to the witness Issa Sesay said that he had not received all the money, and that he had even taken a 52 carat diamond to Taylor that he "had not paid for at all".<sup>13549</sup> That night Sesay collected the diamond "and moved with it".<sup>13550</sup>

6011. On one occasion, just before the attack on Guinea,<sup>13551</sup> Sesay returned from Liberia with Eddie Kanneh, Joseph Marzah (a.k.a. Zigzag), Sheku, Sidibay, "some other Liberian guys" and "two white men"<sup>13552</sup> who "had the semblance of Lebanese", one of whom the

<sup>13540</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16186.

<sup>13541</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16187.

<sup>13542</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16186-16187.

<sup>13543</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16188.

<sup>13544</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16188.

<sup>13545</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16188.

<sup>13546</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 6188.

<sup>13547</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16188.

<sup>13548</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16188.

<sup>13549</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16188.

<sup>13550</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16188.

<sup>13551</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16189.

<sup>13552</sup> In a prior statement, Kabbah also told the Prosecution that the two white men who were brokering diamonds for Eddie Kanneh, were the same ones who were in Buedu with Sam Bockarie at one point. The witness agreed that he saw these same two white men in Buedu with Sam Bockarie once, after they retreated from Freetown, after the Junta. Mohamed Kabbah, Transcript 16 September 2008, p. 16394.

witness was told was called Michel.<sup>13553</sup> When they arrived, Sesay brought the diamonds from his room and he and Eddie Kanneh sorted them out.<sup>13554</sup> In the witness' presence Sesay then gave the diamonds to Eddie Kanneh and asked him to take them to Charles Taylor.<sup>13555</sup> Sesay said that after Charles Taylor had sold them, Sesay would send FOC to collect the money.<sup>13556</sup>

Prosecution Witness Augustine Mallah

6012. Witness Augustine Mallah, a security officer to Mike Lamin from 1996 to disarmament,<sup>13557</sup> testified that after Foday Sankoh was arrested in 2000 and Issa Sesay took over, diamonds that were mined at Tongo were all taken to Issa.<sup>13558</sup> Issa told the witness and others that he took the diamonds to Charles Taylor in Liberia.<sup>13559</sup> Mallah also testified about one of his "brothers" in Tongo who found a 52 carat diamond, and the diamond was hidden by Colonel Ranger who didn't want others to know about it. Colonel Ranger was then beaten to "near death" and the diamond was then presented to Issa Sesay. The witness also heard over the radio about 51 carats of diamonds that went from Kono to Issa Sesay, who then took them to the Accused. Mallah did not see these diamonds that were taken to the Accused by Issa Sesay.<sup>13560</sup> Mallah testified that, in exchange for the diamonds, Sesay brought back ammunition that the witness saw himself, and "a lot of US dollars" for the RUF to disarm and "go into politics".<sup>13561</sup>

Prosecution Witness Perry Kamara

6013. Witness Perry Kamara, an RUF radio operator,<sup>13562</sup> testified that from May 2000 to disarmament in 2001, Issa Sesay would bring diamonds to Taylor in Liberia for safe keeping. Sesay would call from Liberia and report on what Taylor had donated to the RUF, and would bring back to Sierra Leone documents which catalogued the number of diamonds

<sup>13553</sup> Mohamed Kabbah, Transcript 15 September 2008, pp.16186, 16190-16191.

<sup>13554</sup> Mohamed Kabbah, Transcript 15 September 2008, pp. 16189-16190.

<sup>13555</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16190.

<sup>13556</sup> Mohamed Kabbah, Transcript 15 September 2008, p. 16190.

<sup>13557</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20092-200923, 20102-20103; Transcript 13 November 2008, pp. 20209-20210.

<sup>13558</sup> Augustine Mallah, Transcript 13 November 2008, p. 20247.

<sup>13559</sup> Augustine Mallah, Transcript 13 November 2008, p. 20248.

<sup>13560</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20248-20249.

<sup>13561</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20248-20249.

<sup>13562</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

that Taylor kept, as well as the diesel, petrol, engine oil and food that Taylor would give the RUF.<sup>13563</sup>

Prosecution Witness Joseph Marzah

6014. Witness Joseph Marzah, a member of the SSS,<sup>13564</sup> testified that from Sam Bockarie's (a.k.a. Mosquito) administration until Issa Sesay's administration, he transported diamonds from Sierra Leone to Monrovia on many occasions, possibly 10 to 20 but that he could not recall the exact number of times.<sup>13565</sup> According to Marzah, each time he "carried ammos" he was required to "bring diamonds along with Mosquito's representatives".<sup>13566</sup> Marzah further testified that every time he went from Sierra Leone to President Taylor, he carried diamonds, sometimes in a jar, like a bottle, and sometimes not.<sup>13567</sup> The witness stated that Bockarie or Sesay travelled with him on some of these trips, but he did not know if they carried diamonds themselves.<sup>13568</sup>

Prosecution Witness TF1-367

6015. Witness TF1-367, an RUF member, was confronted with a number of his prior statements to the Prosecution related to Issa Sesay's activities with diamonds.<sup>13569</sup> On cross-examination, the witness confirmed prior statements to the Prosecution that two Lebanese men, who had come to see Sesay and brought a generator, came to stay with the witness at Number 11 mining site for three weeks. Diamonds were collected in the presence of the men, but the diamonds were then taken to Sesay and the witness was not aware of how Sesay transacted business with them. These two Lebanese men had come from Freetown.<sup>13570</sup> Also in prior statements, TF1-367 told the Prosecution that two white men from Belgium and an African, whom the witness believed to be Gambian or Senegalese,<sup>13571</sup>

<sup>13563</sup> Perry Kamara, Transcript 6 February 2008 pp. 3267-3269.

<sup>13564</sup> Joseph Marzah, Transcript 13 March 2008, pp. 6053-6055.

<sup>13565</sup> Joseph Marzah, Transcript 14 March 2008, p. 6131.

<sup>13566</sup> Joseph Marzah, Transcript 14 March 2008, p. 6131.

<sup>13567</sup> Joseph Marzah, Transcript 14 March 2008, pp. 6132-6133.

<sup>13568</sup> Joseph Marzah, Transcript 14 March 2008, pp. 6131-6133.

<sup>13569</sup> Portions of this evidence have also been assessed in the section dealing with allegations that the accused provided mining equipment and mining experts. See Diamonds: Provision of Mining Equipment and Mining Experts.

<sup>13570</sup> TF1-367, Transcript 1 September 2008, p. 15034.

<sup>13571</sup> TF1-367, Transcript 1 September 2008, p. 15035.

visited Sesay.<sup>13572</sup> The men were in Kono for two weeks and all of the diamonds that the witness collected during their stay were shown to Sesay.<sup>13573</sup>

6016. The witness testified that he did not know if Sesay sold diamonds to the Lebanese men.<sup>13574</sup> TF1-367 further stated that “they came there for mining and they came there to do diamonds for Issa Sesay”.<sup>13575</sup> Regarding the men’s origin, the witness stated during examination-in-chief that the men came from Liberia, while in prior statements he said they came from Freetown. On cross-examination, TF1-367 clarified that he had heard that they came from Liberia, but saw them come from Freetown end.<sup>13576</sup> On cross-examination, the witness identified the African man who came with the Belgians as Ibrahim Bah, who sounded like he came from Senegal or Gambia.<sup>13577</sup> The witness maintained that Ibrahim Bah and the Belgians passed from Liberia to Freetown and then came to Kono.<sup>13578</sup>

6017. The witness did not agree that there was continual contact between the RUF and diamond merchants from Lebanon and Belgium. He testified that the Lebanese only came once and that the Belgians only came once for two weeks. The witness testified that Issa “did not accept that people come and collect diamonds and carry them” and the witness was not present when Issa Sesay met these businessmen but thought that there was a problem in cooperation between the businessmen and Issa Sesay.<sup>13579</sup>

6018. TF1-367 was then confronted with a prior statement to the Prosecution in which he said that he was “not exactly sure” what Sesay did with the diamonds that the witness brought to him.<sup>13580</sup> The witness acknowledged that there was no mention in his prior statement of those diamonds going to Taylor in Liberia. The Defence then referred to the record of an interview two years later in which the witness told the Prosecution that Sesay and Bockarie took diamonds to Liberia, and that diamonds were given to Eddie Kanneh when Peleto was the mining commander.<sup>13581</sup> The Defence implied that, according to what

<sup>13572</sup> TF1-367, Transcript 1 September 2008, p. 15034.

<sup>13573</sup> TF1-367, Transcript 1 September 2008, p. 15034.

<sup>13574</sup> TF1-367, Transcript 1 September 2008, p. 15035.

<sup>13575</sup> TF1-367, Transcript 1 September 2008, p. 15036.

<sup>13576</sup> TF1-367, Transcript 1 September 2008, pp. 15037-15038.

<sup>13577</sup> TF1-367, Transcript 1 September 2008, p. 15039.

<sup>13578</sup> TF1-367, Transcript 1 September 2008, pp. 15038-15040.

<sup>13579</sup> TF1-367, Transcript 1 September 2008, pp. 15040-15041.

<sup>13580</sup> TF1-367, Transcript 1 September 2008, p. 15054.

<sup>13581</sup> TF1-367, Transcript 1 September 2008, p. 15054.

the witness testified previously, Charles Taylor's name should have been mentioned in that prior statement. The witness responded that Taylor's name did not belong there. Although his testimony was confusing, the witness tried to explain that although he only mentioned the diamonds being given to Eddie Kanneh in his statement, it did not mean that those diamonds weren't later given to the Accused.<sup>13582</sup>

6019. The witness also stated during prior interviews that he did not know what was done with the diamonds, because he was not told. He heard sometimes "through hearsay" that "so and so diamond" had been taken and he knew about the "government" diamonds, but what happened to the others was kept secret.<sup>13583</sup> Regarding the "government diamonds", the witness is recorded as telling the Prosecution that one day Issa Sesay told the witness it would not be good if Sankoh found no diamonds upon his release from prison. Thus, Issa Sesay said it would be good to keep the diamonds for him. The Defence pointed out that the witness did not mention the Accused in that statement either. On cross-examination, the witness stated that since there was no bank in Kailahun, Sesay thought the safest place to keep the diamonds was with Taylor in Liberia, but acknowledged that he did not mention this in the three earlier statements. The witness explained repeatedly that he did not mention Taylor in the three prior statements because he was not asked about Taylor.<sup>13584</sup> He said that when he was first asked about Taylor, he told the Prosecution what he knew about him, including diamonds.<sup>13585</sup> The witness also admitted that he purposely did not mention Taylor because he "did not want to give him<sup>13586</sup> any problem" and furthermore because he was only asked about Sesay.<sup>13587</sup> The witness testified that apart from not mentioning Taylor in an earlier interview, he was telling the truth, and that he did not believe that consciously deciding not to mention Taylor was an effort to mislead the court.<sup>13588</sup>

<sup>13582</sup> TF1-367, Transcript 1 September 2008, pp. 15055-15056.

<sup>13583</sup> TF1-367, Transcript 1 September 2008, pp. 15055-15056.

<sup>13584</sup> TF1-367, Transcript 1 September 2008, pp. 15054-15057.

<sup>13585</sup> TF1-367, Transcript 1 September 2008, pp. 15057-15058.

<sup>13586</sup> From the context it is clear that the witness was referring to the Accused.

<sup>13587</sup> TF1-367, Transcript 1 September 2008, p. 15064.

<sup>13588</sup> TF1-367, Transcript 1 September 2008, pp. 15064-15065.

The Accused

6020. The Accused testified that Issa Sesay came to Liberia in August of 2000, but that Sesay never gave him diamonds.<sup>13589</sup> The Accused also testified that he did not know that Eddie Kanneh brought diamonds and doubted that Eddie Kanneh would come after Sam Bockarie withdrew to Liberia in December 1999.<sup>13590</sup>

6021. The Accused also denied allegations that he was involved in diamond dealing with Issa Sesay and Ibrahim Bah, calling the accusations against him regarding diamond deals between him and anyone, including Ibrahim Bah, “blatant lies”.<sup>13591</sup> The Accused further denied knowledge of Ibrahim Bah purchasing satellite phones and computers for the RUF.<sup>13592</sup>

6022. The Accused testified that he did not know Sheku and Sidie Bay, nor did he know of a visit involving the two white men to Sierra Leone. He denied having diamond dealings with Eddie Kanneh, and vehemently denied the allegations that he received diamonds.<sup>13593</sup> The Accused further denied that Eddie Kanneh was ever involved in diamond dealing with him. The Accused did not dispute that diamonds went through Monrovia, but testified that they did not do so through him.<sup>13594</sup> However, in response to the testimony of TF1-371, the Accused agreed that the RUF trusted him, and that he was a father figure in that sense.<sup>13595</sup>

6023. In response to the testimony of Augustine Mallah regarding the 52 carat diamond and Sesay’s return to Sierra Leone with US dollars, the Accused conceded that it would have been a good idea to contribute to the RUF political campaign, but testified that he did not provide money to Issa Sesay because he did not have the means at the time. The Accused denied ever receiving the large diamond, or any diamonds from Sesay. The Accused further suggested that none of these large diamonds ever existed and it would have been public if they had been sold on the international market.<sup>13596</sup> In response to Mallah’s testimony that

<sup>13589</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30874-30875.

<sup>13590</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28806-28807.

<sup>13591</sup> Charles Ghankay Taylor, Transcript 14 September 2009, pp. 28810-28811.

<sup>13592</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28812.

<sup>13593</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29111-29114; Transcript 27 October 2009, p. 20458.

<sup>13594</sup> Charles Ghankay Taylor, Transcript 27 October 2009, pp. 30458-30460.

<sup>13595</sup> Charles Ghankay Taylor, Transcript 24 September 2009, pp. 29644-29646.

<sup>13596</sup> Charles Ghankay Taylor, Transcript 1 October 2009, pp. 30114-30115.



from the time of Foday Sankoh's arrest until disarmament in 2001/2002, Sesay took diamonds to Liberia and came back with ammunition, the Accused agreed that he saw Sesay from 2001 to 2002, in the course of the peace negotiations. The Accused further testified that Sesay took more trips in late 2000 than the whole year of 2001.<sup>13597</sup>

Defence Witness Issa Sesay

6024. Witness Issa Sesay testified that he was sent to Kono by Sankoh in February of 2000, and it was at that time that he first started to receive diamonds mined by the RUF from both Kono and Tongo.<sup>13598</sup> Sesay explained that Amara Peleto was in charge of mining at Kono and Colonel Gbanya was in charge of mining at Tongo at this time.<sup>13599</sup> Diamonds were brought to Sesay from the mines and he sold some of those diamonds for the interests, welfare and transformation of the RUF.<sup>13600</sup>

6025. Sesay denied that he ever delivered diamonds to the Accused, and testified that, to his knowledge, neither Sam Bockarie nor Foday Sankoh ever gave diamonds to the Accused.<sup>13601</sup> Sesay had no knowledge that the RUF gave diamonds to the Accused either for safe keeping or for arms and ammunitions.<sup>13602</sup>

6026. Sesay testified that he was forced to trade diamonds after his appointment as interim leader of the RUF in October 2000, because it was his only means of feeding and managing the welfare of the RUF.<sup>13603</sup> From May 2000 until the disarmament in Kono in August-September 2001, Sesay received diamonds from Kono and Tongo but not from Pujehun and Bo where significant mining was also taking place. He did not receive diamonds for the full period since there is no diamond mining during the rainy season. According to Sesay, even in the mining season, mining was patchy; sometimes an area could be mined and nothing but gravel extracted.<sup>13604</sup> Sesay did not remember how many carats he received during his leadership. Most of the diamonds were small. Sesay testified that, while Sierra Leone is known for its high quality diamonds, those diamonds are a result of mechanised mining in

<sup>13597</sup> Charles Ghankay Taylor, Transcript 1 October 2009, pp. 30115-30116.

<sup>13598</sup> Issa Sesay, Transcript 26 July 2010, pp. 44641-44642.

<sup>13599</sup> Issa Sesay, Transcript 26 July 2010, p. 44642.

<sup>13600</sup> Issa Sesay, Transcript 26 July 2010, p. 44641.

<sup>13601</sup> Issa Sesay, Transcript 5 July 2010, p. 43594.

<sup>13602</sup> Issa Sesay, Transcript 2 August 2010, p. 45279.

<sup>13603</sup> Issa Sesay, Transcript 2 August 2010, p. 45297.

<sup>13604</sup> Issa Sesay, Transcript 13 August 2010, pp. 46246-46248.

which the RUF could not afford to be properly involved. After Sesay became leader, they had one old Caterpillar which used to break down every one or two days and by early 2001 was no longer functioning.<sup>13605</sup>

6027. Sesay did not hide his diamond trading from the other RUF members.<sup>13606</sup> However, he said that Taylor was not aware of the diamond transactions that Sesay made in Monrovia. Yeaten was aware of these transactions because he took commission from one of the diamond traders, named Sammy, in March 2001.<sup>13607</sup> Yeaten was not aware of the diamond trading in October 2000.<sup>13608</sup> Sesay testified that he did not tell the Accused about his diamond dealings because he did not think that it was necessary. Sesay viewed the Accused as one of the ECOWAS leaders who was concerned only with advising Sesay under the UN mandate to deliver peace.<sup>13609</sup>

6028. Sesay cannot recall how much he received in total from the sale of diamonds in his 15 months as Interim Leader. He sold one diamond to Michel and Louis for \$USD 95,000 in October 2000, of which Bah took \$USD 60,000, and one in March for \$USD 135,000. The remaining smaller diamonds were sold to Alhaji Bakoure and Alhaji Modibor for between \$10,000 and \$15,000. He does not remember the final total.<sup>13610</sup> Sesay sometimes sold diamonds to buy rice, medicines, condiments and machines for fighters and civilians.<sup>13611</sup>

6029. Issa Sesay's testimony challenged that of TF1-338. Sesay denied going to Monrovia at the end of 2000 to transport a parcel of diamonds to the Accused, which the Accused said he would keep safe until the return of Sankoh.<sup>13612</sup> Sesay also denied taking AK-47 rounds, RPG rockets, G3 rounds, boots and uniforms from Camp Schefflin to Koidu Town.<sup>13613</sup> However, Sesay testified that he went to Monrovia in October 2000, but that he was accompanied on that trip by Morris Kallon, Jamba Goba, Samuel Jabba and Abdul Mansaray, and not others.<sup>13614</sup> The diamonds that Sesay took with him on this trip were

<sup>13605</sup> Issa Sesay, Transcript 13 August 2010, pp. 46248-46249.

<sup>13606</sup> Issa Sesay, Transcript 2 August 2010, p. 45298.

<sup>13607</sup> Issa Sesay, Transcript 2 August 2010, p. 45298.

<sup>13608</sup> Issa Sesay, Transcript 2 August 2010, p. 45298.

<sup>13609</sup> Issa Sesay, Transcript 2 August 2010, p. 45299.

<sup>13610</sup> Issa Sesay, Transcript 13 August 2010, pp. 46249-462450, 46260.

<sup>13611</sup> Issa Sesay, Transcript 13 August 2010, pp. 46247, 46250.

<sup>13612</sup> Issa Sesay, Transcript 2 August 2010, p. 45275-45277.

<sup>13613</sup> Issa Sesay, Transcript 2 August 2010, p. 45287.

<sup>13614</sup> Issa Sesay, Transcript 2 August 2010, p. 45277.

brought<sup>13615</sup> through Ibrahim Bah by Louis and Michel and were not given to the Accused.<sup>13616</sup>

6030. Sesay testified that he did return to Monrovia in March 2001, but he did not travel in the manner specified by Witness TF1-338. Sesay also did not see the Accused on this trip. He was met by Eddie Kanneh who was sent by Ibrahim Bah in a Jeep to pick him up from Pendembu. Sesay travelled with his two bodyguards Tommy and Abdulai and no one else.<sup>13617</sup>

6031. Sesay denied making a further trip and taking diamonds to the Accused in March, April or May 2001 and denied that the Accused told him that he could not deliver diamonds so frequently in Monrovia anymore because the eyes of the international community were on him.<sup>13618</sup> Sesay testified that after his trip in March 2001, he did not go to Monrovia again.<sup>13619</sup>

Prosecution Exhibit P-277

6032. Confidential exhibit Exhibit P-277, a draft publication by persons with personal knowledge of the RUF states that after the capture of Kono, Sam Bockarie and Issa Sesay were involved in “a big diamond business with President Taylor” and that Foday Sankoh, during his incarceration and later in Lomé, received little or nothing of the diamonds mined in his absence. The document suggests that this was one of the reasons for Sankoh and Bockarie’s falling out and states that in one document found at Sankoh’s residence Bockarie wrote bitterly about how Sesay had converted diamonds intended for “a friend possibly President Taylor”.<sup>13620</sup>

Prosecution Exhibit P-019

6033. Exhibit P-019 is a report entitled “Diamonds, the RUF and the Liberian Connection”. The report was commissioned for the Special Court for Sierra Leone by former Prosecutor

<sup>13615</sup> Although the transcript says that the diamonds were “brought”, given the context, the Trial Chamber is satisfied that the diamonds were “bought” through Ibrahim Bah.

<sup>13616</sup> Issa Sesay, Transcript 2 August 2010, p. 45279.

<sup>13617</sup> Issa Sesay, Transcript 2 August 2010, pp. 45289-45290.

<sup>13618</sup> Issa Sesay, Transcript 2 August 2010, pp. 45296-45297

<sup>13619</sup> Issa Sesay, Transcript 2 August 2010, pp. 45293, 45296

<sup>13620</sup> Confidential Exhibit P-277, ERN18167.

David Crane.<sup>13621</sup> It was authored by Ian Smillie and is dated 21 April 2007.<sup>13622</sup> The report is based upon Smillie's work over a five month period in 2000 as a member of the UN Panel of Experts on Sierra Leone Diamonds and Arms<sup>13623</sup> as well as his work for Partnership Africa Canada, his participation in the Kimberly Process working group, his many travels to Sierra Leone and Liberia and his participation in various other conferences related to international diamonds and diamond digging.<sup>13624</sup>

6034. Exhibit P-019 begins with an assessment of Liberian diamond production, noting that "Liberian diamonds are generally known to be small, low quality goods" and that, historically, "Liberia has not been a significant diamond producer, although during the 1950s it became a major exporter of smuggled diamonds from other countries".<sup>13625</sup> The report notes a "huge increase" in diamond exports from Liberia in 1961, attributable mainly to "smuggling from Sierra Leone" as well as the end of the SLST<sup>13626</sup> monopoly, and other factors.<sup>13627</sup> Further, diamond exploration increased in Liberia in the 1960s, but by the 1970s and 1980s most of the companies failed or left Liberia due to disappointing findings.<sup>13628</sup> The report provides two estimates of Liberian diamond production in the late 1980s and 1990s; the first estimate<sup>13629</sup> "is based on historical averages and on estimates rather than actuals", while the second estimate comes from figures supplied by the Liberian Ministry of Lands, Mines and Energy.<sup>13630</sup> The report compares these export estimates with Belgium's

<sup>13621</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007".

<sup>13622</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007". The Trial Chamber notes that the document is also dated 2006 on an inside page, but does not consider the discrepancy in the date to be significant for the Trial Chamber's purposes.

<sup>13623</sup> This panel was created pursuant to UN Security Council Resolution 1306 (2000).

<sup>13624</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p. 4, ERN 30846.

<sup>13625</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p. 9, ERN 30851.

<sup>13626</sup> Sierra Leone Selection Trust Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p. 4, ERN 30847.

<sup>13627</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p. 9, ERN 30851.

<sup>13628</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p. 9, ERN 30851.

<sup>13629</sup> The figures for the first estimate are provided by the "US Geological Survey".

<sup>13630</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p. 9, ERN 30851.

records of Liberia's diamond exports for the same period.<sup>13631</sup> Because there were no official export figures available from Liberia for the years 1990 to 1997 because of the conflict, the report notes that Belgium's Liberian export data from 1990 to 1999 is five times that of the "volume exported at the height of Liberia's diamond smuggling in 1961 and 24 times more than the average annual production in five pre-war years".<sup>13632</sup> The report then recounts how the Liberian President Charles Taylor and members of his government sought to demonstrate to the panel that Liberia had its own diamonds, or even "more diamonds than Sierra Leone", but that the sites they visited and the diamond samples they saw did not indicate ample diamonds resources in the country.<sup>13633</sup>

6035. Based upon the comparison of Belgium import data from the 1990s with Liberian export data from the 1960s the report concludes that almost none of the "huge volume of diamonds" entering Belgium during the years 1990 to 1999 as "Liberian diamonds" actually originated in Liberia.<sup>13634</sup> The report then assesses how many of those diamonds, purportedly Liberian but not actually of Liberian origin, originated in Sierra Leone.<sup>13635</sup> Relying on Sierra Leone Diamond Export Figures from 1990 to 2005 to demonstrate that the sharp decline in diamond production in Sierra Leone seen in the late 1990s<sup>13636</sup> can be partially ascribed to diamond smuggling during that time.<sup>13637</sup> The report notes that estimates are difficult given "the absence of any reliable production data after about 1975", but then concludes that 2004 and 2005 export figures demonstrate that an average of 680,000 carats reflects Sierra Leone's "potential" export during the 1990s.<sup>13638</sup> Thus, even accounting for the war, 300,000 to 400,000 carats of diamonds per annum may have been smuggled out of Sierra Leone during the time that the RUF controlled Kono District and

<sup>13631</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p. 9, ERN 30851.

<sup>13632</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p. 10, ERN 30852.

<sup>13633</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p. 11, ERN 30853.

<sup>13634</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p. 11, ERN 30853.

<sup>13635</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p. 11, ERN 30853.

<sup>13636</sup> Figures are not available for the year 1999.

<sup>13637</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p. 12, ERN 30854.

<sup>13638</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p. 11-12, ERN 30854-30855.

Tongo Fields.<sup>13639</sup> This amount of export could have been worth between \$USD 60 million and \$USD 80 million.<sup>13640</sup> The report challenges the notion that the RUF was incapable of exporting that amount, because, apart from alleged “lavish spending”<sup>13641</sup> by Foday Sankoh after the Lomé accord, the RUF did not show any signs of wealth during this time by pointing out “any Sierra Leonean diamonds smuggled into Liberia by the RUF were financing not just the RUF, but Charles Taylor’s own rebellion before he became president in 1977”. Thus, the report goes on to say that the “widespread academic conclusion” that Taylor’s support for the RUF was not only to obtain resources for his own rebellion, but also to deny resources to the Sierra Leonean government who had previously given a platform for ECOMOG to launch its Liberian operations, cannot be doubted.<sup>13642</sup>

6036. The report also notes, however, that the RUF needed to maintain a fighting force of between 5000 and 6000 men, requiring significant amounts of food and shelter in addition to the weapons and logistical support that was needed.<sup>13643</sup> The report further suggests that proceeds from diamonds may have gone into the private accounts of RUF and Liberian leaders, but that Taylor, who had inherited a bankrupt Liberian economy in 1997, needed weapons in the same way that the RUF did.

6037. In its examination of the “RUF, Diamonds, Liberia” connection, the report includes an excerpted statement from an individual whose name was omitted for “reasons of privacy and security” who told of his time with the RUF going on looting sprees and that he had been taken to mine in Kono. Regarding the RUF leadership, this individual told the author of the report that:

General Issa Sesay is the person responsible for the purchase of arms and ammunition for the RUF. He normally buys arms and ammunition for the RUF through President Charles Taylor on ‘batta’ (barter) system. When Issa Sesay takes our diamonds to President Charles Taylor, he in turn supply [sic] him with arms and ammunition for the RUF.<sup>13644</sup>

<sup>13639</sup> Exhibit P-019, “Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007”, p. 12, ERN 30854.

<sup>13640</sup> Exhibit P-019, “Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007”, p. 15, ERN 30857.

<sup>13641</sup> Exhibit P-019, “Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007”, p. 10, ERN 30859.

<sup>13642</sup> Exhibit P-019, “Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007”, p. 11-12, ERN 30854-30855.

<sup>13643</sup> Exhibit P-019, “Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007”, p. 12, ERN 30854.

<sup>13644</sup> Exhibit P-019, “Diamonds, the RUF and the Liberian Connection—a Report for the Office of the

6038. The report then examines the way in which diamonds moved out of Liberia, noting that of the diamonds recorded by Belgian customs as coming from Liberia, many of them did not originate in Liberia. The panel of experts discovered that eight companies purporting to export diamonds from Liberia did not actually maintain premises in Liberia<sup>13645</sup> learnt of an agreement between a Kenyan named Anjivan Ruprah (a.k.a. Samir N. Nasr), who held a Liberian diplomatic passport and President Charles Taylor for “arms helicopters and helicopter spare parts in exchange for diamond purchasing”.<sup>13646</sup> The report states that this illustrates the ease with which individuals could launder diamonds through Liberia, whether they originated from Sierra Leone or somewhere else. Quoting from the UN Panel of Experts report<sup>13647</sup> the report states that “Liberian officials thrive on their country’s weak administration, its crippled infrastructure and porous borders”, noting a reference from Charles Taylor that RUF diamonds could have gone through Liberia “unofficially”.<sup>13648</sup>

#### Deliberations

6039. The Trial Chamber first considers the trips that Issa Sesay allegedly took to personally deliver diamonds to the Accused during this period. The Trial Chamber recalls the evidence of TF1-338, who testified that Issa Sesay delivered diamonds to the Accused on three occasions in 2000 and 2001. On the first occasion, upon receiving the diamonds, the Accused told Sesay that they were for safekeeping, but then promised to provide “whatever” was needed for the “revolution in Sierra Leone”. After Sesay told the Accused that the RUF lacked “materials”, the Accused spoke to Benjamin Yeaten who later took Sesay to Camp Schefflin where there were “large quantities” of arms and ammunition. Sesay then returned to Sierra Leone with some of that “material” on a UNAMSIL vehicle. After delivering diamonds to the Accused on a second trip in early 2001, Sesay returned to Sierra Leone with diesel and “some supplies”. Finally, in March, April or May of 2001, Sesay

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Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007”, p. 10, ERN 30857.

<sup>13645</sup> Exhibit P-019, “Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007”, p. 10, ERN 30861.

<sup>13646</sup> Exhibit P-019, “Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007”, p. 10, ERN 30861.

<sup>13647</sup> See Diamonds: Alleged Delivery of Diamonds to the Accused, February 1998-July 1999. Exhibit P-018, “Report of the Panel of Experts Established by Resolution 1306—S/2000/1195, Adopted on 20 December 2000”.

<sup>13648</sup> Exhibit P-019, “Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007”, p. 10, ERN 30862 citing Annex 2,





delivered diamonds to the Accused. TF1-338 did not testify that Sesay received anything in return on this visit, but the Accused did promise to set him up with someone whom he could sell the “small diamonds” to for cash to buy “basic needs” to use on the “front lines”.

6040. The Trial Chamber notes the Defence’s challenges to TF1-338’s credibility on the basis of his inconsistencies regarding the number of trips Sesay took to deliver diamonds to the Accused during this period. In a prior statement to the Prosecution the witness declared that he travelled with Issa Sesay to deliver diamonds to Charles Taylor on five occasions, which he contradicted in later testimony, stating that he only delivered diamonds to the Accused on three occasions.<sup>13649</sup> On cross-examination, the witness clarified that he went with Issa Sesay on three occasions to deliver diamonds directly to Charles Taylor and on other occasions he travelled to Monrovia to deliver diamonds to business partners.<sup>13650</sup> The witness explained that in previous interviews with the Prosecution the context of his explanation was how many times he recalled taking diamonds to Monrovia, or Liberia generally, not specifically to the Accused. The witness then clarified that they had taken diamonds to Liberia five times, but that they only took diamonds to the Accused on two occasions.<sup>13651</sup> The Trial Chamber accepts the witnesses explanation with regard to these inconsistencies and furthermore recalls its finding that TF1-338 is a generally credible witness.<sup>13652</sup>

6041. The Trial Chamber has also considered the testimony of the Accused and Issa Sesay with relation to TF1-338’s evidence. The Accused testified that TF1-338 never travelled to Monrovia with Sam Bockarie to transport diamonds.<sup>13653</sup> Specifically, in response to TF1-338’s testimony that Issa Sesay delivered diamonds to the Accused at the end of 2000, and then took arms and ammunitions from Camp Schefflin, the Accused testified that this was a “lie”.<sup>13654</sup> The Accused further testified that although Issa Sesay did come to Liberia, he never gave the Accused diamonds to keep for anyone.<sup>13655</sup> Further, regarding Sesay’s alleged trip in early 2001 to deliver diamonds to the Accused, the Accused testified that they

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“Notes on Meeting with President Charles Taylor, Ian Smillie”, October 6, 2000.

<sup>13649</sup> TF1-338, Transcript 4 September 2008, p. 15430 (PS).

<sup>13650</sup> TF1-338, Transcript 4 September 2008, pp. 15429-15430 (PS).

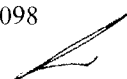
<sup>13651</sup> TF1-338, Transcript 4 September 2008, p. 15430 (PS).

<sup>13652</sup> Credibility Assessment, TF1-338, paras 318-329.

<sup>13653</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30853-30854.

<sup>13654</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30873-30875.

<sup>13655</sup> Charles Ghankay Taylor, Transcript 2 November 2009, p. 30875.







did not discuss UNAMSIL on that occasion.<sup>13656</sup> As for TF1-338's testimony that Sesay delivered diamonds in either March, April or May of 2001, when the Accused told Sesay that he would introduce him to someone to deal diamonds with, the Accused testified that he never had that conversation with Sesay. The Accused further testified that he was unaware that the RUF would have a need to deal diamonds for weapons at that time because they were in the middle of disarmament.<sup>13657</sup>

6042. Recalling the evidence of TF1-567, the Trial Chamber notes that his testimony about Sesay delivering diamonds to the Accused on one occasion corroborates the events of the first meeting testified to by TF1-338. Both witnesses testified that the trip occurred around the same time and that Sesay first visited the guesthouse before going to the Executive Mansion where he delivered diamonds to the Accused. Both witnesses also testified that on that occasion the Accused showed Sesay the diamonds that Bockarie had brought for safe keeping. The Trial Chamber notes that while TF1-338 stated that Sesay went to the guesthouse, he did not mention the stop at the Boulevard Hotel. In TF1-567's version of events, Sesay went first to the guesthouse, then to the Boulevard Hotel to meet Bah, where they discussed what to do with the diamonds, then to deliver the diamonds to the Accused. In the Trial Chamber's view, this discrepancy in the testimony of the two witnesses is minor. TF1-567's knowledge of this trip was based on what Sesay related to him, and given Sesay's multiple trips to the guesthouse, the Boulevard Hotel and the Executive Mansion, it is understandable that the details of some of these trips would conflate with others. Furthermore, the Trial Chamber notes Sesay's own testimony that he met Bah on a trip to Monrovia in October of 2000 and that they transacted diamonds during that meeting. Given TF1-338's testimony that this trip occurred at the end of 2000, and TF1-567's testimony that he was present in the guest house from the time of Sesay's take over of the RUF until the beginning of 2001, the Trial Chamber is satisfied that this trip occurred around October 2000, and that the witnesses testified about the same trip.

6043. The Defence submits that TF1-567's testimony about diamond-related activity, as well as his testimony about the coordination of arms and ammunitions to Sierra Leone, is hearsay.<sup>13658</sup> The Trial Chamber is cognizant that the witness never gave the diamonds to the

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<sup>13656</sup> Charles Ghankay Taylor, Transcript 2 November 2009, p. 30876.

<sup>13657</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30877-30878.

<sup>13658</sup> Defence Final Trial Brief, para. 1027.

Accused himself, nor did he ever see anyone give the diamonds to the Accused. However, the Trial Chamber recalls its finding that TF1-567 is a generally credible witness<sup>13659</sup> and notes that TF1-567's evidence on these points has been corroborated by the testimony of TF1-338, a credible witness who also testified about Sesay's visits with diamonds.

6044. The Trial Chamber has considered Issa Sesay's response to TF1-567's evidence. Although Sesay repeatedly denied giving diamonds to the Accused, Sesay confirmed that TF1-567 was in Monrovia from around December 2000 until January 2001, when the international community was blaming Taylor for supporting the RUF.<sup>13660</sup> The Trial Chamber recalls its finding that the testimony of Issa Sesay must be treated with caution.<sup>13661</sup> In the Trial Chamber's view, the Accused's denials of TF1-338's evidence are self-serving and lacking in credibility. For this reason the Trial Chamber rejects the evidence of the Accused and Issa Sesay and accepts the evidence of TF1-338 and TF1-567, which is additionally corroborated by the more general testimony of several other witnesses that Sesay brought diamonds to the Accused during this period. Witnesses TF1-567, TF1-516, TF1-371, Mohamed Kabbah, Augustine Mallah and Perry Kamara all testified to their second-hand knowledge of Issa Sesay delivering diamonds to the Accused on different occasions during this time. Witnesses Augustine Mallah, TF1-567 and TF1-371 also testified that Sesay received supplies and/or arms and ammunition in exchange for the diamonds.

6045. Furthermore, the Trial Chamber considers TF1-567's evidence that Kanneh regularly brought diamonds to Monrovia from Sesay and met with Bah to discuss diamond business to be corroborative of the other evidence before the Trial Chamber that Kanneh and Bah were involved in diamond transactions with the Accused and independent diamond dealers.

6046. The Trial Chamber notes that the more general testimony of these witnesses is largely related to Sesay's receipt of diamonds at Small Lebanon and his subsequent travel with them to Liberia during this period. Nevertheless, some of this evidence attests to the delivery of the diamonds to the Accused. Mallah testified that Sesay told him and others that he took diamonds to the Accused. Although he never saw any of the diamonds, Mallah testified that he saw Sesay return from Liberia with arms and ammunition. Perry Kamara

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<sup>13659</sup> Credibility Assessment, TF1-567, paras 313-317.

<sup>13660</sup> Issa Sesay, Transcript 28 July 2010, p. 44919.



testified that Sesay would call from Liberia and report on the things that the Accused had given him in exchange for diamonds. Kamara also testified that Sesay brought back a document cataloguing the number of diamonds that the Accused kept and what he had given in return. The Trial Chamber recalls that Mallah and Kamara are generally credible witnesses.<sup>13662</sup>

6047. The Trial Chamber notes the cross-examination testimony of TF1-367, in which the witness confirmed that Belgians and Lebanese visited Sesay in Kono on a number of occasions. A number of other witnesses also testified regarding the presence of Belgian and Lebanese businessmen in Sierra Leone.<sup>13663</sup> Although the witness stated that he did not know if Sesay sold the diamonds to these men, the Trial Chamber does not consider this testimony to be inconsistent with or raise doubt as to the testimony of other witnesses that diamonds were delivered to the Accused.

6048. Additionally, recalling Mohamed Kabbah's evidence regarding Sesay's deliveries of diamonds to the Accused, the Trial Chamber notes that Kabbah's testimony that Sesay separated the smaller diamonds from the rest before parcelling corroborates TF1-338's testimony that the Accused told Sesay that he would introduce him to someone to whom he could sell the smaller diamonds. Furthermore, Kabbah gave direct evidence, as one of the radio operators who reported about the 36 carat diamond, of the incident in which Sesay was called back to Sierra Leone to take the 36 carat diamond to the Accused. Based on Kabbah's detailed testimony of the event, including Sesay's statements upon his return to pick up the diamond, and recalling its previous finding that Kabbah is a generally reliable witness,<sup>13664</sup> the Trial Chamber is satisfied that Sesay ultimately delivered the diamond to the Accused.

6049. The Trial Chamber notes Issa Sesay's testimony of specific diamond transactions he engaged in on behalf of the RUF with persons other than the Accused. In particular, the Trial Chamber considers that his evidence of a March 2001 transaction with someone named "Sammy" for \$USD 135,000 accords with the record in Exhibit D-393 of a diamond dealer

<sup>13661</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>13662</sup> Credibility Assessment, Augustine Mallah, Pre-Indictment period (1988-1996), para. 2522; Credibility Assessment, Perry Kamara, paras 227-236.

<sup>13663</sup> See Diamonds: Provision of Mining Equipment and Mining Experts, including Perry Kamara, Transcript 6 February 2008, pp. 3263-3264; Issa Sesay, Transcript 14 July 2010, pp. 44475-44477. See Diamonds: Alleged Delivery of Diamonds to the Accused, February 1998-July 1999, including TF1-539, Transcript 10 June 2008, pp. 11449-11454.

<sup>13664</sup> Credibility Assessment, Mohamed Kabbah, paras 334-338.

by the name of Ossailly Samih who transacted diamonds with the RUF on a many occasions. Based upon the timing of Samih's transactions and the phonetic similarity of the names "Samih" and "Sammy" the Trial Chamber is of the view that the person Sesay named as Sammy in the transcript is actually Samih. The Trial Chamber is of the view considers that diamond transactions Sesay might have had with dealers would not preclude and does not negate the evidence of his having delivered diamonds to the Accused as well.

6050. Based on the evidence, the Trial Chamber finds that Issa Sesay delivered diamonds to the Accused during this period.

6051. The Trial Chamber has considered the evidence regarding Eddie Kanneh's alleged deliveries of diamonds to the Accused. In this context, the Trial Chamber recalls the testimony of Mohamed Kabbah that on one occasion Sesay gave diamonds to Eddie Kanneh to "take to Charles Taylor". In cross-examination, Kabbah was confronted with his prior statement about this event, in which he said that Sesay gave Eddie Kanneh the diamonds to take to Monrovia to sell them and did not mention the Accused.<sup>13665</sup> Kabbah testified that he did not "recall to make mention [sic]" the Accused when giving that statement, and that the Prosecution did not call his attention to it at that time.<sup>13666</sup> The witness then explained that Eddie Kanneh was not given the diamonds to sell to Charles Taylor, but to show them to him "to have evidence in the end because in the absence of Foday Sankoh it was Charles Taylor who we regarded as our father".<sup>13667</sup> The witness agreed that the diamonds were not taken to Charles Taylor for him to keep them, but so that he could see what was being sold.<sup>13668</sup> The Defence confronted Kabbah with an additional prior statement about this event, in which there is no mention of the Accused.<sup>13669</sup> The witness said he did not mention Taylor then because he did not regard it as important since the diamonds were not to be taken directly to him.<sup>13670</sup> Kabbah was also confronted with prior statements in which he said that Francis Oscar Charles ("FOC") was sent to collect money from Eddie Kanneh who would have in turn received the money from the two white men, not from Charles

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<sup>13665</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16389.

<sup>13666</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16389-16390.

<sup>13667</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16391.

<sup>13668</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16391.

<sup>13669</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16401.

<sup>13670</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16402.

Taylor.<sup>13671</sup> The witness explained again that he did not mention FOC getting the money from Charles Taylor, because Charles Taylor was only meant to look at the diamonds, but the two white men were the ones who “came to buy”.<sup>13672</sup> The Trial Chamber accepts Kabbah’s explanation that he failed to mention the Accused in prior statements because the Prosecution did not “call his attention to it” at that time. The Trial Chamber finds Kabbah’s testimony to be credible and notes that his evidence of these events is generally corroborated by the evidence of other witnesses. In light of the witness’s clarification, and the evidence of TF1-516 and TF1-567 discussed below who also testified about Kanneh taking diamonds to the Accused, the Trial Chamber considers that Kanneh delivered diamonds to the Accused as well as to third-parties during this time period.

6052. In addition to Kabbah, Witnesses TF1-567 and TF1-516 both testified about Eddie Kanneh’s involvement in taking diamonds to the Accused during this period. TF1-567 observed Kanneh’s involvement in diamond dealings in 2000 and 2001 and later in 2002, while TF1-516 heard radio messages about Kanneh’s travels to take diamonds to the Accused from Sesay’s station. The Trial Chamber notes that on cross-examination TF1-567 affirmed that he never personally gave diamonds to the Accused or saw others giving diamonds to the Accused.<sup>13673</sup> However, TF1-567 would not have been present at these meetings, but he was in direct contact with Sesay and would have known his movements. TF1-516 knew that Kanneh took diamonds to the Accused based on radio messages that he overheard.

6053. Based on the evidence, the Trial Chamber finds that Eddie Kanneh delivered diamonds to the Accused during this time period.

6054. The Trial Chamber has considered Joseph Marzah’s testimony that he personally delivered diamonds on 10 or 20 occasions to the Accused in return for arms and ammunitions. The Trial Chamber recalls its finding that Marzah’s evidence must be treated with caution and requires corroboration.<sup>13674</sup> The Trial Chamber notes that while Marzah’s testimony about his transport of arms and ammunitions to Sierra Leone was corroborated by

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<sup>13671</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16392-16393.

<sup>13672</sup> Mohamed Kabbah, Transcript 16 September 2008, p. 16392-16393.

<sup>13673</sup> TF1-567, Transcript 7 July 2008, pp. 13094-13097.

<sup>13674</sup> Credibility Assessment, Joseph Marzah, paras 263-268.

a number of witnesses, his testimony regarding his delivery of diamonds to the Accused during this period has not been corroborated, and is therefore not reliable.

6055. Regarding Prosecution Exhibit P-019, the Defence submits that its contents are nearly identical to P-018, a report authored by the UN Panel of Experts, and that P-019's author, Ian Smillie, who was also a member of the UN Panel of Experts has demonstrated clear bias against Liberia.<sup>13675</sup> Issa Sesay challenged the production estimates in Exhibit P-019, saying it is an "exaggeration" that, during the 15 months of his leadership, the RUF could have raised between \$USD 60 and 80 million in revenue from diamond mining, "the mining issue" and revenue estimates in P-019 were greatly exaggerated.<sup>13676</sup> Sesay maintained that he sold all the diamonds he received and did not give them to Taylor.<sup>13677</sup> The Trial Chamber has considered this challenge to the report, and does not accept the contention that the report is biased.

6056. The Trial Chamber notes that the report's conclusion on the amount of diamonds that should have been exported from Sierra Leone during the periods when the RUF controlled Kono District and Tongo Fields is based upon a rough estimation of the annual exports from 1990 to 1998 and 2005 to 2006,<sup>13678</sup> and that the report contains a note that estimation was difficult given the "absence of any reliable production data after about 1975".<sup>13679</sup> In light of these circumstances, the Trial Chamber will not rely on the report data to quantify the value of diamonds smuggled from Sierra Leone to Liberia, particularly as it relates to diamonds delivered to the Accused, as the Trial Chamber is unable to quantify any value on the basis of the evidence in the record. Moreover, the Trial Chamber recalls evidence demonstrating that a number of individuals inside Liberia received RUF diamonds during this time. However, the Trial Chamber notes that the excerpted statement in the report, unattributed for reasons of privacy and security, is consistent with the witness testimony that Issa Sesay

<sup>13675</sup> Defence Final Trial Brief, para. 704.

<sup>13676</sup> Issa Sesay, Transcript 13 August 2010, pp. 46250, 46253, 46259-46260.

<sup>13677</sup> Issa Sesay, Transcript 13 August 2010, p. 46250. During that time he received only black or coffee coloured industrial diamonds, of which 300 pieces were worth around \$USD 10,000 - \$15,000. Sesay further remarked that his father lives in poverty and his children's school fees are paid by friends, which would not be the case if the RUF had been mining the volume of diamonds alleged. Issa Sesay, Transcript 13 August 2010, pp. 46259-46260.

<sup>13678</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p.10, ERN 30852.

<sup>13679</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection—a Report for the Office of the Prosecutor, The Special Court for Sierra Leone, Ian Smillie, 21 April 2007", p.10, ERN 30852.

delivered diamonds to the Accused who in turn supplied the RUF with arms and ammunition.

6057. The Trial Chamber further notes that the report admitted as Exhibit P-019 includes an assessment of Liberian diamond production, which indicates that Liberian diamonds are “generally known to be small, low quality goods” and that diamond exploration in Liberia dissipated in the 1970s and 1980s due to “disappointing findings”. This evidence refutes the claim made by the Accused that he would have had no reason to trade in diamonds from Sierra Leone because Liberia had its own diamonds. The report findings indicate that export of diamonds from Liberia was far greater than Liberian diamond production, attributing the difference to diamonds from Sierra Leone smuggled through Liberia. The Trial Chamber accepts this finding in the report as reliable and does not accept the Accused’s contention.

6058. The Trial Chamber has considered Confidential Exhibit P-277 in light of the Prosecution’s accusation that the Accused continued to receive diamonds during this period. In the Trial Chamber’s view, this document is generally corroborative of diamond dealings between the RUF and individuals outside of Sierra Leone during this time. However, the Trial Chamber does not find it probative of the Accused’s receipt of RUF diamonds during this period,<sup>13680</sup> and therefore need not consider the Defence’s challenges to the use of this exhibit in determining whether the Accused received RUF diamonds during this time period.<sup>13681</sup>

6059. Regarding the Prosecution’s allegation that the Accused organised and monitored Sesay’s trips to Monrovia using RUF radios and radio stations operated under the Accused’s control, the Trial Chamber is of the view that Mohamed Kabbah’s evidence, relied upon by the Prosecution, does not support this allegation. The incident testified to by Kabbah was not an indication of ongoing monitoring, and reflected an isolated occurrence in which Yeaten happened to overhear a communication regarding the 36 carat diamond unbeknownst to Kabbah when the witness called Sunlight, Yeaten’s radio operator, in an effort to reach Sesay. This evidence is insufficient to establish that there was regular monitoring of Sesay’s movements by the Accused.

### Findings

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<sup>13680</sup> Confidential Exhibit P-277; Prosecution Final Trial Brief, para. 371.

6060. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that from June 2000 until the end of hostilities in 2002, Issa Sesay delivered diamonds to the Accused, sometimes for safekeeping until Sankoh's release from detention and sometimes in return for supplies and/or arms and ammunition.

6061. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that Eddie Kanneh also delivered diamonds to the Accused on Sesay's behalf on occasion from June 2000 until the end of hostilities in 2002.

## 2. Alleged Facilitation of Diamond Trading by the Accused

### Submissions of the Parties

6062. The Prosecution submits that towards the end of the conflict, and particularly after "Heart of the Matter" was published in 1999, the Accused became increasingly concerned about the international community's view of his connection with the RUF. Consequently, the Accused instructed Issa Sesay not to bring diamonds to him so often, and facilitated "middle men" or "diamond dealers" to whom Sesay was to deliver the diamonds instead of to the Accused. Sesay was instructed to use the proceeds from the sale of diamonds to those middlemen to purchase arms and ammunitions and supplies.<sup>13682</sup> The Prosecution argues that, despite his efforts, the Accused failed to distance himself from the diamond dealings as the evidence clearly shows that that he authorized the diamond deals and that the "dealers" were present in Sierra Leone under the auspices of the Accused.<sup>13683</sup> The Prosecution highlights the Accused's admission that it was possible that members of the Liberian SSS and ATU were involved in those transactions, including Benjamin Yeaten.<sup>13684</sup> The Prosecution relies on the evidence of witnesses TF1-590, TF1-338, Abu Keita and TF1-371, as well as Exhibit D-393.

6063. The Defence acknowledges that the RUF conducted diamond deals with a number of businessmen, often through Ibrahim Bah, and acknowledges that this activity occurred in Monrovia.<sup>13685</sup> The Defence submits that from the capture of Kono in 1998 to disarmament

<sup>13681</sup> Defence Response to Prosecution Final Trial Brief, para. 81.

<sup>13682</sup> Prosecution Final Trial Brief, para. 379.

<sup>13683</sup> Prosecution Final Trial Brief, para. 380.

<sup>13684</sup> Prosecution Final Trial Brief, para. 380.

<sup>13685</sup> Defence Final Trial Brief, paras 938-939.



in 2001, Ibrahim Bah connected Bockarie and Sankoh to a number of diamond purchasers, including Lebanese-Liberians, Belgians and Canadians.<sup>13686</sup> According to the Defence, these diamonds purchasers provided the RUF with vehicles, food, mining equipment,<sup>13687</sup> computers telephones and other items.<sup>13688</sup> In support of the Defence's arguments, the Trial Chamber has considered the evidence of the Accused, Issa Sesay, Abu Keita, TF1-567 and Exhibit D-393.

## Evidence

### Prosecution Witness TF1-590

6064. Witness TF1-590, a businessman who fled to Liberia to escape the RUF,<sup>13689</sup> testified that he saw Sam Bockarie (a.k.a. Mosquito) around September 1998<sup>13690</sup> in Voinjama with Chucky Taylor and two Arab men, one of whom was Lebanese. The witness testified that he learned that they were Mr Taylor's<sup>13691</sup> gem dealers and that one of them was a member of the Saad group.<sup>13692</sup> The men were part of a convoy coming from Monrovia on its way to Sierra Leone.<sup>13693</sup>

### Prosecution Witness TF1-338

6065. Witness TF1-338, an RUF member,<sup>13694</sup> testified that on the third trip that Issa Sesay took to deliver diamonds to the Accused, in March, April or May of 2001, Charles Taylor told Sesay that he should not come so often with diamonds because the UN and the international community were "having eyes on him to see whether he had connections with the RUF".<sup>13695</sup> Taylor also told Sesay that he was going to try to find someone that Sesay could bring the "small diamonds" to in exchange for money to buy basic needs to use "on

<sup>13686</sup> Defence Final Trial Brief, paras 1079, 1201-1202.

<sup>13687</sup> See Diamonds: Provision of Mining Equipment and Mining Experts.

<sup>13688</sup> Defence Final Trial Brief, para. 1079.

<sup>13689</sup> TF1-590, Transcript 12 June 2008, pp. 11732, 11734.

<sup>13690</sup> TF1-590, Transcript 13 June 2008, pp. 11763-11768.

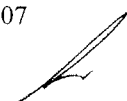
<sup>13691</sup> The witness clarified that this reference to Mr Taylor, was to the President of Liberia, not to Chucky Taylor, about whom the witness also testified. TF1-590, Transcript 16 June 2008, p. 11830.

<sup>13692</sup> TF1-590, Transcript 16 June 2008, pp. 11829-11830.

<sup>13693</sup> TF1-590, Transcript 16 June 2008, p. 11830.

<sup>13694</sup> TF1-338, Transcript 1 September 2008, pp. 15085-15086 (PS).

<sup>13695</sup> TF1-338, Transcript 2 September 2008, p. 15168.





the front line” so that Sesay would no longer bring diamonds so often to him.<sup>13696</sup> The next day, the witness was present when Yeaten brought two white men to the Boulevard Hotel to meet Sesay. One of the men called himself Alpha Bravo and said that he was from Belgium, but the witness did not find out the name of the other man.<sup>13697</sup> Upon meeting the men Sesay stated that he recalled meeting them in 1999 when Sam Bockarie had taken them to Kono.<sup>13698</sup> Yeaten explained to Sesay that these white men were the diamond dealers from Belgium and they had been brought to Sesay so that Sesay could sell him the “small, small” diamonds that he brought from Sierra Leone and use the money from the sale to support his fighters in Sierra Leone.<sup>13699</sup> Diamonds were not exchanged at this meeting and Sesay then returned to Sierra Leone with some bags of rice and diesel.<sup>13700</sup>

6066. Witness TF1-338 testified about two to three occasions when diamonds were later delivered to Alpha Bravo in exchange for cash. TF1-338 testified that in 2001 Sesay and Francis Oscar Charles travelled to Foya, where Sesay met Benjamin Yeaten and the two travelled on to Monrovia. Sesay then met Alpha Bravo at the guesthouse where Alpha Bravo gave Sesay \$USD 300,000 for diamonds.<sup>13701</sup> Sesay gave half to the Accused for “safe keeping”.<sup>13702</sup> After delivering \$USD 150,000 to the Accused, Sesay took the other \$USD 150,000 to Sierra Leone.<sup>13703</sup> Sesay returned to Foya with Yeaten and loaded his vehicle with beer, liquor, shoes, clothing and drugs, which he took to Koidu Town--<sup>13704</sup> TF1-338’s stated that Sesay never received those diamonds back from the Accused, nor did anyone in the RUF ever receive the diamonds that Sankoh or Bockarie had deposited with the Accused.<sup>13705</sup>

<sup>13696</sup> TF1-338, Transcript 2 September 2008, pp. 15168-15170, 15225 (PS).

<sup>13697</sup> TF1-338, Transcript 2 September 2008, p. 15169.

<sup>13698</sup> TF1-338, Transcript 2 September 2008, pp. 15169-15170.

<sup>13699</sup> TF1-338, Transcript 2 September 2008, p. 15170.

<sup>13700</sup> TF1-338, Transcript 2 September 2008, p. 15170.

<sup>13701</sup> TF1-338, Transcript 2 September 2008, pp. 15171-15172, 15226-15227 (PS).

<sup>13702</sup> TF1-338, Transcript 2 September 2008, pp. 15171-15172, 15192.

<sup>13703</sup> TF1-338, Transcript 2 September 2008, pp. 15226-15227 (PS).

<sup>13704</sup> TF1-338, Transcript 2 September 2008, pp. 15171-15172.

<sup>13705</sup> TF1-338, Transcript 2 September 2008, pp. 15192-15193.

6067. Eddie Kanneh and Benjamin Yeaten took diamonds to Alpha Bravo on two other occasions that the witness was aware of.<sup>13706</sup> To the witness' knowledge, the RUF did not receive anything in return for these diamonds.<sup>13707</sup>

6068. According to TF1-338, Eddie Kanneh introduced another diamond dealer from Belgium named Minie to the RUF.<sup>13708</sup> TF1-338 testified about three occasions in 2001 when diamonds were delivered to Minie.<sup>13709</sup> On one occasion, Issa Sesay sent one of his bodyguards along with Rashid Foday with 350 pieces of industrial<sup>13710</sup> diamonds to meet with Eddie Kanneh in Monrovia at the Palm Hotel where Minie was lodged.<sup>13711</sup> At the hotel, the diamonds were handed over to Minie.<sup>13712</sup> On a second similar occasion, they delivered 260 pieces of diamonds with Eddie Kanneh to Minie.<sup>13713</sup>

6069. On a third occasion in 2001, Sesay sent his bodyguard to Vahun to collect a 40-carat diamond.<sup>13714</sup> After receiving the diamond, the bodyguard proceeded to Monrovia to meet with Eddie Kanneh. The two men then met with Minie at the Palm Hotel in Monrovia and handed the diamonds over to Minie. Issa and Minie then spoke over satellite phone. They agreed that the price of the diamond would be \$USD 150,000 and that Kanneh was to pick the money up in Côte d'Ivoire and transport it on to Sesay. The witness did not know whether Kanneh ever received the money and handed the money over to Sesay.<sup>13715</sup> After this transaction, the RUF did not bring diamonds to Minie again.<sup>13716</sup>

#### Prosecution Witness Abu Keita

<sup>13706</sup> TF1-338, Transcript 2 September 2008, p. 15193.

<sup>13707</sup> TF1-338, Transcript 2 September 2008, p. 15193.

<sup>13708</sup> The Trial Chamber recalls the confusion in the witness' testimony over the spelling and pronunciation of Minie, Mounie, or Minin's name. TF1-338, Transcript 2 September 2008, p. 15194; Transcript 3 September 2008, p. 15326 (PS); Transcript 4 September 2008, pp. 15410-15411 (PS). However, the Trial Chamber is satisfied that the Minie whom the witness has testified about is, in fact, Leonid Minin.

<sup>13709</sup> TF1-338, Transcript 2 September 2008, p. 15197.

<sup>13710</sup> TF1-338, Transcript 2 September 2008, p. 15198.

<sup>13711</sup> TF1-338, Transcript 2 September 2008, p. 15194.

<sup>13712</sup> TF1-338, Transcript 2 September 2008, pp. 15193-15194, 15197.

<sup>13713</sup> TF1-338, Transcript 2 September 2008, p. 15198.

<sup>13714</sup> TF1-338, Transcript 2 September 2008, p. 15216.

<sup>13715</sup> TF1-338, Transcript 2 September 2008, pp. 15194-15195.

<sup>13716</sup> TF1-338, Transcript 2 September 2008, p. 15198; TF1-338, Transcript 2 September 2008, p. 15214 (PS).

6070. Witness Abu Keita, a former deputy chief of staff and commander of ULIMO-K who later became commander of the Scorpion Unit,<sup>13717</sup> testified that he saw Bah in Kono with Eddie Kanneh and “CR”, General Ibrahim Bah’s bodyguard, during Issa Sesay’s administration in 2000.<sup>13718</sup> Bah had come to Kono with Kanneh and Sesay and four Lebanese people to get RUF diamonds.<sup>13719</sup>

Prosecution Witness TF1-567

6071. Witness TF1-567, a member of the RUF, testified that Ibrahim Bah used to sell diamonds to his “white friends” in exchange for “satellite phones, computer equipment and some other things like food”, not for arms and ammunitions.<sup>13720</sup> According to TF1-567, it was not true that Ibrahim Bah sold diamonds for arms and ammunitions.<sup>13721</sup> TF1-567 further testified that in early 2000, Foday Sankoh arranged for a Canadian friend named “Mishell” to send vehicles for him, but that to the witness’ knowledge, Ibrahim Bah was not involved in this.<sup>13722</sup>

The Accused

6072. The Accused testified that he knew nothing of the \$USD 300,000 that Issa Sesay allegedly received in Monrovia in exchange for diamonds. Furthermore, the Accused doubted that Issa Sesay ever had \$USD 300,000.<sup>13723</sup>

6073. In response to Abu Keita’s testimony, the Accused testified that he knew nothing about Kanneh and “CR” in Kono with Lebanese men. The Accused further stated that other evidence that he had sent white men came to Kono to assess the mining situation was not true and he did not send Bah and Kanneh or others to Sierra Leone.<sup>13724</sup>

<sup>13717</sup> Abu Keita, Transcript 22 January 2008, pp. 1953-1954; Transcript 23 January 2008, pp. 1970, 2000; Transcript 24 January 2008, pp. 2110, 2145.

<sup>13718</sup> Abu Keita, Transcript 23 January 2008, pp. 2025-2026.

<sup>13719</sup> Abu Keita, Transcript 23 January 2008, p. 2026.

<sup>13720</sup> TF1-567, Transcript 8 July 2008, p. 13137.

<sup>13721</sup> TF1-567, Transcript 8 July 2008, p. 13137.

<sup>13722</sup> TF1-567, Transcript 8 July 2008, p. 13175.

<sup>13723</sup> Charles Ghankay Taylor, Transcript 2 November 2009, p. 30888.

<sup>13724</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29406-29407.

Defence Witness Issa Sesay

6074. Witness Issa Sesay, interim leader of the RUF from 2000 until disarmament in 2002,<sup>13725</sup> testified that Ibrahim Bah “was the agent who used to bring diamond dealers to the RUF to Sam Bockarie”.<sup>13726</sup> In this capacity, Bah brought a man named Carlos to Bockarie. Carlos came for the first time in February 1999, but Sesay also saw him in Buedu in April 1999.<sup>13727</sup> Carlos provided Bockarie with an FM radio station in Buedu, and Bockarie sold diamonds to him.<sup>13728</sup> Later, Bah brought another set of people called Michel and Louis from Belgium who brought Sankoh and third satellite phone.<sup>13729</sup>

6075. Sesay further testified that from January 1999 to December 1999, Sam Bockarie sold the diamonds brought to him by mining commanders to business people like Michael, Louis and Carlos, and Fayard and Ahmed, two Lebanese men who were in Monrovia.<sup>13730</sup> Bah brought those people to Bockarie for him to transact diamonds with them.<sup>13731</sup> After Bockarie left, Bah, Michael and Louis continued to buy the diamonds that were mined, and brought vehicles “to be able to do further business with Mr Sankoh”.<sup>13732</sup>

6076. Witness Issa Sesay denied selling \$USD 300,000 worth of diamonds to Alpha Bravo and giving half of it to the Accused and taking the remaining half back to Sierra Leone.<sup>13733</sup> Furthermore, Sesay testified that he did not know anyone called Alpha Bravo.<sup>13734</sup> However, Sesay testified that Ibrahim Bah had put him in touch with Michel and Louis, two white men who were diamond dealers from Belgium.<sup>13735</sup> Sesay testified that he had never heard Michel and Louis referred to as Alpha Bravo.<sup>13736</sup> Ibrahim Bah brought them to Monrovia in October 2000 for Sesay to conduct business with them.<sup>13737</sup> Ibrahim Bah had also brought Michel and Louis to meet Sam Bockarie in August or September of 1999, and that was the

<sup>13725</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>13726</sup> Issa Sesay, Transcript 13 July 2010, p. 44322.

<sup>13727</sup> Issa Sesay, Transcript 13 July 2010, p. 44322.

<sup>13728</sup> Issa Sesay, Transcript 13 July 2010, pp. 44322-44323.

<sup>13729</sup> Issa Sesay, Transcript 8 July 2010, p. 44040.

<sup>13730</sup> Issa Sesay, Transcript 26 July 2010, p. 44640. Sesay also testified that Michel was also called Michael, and that he first met them with Bah in October of 1999. Issa Sesay, Transcript 26 July 2010, p. 44654.

<sup>13731</sup> Issa Sesay, Transcript 26 July 2010, p. 44640.

<sup>13732</sup> Issa Sesay, Transcript 26 July 2010, pp. 44640-44641.

<sup>13733</sup> Issa Sesay, Transcript 2 August 2010, pp. 45311-45313.

<sup>13734</sup> Issa Sesay, Transcript 2 August 2010, pp. 45311-45313.

<sup>13735</sup> Issa Sesay, Transcript 2 August 2010, pp. 45309-45310.

<sup>13736</sup> Issa Sesay, Transcript 2 August 2010, p. 45311.





time that the RUF first started doing business with them.<sup>13738</sup> Bah also brought them to Sankoh in December of 1999, and then again in March 2000.<sup>13739</sup> Sesay testified that he did not do business with them after October 2000 because Bah had kept \$USD 60,000 of final payment for that transaction.<sup>13740</sup>

6077. Sesay testified that during the time he was the leader of the RUF diamonds were brought to him and he sold them to various individuals. In October 2000, he sold diamonds to Michel through Ibrahim Bah and he also sold diamonds to Alhaji Bakoray, on several occasions, and to Alhaji Modebor in early 2001.<sup>13741</sup> Sesay also testified that Ibrahim Bah brought (or sent) a Lebanese man named Sammy, who was said to be born in Sierra Leone, to Kono, along with Eddie Kanneh.<sup>13742</sup> They were there for five days, and Sesay sold diamonds to him.<sup>13743</sup> Sesay further testified that in February or March of 2001,<sup>13744</sup> he travelled with Eddie Kanneh, "CR", the driver, and Kanneh's bodyguard to meet Sammy in Monrovia. Kanneh had brought Sammy to Kono in February or March 2000 and Kanneh told Sesay that the man was still in Monrovia, and that if he had diamonds to sell he should bring them to him.<sup>13745</sup> Eddie Kanneh, Ibrahim Bah, and Gibril Massaquoi were with Sesay when he sold diamonds to Sammy on that occasion. Sesay stayed at the Boulevard Hotel on that trip, as did Bah and Sammy.<sup>13746</sup> Sesay testified that he brought a 52 carat diamonds with him on that trip. However, because the diamond was faulty, Sammy only offered \$USD 1000 per carat. The final sale amount was \$USD 137,000, but the man only had \$USD 100,000 on him so it was agreed that Kanneh would come to pick up the rest. Sesay was given the \$USD 100,000 during that meeting.<sup>13747</sup>

6078. Sesay denied sending one of his security to meet Benjamin Yeaten (a.k.a. Five Zero) to deliver diamonds to Alpha Bravo.<sup>13748</sup> Sesay also testified that he did not know who

<sup>13737</sup> Issa Sesay, Transcript 2 August 2010, p. 45310.

<sup>13738</sup> Issa Sesay, Transcript 2 August 2010, pp. 45309-45310. Sesay also testified that Michel was also called Michael, and that he first met them with Bah in October of 1999. Issa Sesay, Transcript 26 July 2010, p. 44654.

<sup>13739</sup> Issa Sesay, Transcript 2 August 2010, p. 45310; Transcript 26 July 2010, p. 44654.

<sup>13740</sup> Issa Sesay, Transcript 2 August 2010, p. 45310.

<sup>13741</sup> Issa Sesay, Transcript 26 July 2010, p. 44653.

<sup>13742</sup> Issa Sesay, Transcript 26 July 2010, pp. 44653-44654.

<sup>13743</sup> Issa Sesay, Transcript 26 July 2010, p. 44654.

<sup>13744</sup> Issa Sesay, Transcript 29 July 2010, p. 45081.

<sup>13745</sup> Issa Sesay, Transcript 29 July 2010, p. 45080.

<sup>13746</sup> Issa Sesay, Transcript 29 July 2010, pp. 45080-45081.

<sup>13747</sup> Issa Sesay, Transcript 29 July 2010, pp. 45081-45082.

<sup>13748</sup> Issa Sesay, Transcript 4 August 2010, p. 45349.

Minie was and did not “do a deal” for \$USD 200,000 worth of diamonds with Minie. The only other Belgian diamond dealer whom Sesay knew was Sammy.<sup>13749</sup>

Defence Exhibit D-393

6079. Exhibit D-393 is a “summary report” of an investigation conducted by the Belgian Federal Criminal Investigation Department in Antwerp into the criminal organisation of Nassour Aziz, Ossailly Samih,<sup>13750</sup> ASA DIAM Diamond Company and others. The report was concluded in November 2008, and was translated into English in December 2008.<sup>13751</sup>

6080. An introductory letter on the front of the report states:

[I]t has been demonstrated clearly that this organization had direct contacts with the RUF rebels in Sierra Leone for the transport of rough diamonds through Monrovia (Liberia) to Antwerp (Belgium). This was done under the supervision and with the support of the regime of the former president Charles Taylor.<sup>13752</sup>

6081. The introduction then states that the following “summary report...clearly demonstrates this link”, and refers the reader to conclusions numbered one and three (and their accompanying pages) within the summary report.<sup>13753</sup>

6082. Conclusion 1 states that Nassour Aziz, Manager of the ASA DIAM Diamond Company “developed a mechanism for smuggling rough diamonds, known as conflict or blood diamonds from the Kono region (Sierra Leone) via Monrovia (Liberia) to the Antwerp diamond market.”<sup>13754</sup> The report then divides Aziz/ASA DIAM’s illegal diamond dealings into three periods. Periods two and three are relevant to this analysis.<sup>13755</sup> The Investigation

<sup>13749</sup> Issa Sesay, Transcript 4 August 2010, pp. 45350-45351.

<sup>13750</sup> The Trial Chamber notes variant spelling of Ossailly, sometimes spelled as Ossaily, throughout Exhibit D-393. The Trial Chamber consistently uses “Ossailly”.

<sup>13751</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”.

<sup>13752</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 7, ERN102149.

<sup>13753</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 14, ERN102156. The introduction states that links to the Accused can be found at “conclusion 1, see pages 6-14 and conclusion 3, see pages 18-27”.

<sup>13754</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 14, ERN102156. Specifically, the Belgian Police investigated the crimes of “criminal organization”, money laundering and violations of customs and duty regulations, including diamond trading committed in Antwerp, Belgium between 1 January 2000 and 31 December 2001. Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 14, ERN102156.

<sup>13755</sup> Period one addresses diamond traffic from Congo. Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 14,

found that during Period Two, “October 2000-May 2001 – diamond route Monrovia (Liberia) – Antwerp”, Aziz introduced Ossailly to Darwish Ali, an American born Lebanese who purportedly had good contacts in Liberia for setting up a “diamond line”.<sup>13756</sup> Ossailly was given \$USD 2000 to cover expenses while he inspected a batch of rough diamonds from Liberia. In December 2000, Ossailly travelled to Liberia with Darwish to “start up the diamond activities”.<sup>13757</sup> Once in Liberia, Darwish introduced Ossailly to Ibrahim Bah, referred to in the report as an “RUF leader”.<sup>13758</sup> Ossailly moved into the Hotel Boulevard and paid for several other rooms for Darwish, Bah and others. Beginning in January 2001, several couriers with “cash” from ASA Diam travelled to Liberia to hand the bank notes to Ossailly in person. According to the report:

[V]arious loose notes made by Ossailly in Monrovia show that through payments, in Liberia, Ossailly Samih made it possible under the protection of the Liberian security services, the SSS... or the ATU..., to have diamonds from the rebel area in Sierra Leone transferred to his hotel in Monrovia (Liberia).<sup>13759</sup> Samih in turn gave the rough diamonds to the couriers who transported them via various “carrying methods” to Antwerp for delivery to ASA DIAM.<sup>13760</sup>

6083. The report indicates that ASA DIAM made every effort to hide its illegal diamond line from Liberia, including removing any reference to Liberia from ASA DIAM’s telephone record.<sup>13761</sup> In spite of these efforts to erase links to Liberia, the investigation revealed regular contacts between ASA DIAM/Aziz and “satellite phones used by RUF leaders and responsible personnel of the presidential security regime of Liberia”.<sup>13762</sup>

6084. “Period 3” of this report covers “June 2001-December 2001—diamond route Monrovia (Liberia) – Beirut (Lebanon). During May 2001, the relationship between Ossailly and Aziz ended as a result of Ossailly’s apparent withholding of money and Aziz’s

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ERN102156.

<sup>13756</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 15, ERN102157.

<sup>13757</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 15, ERN102157.

<sup>13758</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 15, ERN102157.

<sup>13759</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 15, ERN102157.

<sup>13760</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 15, ERN102157.

<sup>13761</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 16, ERN102158.

<sup>13762</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 16, ERN102158.



subsequent refusal to pay him for work done in Liberia.<sup>13763</sup> Ossialy then attempted to set up his own diamond line with Monrovia from his home, and beginning in June 2001, made numerous phone calls to the people he had previously worked with in Monrovia, including “Bah and Issa”.<sup>13764</sup>

6085. The report indicates that Ossailly wanted to arrange diamond transactions with the RUF and to sell the diamonds in Freetown. He thought “there was nothing wrong in buying diamonds from the RUF” Ossailly’s flight records indicate that in the second half of 2001, he flew three times to Abidjan, Côte d’Ivoire from where he once went to Monrovia to do diamond business there.<sup>13765</sup> The investigators observed that by January 2002 Ossailly’s links with West Africa were greatly reduced.<sup>13766</sup> The investigators were unable to determine that Ossailly actually bought diamonds from Monrovia or from the RUF in Sierra Leone during this period.<sup>13767</sup> Aziz’s import through ASA DIAM ceased completely in June 2001.<sup>13768</sup>

6086. Under the heading “Indications of diamond trading with the RUF”, the report states that it is clear that Ossailly was the “key figure” for the purchase of rough diamonds for Aziz and ASA DIAM. “Various evidence” also indicated to the investigators that while in Monrovia, Ossailly “communicated directly with senior members of the RUF rebel army, with the general approval of the regime associated with President Taylor”. Evidence referred to in the report includes Ossailly’s notes, which mention names like Ibrahim Bah, Issa Sesay, Sam Bockarie, Denis Mingo and Eddie Caneh [sic].<sup>13769</sup> According to the report, Ossailly’s documents and photographs seized by the police also indicated to investigators that Ossailly had “very close connections with senior figures in the Presidential regime”,

<sup>13763</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 16, ERN102158.

<sup>13764</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 16, ERN102158.

<sup>13765</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 16, ERN102158.

<sup>13766</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 16, ERN102158.

<sup>13767</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 16, ERN102158.

<sup>13768</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 16, ERN102158.

<sup>13769</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 18, ERN102160.

including the ATU and SSS.<sup>13770</sup> As support for this assertion, the report then bullet points a list of evidence found, including that Ossailly paid for various rooms at the Hotel Boulevard where he met with RUF members, that he made numerous telephone contacts with RUF members, that he provided satellite phones to senior RUF members such as, “Bah, Issa, Mingo and Eddy”, that he provided transmitters to the RUF “and/or members of the regime associated with President Taylor”.<sup>13771</sup> The investigators also retrieved photographs of diamond mines saved under file names like “Kono”, “Min”, or “mining area”.<sup>13772</sup> The report also cites evidence of several Western Union transfers, one of which was to Bah, and notes of payments made to “Bah, Issa, and Eddy” as well as to “members of the SSS and ATU, such as Colonel Adams”.<sup>13773</sup> The report also references Ossailly’s notes regarding the use of helicopters and jeeps for transport.

6087. In the investigator’s interviews with Ossailly, he admitted to buying “several lots” of diamonds in Monrovia, which he stated that he then handed over at the same location to Aziz’s cousin or nephew, and sold part of them overseas to benefit his own account.<sup>13774</sup> Ossailly denied exporting the diamonds outside Liberia. The report notes that these statements contradict those of other persons under investigation.<sup>13775</sup>

6088. “Conclusion 3” of the report states that the investigators obtained information from Italian authorities that one Leonid Minin, “an arms trader of Ukranian/Israeli nationality”, was arrested by the Italian authorities in August of 2000 in possession of a “large quantity of diamonds”.<sup>13776</sup> Further documents of the Italian investigation of Minin obtained by the Belgian authorities indicated that “Minin supplied arms made in Russia to both the regime of president Charles Taylor of Liberia and to the Revolutionary United Front (RUF) rebels

<sup>13770</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 18, ERN102160.

<sup>13771</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, pp. 18-19, ERN102160-102161.

<sup>13772</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 19, ERN102161.

<sup>13773</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 18, ERN102160.

<sup>13774</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 24, ERN102166. The translator of the report notes that there is no distinction between “cousin” and “nephew” in Flemish or Dutch.

<sup>13775</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 24, ERN102166. Namely, suspects Macky Abbas and Ly Samba.

<sup>13776</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for

in Sierra Leone”.<sup>13777</sup> The report then concludes that Minin was an important contact for Nassour Aziz and Ossailly in connection with the supply of arms to “the regime of President Taylor”, and that Minin was paid with rough diamonds. According to the report, “after Minin’s arrest in Italy in August 2000, Nassour Aziz and Ossailly took over Minin’s role”.<sup>13778</sup> This conclusion was supported by Ossailly’s handwritten note of taken from his home in Antwerp.<sup>13779</sup> The note refers to a Dragonov, a specific type of pistol and “30 charges”, the ammunition required for the pistol. In interviews with the Belgium police, Ossailly confirmed that he wrote the note and that it was written in reference to a request from General Yeaten for Ossailly to supply him with the gun and ammunition. Ossailly stated that he took the request out of politeness but “did not undertake any steps to further it” and that he ultimately did not supply the weapon.<sup>13780</sup> However, the investigators noted other documents indicating that Ossailly did take steps to fulfil Yeaten’s request for the weapon.

6089. Furthermore, the report states that “Alpha Zulu” was Aziz’s call sign and refers to other of Ossailly’s handwritten notes referencing a meeting in Ouagadougou with Ibrahim Bah in January 2001. The report also relies upon phone records, which indicated that a number of calls were made by Ossailly to the Sofitel hotel where he met Bah and where Aziz was lodged at that time.<sup>13781</sup> The phone records also indicated that Ossailly made calls to “Baba Jobe”.

6090. The report also lists as one of its evidentiary sources a statement from Johan Peleman, who had been appointed on several occasions by the Security Council of the UN as an “arms expert for the Liberia investigation panel”.<sup>13782</sup> The investigators interviewed Peleman on two occasions and he told them that during the panel’s investigation:

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Sierra Leone, David Crane, November 2002”, p. 27, ERN102169.

<sup>13777</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 27, ERN102169.

<sup>13778</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 27, ERN102169.

<sup>13779</sup> The reproduction of the note as it appears in the exhibit is illegible. The Trial Chamber has relied upon the investigators typed “analysis” of the note to determine its contents.

<sup>13780</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 28, ERN1021670.

<sup>13781</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 29, ERN102171.

<sup>13782</sup> Exhibit D-393, “Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002”, p. 33, ERN102175.

it became clear that for its supplies the RUF...was dependant on the regime in Liberia—Monrovia...because years ago the RUF was set up in Monrovia to provide a buffer zone between Liberia and Sierra Leone to keep control over the diamond-rich areas in Sierra Leone.<sup>13783</sup>

6091. The excerpt of Peleman's interview goes on to say that the carrying of diamonds from Sierra Leone to the Liberian capital was done "under the supervision of the presidential troops of Liberia, the most important are the ATU and SSS."<sup>13784</sup> From this, the panel concluded that Ossaily, at the Boulevard Hotel, was an important buyer of diamonds for sale by the RUF or its "couriers", and the hotel personnel and Ossaily himself confirmed that the RUF brought batches of rough diamonds to him at the hotel.<sup>13785</sup> Peleman told the investigators that "Bah could be described as a key figure between President Taylor and the RUF".<sup>13786</sup>

6092. Peleman also interviewed Cindoor Reeves ("CR"), who told him that he was involved in a number of arms deliveries in Liberia, organized under Bah. During these deals the arms were brought to the border of Sierra Leone in trucks and exchanged for diamonds. Reeves stated that one particular arms delivery in January 2001 came from Gambia, flown by the aviation company set up by Baba Jobe, who allegedly worked for President Taylor.<sup>13787</sup> The investigators noted several of Ossaily's handwritten references to "CR", Bah and Seku, as well as handwritten numbers, which appear to be dollar amounts, and references like "transfer arms".<sup>13788</sup>

### Deliberations

6093. The Prosecution, relying mainly upon the evidence of TF1-338, contends that the Accused instructed Sesay to transact diamonds with so-called "middle men" and/or diamond dealers and that he facilitated the relationship between Sesay and the RUF and those middlemen. Sesay was introduced to two Belgian men by Benjamin Yeaten and told that he

<sup>13783</sup> Exhibit D-393, "Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002", p. 33, ERN102175.

<sup>13784</sup> Exhibit D-393, "Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002", p. 34, ERN102176.

<sup>13785</sup> Exhibit D-393, "Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002", p. 34, ERN102176.

<sup>13786</sup> Exhibit D-393, "Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002", p. 34, ERN102176.

<sup>13787</sup> Exhibit D-393, "Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002", p. 34, ERN102176.

<sup>13788</sup> Exhibit D-393, "Belgian Investigation Made at the Request of Former Prosecutor for The Special Court for Sierra Leone, David Crane, November 2002", p. 35, ERN102177.





should sell diamonds to those men and purchase arms and ammunitions and other supplies from those sales.<sup>13789</sup> In considering this submission, the Trial Chamber recalls that it has seen evidence of at least eight different “diamond dealers” or “middlemen” with whom the RUF allegedly entered into business. TF1-338 testified that the Accused introduced Sesay to a Belgian man called “Alpha Bravo” and his unnamed friend, and that Eddie Kanneh introduced Sesay to a third man named Minie.

6094. TF1-338 testified about occasions when the RUF dealt diamonds with both Alpha Bravo and Minie separately. Sesay testified that Ibrahim Bah introduced him to two men, Michel and Louis, in October 2000, and that Bah had previously brought the same two men to Sam Bockarie in 1999 and to Foday Sankoh in 1999 and in 2000. Sesay testified that he did not know Alpha Bravo. The only Belgian diamond dealers Sesay knew of were Michel and Louis, and a man named “Sammy”. Sesay did not testify about Minin, and TF1-338 did not testify about Michel or Louis. Exhibit D-393 stated that two men, with connections to Belgium, Nassour Aziz and Ossaily Samih, were dealing in diamonds and arms with the RUF in Monrovia from October 2000 to December 2001. D-393 also stated that Leonid Minin had been providing arms and ammunition to the “regime of President Charles Taylor of Liberia” and the RUF in exchange for rough diamonds.

6095. The Trial Chamber recalls that the Defence challenged TF1-338’s credibility based on inconsistencies between his testimony and prior statements to the Prosecution. In the prior statements the witness apparently referred to the RUF’s diamond business with Minie and Alpha Bravo together.<sup>13790</sup> The witness testified that it was not correct that they ever met Minie and Alpha Bravo together, and that he did not tell the Prosecution that he ever met Minie and Alpha Bravo together.<sup>13791</sup> The witness testified that he made this correction in a separate notebook, as instructed by the Prosecution, but that the correction was never recorded.<sup>13792</sup> TF1-338 further testified that he did not tell the Prosecution that Charles Taylor called a meeting with Minie and Alpha Bravo in Monrovia, as was reflected in the Prosecution’s notes, because Minie and Alpha Bravo never met together.<sup>13793</sup> Further, TF1-338 testified that, contrary to his prior statements in interviews, the Accused did not arrange

<sup>13789</sup> Prosecution Final Trial Brief, para. 379.

<sup>13790</sup> TF1-338, Transcript 3 September 2008, p. 15377 (PS).

<sup>13791</sup> TF1-338, Transcript 4 September 2008, p. 15350 (CS).

<sup>13792</sup> TF1-338, Transcript 4 September 2008, pp. 15350-15351 (CS).

<sup>13793</sup> TF1-338, Transcript 4 September 2008, p. 15356 (CS).

meetings between the AFRC/RUF and Minie.<sup>13794</sup> TF1-338 testified that he actually told the Prosecution that Charles Taylor set up the meeting with Alpha Bravo, not Minie.<sup>13795</sup> The witness explained the discrepancy as being a result of the Prosecution's recording error, and further that he later corrected the error upon reviewing his statements, but the correction was not made.<sup>13796</sup> The Trial Chamber also notes TF1-338's cross-examination testimony in which he testified that, during interviews, the Prosecution suggested to him that if Minie was doing business in Liberia that "Charles Taylor must know about it".<sup>13797</sup> The witness testified that he disagreed with that suggestion when it was made to him, because the Accused had not set up meetings with Minie, only with Alpha Bravo.<sup>13798</sup> The Trial Chamber is convinced by TF1-338's explanations regarding his prior statements and testimony about meetings and introductions with Alpha Bravo and Minie and, as the Trial Chamber finds TF1-338 to be generally credible,<sup>13799</sup> the Trial Chamber accepts his testimony that suggestions to the contrary were made to him and appeared in the record of his interview in spite of his disagreement. For these reasons, the Trial Chamber finds that the Accused facilitated relationships between the RUF and a man known as Alpha Bravo for the purpose of diamond transactions.

6096. Furthermore, in relation to the disputed facts surrounding Alpha Bravo and Minie, the Trial Chamber notes a discrepancy in the line of questioning during Sesay's examination-in-chief regarding TF1-338's testimony that Yeaten brought two white men, one of whom was Alpha Bravo, to meet Sesay at the Boulevard Hotel. After recounting TF1-338's testimony of the Accused's statement to Sesay that he would introduce Sesay to someone that he could sell diamonds to, and then *Alpha Bravo's* first meeting with Sesay the next morning, Defence counsel stated: "Mr Sesay, the clear suggestion is that it was Charles Taylor who put you in touch with some white diamond dealer from Belgium. Who put you in touch with *Michel and Louis*, Mr Sesay?", to which Sesay responded that Ibrahim Bah had introduced them. Sesay was not asked about the evidence that he met Alpha Bravo, and neither confirmed nor denied whether the meeting at the Boulevard Hotel ever took place.

<sup>13794</sup> TF1-338, Transcript 4 September 2008, p. 15352 (CS).

<sup>13795</sup> TF1-338, Transcript 4 September 2008, p. 15352 (CS).

<sup>13796</sup> TF1-338, Transcript 4 September 2008, p. 15354-15356 (CS).

<sup>13797</sup> TF1-338, Transcript 4 September 2008, p. 15352 (PS).

<sup>13798</sup> TF1-338, Transcript 4 September 2008, pp. 15352-15353 (PS).

<sup>13799</sup> Credibility Assessment, TF1-338, paras 318-329.





Nonetheless, the Trial Chamber notes that Sesay later testified that he did not know who Alpha Bravo was.

6097. In addition, the Defence challenged TF1-338's credibility on the basis of an inconsistency that, in the Trial Chamber's view, was a result of confusion over whether one 40-carat bulk diamond, or 40 carats of individual diamonds, were delivered to Monrovia. Based on the language reflected in the witness' prior statements he Trial Chamber finds that this contradiction was merely the result of confusion.<sup>13800</sup>

6098. Regarding Exhibit D-393, at the outset the Trial Chamber notes the Prosecution's challenge to the Defence's characterisation of the summary report as having been prepared at the request of David Crane, former Prosecutor for The Special Court for Sierra Leone.<sup>13801</sup> After examining the introductory letter to the report, the Trial Chamber is unable to discern whether the report was in fact prepared at Crane's request. Nonetheless, the Trial Chamber is cognisant that the investigation itself was conducted into persons other than the Accused and does not consider the identity of the person or entity who requested the preparation of the summary report to be significant.

6099. The Trial Chamber notes that in response to Exhibit D-393, the Accused denied any knowledge of Ossaily's dealings, including his dealings with Colonel Adams, and denied receiving a satellite phone from him.<sup>13802</sup> The Accused further denied that Ibrahim Bah was a key figure between him and the RUF.<sup>13803</sup> The Accused denied any knowledge that Ossaily was buying diamonds from senior RUF at the Boulevard Hotel, but did not dispute that it may have happened. The Accused further remarked that these transactions took place in hotel rooms and had nothing to do with him or any member of his Government.<sup>13804</sup> The Accused also testified that he had no knowledge of Benjamin Yeaten requesting a Draganov and accompanying ammunition from Ossaily, and opined that he was glad that Ossaily had not provided the weapon.<sup>13805</sup> The Accused further denied that Baba Jobe worked for him and denied arms shipments came into Liberia from Nassour or Ossaily in January or July

<sup>13800</sup> TF1-338, Transcript 5 September 2008, pp. 15551-15552 (PS).

<sup>13801</sup> Prosecution Final Trial Brief, footnote 1161.

<sup>13802</sup> Charles Ghankay Taylor, Transcript 5 November 2009, pp. 31301-31307.

<sup>13803</sup> Charles Ghankay Taylor, Transcript 5 November 2009, pp. 31314-31315.

<sup>13804</sup> Charles Ghankay Taylor, Transcript 5 November 2009, pp. 31315-31316.

<sup>13805</sup> Charles Ghankay Taylor, Transcript 5 November 2009, pp. 31310-31311.





2001.<sup>13806</sup> The Accused criticised the use of the phrase “people associated with the regime of President Taylor”<sup>13807</sup> and also remarked that he saw nothing in the report connecting him to the diamond trade in Sierra Leone.<sup>13808</sup>

6100. The Trial Chamber notes D-393’s conclusion that the arms and diamonds dealing conducted in Monrovia by Nassour Aziz, Ossailly Samih and ASA DIAM was done “under the supervision and with the support of the regime of former president Charles Taylor”. The report cites evidence of Ossailly’s regular contact with, and provision of communication supplies to Ibrahim Bah, Issa Sesay and Eddie Kanneh. However, his connections to the Accused are not direct. The report mentions individuals by name, including Cindoor Reeves (“CR”), Baba Jobe and Colonel Adams, who are allegedly connected to the Accused, but their involvement in Ossailly and Aziz’s transactions is unclear. Significantly, the Accused denied that they worked closely with him and accused Reeves of being a liar and a crook.<sup>13809</sup> Otherwise, apart from general references to members of the ATU or SSS or “the regime associated with President Charles Taylor” the report does not identify who those members are, how the investigators knew the individuals were part of the Accused’s “regime”, or specifically what activity they engaged in with Ossailly and/or Aziz. Furthermore, the report does not indicate that the Accused facilitated a relationship between Ossailly and Aziz and the RUF, Eddie Kanneh or Ibrahim Bah. On the contrary, based upon Ossailly’s notes, it is evident that he dealt directly with those individuals. The Trial Chamber notes that no witnesses testified to any knowledge of Ossailly or Aziz. The Trial Chamber notes that D-393 makes reference to Aziz’s call name as “Alpha Zulu” but finds this insufficient to conclude that Aziz/ Alpha Zulu may have been Alpha Bravo. Thus, in the Trial Chamber’s view, D-393 fails to connect the Accused to any of Ossailly or Aziz’s diamond or arms-related activity in Monrovia.

6101. The Trial Chamber notes that D-393 mentions a connection between Leonid Minin and the Accused. However, based upon TF1-338’s testimony that it was Eddie Kanneh, not the Accused, who introduced Minin to the RUF, the Trial Chamber does not find that the Accused facilitated a relationship between the RUF and Minin.

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<sup>13806</sup> Charles Ghankay Taylor, Transcript 5 November 2009, pp. 31316-31319.

<sup>13807</sup> Charles Ghankay Taylor, Transcript 5 November 2009, pp. 31299-31301.

<sup>13808</sup> Charles Ghankay Taylor, Transcript 5 November 2009, pp. 31325-31326.

<sup>13809</sup> Charles Ghankay Taylor, Transcript 5 November 2009, pp. 31316-31317.



6102. Having considered Sesay's testimony regarding his dealings with "Sammy", as compared to the details of Ossaily Samih's dealings detailed in D-393, the Trial Chamber is satisfied that Sammy and Samih are the same person. D-393 corroborates the timing of Sesay's meeting with Sammy around March of 2001 and that Sammy was staying at the Boulevard Hotel at that time. Furthermore, the Trial Chamber notes that Sesay was not asked to spell "Sammy" on the record and that the spelling on the record was therefore done phonetically. The Trial Chamber notes that the Prosecution has not adduced any evidence regarding the Accused's connection to Michel and Louis or Sammy. The Trial Chamber therefore does not find that the Accused was implicated in the evidence of the RUF's diamond transactions with Michel, Louis or Sammy. Furthermore, the Trial Chamber notes Sesay's testimony regarding a man named Carlos who was brought to Bockarie by Bah and who provided Bockarie with an FM radio at Buedu. Although it does not necessarily follow that because Bah brought Carlos to Bockarie, the Accused did not facilitate the relationship, the Trial Chamber notes that the Prosecution has not led evidence to show that Carlos was introduced to Bockarie by the Accused.

6103. The Trial Chamber notes that Sesay's meeting with Sammy at the Boulevard Hotel in March 2001 coincides with TF1-338's evidence of Sesay's meeting with Alpha Bravo and his companion at the Boulevard Hotel. Although the Trial Chamber has not been presented with evidence indicating that Alpha Bravo and Sammy or Samih are the same person, in the Trial Chamber's view Sesay's meeting with Sammy or Samih does not negate the possibility that he also met with Alpha Bravo at or around the same time.

6104. The Trial Chamber considers that the evidence of Abu Keita and TF1-590 are corroborative of the presence of diamond dealers in Sierra Leone and Liberia. However, given the general nature of their testimony and considering TF1-590's cross-examination testimony that he was told by "the SOD guys, the soldiers, or the AFL, ATU" that the two Arab men were diamond dealers,<sup>13810</sup> the Trial Chamber is of the view that this testimony is not probative of the Accused's facilitation of relationships between the RUF and diamond dealers.

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<sup>13810</sup> TF1-590, Transcript 16 June 2008, pp. 11829-11830. The SOD police told the witness that the men were from the Saad group, which the witness knew dealt in the business of diamonds and cacao.

6105. The Defence relies upon the testimony of TF1-567 to show that it was Bah, not the Accused, who facilitated relationships between diamond buyers and the RUF. However, the Trial Chamber does not consider TF1-567's statement that Bah used to sell diamonds to his "white friends" in exchange for computers and other supplies to be probative of the fact that he facilitated relationships between the RUF and those white friends. The Trial Chamber does, however, consider TF1-567's testimony regarding these deals, and his mention of Mishell,<sup>13811</sup> to be generally corroborative of the fact that diamond dealers were present in Liberia and Sierra Leone during this time.

### Findings

6106. The Prosecution has proved beyond reasonable doubt that the Accused facilitated a relationship between Issa Sesay/the RUF and a diamond dealer known as Alpha Bravo in 2001 for the purpose of diamond transactions. However, the Prosecution failed to prove beyond reasonable doubt that the Accused facilitated relationships between the RUF and other diamond dealers.

### 3. Provision of Mining Equipment and Mining Experts

#### Submissions of the Parties

6107. The Prosecution submits that during the first half of 1999, the Accused directly assisted the AFRC/RUF's mining operations in Kono, which included the forced labour of civilians, by sending in mining experts to determine what equipment was needed to make the operations more efficient, and thereafter sending the required equipment to the mining areas in Sierra Leone.<sup>13812</sup> The Prosecution argues that, as a result of this assistance, the AFRC/RUF's diamond mining operations became more efficient throughout 1999, and thus, the Accused received more diamonds from Sierra Leone.<sup>13813</sup> The Prosecution submits that from 2000 to 2002, the Accused continued assisting with diamond mining operations, providing and replacing mining machinery as well as providing necessary fuel for the operation of that machinery.<sup>13814</sup> Further, the Prosecution submits that the Accused received

<sup>13811</sup>Based upon the pronunciation of the name, the Trial Chamber is satisfied that "Mishell" is the same as the Michel about whom Sesay testified. Issa Sesay, Transcript 26 July 2010, p. 44654.

<sup>13812</sup> Prosecution Final Trial Brief, paras 350, 360-361.

<sup>13813</sup> Prosecution Final Trial Brief, para. 361.

<sup>13814</sup> Prosecution Final Trial Brief, para. 372.





frequent reports about RUF mining operations in Sierra Leone, via radio communications from RUF radio stations in Kenema and Tongo to Yeaten's radio station in Liberia.<sup>13815</sup> The Prosecution relies upon witnesses TF1-338, Perry Kamara, Mohamed Kabbah, TF1-367, Jabaty Jaward, as well as Defence witness Issa Sesay and Exhibit D-003.

6108. The Defence denies the Accused's involvement in the provision of arms and ammunitions or other supplies in exchange for diamonds. The Defence further contends that the Prosecution's allegations with respect to the Accused's involvement in supplying mining experts and mining equipment during the Junta period is based on indirect evidence and hearsay.<sup>13816</sup> Furthermore, the Defence asserts that Ibrahim Bah, completely independent of the Accused, was responsible for introducing Bockarie and Sankoh to a number of diamond purchasers who provided them with vehicles, food, mining equipment and other supplies.<sup>13817</sup> The Defence also argues that the evidence clearly establishes that Belgians in Monrovia were the source of mining equipment, not the Accused.<sup>13818</sup> In addition, the Defence submits that provisions of fuel sent by the Accused to Sierra Leone in 1999 were intended for use in hospitals, and that the quantities of the diesel were limited as the Accused was aware of the possibility that it could be used for military purposes.<sup>13819</sup> Witnesses Issa Sesay, TF1-567, TF1-516 and the Accused provided relevant evidence.

## Evidence

### Prosecution Witness TF1-338

6109. Witness TF1-338, an RUF member,<sup>13820</sup> testified that in early 2001, Issa Sesay travelled to Monrovia, where he met with the Accused and gave the Accused diamonds.<sup>13821</sup> The following day Issa Sesay flew to Foya on a helicopter with arms and ammunitions, food and other materials, including diesel that he eventually transported to Sierra Leone.<sup>13822</sup> TF1-338 also testified that the fuel was later used in the Caterpillars at the mining sites in Sierra

<sup>13815</sup> Prosecution Final Trial Brief, para. 372.

<sup>13816</sup> Defence Final Trial Brief, paras 1161-1162, 1187.

<sup>13817</sup> Defence Final Trial Brief, para. 1079.

<sup>13818</sup> Defence Final Trial Brief, para. 1161.

<sup>13819</sup> Defence Final Trial Brief, para. 1179.

<sup>13820</sup> TF1-338, Transcript 1 September 2008, pp. 15084-15086 (PS).

<sup>13821</sup> TF1-338, Transcript 2 September 2008, pp. 15164-15165.

<sup>13822</sup> TF1-338, Transcript 2 September 2008, pp. 15165-15166.

Leone.<sup>13823</sup> Again, sometime around March, April or May 2001, Issa Sesay travelled to Monrovia to deliver diamonds to the Accused.<sup>13824</sup> The following day, Benjamin Yeaten brought two white men to Issa Sesay at the Boulevard Hotel, introducing them as the diamond dealers from Belgium.<sup>13825</sup> After this meeting with the two white men, one of whom was named Alpha Bravo, Issa Sesay returned to Sierra Leone, taking supplies with him, including diesel that was used in the Caterpillars mining diamonds in Kono.<sup>13826</sup> TF1-338 testified that “at all times when Issa came from Koidu Town to Foya he would bring his jeep and he would fly to Monrovia to get the materials. And when he returned to Foya he would load them on board the vehicle again and return to Sierra Leone”.<sup>13827</sup>

#### Prosecution Witness Perry Kamara

6110. Witness Perry Kamara was a radio operator attached to Superman and based mostly in Makeni in 1999 following the Freetown invasion.<sup>13828</sup> Kamara testified that after the Freetown invasion, the RUF controlled Kono and was mining diamonds there with the objective of obtaining more arms and ammunition from Mr Taylor so that they would be prepared for war.<sup>13829</sup> Before Bockarie left, he gave an instruction to Sesay to return to Kono and “rearranged for the mining to be more effective”.<sup>13830</sup> Before this instruction to Sesay, the RUF heard a message from Sam Bockarie that Charles Taylor was going to send mining machines and white people to inspect the mining site and airfield at Kono so that the RUF could do more effective mining.<sup>13831</sup> Two white men eventually came to the site, escorted by RUF soldiers, and they took photographs of the site and of the equipment and took notes on what was needed for mining.<sup>13832</sup> Kamara testified that “according to” the two men and the messages received the men were sent by Charles Taylor from Liberia.<sup>13833</sup> Kamara further

<sup>13823</sup> TF1-338, Transcript 2 September 2008, pp. 15165-15166.

<sup>13824</sup> TF1-338, Transcript 2 September 2008, p. 15167.

<sup>13825</sup> TF1-338, Transcript 2 September 2008, pp. 15169-15170.

<sup>13826</sup> TF1-338, Transcript 2 September 2008, p. 15170.

<sup>13827</sup> TF1-338, Transcript 2 September 2008, p. 15166.

<sup>13828</sup> Perry Kamara, Transcript 6 February 2008, pp. 3261-3262.

<sup>13829</sup> Perry Kamara, Transcript 6 February 2008, pp. 3262-3263.

<sup>13830</sup> Perry Kamara, Transcript 6 February 2008, p. 3263.

<sup>13831</sup> Perry Kamara, Transcript 6 February 2008, p. 3263.

<sup>13832</sup> Perry Kamara, Transcript 6 February 2008, pp. 3263-3264. The record is not clear as to the date of this visit but it appears to be around 1999.

<sup>13833</sup> Perry Kamara, Transcript 6 February 2008, pp. 3263-3264.

testified that as a result of receiving the machinery, mining during that period was more effective.<sup>13834</sup>

6111. According to Kamara, from 6 May 2000 until disarmament, Issa Sesay went to Liberia about every two weeks, taking “all of the diamonds” that they got. Sesay would return with vehicles, telling the witness and others that he had brought them from Charles Taylor.<sup>13835</sup> After these trips, Sesay would sometimes also return with fuel for the machines and food.<sup>13836</sup> Issa Sesay also brought vehicles from Mr Taylor when he returned to Sierra Leone. On the occasions that Sesay brought vehicles, he would call them and say “I’ve brought one or two vehicles from Mr Taylor, Mr Taylor donated this”.<sup>13837</sup> Sesay also told them that the Accused was keeping the diamonds while Sankoh was in detention.<sup>13838</sup>

#### Prosecution Witness TF1-367

6112. Witness TF1-367, an RUF member,<sup>13839</sup> was mining commander over a number of diamond mining sites in Kono district for the RUF from 1998 until 2000.<sup>13840</sup> The witness testified that the miners at those sites did not have machines initially and used shovels, pickaxes, sieves and mining equipment captured from ECOMOG, which deteriorated quickly, “Issa Sesay sent to Sam Bockarie” and then brand new equipment, including bailing machines and the fuel to operate them, began arriving from Monrovia, or from Liberia generally.<sup>13841</sup>

6113. On cross-examination, the witness confirmed prior statements to the Prosecution that two Lebanese men, who had come to see Sesay and brought a generator, came to stay with the witness at Number 11 mining site for three weeks. Diamonds were collected in the presence of the men, but the diamonds were then taken to Sesay and the witness was not aware of how Sesay transacted business with them. These two Lebanese men had come from Freetown.<sup>13842</sup> Also in prior statements, TF1-367 told the Prosecution that two white men

<sup>13834</sup> Perry Kamara, Transcript 6 February 2008, p. 3264.

<sup>13835</sup> Perry Kamara, Transcript 6 February 2008, pp. 3267-3268.

<sup>13836</sup> Perry Kamara, Transcript 6 February 2008, pp. 3267-3268.

<sup>13837</sup> Perry Kamara, Transcript 6 February 2008, p. 3268.

<sup>13838</sup> Perry Kamara, Transcript 6 February 2008, p. 3268.

<sup>13839</sup> TF1-367, Transcript 20 August 2008, p. 14158.

<sup>13840</sup> TF1-367, Transcript 21 August 2008, pp. 14192, 14194-14195.

<sup>13841</sup> TF1-367, Transcript 21 August 2008, pp. 14196-14198.

<sup>13842</sup> TF1-367, Transcript 1 September 2008, p. 15034.

from Belgium and an African, whom the witness believed to be Gambian or Senegalese,<sup>13843</sup> visited Sesay.<sup>13844</sup> The men were in Kono for two weeks and all of the diamonds that the witness collected during their stay were shown to Sesay.<sup>13845</sup>

6114. The witness testified that he did not know if Sesay sold diamonds to the Lebanese men.<sup>13846</sup> TF1-367 further stated that “they came there for mining and they came there to do diamonds for Issa Sesay”.<sup>13847</sup> Regarding the men’s origin, the witness stated during examination-in-chief that the men came from Liberia, while in prior statements he said they came from Freetown. On cross-examination, TF1-367 clarified that he had heard that they came from Liberia, but saw them come from Freetown end.<sup>13848</sup> On cross-examination, the witness identified the African man who came with the Belgians as Ibrahim Bah, who sounded like he came from Senegal or Gambia.<sup>13849</sup> The witness maintained that Ibrahim Bah and the Belgians passed from Liberia to Freetown and then came to Kono.<sup>13850</sup>

#### Prosecution Witness Mohamed Kabbah

6115. Witness Mohamed Kabbah, an RUF radio operator,<sup>13851</sup> and overall signal commander for Sierra Leone, was based in Kono from around December 1999 until 2002.<sup>13852</sup> Kabbah testified that he used to visit the mining sites, and that at Number 11 Plant he observed mining operations being undertaken using Caterpillars and other tools, like sieves, shovels and buckets.<sup>13853</sup> The first time he visited the site was just after Issa Sesay had brought new mining tools and other supplies from Monrovia.<sup>13854</sup> The witness testified that he knew Sesay brought the materials from Monrovia, because it was “common knowledge” that Sesay had just returned from a trip to Monrovia. Kamara testified that he

<sup>13843</sup> TF1-367, Transcript 1 September 2008, p. 15035.

<sup>13844</sup> TF1-367, Transcript 1 September 2008, p. 15034.

<sup>13845</sup> TF1-367, Transcript 1 September 2008, p. 15034.

<sup>13846</sup> TF1-367, Transcript 1 September 2008, p. 15035.

<sup>13847</sup> TF1-367, Transcript 1 September 2008, p. 15036.

<sup>13848</sup> TF1-367, Transcript 1 September 2008, pp. 15037-15038.

<sup>13849</sup> TF1-367, Transcript 1 September 2008, p. 15039.

<sup>13850</sup> TF1-367, Transcript 1 September 2008, pp. 15038- 15040.

<sup>13851</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>13852</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16126-16127, 16191.

<sup>13853</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16191.

<sup>13854</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16191-16192.

did not know from where in Monrovia Sesay got the materials, or if Sesay bought them or received them as a donation.<sup>13855</sup>

Prosecution Witness Jabaty Jaward

6116. Witness Jabaty Jaward, a clerk for Issa Sesay and Sam Bockarie, Bockarie's storekeeper,<sup>13856</sup> and a member of Sankoh's Black Guards,<sup>13857</sup> testified that in December 1999, while he was on his way from Sierra Leone to Voinjama via Foya, he encountered Akim Turay and Ibrahim Bah in Voinjama.<sup>13858</sup> Jaward testified that Turay and Bah had vehicles and a machine in a truck that Turay described as a "mining plant" that they were transporting to Sierra Leone for use in diamond mining at Kono.<sup>13859</sup> Jaward testified that, Turay did not say "this person had taken this mining plant and given it to us" but Turay and Bah told the witness that the equipment was from Charles Taylor in Monrovia and they were going to Sierra Leone.<sup>13860</sup>

Prosecution Witness TF1-567

6117. Witness TF1-567, an RUF member,<sup>13861</sup> testified that Ibrahim Bah used to sell diamonds to his "white friends" in exchange for "satellite phones, computer equipment and some other things like food", not for arms and ammunitions.<sup>13862</sup> It was not true that Ibrahim Bah sold diamonds for arms and ammunitions.<sup>13863</sup> TF1-567 further testified that in early 2000, Foday Sankoh arranged for a Canadian friend named "Mishell" to send vehicles for him, but that to the witness' knowledge, Ibrahim Bah was not involved in this.<sup>13864</sup>

<sup>13855</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16191-16192.

<sup>13856</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13306, 13332; Transcript 10 July 2008, p. 13383.

<sup>13857</sup> Jabaty Jaward, Transcript 9 July 2008, pp. 13266-13267.

<sup>13858</sup> Jabaty Jaward, Transcript 14 July 2008, pp. 13566-13567.

<sup>13859</sup> Jabaty Jaward, Transcript 14 July 2008, pp. 13567-13568.

<sup>13860</sup> Jabaty Jaward, Transcript 14 July 2008, p. 13568.

<sup>13861</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS); Transcript 4 July 2008, pp. 12986-12988 (PS).

<sup>13862</sup> TF1-567, Transcript 8 July 2008, p. 13137.

<sup>13863</sup> TF1-567, Transcript 8 July 2008, p. 13137.

<sup>13864</sup> TF1-567, Transcript 8 July 2008, p. 13175.

Prosecution Witness TF1-516

6118. Witness TF1-516 testified that information about mining was transmitted in code over the radio, as it was an “open secret”.<sup>13865</sup> According to the witness Benjamin Yeaten (a.k.a. 50) would sometimes inquire about the mining operation in Kono.<sup>13866</sup> “Whatever was happening in Sierra Leone, reports would be prepared to the effect and transmitted and that report would then be handed over to General 50 and he responded”.<sup>13867</sup>

The Accused

6119. In his testimony, the Accused specifically denied taking part in diamond mining.<sup>13868</sup> The Accused further stated that he was unaware that mining in Sierra Leone became more focused after 1997, and that he had no part in helping it to become more focused.<sup>13869</sup>

6120. The Accused denied that he sent diesel, petrol or engine oil for the mining machines, but stated that between February or March 1999 one or two 55 gallon drums “went to Sierra Leone” for hospital operations.<sup>13870</sup> The Accused testified that he put strict quantity limitations on the amount of diesel being sent to Sierra Leone, a maximum of two drums, because he was aware that the diesel could be used for military purposes instead of hospital operations.<sup>13871</sup> The Accused further testified that the fuel was purchased, not donated, and that it was bought in Liberia and then carried across the border into Sierra Leone.<sup>13872</sup>

Defence Witness Issa Sesay

6121. Issa Sesay, a senior RUF commander,<sup>13873</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>13874</sup> testified about one shipment of diamond mining equipment from Liberia, but said that it was arranged by Foday Sankoh through Ibrahim Bah without

<sup>13865</sup> TF1-516, Transcript 10 April 2008, p. 7178.

<sup>13866</sup> TF1-516, Transcript 10 April 2008, p. 7178.

<sup>13867</sup> TF1-516, Transcript 10 April 2008, p. 7179.

<sup>13868</sup> Charles Ghankay Taylor, Transcript 5 November 2009, pp. 31228-31229.

<sup>13869</sup> Charles Ghankay Taylor, Transcript 5 November 2009, pp. 31228.

<sup>13870</sup> Charles Ghankay Taylor, Transcript 16 September 2009, p. 29042.

<sup>13871</sup> Charles Ghankay Taylor, Transcript 16 September 2009, p. 29042.

<sup>13872</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 29042-29043.

<sup>13873</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>13874</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.



the Accused's involvement.<sup>13875</sup> Sesay testified that after Sam Bockarie crossed the border into Liberia in December of 1999, the border was closed and remained closed until May 2000, except for Ibrahim Bah's crossing in December of 1999.<sup>13876</sup> Sesay testified that around 19 December 1999, General Ibrahim Bah arrived in Pendembu in a truck with Akim Turay and two white men from Belgium named Michel and Louis.<sup>13877</sup> The next day Sesay, Akim Turay, Ibrahim Bah, Michel, and Louis transported the equipment, including milling machines, shakers, shovels and pick axes, to Kono in Sesay's Land Cruiser.<sup>13878</sup> According to Sesay's testimony, during the drive, Michel and Louis told Sesay that they were going to Kono to mine and to buy diamonds and that they would stay there until Sankoh came.<sup>13879</sup>

6122. Issa Sesay went on to testify that no efforts were made to disguise or hide the mining equipment in the back of the truck because "the leader", referring to Sankoh, had said the men should bring the equipment, so there was no reason to hide.<sup>13880</sup> Sesay further testified that at the time that this shipment of mining equipment arrived, Foday Sankoh was the Chairman of the Ministry of Strategic Minerals and that civilians could easily see the equipment arriving but Sankoh did not tell them from whom it had come.<sup>13881</sup> Sesay also testified that Sankoh had arranged for him to meet Ibrahim Bah with the truck and that Sankoh did not mention the Accused.<sup>13882</sup> When asked directly whether the Accused sent the truckload of mining equipment, Sesay responded "No, no".<sup>13883</sup>

6123. Sesay testified that Sankoh had met these two white men while in Monrovia after having met with the Accused and President Obasanjo the day before.<sup>13884</sup> Sesay testified that he personally met the two men, Michel and Louis, for the first time in June or July of 1999, when Sam Bockarie brought them to Buedu.<sup>13885</sup> Sesay testified that they transacted business on that trip but did not bring any mining equipment along with them.<sup>13886</sup> According to

<sup>13875</sup> Issa Sesay, Transcript 14 July 2010, pp. 44476-44477.

<sup>13876</sup> Issa Sesay, Transcript 14 July 2010, pp. 44463-44464.

<sup>13877</sup> Issa Sesay, Transcript 14 July 2010, pp. 44475-44477.

<sup>13878</sup> Issa Sesay, Transcript 14 July 2010, pp. 44476-44478, 44481-44482.

<sup>13879</sup> Issa Sesay, Transcript 14 July 2010, p. 44482.

<sup>13880</sup> Issa Sesay, Transcript 14 July 2010, p. 44479.

<sup>13881</sup> Issa Sesay, Transcript 14 July 2010, pp. 44483-44484.

<sup>13882</sup> Issa Sesay, Transcript 14 July 2010, p. 44484.

<sup>13883</sup> Issa Sesay, Transcript 14 July 2010, p. 44484.

<sup>13884</sup> Issa Sesay, Transcript 14 July 2010, pp. 44476-44477.

<sup>13885</sup> Issa Sesay, Transcript 14 July 2010, pp. 44478-44479.

<sup>13886</sup> Issa Sesay, Transcript 14 July 2010, pp. 44478-44479.

Sesay, the December 1999 trip was the first time that the two Belgian men brought mining equipment.<sup>13887</sup>

6124. Sesay testified that after arriving in Kono with the mining equipment, the two white men remained in Kono from December 1999 until late January 2000<sup>13888</sup> and returned to Liberia the very same day that Sankoh did, travelling through Kailahun to Liberia.<sup>13889</sup> Sesay further testified that vehicles from Belgium came to Sierra Leone in March of 2000, but did not specify what those vehicles were used for.<sup>13890</sup> Sesay also testified that in 1999, when Bockarie was the one receiving the diamonds, he would send back clothing and supplies to the diamond miners.<sup>13891</sup>

#### Exhibit D-003

6125. Exhibit D-003 is a radio communication from Ibrahim Bah to Foday Sankoh (a.k.a. Smile) on 12 January 2000.<sup>13892</sup> The document, records Bah's message to Sankoh that they had identified all the problems and needed to speed up the process and to inform him that they were leaving for Monrovia that day, and "imploing" Sankoh to inform Monrovia to "pick us up at the border today or latest tomorrow to speed up our movements".<sup>13893</sup>

#### Deliberations

6126. It is undisputed that fuel, mining equipment and white men crossed the border into Sierra Leone from Liberia on at least one occasion from the end of 1998 to 2001. The Prosecution alleges that the Accused was responsible for sending mining experts and mining equipment to mining sites in Sierra Leone, which resulted in more productive mining, and thus, more diamonds being delivered to the Accused.<sup>13894</sup> The Defence contends that the Accused was not at all involved in the provision of mining experts or mining equipment and

<sup>13887</sup> Issa Sesay, Transcript 14 July 2010, p. 44479.

<sup>13888</sup> Issa Sesay, Transcript 26 July 2010, pp. 44655-44656.

<sup>13889</sup> Issa Sesay, Transcript 26 July 2010, pp. 44655-44656.

<sup>13890</sup> Issa Sesay, Transcript 26 July 2010, p. 44659.

<sup>13891</sup> Issa Sesay, Transcript 2 August 2010, pp. 45199-45200.

<sup>13892</sup> Exhibit D-3, Radio Log Book Three, p. 08779.

<sup>13893</sup> Exhibit D-3, Radio Log Book Three, p. 08779.

<sup>13894</sup> Prosecution Final Trial Brief, paras 350, 360-361, 372.

that Ibrahim Bah may have been involved with the provision of mining equipment and mining experts independent of the Accused.<sup>13895</sup>

6127. In support of the Prosecution's allegations, TF1-338 provided first hand evidence of two trips Issa Sesay took to Monrovia, where he met with the Accused and gave the Accused diamonds. The Trial Chamber recalls that evidence of the Accused receiving diamonds has been dealt with elsewhere, but notes that TF1-338 also gave first hand evidence that after meeting with the Accused, and on his second trip after meeting with two white men, Issa Sesay returned to Sierra Leone with arms and ammunition, food and diesel that was used in the Caterpillars at mining sites in Sierra Leone. The Defence submits that TF1-338's testimony makes clear that the equipment came from the Belgians. The Trial Chamber notes that TF1-338 did not testify as to who provided Sesay with the diesel that he transported to Sierra Leone that was later used in the Caterpillars at the mining sites, and did not mention a meeting with Belgians on the first occasion, but stated that Sesay met the Accused. On the second occasion, Sesay first met the Accused and then met the Belgians but testified that the meeting was an introduction and business was not transacted during that meeting.

6128. The Prosecution also relies upon the evidence of Jabaty Jaward who encountered Ibrahim Bah and Akim Turay in Voinjama with mining equipment that they told Jaward they were taking to Tongo for use in mining diamonds. Although Jaward was unable to testify as to who physically gave the machinery to the men, Jaward testified that Turay told him the equipment was "from Charles Taylor".<sup>13896</sup>

6129. Perry Kamara also provided evidence that the RUF heard a radio message from Sam Bockarie telling them that Charles Taylor would be sending mining experts and mining equipment.<sup>13897</sup> Kamara saw two men arrive at the site and take photos of the equipment, and he testified that "according to them, according to the message we received, Charles Taylor had sent them from Liberia".<sup>13898</sup> Kamara further testified that when Issa Sesay returned from trips to Liberia with supplies, including fuel for the mining machines, he told

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<sup>13895</sup> Defence Final Trial Brief, paras 937, 1161-1162, 1079, 1179, 1187, 1198.

<sup>13896</sup> Jabaty Jaward, Transcript 14 July 2008, p. 13568. Jaward's exact testimony was, "Specifically, you know, he did not say this person had taken this mining plant and given it to us, but at that particular moment when they came he only said that they were from Charles Taylor in Monrovia and that they were going to Sierra Leone."

<sup>13897</sup> Perry Kamara, Transcript 6 February 2008, p. 3263.

<sup>13898</sup> Perry Kamara, Transcript 6 February 2008, pp. 3263-3264.

the witness that he had brought them from Charles Taylor.<sup>13899</sup> Although Kamara did not know the names of the white men, he was told by them that the Accused had sent them. Kamara was also told by Sesay that the supplies and fuel for the mining equipment had come from the Accused.

6130. The Trial Chamber recalls TF1-367's direct examination testimony that once the ECOMOG mining equipment deteriorated, more equipment began arriving from Liberia. In cross-examination, the witness was confronted with his prior statement to the Prosecution in which he had stated that towards the end of his time in Kono, two Lebanese men came in a jeep to meet Sesay; that they came for a second visit about one week later and brought a generator with them which the witness believed was taken to Number 11 mining site,<sup>13900</sup> and that this was the only time he saw Sesay engaged in diamond business with "two white men".<sup>13901</sup> In cross-examination, TF1-367 explained that he meant that that was the only time he saw Sesay engaged with two Lebanese men. The witness did not dispute any other aspects of this particular prior statement.<sup>13902</sup>

6131. The Trial Chamber notes that Mohamed Kabbah also testified that Issa Sesay brought mining materials from Monrovia, although he said that he did not know from whom Sesay received the fuel and whether he paid for it or received it as a donation.<sup>13903</sup> The Trial Chamber recalls Kabbah's testimony that it was "common knowledge" that Sesay took trips to and from Monrovia.<sup>13904</sup> In the Trial Chamber's view, Mohamed Kabbah's testimony regarding Sesay's trips to Monrovia and his return with equipment is too general to create a link to the Accused; however his testimony corroborates the more direct testimony of witnesses Perry Kamara and Jabaty Jaward regarding the arrival of mining equipment and other supplies into Sierra Leone.

6132. Regarding the Defence's proposition that Ibrahim Bah put the RUF in contact with diamond dealers who sent supplies to Sierra Leone completely independent of the Accused, the Trial Chamber notes the testimony of TF1-567 that Bah sold diamonds to his "white

<sup>13899</sup> Perry Kamara, Transcript 6 February 2008, pp. 3267-3268.

<sup>13900</sup> TF1-367, Transcript 1 September 2008, p. 15032.

<sup>13901</sup> TF1-367, Transcript 1 September 2008, p. 15032.

<sup>13902</sup> The Trial Chamber recalls that it has assessed additional portions of TF1-367's cross-examination testimony in the above section on allegations of diamonds delivered to the Accused from June 2000 to disarmament in 2002. See *Diamonds: Alleged Delivery of Diamonds to the Accused, June 2000-2002*.

<sup>13903</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16191-16192.

friends” for computer equipment and other supplies, Sesay’s testimony that Bah was present on his trip to Sierra Leone with Michel and Louis and the mining equipment, and Jaward’s testimony that he met Bah and Turay with equipment “from Charles Taylor” on their way to Sierra Leone. The Defence contends that the testimonies of Sesay and TF1-567 demonstrate that Bah acted independently of the Accused. The Trial Chamber notes that TF1-567’s testimony does not demonstrate a link to the Accused, however the Trial Chamber recalls Jaward’s testimony that Bah and Turay were travelling to Sierra Leone with equipment from the Accused. The Trial Chamber has considered Sesay’s denial that the Accused was involved in the trip that Sesay took with Bah, Michel, Louis and others to bring mining equipment from Liberia to Sierra Leone. However, given the Trial Chamber’s assessment that Sesay’s evidence must be assessed with caution,<sup>13905</sup> and considering that the Trial Chamber does not have any credibility concerns with regard to Jabaty Jaward,<sup>13906</sup> the Trial Chamber rejects Sesay’s denial of the Accused’s involvement and accepts the testimony of Jabaty Jaward.

6133. The Trial Chamber also notes the cross-examination testimony of TF1-367 who confirmed his prior statement to the Prosecution that, towards the end of his tenure as mining commander in Kono, Issa Sesay brought two Lebanese men with him to Kono, and that they came along with a generator that was used at mining site Number 11.<sup>13907</sup> However, the Trial Chamber is also cognisant of TF1-367’s prior statement that the two Lebanese who had come to Number 11 site to observe the mining process came from Freetown, which appeared inconsistent with his testimony on direct examination that they came from Liberia.<sup>13908</sup> However the witness clarified that he had heard that the men came from Liberia, but that he saw them arrive from the direction of Freetown, and that he did not include that detail in his prior statements to investigators because he had not been asked so clearly.<sup>13909</sup> The Trial Chamber also considers Issa Sesay’s testimony that Sam Bockarie brought two Lebanese to Kono to meet TF1-367 in July of 1999 and that at that time they discussed supplying the miners with clothing, food, medicine, sandals and other supplies. The Trial Chamber notes that Sesay does not mention the supply of a generator, nor did he

<sup>13904</sup> Mohamed Kabbah, Transcript 12 September 2008, pp. 16191-16192.

<sup>13905</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>13906</sup> Credibility Assessment, Jabaty Jaward, The Role of Intermediaries, para. 2708.

<sup>13907</sup> TF1-367, Transcript 1 September 2008, pp.15032-15033.

<sup>13908</sup> TF1-367, Transcript 1 September 2008, pp.15032-15033.

<sup>13909</sup> TF1-367, Transcript 1 September 2008, pp.15036-15038.

testify as to the origin of the two Lebanese.<sup>13910</sup> Recalling that TF1-367 is a generally credible witness,<sup>13911</sup> the Trial Chamber accepts TF1-367's explanation regarding his prior inconsistency and does not consider it to be detrimental to his credibility regarding this incident. Furthermore the Trial Chamber notes that Sesay's evidence corroborates TF1-367 on these points, and generally corroborates the evidence of witnesses TF1-338, Perry Kamara, Jabaty Jaward, and TF1-567 as to the presence of Lebanese, or "white men" at mining sites in Kono.

6134. The Trial Chamber notes that Exhibit D-003 is corroborated by the testimony of Issa Sesay and others who testified that Ibrahim Bah was in contact with Foday Sankoh during this time and that he crossed the border between Liberia and Sierra Leone from mid-December 1999 to May 2000. However, the Trial Chamber is of the view that the document is not probative of the Accused's alleged provision of mining experts and mining equipment to Sierra Leone during this time.

6135. The Trial Chamber notes the Accused's testimony that he only provided a limited amount of diesel fuel to Sierra Leone for use in hospitals in 1999. However, because witnesses TF1-338 and Perry Kamara testified about provisions of fuel from the Accused in 2000 and 2001, the Trial Chamber does not consider that the Accused's testimony about a 1999 shipment raises doubt that he sent later shipments. Moreover, having considered all of the relevant evidence, the Trial Chamber is of the view that there may have been multiple sources of mining equipment and fuel entering Sierra Leone during the Indictment Period. However, recalling that Kamara and Jaward are generally credible witnesses,<sup>13912</sup> Kamara and the Trial Chamber finds that the evidence of Kamara and Jaward, who were told that the equipment was sent by the Accused, particularly as corroborated by the evidence of TF1-338, establishes that the Accused was among those sources of mining equipment, including fuel used in the mining equipment.

6136. Regarding the Prosecution's allegation that the Accused received "frequent reports" about RUF mining operations, the Trial Chamber notes the evidence of TF1-516 who testified that Benjamin Yeaten occasionally inquired about the activity at the mining sites

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<sup>13910</sup> Issa Sesay, Transcript 10 August 2010, pp. 45914-45916.

<sup>13911</sup> Credibility Assessment, TF1-367, Pre-Indictment period (1988-1996), para. 2446.

<sup>13912</sup> Credibility Assessment, Perry Kamara, paras 227-236; Credibility Assessment, Jabaty Jaward, The Role of Intermediaries, para. 2708.



and that reports were prepared and transmitted to Yeaten. When asked “what would he send”, TF1-516 testified that Issa sent advice on mining to Yeaten but gave an example of a communication about a military operation.<sup>13913</sup> In the Trial Chamber’s view this evidence does not demonstrate that “regular” updates regarding mining operations were sent to the Accused.

6137. Having considered the evidence, the Trial Chamber is of the view that there may have been multiples sources of mining equipment and fuel entering Sierra Leone during the indictment period. However, the Trial Chamber finds that the evidence of Kamara and Jaward, who told that the equipment was sent by the Accused, particularly as corroborated by the evidence of TF1-338, establishes that the Accused was among those sources of mining equipment, including fuel used in the mining equipment.

6138. However, the Trial Chamber notes that, apart from Perry Kamara, who testified that the two men who arrived at the mining site took photos of the site and of the equipment, the evidence before the Trial Chamber does not indicate the professional qualifications of the “white men” who were present at mining sites in Sierra Leone. Hence, the Trial Chamber is unable to conclude that they were “mining experts”. Likewise, TF1-367 who spent weeks with white men at the sites only testified that diamonds were mined in the men’s presence but did not state that they were mining experts. However the Trial Chamber is satisfied that two men came and inspected and assessed the mining operations with the intention of making a report to the Accused on improving efficiency. The Trial Chamber therefore finds that the Accused sent two men to visit and assess the mining site in Kono.

### Findings

6139. Based on the foregoing, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused provided fuel and mining equipment to the RUF on at least one occasion between 1998 and 2002.

6140. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that two men were sent by the Accused to visit and assess the mining site in Kono.

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<sup>13913</sup> TF1-516, Transcript 10 April 2008, pp. 7179-7190. When asked to elaborate on the kinds of updates sent to Yeaten, the witness gave one example of a message regarding fighting in Kono coming from a station in Tombodu in 2000.



6141. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that regular updates were sent to the Accused about mining activity.

Summary of Findings

6142. The Trial Chamber has found that -

- (i) The Prosecution has proved beyond reasonable doubt that diamonds mined in Kono and Tongo Fields were delivered from the AFRC/RUF to the Accused by Daniel Tamba (a.k.a. Jungle) in exchange for arms and ammunitions during the period May 1997 to February 1998.
- (ii) The Prosecution has proved beyond reasonable doubt that diamonds were delivered to the Accused by Sam Bockarie directly, as well as indirectly through intermediaries such as Eddie Kanneh and Daniel Tamba (a.k.a. Jungle) from February 1998 to July 1999, and that these diamonds were delivered to the Accused for the purpose of obtaining arms and ammunition from him, or at times for safekeeping on behalf of the RUF, until Foday Sankoh's release from detention.
- (iii) Around April 1998, diamonds given to Issa Sesay were lost by him in Monrovia, but the Prosecution failed to prove beyond reasonable doubt that those diamonds were intended for delivery to the Accused.
- (iv) The Prosecution has proved beyond reasonable doubt that Foday Sankoh delivered diamonds to the Accused in February or March of 2000 and that diamonds were delivered to the Accused on Sankoh's behalf in or before 1999 while he was in detention.
- (v) The Prosecution has proved beyond reasonable doubt that from June 2000 until the end of hostilities in 2002, Issa Sesay delivered diamonds to the Accused, sometimes for safekeeping until Sankoh's release from detention and sometimes in return for supplies and/or arms and ammunition.
- (vi) The Prosecution has proved beyond reasonable doubt that Eddie Kanneh also delivered diamonds to the Accused on Sesay's behalf on occasion from June 2000 until the end of hostilities in 2002.



- (vii) The Prosecution has proved beyond reasonable doubt that the Accused facilitated a relationship between Issa Sesay/the RUF and a diamond dealer known as Alpha Bravo in 2001 for the purpose of diamond transactions. However, the Prosecution failed to prove beyond reasonable doubt that the Accused facilitated relationships between the RUF and other diamond dealers.
- (viii) The Prosecution has proved beyond reasonable doubt that the Accused provided fuel and mining equipment to the RUF on at least one occasion between 1998 and 2002.
- (ix) The Prosecution has proved beyond reasonable doubt that two men were sent by the Accused to visit and assess the mining site in Kono.
- (x) The Prosecution failed to prove beyond reasonable doubt that regular updates were sent to the Accused about mining activity.

#### Conclusion

6143. The Trial Chamber has found that there was a continuous supply by the AFRC/RUF of diamonds mined from areas in Sierra Leone to the Accused, often in exchange for arms and ammunition.

6144. During the period May 1997 to February 1998 diamonds mined in Kono and Tongo Fields were delivered from the AFRC/RUF to the Accused by Daniel Tamba (a.k.a. Jungle) in exchange for arms and ammunition.

6145. Following the ECOMOG Intervention, from February 1998 to July 1999, diamonds were delivered to the Accused by Sam Bockarie directly, as well as indirectly through intermediaries such as Eddie Kanneh and Daniel Tamba, in order to get arms and ammunition from him, or sometimes for safekeeping on behalf of the RUF, until Sankoh's return.

6146. The RUF also traded diamonds with entities and individuals other than the Accused or his government. However, testimonial evidence of specific involvement of the Accused in the trade of diamonds supported the findings of a United Nations report of a panel of experts that diamond smuggling from Sierra Leone to Liberia was "the bulk of the RUF trade in

diamonds” and while difficult to quantify was nevertheless the “primary source of income to the RUF”. This report concluded that the trade of diamonds between Liberia and Sierra Leone could not be conducted in Liberia “without the permission and the involvement of government officials at the highest level”.

6147. During the period from July 1999 to May 2000 Foday Sankoh delivered diamonds to the Accused, and diamonds were delivered to the Accused on his behalf in or before 1999 while he was in detention. In March 2000, Foday Sankoh visited South Africa and travelled through Monrovia on his way back to Sierra Leone, meeting with the Accused in Monrovia. According to one witness, among the diamonds delivered to the Accused during this meeting were a 45 carat diamond and two 25 carat diamonds.

6148. From June 2000 until the end of hostilities in 2002, Issa Sesay delivered diamonds to the Accused, including on one occasion a 36 carat diamond, and Eddie Kanneh delivered diamonds to the Accused on Sesay’s behalf. Sometimes the diamonds were delivered for “safekeeping” until Sankoh’s release from detention, and at other times in exchange for supplies and/or arms and ammunition. During this period, diamond trading between the RUF and persons other than the Accused also took place.

6149. As detailed in documentary evidence before the Trial Chamber, Liberian diamonds are generally known to be of a significantly lesser quality than diamonds from Sierra Leone, refuting the claim made by the Accused that he would have had no reason to trade in diamonds from Sierra Leone because Liberia had its own diamonds. Moreover, the documentary evidence indicates that export of diamonds from Liberia was far greater than Liberian diamond production, attributing the difference to diamonds from Sierra Leone smuggled through Liberia.

6150. The Trial Chamber has found that the Accused facilitated a relationship between the RUF and a Belgian known as Alpha Bravo for the purpose of diamond transactions. However, the evidence was insufficient to establish that the Accused facilitated a relationship between the RUF and other diamond dealers.

6151. The Accused also provided diesel fuel for the Caterpillars at the mining sites in Sierra Leone, and equipment for use in mining diamonds to the RUF on at least one occasion between 1998 and 2002. While there may have been multiple sources of mining equipment and fuel entering Sierra Leone during the Indictment period, the Accused was

among them. The Trial Chamber also found that men sent by the Accused visited at least one mining site and assessed mining operations.

6152. While there was evidence of occasional inquiries as to activity at the mining sites in Sierra Leone from Benjamin Yeaten, the Director of Special Security Services for the Accused, and reports to him about the activity at the mining sites in Sierra Leone, the evidence does not establish that regular updates were sent to the Accused about mining activity. The messages sent to Yeaten concerned mainly military operations, such as messages regarding fighting in Kono.



## H. Peace Process

### 1. External Delegation in Côte d'Ivoire

#### Submissions of the Parties

6153. Both Prosecution and Defence concur that in May 1995, an RUF group called the External Delegation travelled to Danané, Côte d'Ivoire where they met senior Ivorian officials and were given material assistance by the Ivorian government.<sup>13914</sup> The delegation also met Musa Cissé, Taylor's chief of protocol, and used the radio at his house in Danané.<sup>13915</sup>

6154. In this context, the Prosecution, relying on the testimony of Perry Kamara, submits that it was the Accused who, during a radio conversation with Foday Sankoh, advised the RUF leader to send an external delegation to Côte d'Ivoire.<sup>13916</sup> The Prosecution further submits that the Accused took members of the delegation with him to Accra, which allowed the Accused to introduce them to contacts who could facilitate arms deals for the RUF.<sup>13917</sup>

6155. The Defence acknowledges that the Accused met members of the External Delegation at a hotel in Abidjan on occasion of the launch of the publication "Footpaths to Democracy" and gave them money, but denies that the Accused advised this mission since he had no communications with Foday Sankoh after Operation Top Final.<sup>13918</sup> The Defence further acknowledges that RUF members accompanied the Accused on a trip to Accra, but contend that this trip was facilitated in order to enable them to meet with the international community and see how peace talks were conducted.<sup>13919</sup>

#### Evidence

#### Prosecution Witness Perry Kamara

<sup>13914</sup> Defence Final Trial Brief, paras 448, 854, 992, 999, 1014-1015; Prosecution Final Trial Brief, paras 125-126, 308, 1234-1236.

<sup>13915</sup> Defence Final Trial Brief, paras 991-992; Prosecution Final Trial Brief, paras 125-126, 308, 1234-1236.

<sup>13916</sup> Prosecution Final Trial Brief, paras 125-126, 308, 1234-1236.

<sup>13917</sup> Prosecution Final Trial Brief, para. 127.

<sup>13918</sup> Defence Final Trial Brief, paras 343, 450.

<sup>13919</sup> Defence Final Trial Brief, para. 451.

6156. Witness Perry Kamara, an RUF radio operator,<sup>13920</sup> testified that in 1994 Taylor and Foday Sankoh used to have radio communications every two or three days.<sup>13921</sup> As a radio operator he received and monitored the radio transmissions and read from the radio log books. Kamara testified that Sankoh “was always advised by Mr Taylor”.<sup>13922</sup> He recalled that after operation Sierra Rutile in late 1994 to 1995,<sup>13923</sup> Mohamed Tarawalli came back to RUF headquarters in Zogoda with money and white hostages. Kamara said that a call from Sankoh was monitored in which Sankoh informed Taylor of the outcome of the mission in Sierra Rutile. During this conversation, Taylor advised Sankoh to save the money to, “for instance, get ammunition, food and drugs for fighters”, and to use the money to establish diplomatic relations with the outside world. Specifically, Taylor advised Sankoh to send educated civilians to Côte d’Ivoire through Guinea, as the border with Liberia was then closed. He said they should buy a house and obtain a base there with radio communications and that they should go at the same time as the white hostages were released, that “the time they should be released, that was the time the people should go with them”.<sup>13924</sup>

6157. Following Taylor’s advice, Sankoh appointed Fayia Musa, Deen Jalloh, Philip Palmer and their families to go to Côte d’Ivoire. According to Kamara, Taylor instructed the members of the RUF External Delegation to leave with the hostages from Sierra Rutile when they were released. The Red Cross came to receive “the white people” together with Deen Jalloh. Subsequently, and in accordance with Taylor’s advice, the RUF External Delegation bought a house in Côte d’Ivoire and established a base there.<sup>13925</sup>

6158. Kamara further testified that after the RUF External Delegation established its base in Côte d’Ivoire, a Liberian named Dr Sebo<sup>13926</sup> came from Côte d’Ivoire to RUF territory in Sierra Leone and brought Sankoh a satellite phone, which Sankoh used until he left Zogoda.

<sup>13920</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>13921</sup> Perry Kamara, Transcript 4 February 2008, p. 3049.

<sup>13922</sup> Perry Kamara, Transcript 4 February 2008, p. 3053.

<sup>13923</sup> Perry Kamara, Transcript 4 February 2008, pp. 3053-3054. See also Pre Indictment Period (1988-1996): Sierra Rutile.

<sup>13924</sup> Perry Kamara, Transcript 4 February 2008, pp. 3054-3056.

<sup>13925</sup> Perry Kamara, Transcript 4 February 2008, pp. 3055-3056.

<sup>13926</sup> Perry Kamara, Transcript 4 February 2008, pp. 3053-3054, 3057-3058. Kamara referred to Dr Addai Sebo as “Dr Simbo”, but owing to the witnesses’ description of this person the Trial Chamber accepts that he is referring to Dr Sebo. See Operational Support: Communications, Satellite Phones.





Kamara stated that when Dr Sebo came the RUF had already established communications with the people who had been sent to Côte d'Ivoire.<sup>13927</sup>

Prosecution Witness TF1-168

6159. Witness TF1-168, an RUF member,<sup>13928</sup>, testified that by late 1993 the RUF had been under constant attack by ULIMO and Government troops. As a result, the RUF established a new headquarters at Zogoda. RUF soldiers were without food and were surviving with difficulty.<sup>13929</sup> Foday Sankoh and other RUF officers decided that it was time to leave the jungle and to meet the international community in order to negotiate peace. In this context, on 11 December 1994, Sankoh sent RUF members including Philip Palmer, Deen Jalloh, Isatu Kallon, Daniel Kallon, Philip Sannoh, Alhaji Kamara and Issa Sesay to Côte d'Ivoire in order to establish a public relations campaign for the RUF. The members of the RUF delegation left Sierra Leone, passing through Guinea.<sup>13930</sup>

6160. On or about 13 December 1994, while in Gueckedou on their way to Côte d'Ivoire, Philip Palmer and Alhaji Kamara were arrested by an anti-gang unit of the police for being members of a rebel group. They were moved to Conakry and detained there until May 1995. After being released in May 1995, Palmer remained with the Sierra Leonean Ambassador to Guinea in Conakry for two weeks until Isatu Kallon came for him.<sup>13931</sup>

6161. TF1-168 testified that Palmer and Isatu Kallon left for Danané, Côte d'Ivoire, where they arrived at the end of May 1995. There the External Delegation met and discussed the fact that they had not made any contacts thus far except with Musa Cissé, Taylor's Chief of Protocol in Danané, who provided the External Delegation with the communication equipment at his house, Belle Ville 1, allowing the External Delegation to communicate with Foday Sankoh. Palmer told the other members of the RUF External Delegation that they should contact the Ivorian authorities and inform them of their presence in Côte

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<sup>13927</sup> Perry Kamara, Transcript 4 February 2008, pp. 3056-3058.

<sup>13928</sup> TF1-168, Transcript 22 January 2009, pp. 23275-23282 (CS).

<sup>13929</sup> TF1-168, Transcript 21 January 2009, pp. 23239-23240 (CS).

<sup>13930</sup> TF1-168, Transcript 21 January 2009, pp. 23245-23248 (CS).

<sup>13931</sup> TF1-168, Transcript 21 January 2009, pp. 23248-23252 (CS).



d'Ivoire, starting with the Prefect of Danané, who after inquiries of the police and Musa Cissé allowed them to remain in Danané.<sup>13932</sup>

6162. TF1-168 testified that the External Delegation contacted Essy Amara, the Foreign Minister, who in turn took them to President Bedie.<sup>13933</sup> The delegation also met several representatives while in Côte d'Ivoire, including representatives from the Commonwealth, from the OAU, from the UN, the Red Cross and other organisations. TF1-168 also mentioned that in Côte d'Ivoire, one External Delegation member met Dr Akyaaba Addai Sebo, a Ghanaian working for an NGO named International Alert, whom Sankoh had met in Gbarnga in 1990 and who advised him on the peace process, and who had also visited Sankoh at Zagoda in 1995.<sup>13934</sup> Notably, Dr Sebo played a key role in the release of the European and American hostages, who were abducted from Sierrromco and Sierra Rutile. According to TF1-168, Sankoh handed over the hostages to Dr Sebo, who escorted them to the border where they were handed over to the ICRC.<sup>13935</sup>

#### The Accused

6163. The Accused testified that he had no contact with Foday Sankoh from 1992 onwards and denied advising Sankoh that the RUF should set up diplomatic relations with the outside world.<sup>13936</sup> He said he was not aware of the establishment of an RUF external delegation in Côte d'Ivoire in 1995 but learned later that the President of Côte d'Ivoire had set up a residence for the RUF delegates.<sup>13937</sup>

6164. The Accused confirmed that Musa Cissé was based in Côte d'Ivoire and had a radio that served a function for the NPFL and its external relationships but stated that, at that time, Cissé did not carry the title of Protocol Officer.<sup>13938</sup> The Accused further stated that he was not aware and was not told that Musa Cissé provided a facility for the RUF External Delegation. The Accused stated that the radio was a general use radio and would not require

<sup>13932</sup> TF1-168, Transcript 21 January 2009, pp. 23252-23256 (CS).

<sup>13933</sup> TF1-168, Transcript 21 January 2009, p. 23256 (CS).

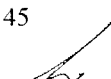
<sup>13934</sup> TF1-168, Transcript 21 January 2009, pp. 23256-23258 (CS); Transcript 22 January 2009, p. 23262 (CS).

<sup>13935</sup> TF1-168, Transcript 22 January 2009, pp. 23263-23265 (CS).

<sup>13936</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 28995-29000.

<sup>13937</sup> Charles Ghankay Taylor, Transcript 23 Septemebr 2009, pp. 29523-29524 (PS).

<sup>13938</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29530-29531 (PS).





permission to contact another radio. He said it was therefore possible that the radio was used for RUF purposes, but it was not done with his permission.<sup>13939</sup>

Defence Witness Isatu Kallon

6165. Witness Isatu Kallon, a businesswoman who arranged supplies for the RUF,<sup>13940</sup> testified that while she was in a refugee camp at Danané, she met a Red Cross officer named “Dr Sebo” who told her that the Red Cross sent him to Sierra Leone in order to assist in the release of five white men who had been abducted, and he requested the witness’s help. Kallon decided to assist Dr Sebo in finding a route into Sierra Leone in order to get money from him in payment for her assistance and to get money from her husband, Daniel Kallon, who was there with the RUF.<sup>13941</sup>

6166. Isatu Kallon escorted Dr Sebo through the town of Gbemalu and entered Pumudu in Sierra Leone.<sup>13942</sup> There, Isatu Kallon met her husband Daniel Kallon, Edwin Collins, Philip Palmer, and Peter Vandi and informed them that Dr Sebo was a Red Cross man seeking the release of foreign hostages. Peter Vandi escorted Dr Sebo while Isatu Kallon remained in Pumudu. 10 or 12 days later Dr Sebo, escorted by Sam Kolleh, brought five white hostages and two black hostages and over 50 captured civilians to Giema. She testified that she did not know who Sam Kolleh was, only that he spoke Mende. One of the white men was sick and was placed in a hospital.<sup>13943</sup>

6167. Isatu Kallon testified that the hostages spent one night in Giema. The next day Kolleh handed the people over to Issa Sesay and Sesay, in turn, handed them to Peter Vandi. That evening Isatu Kallon, Dr Sebo, Peter Vandi and Sam Kolleh escorted the hostages to Gbemalu, at the Guinean border, where the white men and a few black men captured with them, not the RUF, were handed over to the Red Cross. Afterwards, Dr Sebo, Vandi, Kolleh and Isatu Kallon returned to Koindu in Sierra Leone. Dr Sebo thanked Isatu Kallon for her help in releasing the hostages by giving her \$USD 500. She testified she did not know if the

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<sup>13939</sup> Charles Ghankay Taylor, Transcript 23 September 2009, pp. 29531-29532 (PS).

<sup>13940</sup> Isatu Kallon, Transcript 16 June 2010, pp. 42687-42688, 42708; 17 June 2010, pp. 42733-42735, 42759-42760, 42807.

<sup>13941</sup> Isatu Kallon, Transcript 17 June 2010, pp. 42809-42815.

<sup>13942</sup> Isatu Kallon, Transcript 17 June 2010, pp. 42817-42822.

<sup>13943</sup> Isatu Kallon, Transcript 17 June 2010, pp. 42823-42829.



RUF were given any money for the hostage release.<sup>13944</sup> After this event, Isatu Kallon decided to open a trading business at Gbemalu, at the border between Guinea and Sierra Leone. Her husband Daniel Kallon remained with the RUF in Sierra Leone as civilian liaison.<sup>13945</sup>

6168. Isatu Kallon further testified that she received a radio call from Foday Sankoh who instructed her, from his headquarters in Zogoda, to escort her husband Daniel Kallon together with Deen Jalloh, Agnes Jalloh, Alhaji Kamara, Alhaji Fofana, Kono Manie, and Philip Palmer to Côte d'Ivoire passing through Guinea.<sup>13946</sup> Kallon stated that before leaving Pumudu, Peter Vandi, an RUF soldier, brought diamonds to Kamara and Fofana, saying that on Sankoh's instruction Issa Sesay gave him these diamonds to fund the External Delegation's expenses.<sup>13947</sup> After paying Guinean soldiers the External Delegation crossed the border and stopped in Gueckedou, Guinea to obtain ID cards.<sup>13948</sup> Isatu Kallon testified that there were no white men travelling with them.<sup>13949</sup> While she was dealing with the Sierra Leonean refugee committee in order to obtain the ID Cards, Fofana sold the diamonds in Gueckedou and reimbursed Isatu Kallon for her expenses including the bribes she had to pay to the Guinean soldiers.<sup>13950</sup> Isatu Kallon stated that Guinean soldiers arrested Palmer after ransacking the house where the Delegation was staying, and also arrested Kamara, who was at Nongawa Park. They were transferred to Conakry and detained at the anti-gang headquarters. The other members of the External Delegation left Gueckedou for Danané, Côte d'Ivoire. Isatu Kallon also went to Danané but returned and remained in Gueckedou.<sup>13951</sup>

6169. Less than a year later, Isatu Kallon travelled to Conakry where she met Kamara, who had been released. He told her that Palmer had been released from prison and was at the Sierra Leonean Embassy. At Foday Sankoh's request Kallon went to Conakry and located Palmer. Kallon gave Palmer money and he went to a Sierra Leonean in order to obtain

<sup>13944</sup> Isatu Kallon, Transcript 17 June 2010, pp. 42829-42834.

<sup>13945</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42843-42846.

<sup>13946</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42849-42851, 42854.

<sup>13947</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42854-42856.

<sup>13948</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42860-42865.

<sup>13949</sup> Isatu Kallon, Transcript 22 June 2010, pp. 43090-43091.

<sup>13950</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42865-42869.

<sup>13951</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42869-42875.

refugee documents.<sup>13952</sup> Palmer and Isatu Kallon left for Danané, where they met the RUF External Delegation. After this trip, Isatu Kallon returned to Gueckedou.<sup>13953</sup>

6170. Kallon was contacted again to escort three men to Côte d'Ivoire: Fayia Musa, another RUF member, Philip Sannoh, a "radio boy" and Alhaji Barrie.<sup>13954</sup> Kallon met these three men in Buedu and took them, together with a dismantled radio, to Koilu, where they crossed the Guinean-Sierra Leonean border at Nongowa.<sup>13955</sup>

6171. Kallon did not know why Sankoh decided to send the RUF delegation to Danané, but she heard that they were supposed to explain to NGOs such as the Red Cross why the RUF was fighting. Kallon was only concerned about completing the task and getting paid.<sup>13956</sup>

#### Defence Witness Fayia Musa

6172. Witness Fayia Musa, a member of the External Delegation and an agricultural officer in the RUF,<sup>13957</sup> testified that in late 1993 he met Dr Addai Sebo, who entered RUF territory claiming that he was a journalist who wanted to meet Foday Sankoh. Issa Sesay arranged for Sebo to travel to Zogoda to see Sankoh.<sup>13958</sup> Dr Sebo returned in 1994, when he disclosed that in fact he was a representative of International Alert, an NGO based in London working on conflict-resolution.<sup>13959</sup> Dr Sebo said that his boss had sent him to undertake a project that would search for solutions to the Sierra Leonean conflict through dialogue, and he had come to assess whether Sankoh would be willing to send out a delegation to meet the international community.<sup>13960</sup>

6173. Foday Sankoh agreed and sent an External Delegation comprised of Ibrahim Deen Jalloh, Isatta Kallon, Agnes Deen Jalloh, Philip Sylvester Palmer, Kono Manyi and Alhaji Brima Kamara.<sup>13961</sup> In December 1994, the "first batch" of the delegation was picked up by Dr Sebo in Kailahun and went to Côte d'Ivoire passing through Guinea. They crossed at

<sup>13952</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42885-42889.

<sup>13953</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42889-42890.

<sup>13954</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42884, 42894.

<sup>13955</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42894-42896.

<sup>13956</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42890-42891.

<sup>13957</sup> Fayia Musa, Transcript 14 April 2010, p. 38949; Transcript 19 April 2010, p. 39283.

<sup>13958</sup> Fayia Musa, Transcript 14 April 2010 pp. 38940-38941.

<sup>13959</sup> Fayia Musa, Transcript 14 April 2010 pp. 38940-38941.

<sup>13960</sup> Fayia Musa, Transcript 14 April 2010 pp. 38941-38944.

<sup>13961</sup> Fayia Musa, Transcript 14 April 2010, pp. 38942-38947.

Dia at the border with Guinea, from there they went to Gueckedou, to the Guinea-Côte d'Ivoire border, and from there to Danané, Côte d'Ivoire. The most direct route from Sierra Leone to Côte d'Ivoire is through Liberia, but at that time the RUF had decided not to have "much to do with Liberia", and ULIMO was at the border.<sup>13962</sup> Fayia Musa stated that Isatu Kallon managed the travel poorly, and when the RUF delegation reached Gueckedou police officers arrested Kamara and Palmer. Palmer was held in Guinea until July 1995.<sup>13963</sup>

6174. Fayia Musa also testified that in June 1995, Sankoh instructed him to follow the first delegation to Danané. Musa travelled with Morris Kallon, Philip Sannoh and Isatu Kallon following the same route as the first delegation, and the trip passed without incident. Dr Mohamed Barrie joined them later. Dr Sebo met the group upon their arrival in Danané and took them to a residence that had been prepared for them in Houphouetville. Upon their arrival in Danané, Fayia Musa and his companions met up with the first delegation in Belleville.<sup>13964</sup> Isatu Kallon sold diamonds given to her by Sankoh to pay for accommodation and an "allowance". The RUF delegation in Danané was comprised, at this time, of Fayia Musa, Ibrahim Hassan, Deen Jalloh and his wife Agnes Deen Jalloh, Philip Sannoh, and Stephen Kamanda, a radio operator to Palmer.<sup>13965</sup> Palmer arrived in early July 1995 after the Delegation had met the Prefect and Chief of Police.<sup>13966</sup>

6175. While in Danané, Dr Sebo introduced the External Delegation to Alhaji Fofana, a Mauritanian, who brought the External Delegation to Mauritians with whom they could trade diamonds.<sup>13967</sup> Dr Sebo also introduced the External Delegation to Musa Cissé, Taylor's Chief of Protocol in Danané, who introduced them to the Prefect and Chief of Police of Danané.<sup>13968</sup> Dr Sebo finally introduced the External Delegation to the Foreign Minister of Côte d'Ivoire, Amara Essy, who later became the chief negotiator for the

<sup>13962</sup> Fayia Musa, Transcript 14 April 2010, pp. 38942-38944

<sup>13963</sup> Fayia Musa, Transcript 14 April 2010, pp. 38945-38946.

<sup>13964</sup> Fayia Musa, Transcript 14 April 2010, pp. 38946-38949.

<sup>13965</sup> Fayia Musa, Transcript 14 April 2010, p. 38951.

<sup>13966</sup> Fayia Musa, Transcript 14 April 2010, p. 38958.

<sup>13967</sup> Fayia Musa, Transcript 14 April 2010, pp. 38948-38949.

<sup>13968</sup> Fayia Musa, Transcript 14 April 2010, pp. 38950-38951.

Abidjan Peace Accord,<sup>13969</sup> as well as Omrie Golley and Ambrose Ganda, Sierra Leonean lawyers based in London.<sup>13970</sup>

6176. Musa Cissé and Dr Sebo also arranged for the RUF delegation to meet the Prefect of Danané. At that meeting the External Delegation informed the Prefect that the purpose of their stay in Côte d'Ivoire was to establish RUF political representation in Danané and to put aside the military aspect of their agenda and focus on the diplomatic and political aspects so they were there to seek support.<sup>13971</sup> Fayia Musa testified that when the Prefect of Danané saw that Musa Cissé supported the RUF delegation, he sent for the police commissaire, Mr Koffi, to check out the residence where the delegation was staying in Danané. Mr Koffi made arrangements for the members of the delegation to have resident permit ID cards delivered and told them to see him "in case of any problems".<sup>13972</sup>

6177. Fayia Musa stated that Musa Cissé allowed the delegation to use his radio set, located at his house in Belleville, to communicate with Foday Sankoh.<sup>13973</sup> The delegation used Cissé's radio twice a week in order to communicate with Sankoh. The radio was never used to communicate with Taylor.<sup>13974</sup> The radio was not set up in Musa Cissé's house for the exclusive use of the RUF delegation.<sup>13975</sup> Musa testified that the RUF delegation relied exclusively on Musa Cissé's radio to communicate with the RUF in Sierra Leone through 1995.<sup>13976</sup>

6178. Fayia Musa further testified that around July 1995, Taylor helped the External Delegation to prepare for the peace talks by inviting himself and Palmer to Gbarnga to meet him there. Taylor sent a message through Cassell,<sup>13977</sup> Musa Cissé's radio operator.<sup>13978</sup> Sankoh told Fayia and Palmer not to go, but then allowed them to do so.<sup>13979</sup> Fayia and Palmer arrived in the first week of July 1995, and stayed until the start of August, but Taylor

<sup>13969</sup> Fayia Musa, Transcript 14 April 2010, p. 38954.

<sup>13970</sup> Fayia Musa, Transcript 14 April 2010, pp. 38964-38966.

<sup>13971</sup> Fayia Musa, Transcript 14 April 2010, p. 38950.

<sup>13972</sup> Fayia Musa, Transcript 14 April 2010, pp. 38951-38952.

<sup>13973</sup> Fayia Musa, Transcript 14 April 2010, p. 38957.

<sup>13974</sup> Fayia Musa, Transcript 14 April 2010, pp. 38952.

<sup>13975</sup> Fayia Musa, Transcript 14 April 2010, p. 38953.

<sup>13976</sup> Fayia Musa, Transcript 14 April 2010, p. 39009.

<sup>13977</sup> Fayia Musa, Transcript 14 April 2010, p. 38959.

<sup>13978</sup> Fayia Musa, Transcript 14 April 2010, p. 38957.

<sup>13979</sup> Fayia Musa, Transcript 14 April 2010, pp. 38959-38960.

was only able to meet with them twice, and for approximately ten minutes.<sup>13980</sup> Taylor told them that he would talk to them later and asked how “the brother” (meaning Foday Sankoh) was. He did not “disclose” why he had called them.<sup>13981</sup>

6179. When Taylor began the Liberian peace talks in Accra, Ghana in August, 1995, he called and told Musa and Palmer to follow his convoy to Accra.<sup>13982</sup> When they arrived Taylor told them that he wanted them to meet people in the international community and see how they negotiated peace so as to prepare them for their own peace negotiations.<sup>13983</sup> Taylor gave them the same allowance and accommodation that he gave to his own Liberian staff.<sup>13984</sup> In the end, however, Taylor did not invite them to the peace negotiations. Musa testified that he and Palmer were “just there around”, did not see Taylor at all for the first week, and only saw him once in the second week. Musa considered it as being a “sight-seeing” trip.<sup>13985</sup>

6180. In December 1995, the RUF book “Footpaths to Democracy” was launched in the Côte d’Ivoire Foreign Ministry.<sup>13986</sup> On that day, Taylor was in Abidjan and asked to see the delegation. Fayia Musa went with others to Taylor’s hotel room. Musa testified that Taylor’s room was crowded, but that he congratulated them on marketing themselves, and stated that making their views known was the first step to a peace process. Taylor then asked General Jackson, his bodyguard, to give the delegation CFA 10 million francs for their maintenance in Côte d’Ivoire. He said that the money was to support the RUF when it ran for office after the peace process.<sup>13987</sup>

#### Defence Witness Issa Sesay

6181. Witness Issa Sesay, senior RUF commander,<sup>13988</sup> testified that around December 1994, Foday Sankoh did not have outside contacts and depended on captured materials. No one outside knew what the RUF stood for. He thought it was necessary to get the message

<sup>13980</sup> Fayia Musa, Transcript 14 April 2010, pp. 38959-38961.

<sup>13981</sup> Fayia Musa, Transcript 14 April 2010, p. 38961.

<sup>13982</sup> Fayia Musa, Transcript 14 April 2010, pp. 38961-38962, 38965.

<sup>13983</sup> Fayia Musa, Transcript 14 April 2010, pp. 38962-38963.

<sup>13984</sup> Fayia Musa, Transcript 14 April 2010, p. 38963.

<sup>13985</sup> Fayia Musa, Transcript 14 April 2010, pp. 38963-38964.

<sup>13986</sup> Fayia Musa, Transcript 14 April 2010, p. 38967.

<sup>13987</sup> Fayia Musa, Transcript 14 April 2010, pp. 39000-39001.

<sup>13988</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596, and

out as to what the RUF stood for and to make contacts with the sympathisers and friends of Foday Sankoh, such as the Libyan and Burkina Faso governments.<sup>13989</sup>

6182. After discussions with Deen Jalloh and Fayia Musa, Sankoh decided to establish an external delegation in Danané, Côte d'Ivoire. Sankoh decided to base the External Delegation in Danané because it was close to the Guinean border, and thus facilitated movement to and from Sierra Leone, and because the housing rental prices were inexpensive.<sup>13990</sup> The External Delegation, comprised of Fayia Musa, Deen Jalloh, Alhaji Kamara, Konomanyie, Philip Palmer, and Deen Jalloh's wife, was given instructions to go to Danané.<sup>13991</sup>

6183. Between 10 and 20 December 1994, Issa Sesay escorted the External Delegation to the Guinean border. The External Delegation crossed the border to Guinea at the end of December 1994 and contacted Mamie I Brown, the wife of CO Brown. She arranged a vehicle to collect the delegates at the border.<sup>13992</sup> While in Guinea, Philip Palmer and Alhaji Kamara were arrested. After his release, Alhaji did not return to the RUF until 2000 when Sankoh was in Freetown. He did not rejoin the External Delegation. Palmer was released around March 1995 and joined the External Delegation in Côte d'Ivoire.<sup>13993</sup>

6184. While in Côte d'Ivoire, the External Delegation rented a house in Danané, where they stayed until 1995. They were joined by their wives, and Isatu Kallon would go back and forth between Danané and Sierra Leone, bringing ammunition, medicine and food she purchased in Guinea.<sup>13994</sup>

6185. Issa Sesay testified that, while in Côte d'Ivoire, around March and April 1995, the External Delegation met with Dr Addai Sebo, from International Alert.<sup>13995</sup> Sesay further testified that Palmer arranged Dr Sebo's visit to Sankoh and brought Dr Sebo from Côte d'Ivoire into Sierra Leone. During his visit, Dr Sebo brought with him video cameras and a

<sup>13989</sup> Issa Sesay, Transcript 6 July 2010, pp. 43707, 43709-43710, 43712-43714; Transcript 17 August 2010, pp. 46471-46472.

<sup>13990</sup> Issa Sesay, Transcript 17 August 2010, p. 46478.

<sup>13991</sup> Issa Sesay, Transcript 6 July 2010, pp. 43707-43711.

<sup>13992</sup> Issa Sesay, Transcript 6 July 2010, p. 43714.

<sup>13993</sup> Issa Sesay, Transcript 6 July 2010, pp. 43709, 43714.

<sup>13994</sup> Issa Sesay, Transcript 6 July 2010, p. 43715.

<sup>13995</sup> Issa Sesay, Transcript 6 July 2010, pp. 43715-43717; Transcript 17 August 2010, p. 46472.

satellite phone. He left the satellite phone with Sankoh after the visit.<sup>13996</sup> The purpose of Dr Sebo's visit was to disseminate information about the RUF so the international community would know what it stood for. During the meeting, Sankoh and Dr Sebo discussed the possibility of the RUF writing a book to further spread their message. Sankoh told Palmer, who accompanied Dr Sebo, that the External Delegation should prepare a book and bring it to him.<sup>13997</sup>

### Deliberations

6186. The evidence unequivocally establishes that around December 1994, Sankoh sent an RUF group called the External Delegation to Côte d'Ivoire in order to establish RUF political representation there.<sup>13998</sup> This group was composed of Ibrahim Deen Jalloh, Agnes Deen Jalloh, Philip Palmer, Konomanyie and Alhaji Brima Kamara, and it was escorted by Isatu Kallon.<sup>13999</sup> On their way to Côte d'Ivoire, the group stopped in Guinea, where Palmer and Alhaji Kamara were arrested by the Guinean authorities and transported to Conakry.<sup>14000</sup>

<sup>13996</sup> Issa Sesay, Transcript 6 July 2010, pp. 43715-43717.

<sup>13997</sup> Issa Sesay, Transcript 6 July 2010, p. 43717.

<sup>13998</sup> Perry Kamara, Transcript 4 February 2008, pp. 3055-3056 (in late 1994, Foday Sankoh appointed Fayia Musa, Deen Jalloh, Palmer and their families to go to Côte d'Ivoire); TF1-168, Transcript 21 January 2009, pp. 23245-23248 (CS) (on 11 December 1994, Foday Sankoh sent RUF members including Deen Jalloh, Isatu Kallon, Daniel Kallon, Philip Sannoh, Alhaji Kamara and Issa Sesay to Côte d'Ivoire in order to establish a public relations campaign for the RUF); Isatu Kallon, Transcript 18 June 2010, pp. 42849-42851, 42854 (Isatu Kallon received a radio call from Foday Sankoh who instructed her, from his headquarters in Zogoda, to escort her husband Daniel Kallon together with Deen Jalloh, Agnes Jalloh, Alhaji Kamara, Alhaji Fofana, Konomanie, and Philip Palmer to Côte d'Ivoire); Fayia Musa, Transcript 14 April 2010, p. 38947 (in December 1994 Foday Sankoh sent an external delegation comprised of Ibrahim Deen Jalloh, Isatta Kallon, Agnes Deen Jalloh, Philip Sylvester Palmer, Kono Manyi and Alhaji Brima Kamara); Issa Sesay, Transcript 6 July 2010, pp. 43707, 43709-43710, 43712-43714; Transcript 17 August 2010, pp. 46471-46472 (around December 1994, Sankoh decided to establish an external delegation in Danané, Côte d'Ivoire).

<sup>13999</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42849-42851, 42854 (Isatu Kallon escorted her husband, Daniel Kallon, together with Deen Jalloh, Agnes Jalloh, Alhaji Kamara, Alhaji Fofana, Konomanie, and Philip Palmer to Côte d'Ivoire); TF1-168, Transcript 21 January 2009, pp. 23245-23248 (CS) (on 11 December 1994, Foday Sankoh sent RUF members including Deen Jalloh, Isatu Kallon, Daniel Kallon, Philip Sannoh, Alhaji Kamara and Issa to Côte d'Ivoire in order to establish a PR campaign for the RUF); Fayia Musa, Transcript 14 April 2010, p. 38947 (in December 1994 Foday Sankoh sent an external delegation comprised of Ibrahim Deen Jalloh, Isatta Kallon, Agnes Deen Jalloh, Philip Sylvester Palmer, Kono Manyi and Alhaji Brima Kamara; Fayia Musa further testified that Isatu Kallon managed the travel poorly); Issa Sesay, Transcript 6 July 2010, pp. 43707-43711 (the External Delegation was comprised of Fayia Musa, Deen Jalloh, Alhaji Kamara, Konomanyie, Philip Palmer, Deen Jalloh's wife and Konomanyie).

<sup>14000</sup> TF1-168, Transcript 21 January 2009, pp. 23248-23252 (CS) (on or around 13 December 1994, while in Gueckedou on their way to Côte d'Ivoire, Philip Palmer and Alhaji Kamara were arrested by an anti-gang unit of the police for being member of a rebel group. They were moved to Conakry and detained there until May 1995); Isatu Kallon, Transcript 18 June 2010, pp. 42869-42875 (Guinean soldiers arrested Palmer and Kamara after ransacking the house where the delegation was staying and were transferred to Conakry); Fayia Musa, Transcript 14 April 2010, pp. 38945-38946 (when the RUF delegation reached Gueckedou, police officers arrested Kamara and Palmer); Issa Sesay, Transcript 6 July 2010, pp. 43709, 43714 (while in Guinea, Philip Palmer and Alhaji Kamara were arrested).

Palmer and Alhaji Kamara were released in May 1995.<sup>14001</sup> After his release, Palmer joined the RUF External Delegation in Danané, Côte d'Ivoire, escorted by Isatu Kallon.<sup>14002</sup> The evidence also shows that, around May or June 1995, Sankoh instructed Fayia Musa to join the External Delegation in Danané.<sup>14003</sup> There, the delegation met several representatives<sup>14004</sup> including Musa Cissé, an NPFL representative,<sup>14005</sup> who allowed them to use his radio to communicate with Sankoh.<sup>14006</sup>

<sup>14001</sup> TF1-168, Transcript 21 January 2009, pp. 23248-23252 (CS) (Palmer and Alhaji Kamara were detained in Conakry until May 1995. After being released in May 1995, Palmer remained with the Sierra Leonean Ambassador to Guinea, in Conakry for two weeks); Isatu Kallon, Transcript 18 June 2010, pp. 42887-42889 (Palmer was released around May 1995); See also Fayia Musa, Transcript 14 April 2010, pp. 38945-38946 (Palmer was held in Guinea until July 1995); Issa Sesay, Transcript 6 July 2010, pp. 43709, 43714 (Philip Palmer was released around March 1995 and joined the External Delegation in the Côte d'Ivoire).

<sup>14002</sup> TF1-168, Transcript 21 January 2009, p. 23252 (CS) (Witness TF1-168 testified that Philip Palmer and Isatu Kallon left for Danané, Côte d'Ivoire, where they arrived at the end of May 1995. The External Delegation there including Philip Sannoh, Mr Konomanyie, Deen Jalloh and Fayia Musa); Isatu Kallon, Transcript 18 June 2010, pp. 42887-42890 (around May 1995, Isatu Kallon travelled to Conakry where she met Philip Palmer who had been released from prison. Kallon gave Palmer money and he went to the Sierra Leonean Embassy in order to obtain refugee documents. Palmer and Isatu Kallon left to Danané where they encountered the RUF External Delegation); Issa Sesay, Transcript 6 July 2010, p. 43709 (when Philip Palmer was released, he joined the External Delegation in the Côte d'Ivoire).

<sup>14003</sup> Fayia Musa, Transcript 14 April 2010, p. 38949 (in June 1995, Foday Sankoh instructed Fayia Musa to follow the first delegation to Danané. Musa travelled with Morris Kallon and Philip Sannoh and followed the same route as the first delegation and the trip passed without incident. Upon their arrival in Danané, Fayia Musa and his companions met up with the first delegation in Belleville); Isatu Kallon, Transcript 18 June 2010, pp. 42884, 42894-42896 (around June 1995, Kallon was contacted by Sankoh who asked her to escort Fayia Musa, Philip Sannoh, and Alhaji Barrie to Guinea. Kallon met these three men in Buedu, and took them to Koilu where they crossed the Guinean-Sierra Leonean border at the Nongowa); TF1-168, Transcript 21 January 2009, pp. 23252-23256 (CS) (when Palmer joined the External Delegation at the end of May 1995, Fayia Musa was already there).

<sup>14004</sup> TF1-168, Transcript 22 January 2009, pp. 23263-23265 (CS) (the External Delegation met several representatives while in Côte d'Ivoire, including representatives from the Commonwealth, from the OAU, from the UN, the Red Cross and other organisations); Fayia Musa, Transcript 14 April 2010, pp. 38948-38951, 38954, 38964-38966 (while in Danané, Dr Sebo introduced the External Delegation to Alhaji Fofana, a Mauritanian, who brought the External Delegation to Mauritians, to Musa Cissé, the Accused's chief of protocol in Danané, to the Foreign Minister of Côte d'Ivoire, who later became the chief negotiator for the Abidjan Peace Accord, as well as Omrie Golley and Ambrose Ganda, Sierra Leonean lawyers based in London).

<sup>14005</sup> Several witnesses testified that Musa Cissé was the Accused's Chief of Protocol in Danané. See TF1-168, Transcript 21 January 2009, p. 23254 (CS); Fayia Musa, Transcript 14 April 2010, pp. 38950-38951. See also Defence Final Trial Brief, para. 991. But see Charles Ghankay Taylor, Transcript 23 September 2009, p. 29531 (PS) (at that time, Musa Cissé did not carry the title of Chief of Protocol).

<sup>14006</sup> TF1-168, Transcript 21 January 2009, pp. 23252-23256 (CS) (when Palmer arrived in Danané in May 1995, the External Delegation had made no contacts except with Musa Cissé, the Accused's chief who provided the External Delegation with the communication equipment of his house, Belle Ville 1, allowing the External Delegation to communicate with Foday Sankoh); Fayia Musa, Transcript 14 April 2010, pp. 38952, 38957 (Musa Cissé allowed the delegation to use his radio set, located at his house in Belleville, to communicate with Foday Sankoh. The delegation used Cissé's radio twice a week in order to communicate with Foday Sankoh. The radio was never used to communicate with Charles Taylor). See also Witness TF1-371, 25 January 2008, pp. 2248-2250 (CS) (Witness TF1-371 testified that Fayia Musa of the External Delegation used the radio at Musa Cissé's house in Danané to contact Sankoh in Zogoda to inform him that he had met Witness TF1-371 in Danané); See also Defence Final Trial Brief, paras 991-992; Prosecution Final Trial Brief paras 125, 308.



6187. The Prosecution, relying on Perry Kamara's testimony, submits that it was the Accused who advised Sankoh to send this delegation to Côte d'Ivoire.<sup>14007</sup> Kamara testified that during radio conversations in late 1994, the Accused suggested that Sankoh send educated civilians to Côte d'Ivoire through Guinea, to set up a base there with radio communications, a plan that Sankoh implemented. Kamara also testified that the Accused suggested sending this delegation at the same time as the hostages were released, to go together with them.<sup>14008</sup>

6188. The Trial Chamber notes that Perry Kamara is the only witness who testified as to the radio communication between the Accused and Sankoh in which the Accused advised Sankoh to send the External Delegation to Côte d'Ivoire. The Trial Chamber recalls its finding that Kamara is a generally credible witness.<sup>14009</sup> Kamara testified that as a radio man, he received and monitored the radio transmissions and read from the log books.<sup>14010</sup> Kamara testified that he monitored the call.<sup>14011</sup> When describing this conversation, Kamara quoted the Accused's alleged statement, indicating that he directly heard the conversation.<sup>14012</sup>

6189. The Trial Chamber notes that in the conversation Kamara recounted, the Accused suggested that Sankoh send the External Delegation out of Sierra Leone together with the white hostages captured during the attack on Sierra Rutile.<sup>14013</sup> Kamara testified that Sankoh followed Taylor's advice and sent Fayia Musa, Deen Jalloh, Philip Palmer and their families together with the hostages.<sup>14014</sup> However, the account given by both Prosecution and Defence witnesses who had direct involvement in the movements of the External Delegation differs from Kamara's account. Both Prosecution and Defence Witnesses testified from first-hand knowledge that Fayia Musa and Philip Palmer were not part of the same mission. While Palmer left Zogoda in December 1994, Fayia Musa left Sierra Leone to join the RUF External Delegation only in June 1995. None of the witnesses other than Kamara testified

<sup>14007</sup> Prosecution Final Trial Brief, paras 125-126, 308, 1234-1236.

<sup>14008</sup> Perry Kamara, Transcript 4 February 2008, pp. 3055-3056.

<sup>14009</sup> Credibility Assessment, Perry Kamara, paras 227-236.

<sup>14010</sup> Perry Kamara, Transcript 4 February 2008, p. 3053.

<sup>14011</sup> Perry Kamara, Transcript 4 February 2008, p. 3055.

<sup>14012</sup> Perry Kamara, Transcript 4 February 2008, p. 3054 ("And then Mr Taylor told him that, 'you have to save that money to do some other things with it, for instance to get ammunition, food and drugs for your fighters.' He kept the money for some time. Then also 'You can use this money to establish diplomatic relationship with the outside world.'")

<sup>14013</sup> Perry Kamara, Transcript 4 February 2008, pp. 3055-3056.

<sup>14014</sup> Perry Kamara, Transcript 4 February 2008, p. 3055 ("Who was appointed for that mission was Fayiah

that the delegation travelled with hostages. Witness TF1-168 and Isatu Kallon testified that Sankoh turned the hostages over to Dr Sebo, a member of an NGO, who in turn delivered them to the ICRC.<sup>14015</sup>

6190. The Trial Chamber recalls that Perry Kamara was not part of the External Delegation and did not partake in the organisation of the handing over of the hostages or in the travel arrangements of the External Delegation. He was an RUF radio operator. What happened after the conversation he described between the Accused and Sankoh is not attributed to any source of information, and he does not claim to have witnessed these events himself. The Trial Chamber accepts the evidence of TF1-168, Isatu Kallon and Fayia Musa, who was himself a member of the External Delegation, as to the travel of the members of the External Delegation to Côte d'Ivoire, unrelated to the travel of the white hostages released to the Red Cross. The Trial Chamber notes that Isatu Kallon organised the separate travel of both groups to Guinea. Kallon testified that there were 50 captured civilians in addition to the white hostages. In these circumstances, the Trial Chamber is of the view that while the testimony of Kamara is inaccurate with regard to the circumstances of the departure of the External Delegation, this inaccuracy does not undermine his credibility.

6191. The Trial Chamber notes that Augustine Mallah and Isaac Mongor testified that Sankoh and the Accused had communications during this period and that Sankoh was seeking advice from Taylor.<sup>14016</sup> Moreover, TF1-168 and Fayia Musa testified that Musa Cissé, a high ranking NPFL officer in Danané whom they said was Taylor's Chief of Protocol, was instrumental in helping the RUF External Delegation to establish their representation in Côte d'Ivoire.<sup>14017</sup> As discussed, Fayia Musa further testified that the Accused himself brought members of the External Delegation with him to Accra. In these circumstances, the Trial Chamber finds that the Accused's blanket assertion that he did not

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Musa, Deen Jalloh, Mr Palmer and their families").

<sup>14015</sup> TF1-168, Transcript 22 January 2009, pp. 23263-23265 (CS); Isatu Kallon, Transcript 17 June 2010, pp. 42829-42834.

<sup>14016</sup> See Pre-Indictment Period: Sierra Rutile; Pre-Indictment Period: Operation Stop Election.

<sup>14017</sup> TF1-168, Transcript 21 January 2009, pp. 23252-23256 (CS) (when Palmer arrived in Danané in May 1995, the External Delegation had made no contacts except with Musa Cissé, the Accused's chief who provided the External Delegation with the communication equipment of his house, Belle Ville 1, allowing the External Delegation to communicate with Foday Sankoh); Fayia Musa, Transcript 14 April 2010, pp. 38952, 38957 (Musa Cissé allowed the delegation to use his radio set, located at his house in Belleville, to communicate with Foday Sankoh). Fayia Musa, Transcript 14 April 2010, pp. 38950-38951 (Musa Cissé introduced the External Delegation to the prefect and chief of police of Danané; when the prefect of Danané saw that Musa Cissé supported the RUF delegation, he sent for the police commissaire, Mr Koffi to check out the residence where the

have any contact with Sankoh and his testimony that he was unaware of the establishment of an RUF External Delegation is not credible.<sup>14018</sup>

6192. In the Trial Chamber's view, the fact that TF1-168,<sup>14019</sup> Fayia Musa<sup>14020</sup>, Issa Sesay<sup>14021</sup> and Isatu Kallon<sup>14022</sup> provided other explanations for Sankoh's decision to send the External Delegation to Côte d'Ivoire does not exclude the possibility that the Accused also advised Sankoh to do so, as described by Perry Kamara.

6193. Regarding the Prosecution allegation that the Accused took members of the External Delegation with him to Accra, the Trial Chamber notes that the allegation is supported by the testimony of Fayia Musa, and that the Defence concedes that this trip occurred with the Accused.<sup>14023</sup> The Prosecution alleges that this trip to Accra allowed the Accused to introduce the External Delegation members to contacts who could facilitate arms deals. However, the Prosecution does not cite any evidence to support its allegation that the trip to Accra was for the purpose of dealing in arms. Fayia Musa, the only witness to testify to this trip to Accra, said that he and Philip Palmer did not interact with any outside contacts, and that they only saw Taylor once in the two weeks they were in Accra, concluding that this became, for them, a "sightseeing trip". For this reason, the Trial Chamber finds that the Prosecution has not established that the Accused arranged this trip to Accra in order to facilitate arms deals.

## Findings

delegation was staying in Danané).

<sup>14018</sup> Charles Ghankay Taylor, Transcript 16 September 2009, pp. 28999-29000.

<sup>14019</sup> TF1-168, Transcript 21 January 2009, pp. 23239-23240 (CS) (Sankoh and officers decided to send an External Delegation considering the fact that the RUF was living in extremely difficult conditions in the jungle, surviving without food and repeatedly attacked by ULIMO and Government troops).

<sup>14020</sup> Fayia Musa, Transcript 14 April 2010, pp. 38941-38944 (Fayia Musa testified that it was Dr Sebo, a representative of International Alert, an NGO based in London working on conflict-resolution, who said that his boss had sent him to undertake a project that would search for solutions to the Sierra Leonean conflict, and he had come to assess whether Foday Sankoh would be willing to send out a delegation to meet the international community).

<sup>14021</sup> Issa Sesay, Transcript 6 July 2010, pp. 43707, 43709-43710, 43712-43714; Transcript 17 August 2010, pp. 46471-46472, 46478 (Issa Sesay testified that after discussions with Deen Jalloh and Fayia Musa Sankoh decided to establish an RUF External Delegation in Danané, Côte d'Ivoire to make contacts with sympathisers and friends of Foday Sankoh, such as the Libyan and Burkina Faso governments. Sesay explained that Sankoh decided to base the External Delegation in Danané because it was close to the Guinean border, and thus facilitated movement to and from Sierra Leone, and because the housing rental prices were inexpensive).

<sup>14022</sup> Isatu Kallon, Transcript 18 June 2010, pp. 42890-42891 (Kallon did not know why Sankoh decided to send this RUF delegation to Danané, but heard that they were supposed to explain to international organisations such as the Red Cross why the RUF was fighting).

6194. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that during a radio conversation with Foday Sankoh, the Accused advised the RUF leader to send an External Delegation to Côte d'Ivoire. In Côte d'Ivoire, the delegates met Musa Cissé, an NPFL representative, who allowed them to use his radio for communications with Sankoh.

6195. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused, through contact with Musa Cissé, invited members of the External Delegation to Liberia, where he met them twice in 1995. In December 1995 the Accused met members of the External Delegation in Côte d'Ivoire on the occasion of the publication "Footpaths to Democracy", at which time he gave them CFA 10 million francs for their maintenance.

6196. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the trip by members of the External Delegation to Accra at the invitation of the Accused was made in order to facilitate contacts for arms deals.

## 2. Abidjan

### Submissions of the Parties

6197. It is undisputed that on 24 March 1996, Foday Sankoh travelled to Yamoussoukro, Côte d'Ivoire for peace talks with the Sierra Leonean Government, which then continued in Abidjan. After six months of negotiations, the Abidjan Peace Accord was signed on 30 November 1996.<sup>14024</sup> The Prosecution alleges that the Accused convinced Sankoh to participate in the Abidjan peace talks in order to ensure the RUF's survival to continue its fight to control the people and territory, and to pillage the resources of Sierra Leone. Before Sankoh's departure to Sierra Leone, the Accused told Sankoh to take advantage of his attendance at the peace negotiations to "move outside" and get more ammunition and other combat-related materials. After receiving this advice from the Accused, Sankoh joined the

<sup>14023</sup> Prosecution Final Trial Brief, para. 127.

<sup>14024</sup> *Prosecutor v Taylor*, SCSL-03-01-T-370, Agreed Fact 28; Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, Annex A, Facts O and P; Defence Final Trial Brief, paras 445-447.

External Delegation in Côte d'Ivoire, and used the Accused's contacts to secure arms and ammunition for the RUF.<sup>14025</sup>

6198. The Defence concedes that during the Abidjan peace negotiations Foday Sankoh travelled to several countries outside of Côte d'Ivoire, but contends that he did so in order to get advice on how to turn the RUF into a political party.<sup>14026</sup> The Defence claims that the Accused had no contact with Sankoh at this time, and Sankoh vowed never to go to Liberia to meet the Accused again.<sup>14027</sup>

## Evidence

### Prosecution Witness TF1-516

6199. Witness TF1-516, an RUF radio operator,<sup>14028</sup> testified that he was an RUF radio operator in Zogoda, Sierra Leone in 1996.<sup>14029</sup> Just prior to the date when Foday Sankoh travelled from Zogoda to Yamoussoukro, the witness received a call from a Liberian radio station, 35 Bravo. The station sergeant, Zedman, had previously told the witness that 35 Bravo was Taylor's station, located in Gbarnga. The witness ran to call the station sergeant, who spoke to the operator on the other line. The radio operator stated that Ebony, whom the witness testified was Taylor, was on the radio to talk to Toyota, whom the witness testified was Sankoh. Zedman rushed to call Sankoh, who came to the radio to talk to Taylor. In their conversation, during which TF1-516 was present, Taylor told Sankoh to take advantage of the peace negotiations in Yamoussoukro in order to "move outside and get more dancing materials". The witness testified that dancing materials referred to ammunition and other materiel relating to combat.<sup>14030</sup>

### Prosecution Witness Foday Lansana

6200. Witness Foday Lansana (a.k.a. Co Nya), an RUF radio operator,<sup>14031</sup> testified that before Foday Sankoh left for the peace negotiations in Côte d'Ivoire, he heard Sankoh call

<sup>14025</sup> Prosecution Final Trial Brief, paras 136-138, 219.

<sup>14026</sup> Defence Final Trial Brief, para. 449.

<sup>14027</sup> Defence Final Trial Brief, paras 451, 456-457.

<sup>14028</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>14029</sup> TF1-516, Transcript 14 April 2008, pp. 7462-7465.

<sup>14030</sup> TF1-516, Transcript 8 April 2008, pp. 6868-6869.

<sup>14031</sup> Foday Lansana, Transcript 20 February 2008, pp. 4361-4362.

Mohamed Tarawalli on the radio. Tarawalli was opposed to the peace talks, and so Sankoh tried to convince him of the necessity of the negotiations. Sankoh told Tarawalli that his big brother, Taylor, had informed him that it was necessary for him to go to the peace talks because it would help him to reconnect with people who had assisted him in the past.<sup>14032</sup> Apart from the peace accord, Sankoh explained, all lines and connections to the RUF were cut off, so it would be impossible for the RUF to survive without going to the peace negotiations to “regain their strength”.<sup>14033</sup> Lansana considered that in stating the RUF would regain its strength through the peace process, Sankoh clearly demonstrated to Tarawalli that he would receive arms and ammunition from contacts there.<sup>14034</sup>

6201. Lansana also testified that while in Côte d’Ivoire Sankoh made trips to several places with Dauda Aruna Fornie “in respect of arms and ammunition”. Fornie would call home to other operators to report on these trips, and the witness used to monitor the conversations. Fornie would transmit these messages in Mende, which is a type of code, but the Mende-speaking operators would decode them into English or Krio for Lansana at his station.<sup>14035</sup>

#### Prosecution Witness TF1-168

6202. Witness TF1-168, an RUF member,<sup>14036</sup> testified that from what he understood, before Foday Sankoh left for Côte d’Ivoire he told the RUF combatants that he was going there to make arrangements to acquire materials to go back and fight, and not to pursue peace. That was his ulterior motive.<sup>14037</sup>

6203. After the first negotiations, TF1-168 testified, Sankoh had wanted to go back to the bush in Sierra Leone until the signing of the agreement, but the Government of Côte d’Ivoire and the international community wanted him to stay in Côte d’Ivoire. Sankoh in turn told the Ivorian officials that he wanted to tour the region and meet with Heads of State in order to get advice on turning the RUF into a political party. The international community agreed, and facilitated his trip.<sup>14038</sup>

<sup>14032</sup> Foday Lansana, Transcript 21 February 2008, pp. 4487-4488.

<sup>14033</sup> Foday Lansana, Transcript 21 February 2008, pp. 4488-4489.

<sup>14034</sup> Foday Lansana, Transcript 21 February 2008, pp. 4488-4489.

<sup>14035</sup> Foday Lansana, Transcript 21 February 2008, pp. 4488-4490.

<sup>14036</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>14037</sup> TF1-168, Transcript 22 January 2009, p. 23279 (CS); Transcript 26 January 2009, pp. 23474-23475 (CS).

<sup>14038</sup> TF1-168, Transcript 22 January 2009, pp. 23274-23275 (CS).

6204. The witness travelled with Sankoh for this tour. They went first to Ougadougou, Burkina Faso, where Sankoh had a meeting with President Blaise Compaoré.<sup>14039</sup> From there Sankoh travelled to Libya while the witness stayed in Ouagadougou, and he was told later that Sankoh met with Muammar Gaddafi. He and Sankoh then travelled to Accra, Ghana where they were received by President John Jerry Rawlings. From Ghana Sankoh told the witness to return to Côte d'Ivoire, but Sankoh went with others to Nigeria.<sup>14040</sup> Sankoh later told the witness that they were received by President Sani Abacha of Nigeria, who gave them \$USD 50,000 and a gown each as a cultural recognition. Finally, the witness travelled with Sankoh to Togo to meet President Gnassingbe Eudema, but was not present in the meeting between them and was not told what transpired at the meeting.<sup>14041</sup>

6205. In May 1996 in the Hotel Ivoire in Danané, Côte d'Ivoire Sankoh received \$USD 500,000 in travellers cheques from the Libyan ambassador to Ghana, Mohamed Talibi, for the transformation of his movement to a political party.<sup>14042</sup> The witness did not know how all of this money was spent, but stated that Sankoh sent \$USD 7,000 to Daniel Tamba (a.k.a. Jungle) to purchase food and ammunition for RUF combatants. Sankoh also sent funds to Samuel Bockarie, who told him he could get ammunition from ULIMO fighters along the Sierra Leonean-Liberian border.<sup>14043</sup>

6206. In June 1996, Sankoh asked Philip Palmer to carry a letter from him to Talibi in Accra, Ghana, and told him to read the letter before the journey.<sup>14044</sup> The letter, dated 26 June 1996, thanked Talibi for the \$USD 500,000 Sankoh had received from him and "the other brothers back home" which referred to the fact that these funds were from executive members of the Libyan Government, and not from Talibi.<sup>14045</sup> Sankoh also stated that he was negotiating with his "business partners" for the purchase of arms and ammunition;<sup>14046</sup>

<sup>14039</sup> TF1-168, Transcript 22 January 2009, p. 23275 (CS); Transcript 23 January 2009, p. 23459 (CS).

<sup>14040</sup> TF1-168, Transcript 22 January 2009, pp. 23276-23277 (CS); Transcript 23 January 2009, p. 23459 (CS).

<sup>14041</sup> TF1-168, Transcript 22 January 2009, pp. 23276-23277 (CS).

<sup>14042</sup> TF1-168, Transcript 22 January 2009, pp. 23283-23284 (CS), 23288-23289 (CS); Transcript 23 January 2009, pp. 23454-23458 (CS).

<sup>14043</sup> TF1-168, Transcript 22 January 2009, p. 23284 (CS). The Trial Chamber notes that the fact that funds were given to Bockarie at this time in order to buy ammunition was corroborated by Issa Sesay. Issa Sesay, Transcript 6 July 2010, pp. 43769-43770.

<sup>14044</sup> TF1-168, Transcript 22 January 2009, pp. 23285-23287 (CS).

<sup>14045</sup> TF1-168, Transcript 22 January 2009, p. 23287 (CS); Transcript 23 January 2009, pp. 23454-23458 (CS); See also Exhibit D-015, "RUF, Follow up request from Foday Sankoh, Leader, RUF/SL to Brother Mohamed Talibi, Libyan Arab People's Jamahiriyya, Accra, Ghana, 26 June 1996".

<sup>14046</sup> TF1-168, Transcript 22 January 2009, p. 23288 (CS).

the witness did not, however, know to whom Sankoh was referring when he wrote of these “business partners”.<sup>14047</sup> In the letter Sankoh also requested an additional \$USD 1.5 million with which he would purchase materiel, but the witness testified that these funds were not disbursed to Sankoh, and he was not aware of any other materials Sankoh received while in Abidjan.<sup>14048</sup>

6207. Sankoh requested Philip Palmer to draft and then carry a second letter from him to Talibi in December 1996. This letter indicated that Talibi sent \$USD 29,000 to Sankoh through Daniel Kallon, but that Sankoh needed more funds.<sup>14049</sup> The letter also stated that Sankoh had already finished negotiations with his business partners, and had so far paid them \$USD 300,000, but asked for an additional \$USD 700,000 to give to these business partners. The witness was again not aware of the identity of these business partners.<sup>14050</sup>

6208. Sankoh also wrote that the Government of Bukino Faso had not shown a keen interest in assisting him, and asked for Talibi to prepare a letter of introduction from Sankoh to President Blaise Compaoré so that the two could meet.<sup>14051</sup> The witness was not aware that a letter of introduction was ever prepared by the Libyan government for Sankoh.<sup>14052</sup>

6209. When Philip Palmer presented Talibi with the letter in person, Talibi read it and stated that he would speak with “brother”, meaning Sankoh, and told him to return to Côte d’Ivoire.<sup>14053</sup> The witness testified that Sankoh did not receive these funds from Talibi, and he was sure of this because each time Sankoh received such a large sum he would become

<sup>14047</sup> TF1-168, Transcript 22 January 2009, p. 23288 (CS); Transcript 23 January 2009, pp. 23455-23461 (CS).

<sup>14048</sup> TF1-168, Transcript 22 January 2009, pp. 23285-23290 (CS); Transcript 23 January 2009, pp. 23454-23455 (CS). Exhibit D-015, “RUF, Follow up request from Foday Sankoh, Leader, RUF/SL to Brother Mohamed Talibi, Libyan Arab People's Jamahiriyya, Accra, Ghana, 26 June 1996”.

<sup>14049</sup> TF1-168, Transcript 22 January 2009, pp. 23290-23292 (CS); Transcript 23 January 2009, p. 23460 (CS); Transcript 26 January 2009, pp. 23472-23473 (CS). See also Exhibit P-272, “Revolutionary United Front of Sierra Leone, Urgent Information, From Cpl. Foday S Sankoh, Leader, RUF/SL, To Brother Mohamed Talibi, Peoples Bureau of Libyan Arab Peoples Jamahiriya, Accra, Ghana, 4 December 1996, 00007797 – 00007798”.

<sup>14050</sup> TF1-168, Transcript 22 January 2009, pp. 23292-23293 (CS); Transcript 26 January 2009, pp. 23477-23479 (CS).

<sup>14051</sup> TF1-168, Transcript 22 January 2009, pp. 23290-23295 (CS); Transcript 26 January 2009, pp. 23479-23480 (CS). See also Exhibit P-272, “Revolutionary United Front of Sierra Leone, Urgent Information, From Cpl. Foday S Sankoh, Leader, RUF/SL, To Brother Mohamed Talibi, Peoples Bureau of Libyan Arab Peoples Jamahiriya, Accra, Ghana, 4 December 1996, 00007797 – 00007798”.

<sup>14052</sup> TF1-168, Transcript 22 January 2009, pp. 23293-23294 (CS).

<sup>14053</sup> TF1-168, Transcript 22 January 2009, p. 23295 (CS).



excited and let the witness know.<sup>14054</sup> Finally, the witness stated that Taylor did not feature in any of Sankoh's activities in 1996.<sup>14055</sup>

### The Accused

6210. The Accused denied telling Foday Sankoh to use the peace talks in Yamoussoukro to facilitate arms deals in 1996. He further contended that TF1-516's testimony - that the Accused called Sankoh from Gbarnga to talk to him about Yamoussoukro - could not be true because in 1996 he was in Monrovia, working with the "council of state".<sup>14056</sup> He further denied that there was any contact between himself and Sankoh in at this particular time in 1996 or "no other time".<sup>14057</sup>

### Defence Witness Issa Sesay

6211. Witness Issa Sesay, senior RUF commander,<sup>14058</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>14059</sup> testified that in April 1996, Foday Sankoh and others travelled from Côte d'Ivoire to Burkina Faso and Libya.<sup>14060</sup> When they returned, Sankoh told Sesay that he had been given \$USD 2 million by President Gaddafi in Libya.<sup>14061</sup> Sesay testified that he believed Sankoh's business partner for the purchase of ammunitions at this time was a man in Burkina Faso named "Commandant Diendere".<sup>14062</sup>

6212. In approximately September 1996, Mohamed Tarawalli told Sesay that as there was a shortage of ammunition, he would ask "the leader" Sankoh in Abidjan to send money - "for somebody to bring money through Guinea" as the woman who supplied them with ammunition had been arrested. Tarawalli instructed Sesay to buy ammunition from Guinea and send it to him in Zogoda. Sesay thereafter met Abdul Rahman, a Guinean businessman,

<sup>14054</sup> TF1-168, Transcript 22 January 2009, p. 23295 (CS).

<sup>14055</sup> TF1-168, Transcript 26 January 2009, p. 23481 (CS).

<sup>14056</sup> Charles Ghankay Taylor, 27 October 2009, pp. 30445-30447.

<sup>14057</sup> Charles Ghankay Taylor, 27 October 2009, pp. 30445-30446.

<sup>14058</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596, and

<sup>14059</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>14060</sup> Issa Sesay, Transcript 7 July 2010, pp. 43901-43902, 43909-43910.

<sup>14061</sup> Issa Sesay, Transcript 7 July 2010, p. 43902; Transcript 18 August 2010, pp. 46564, 46567-46570. See also Exhibit D-015, "RUF, Follow up request from Foday Sankoh, Leader, RUF/SL to Brother Mohamed Talibi, Libyan Arab People's Jamahiriyya, Accra, Ghana, 26 June 1996".

<sup>14062</sup> Issa Sesay, Transcript 7 July 2010, pp. 43903, 43911.

at the Guinean border. Rahman told Sesay that the officer who would assist him had gone to Conakry, so Sesay waited a week and returned to Sierra Leone.<sup>14063</sup>

Defence Witness Fayia Musa

6213. Witness Fayia Musa, a member of the External Delegation and an agricultural officer in the RUF,<sup>14064</sup> testified that once the External Delegation had laid the groundwork for the peace process in the Côte d'Ivoire, Musa was appointed by the delegation to go see Foday Sankoh in Zogoda in January 1996 to convince him to come out of the bush for peace talks. Musa testified that Sankoh's reaction appeared positive, and he accepted coming out, but said that he was unsure of his own security.<sup>14065</sup> Musa told Sankoh that the Government of Côte d'Ivoire had agreed to provide for his transport, and gave him several reasons why his participation would be beneficial. Sankoh then agreed to participate.<sup>14066</sup>

6214. At this time Sankoh received support from other leaders in Africa. For example, Sankoh received \$USD 500,000 from Mohamed Talibi, who worked at the Libyan embassy in Ghana.<sup>14067</sup> Inside the carton holding the money was a letter congratulating him on accepting peace and stating that the money should be used for food, medicine and humanitarian aid for civilians.<sup>14068</sup> After he received the money Musa and Phillip Palmer met with Sankoh and advised him to spend the money on humanitarian aid, but instead Sankoh sent \$USD 7,000 to Samuel Bockarie to buy arms and ammunition.<sup>14069</sup> Musa thought a radio operator took \$USD 7,000 to Bockarie and that other radio operators were aware that Sankoh received this large sum, because the witness told them after they met with Sankoh.<sup>14070</sup>

6215. Musa was present on 26 June 1996, when Foday Sankoh dictated a letter that was sent to Mohamed Talibi, thanking him and "the other brothers back home" for the \$USD 500,000 used to purchase material for the RUF's military mission.<sup>14071</sup> When asked why

<sup>14063</sup> Issa Sesay, Transcript 6 July 2010, pp. 43759-43760, 43763.

<sup>14064</sup> Fayia Musa, Transcript 14 April 2010, p. 38949; Transcript 19 April 2010, p. 39283.

<sup>14065</sup> Fayia Musa, Transcript 14 April 2010, pp. 38966-38967, 39005.

<sup>14066</sup> Fayia Musa, Transcript 14 April 2010, pp. 39005-39006.

<sup>14067</sup> Fayia Musa, Transcript 14 April 2010, pp. 39019-39020, 39022-39023.

<sup>14068</sup> Fayia Musa, Transcript 14 April 2010, pp. 39020-39021.

<sup>14069</sup> Fayia Musa, Transcript 14 April 2010, pp. 39022-39023.

<sup>14070</sup> Fayia Musa, Transcript 14 April 2010, p. 39023.

<sup>14071</sup> Fayia Musa, Transcript 14 April 2010, pp. 39028-39029.

Sankoh would have told those who provided him with money for humanitarian assistance that he spent the money on arms and ammunition, Musa replied that Sankoh “was a very unpredictable person”.<sup>14072</sup> Musa testified that the letter’s reference to Sankoh’s “business partners” was a lie, because Sankoh had no business partners at this time.<sup>14073</sup>

6216. Musa was asked why he sat with Sankoh while a letter was written that was clearly contemplated the furtherance of war when he testified that he and the other External Delegates were in Côte d’Ivoire ostensibly in order to pursue peace.<sup>14074</sup> The witness first testified that he did not act because he knew that Sankoh’s request would not be satisfied, and that the Libyan government would not give Sankoh money for arms and ammunition.<sup>14075</sup> He then stated that, as far as he knew, the letter was never taken to Ghana.<sup>14076</sup> He also stated that he was afraid for his safety and that of his family.<sup>14077</sup>

6217. In April 1996, Sankoh and the External Delegation, including Musa, made a tour of the sub-region of Africa to raise funds for the RUF; Sankoh told regional leaders that he needed funds to support civilians in Sierra Leone knowing that if he said this money would be made available to him. They went first to Burkina Faso, where Sankoh met with President Blaise Compaoré, and then to Libya accompanied by Ibrahim Balde, where the Libyan authorities gave Sankoh approximately \$USD 100,000.<sup>14078</sup> From Libya the delegation went to Ghana, where they met President Jerry Rawlings in Accra, and then to Nigeria, where they met Sani Abacha.<sup>14079</sup> President Abacha gave the Delegation \$USD 50,000 in travellers cheques and a gown each, and the delegation returned to Abidjan.<sup>14080</sup>

6218. The witness testified that in the year that Sankoh was in Côte d’Ivoire, Sankoh had no contact with Taylor, and in fact was “filled with hate” for Taylor.<sup>14081</sup>

<sup>14072</sup> Fayia Musa, Transcript 14 April 2010, pp. 39028-39029.

<sup>14073</sup> Fayia Musa, Transcript 14 April 2010, p. 39029.

<sup>14074</sup> Fayia Musa, Transcript 14 April 2010, pp. 39030-39032.

<sup>14075</sup> Fayia Musa, Transcript 14 April 2010, p. 39031.

<sup>14076</sup> Fayia Musa, Transcript 14 April 2010, pp. 39031-39032.

<sup>14077</sup> Fayia Musa, Transcript 14 April 2010, p. 39032.

<sup>14078</sup> Fayia Musa, Transcript 14 April 2010, pp. 39034-39039; Transcript 15 April 2010, pp. 39053-39054.

<sup>14079</sup> Fayia Musa, Transcript 14 April 2010, pp. 39039-39041; Transcript 15 April 2010, pp. 39053-39054.

<sup>14080</sup> Fayia Musa, Transcript 14 April 2010, p. 39042.

<sup>14081</sup> Fayia Musa, Transcript 14 April 2010, p. 39051; Transcript 15 April 2010, p. 39054.

Prosecution Exhibit P-272

6219. Exhibit P-272 is a letter dated 4 December 1996 from Foday Sankoh to Mohamed Talibi, People's Bureau of Libyan Arab Peoples Jamahiriyya in Accra, Ghana.<sup>14082</sup> In this letter, Sankoh writes that he is grateful to Talibi "and the other brothers back home" for the \$USD 29,000 he received via Daniel Kallon. He also states that the RUF signed the peace accord on 29 November 1996 "just so as to relieve our movement of the enormous pressure from the International Community" but that he "will use this opportunity to transact [his] business in getting out fighting materials freely and easily". Sankoh tells Talibi that he has already paid his "business partners" \$USD 300,000 but that the total cost of the materials they are offering him is \$USD 2,000,000. He therefore asked Talibi and "his brothers" for an additional \$USD 700,000.<sup>14083</sup>

6220. As he had always learned from "you people", Sankoh wrote, the Burkina Faso government had funds for the provision of materials, but it had not shown any keen interest in assisting the RUF as a movement. Sankoh also had a conversation with Commandant Diendere with no result. Sankoh therefore asked Talibi to prepare a letter for him to meet President Compaoré on this issue, as he had not received any answer from them even after his delegates went to Ouagadougou.<sup>14084</sup>

Defence Exhibit D-015

6221. Exhibit D-015 is a letter from Foday Sankoh to Mohamed Talibi, Libyan Arab People's Jamahiriya, in Accra, Ghana dated 26 June 1996. In this letter, Sankoh thanks Talibi for the \$USD 500,000 he received for the purchase of "needed material to pursue the military mission". Sankoh states that he has had extensive discussions on the subject of

<sup>14082</sup> Exhibit P-272, "Revolutionary United Front of Sierra Leone, Urgent Information, From Cpl. Foday S Sankoh, Leader, RUF/SL, To Brother Mohamed Talibi, Peoples Bureau of Libyan Arab Peoples Jamahiriya, Accra, Ghana, 4 December 1996, 00007797-00007798"; TF1-168, Transcript 22 January 2009, pp. 23291-23292 (CS); Transcript 26 January 2009, p. 23471-23472 (CS).

<sup>14083</sup> Exhibit P-272, "Revolutionary United Front of Sierra Leone, Urgent Information, From Cpl. Foday S Sankoh, Leader, RUF/SL, To Brother Mohamed Talibi, Peoples Bureau of Libyan Arab Peoples Jamahiriya, Accra, Ghana, 4 December 1996, 00007797 - 00007798".

<sup>14084</sup> Exhibit P-272, "Revolutionary United Front of Sierra Leone, Urgent Information, From Cpl. Foday S Sankoh, Leader, RUF/SL, To Brother Mohamed Talibi, Peoples Bureau of Libyan Arab Peoples Jamahiriya, Accra, Ghana, 4 December 1996, 00007797 - 00007798".

materials, and attached a list of arms and ammunition that he needed to purchase. He therefore asked for Talibi for an additional \$USD 1,500,000 to purchase these materials.<sup>14085</sup>

### Deliberations

6222. It is undisputed that Foday Sankoh participated in what became known as the Abidjan peace talks from March to November 1996. The Prosecution alleges that the Accused convinced Sankoh to participate in these talks in order to obtain ammunition and materiel for the RUF, and that he used the Accused's contacts to secure arms and ammunition for the RUF. The Defence denies that the Accused had any contact with Sankoh at this time.

6223. Concerning the allegation that the Accused instructed Sankoh to attend the Abidjan peace talks in order to obtain arms and ammunition, several witnesses, including TF1-168, Foday Lansana, Issa Sesay and Fayia Musa, testified that Sankoh did obtain funds to purchase arms and ammunition for the RUF while in Abidjan for these negotiations.<sup>14086</sup> The Trial Chamber recalls its findings on the general credibility of these witnesses,<sup>14087</sup> and notes that the testimony of Issa Sesay must be viewed with caution and requires corroboration. The transactions to which the witnesses testified are further confirmed by documentary evidence, two contemporaneous letters from Sankoh to Mohamed Talibi discussing arms negotiations made by Sankoh at this time.<sup>14088</sup>

6224. The Trial Chamber notes that TF1-516 is the only witness to give first-hand testimony of the Accused's instruction to Sankoh to participate in the talks so as to obtain arms and ammunitions for the RUF. As a radio operator in Zogoda, TF1-516 testified that he overheard a conversation in which Taylor told Sankoh to attend the peace talks in order to get more "dancing materials", which the witness identified as ammunition and other

<sup>14085</sup> Exhibit D-015, "RUF, Follow up request from Foday Sankoh, Leader, RUF/SL to Brother Mohamed Talibi, Libyan Arab People's Jamahiriya, Accra, Ghana, 26 June 1996".

<sup>14086</sup> TF1-168, Transcript 22 January 2009, pp. 23279 (CS), 23284 (CS); Transcript 26 January 2009, p. 23475 (CS); Issa Sesay, Transcript 6 July 2010, pp. 43769-43770; Foday Lansana, Transcript 21 February 2008, pp. 4488-4490;

<sup>14087</sup> Credibility Assessment, Foday Lansana, paras 237-243; Credibility Assessment, Issa Sesay, paras 359-372. Credibility Assessment, TF1-168, Pre-Indictment period (1988-1996), para. 2328; Credibility Assessment, Fayia Musa, Pre-Indictment period (1988-1996), para. 2557.

<sup>14088</sup> Exhibit P-272, "Revolutionary United Front of Sierra Leone, Urgent Information, From Cpl. Foday S Sankoh, Leader, RUF/SL, To Brother Mohamed Talibi, Peoples Bureau of Libyan Arab Peoples Jamahiriya, Accra, Ghana, 4 December 1996, 00007797 – 00007798".

matériel.<sup>14089</sup> The Trial Chamber recalls its finding that TF1-516 is a generally credible witness.<sup>14090</sup>

6225. TF1-516 provided a detailed account of this incident, including specifics that were corroborated by other witnesses. For example, the witness testified that he received this radio call from “35 Bravo”, identified by other witnesses as a call sign for communications between the RUF and the NPFL.<sup>14091</sup> The witness also identified the Accused’s code name as Ebony and Sankoh’s as Toyota, code names that have been confirmed by the Accused himself and several other witnesses.<sup>14092</sup>

6226. Foday Lansana provided evidence that he overheard Sankoh tell Mohamed Tarawalli that Taylor told him to use the talks to reconnect with supporters of the RUF.<sup>14093</sup> Lansana did not explicitly hear Sankoh state that Taylor instructed him to obtain arms and ammunition at the peace talks, but he understood Sankoh to mean this.<sup>14094</sup> Though this evidence is hearsay, it corroborates TF1-168’s testimony that Sankoh was in contact with the Accused. The Trial Chamber finds Lansana’s testimony on the meaning of Sankoh’s words to be credible.

6227. The Accused denied that he instructed Sankoh to attend the Abidjan peace talks, stating that he was not in Gbarnga, but in Monrovia in 1996, and further stating that he had

<sup>14089</sup> TF1-516, Transcript 8 April 2008, pp. 6868-6869. Though no other Prosecution witnesses refer to arms or ammunition as “dancing materials”, and Defence Witness Yanks Smythe testified that he had never heard of the term dancing materials, Transcript 1 March 2010, pp. 36294-36295, the Defence did not challenge this interpretation of the term in their multiple submissions on this incident, and the Trial Chamber finds TF1-516’s interpretation of the term credible.

<sup>14090</sup> Credibility Assessment, TF1-516, paras 275-284.

<sup>14091</sup> Perry Kamara, Transcript 4 February 2008, p. 3050; Transcript 5 February 2008, pp. 3074-3075; TF1-585, Transcript 5 September 2008, pp. 15604-15605. Witness DCT-008 first stated that he, as an NPFL radio operator, communicated with the RUF through call sign “35B”, Transcript 24 August 2010, pp. 47042; Transcript 27 August 2010, p. 47375-47376, but then stated that this was a mistake, he communicated to the RUF in 1998 by calling for “Sellay”, Transcript 7 September 2010, pp. 48165-48168.

<sup>14092</sup> The following witnesses identified Ebony as the call sign for Taylor: Charles Ghankay Taylor, Transcript 16 September 2009, pp. 28992-28993, 28995-28996; Perry Kamara, Transcript 4 February 2008, p. 3050; Transcript 6 February 2008, pp. 3299-3300; Aruna Gbonda, Transcript 20 February 2008, pp. 4367, 4384; Foday Lansana, Transcript 25 February 2008, p. 4682; Jabaty Jaward, Transcript 15 September 2008, pp. 16250-16251; Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21325-21327, 21330, 21358. The following witnesses identified Toyota as the call sign for Sankoh: Charles Ghankay Taylor, Transcript 16 September 2009, pp. 28992-28993, 28995-28996; Jabaty Jaward, Transcript 15 September 2008, pp. 16250-16251; Dauda Aruna Fornie, Transcript 1 December 2008, pp. 21358, 21394.

<sup>14093</sup> Foday Lansana, Transcript 21 February 2008, pp. 4487-4488.

<sup>14094</sup> Foday Lansana, Transcript 21 February 2008, pp. 4488-4489.

no contact with Sankoh at this time.<sup>14095</sup> The Trial Chamber is not convinced, however, that the Accused could not have travelled from Monrovia to Gbarnga during the course of an entire year. Moreover, the Trial Chamber recalls its finding that the Accused and Sankoh did have radio communications during this period in which the Accused claimed to have had no contact with Sankoh.<sup>14096</sup> For these reasons the Trial Chamber does not find the denial of the Accused to be credible.

6228. The Defence further challenges TF1-516's testimony that Taylor instructed Sankoh to attend the Abidjan peace negotiation by contending in its Final Trial Brief that Dauda Aruna Fornie testified that at this time there was no direct link with Taylor's radio station.<sup>14097</sup> The Defence, however, misrepresents Fornie's testimony. While Fornie testified that there was no *direct* link to Taylor's station at this time, Fornie also stated that RUF stations did contact Taylor's station "once in a while".<sup>14098</sup> This implies that there was an *indirect* link between the stations. For this reason the Trial Chamber considers that Fornie's evidence, cited by the Defence, does not challenge the credibility of TF1-516's testimony.

6229. Finally, Fayia Musa testified that as a member of the External Delegation he travelled to Sierra Leone and convinced Sankoh to attend the Abidjan peace talks.<sup>14099</sup> The Trial Chamber is of the view that this testimony does not preclude the possibility that Taylor also advised Sankoh to attend the negotiations for more nefarious reasons.

6230. Having considered the evidence, the Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused instructed Sankoh to attend the Abidjan peace talks in order to obtain arms and ammunition for the RUF.

6231. Concerning the Prosecution's allegation that during the Abidjan peace process Sankoh used the Accused's contacts to obtain materiel for the RUF, the Prosecution offers vague assertions that Sankoh used contacts such as "the Libyan delegation in Ghana", and the Accused's "long-time supporter, Libya", and "long-time ally Burkina Faso".<sup>14100</sup> Several witnesses, including TF1-168, Fayia Musa and Issa Sesay testify as to Sankoh's

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<sup>14095</sup> Charles Ghankay Taylor, Transcript 27 October 2009, pp. 30445-30447.

<sup>14096</sup> Operational Support: Communications .

<sup>14097</sup> See Defence Final Trial Brief, para. 1496, citing Dauda Aruna Fornie, Transcript 5 December 2008, p. 21786.

<sup>14098</sup> Dauda Aruna Fornie, Transcript 5 December 2008, p. 21786.

<sup>14099</sup> Fayia Musa, Transcript 14 April 2010, pp. 38966-38967, 39005-39006.

travels throughout the region, including to Libya and Burkina Faso, to garner support for the RUF.<sup>14101</sup> In addition, TF1-168 and Fayia Musa testified that Sankoh received monies from Mohamed Talibi, the Libyan ambassador to Ghana, a fact also confirmed by the two letters from Sankoh to Talibi entered into evidence.<sup>14102</sup>

6232. None of these witnesses, however, attest to the Accused's connection to Mohamed Talibi or to the leaders of Libya, Burkina Faso, or any of the other countries visited by Sankoh at this time. Further, the Trial Chamber notes the testimony of TF1-168, who stated that Taylor did not feature in any of Sankoh's activities in 1996.<sup>14103</sup> Notably, the Accused's name is not mentioned in either of the two letters Sankoh wrote to Talibi.<sup>14104</sup>

6233. For the above reasons, the Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that Sankoh used the Accused's contacts to obtain arms and ammunition for the RUF during the Abidjan peace process.

### Findings

6234. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused instructed Foday Sankoh to attend the Abidjan peace negotiations in order to obtain arms and ammunitions for the RUF.

6235. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that Foday Sankoh used the contacts of the Accused to obtain arms and ammunition for the RUF during the Abidjan peace process.

<sup>14100</sup> Prosecution Final Trial Brief, para. 137.

<sup>14101</sup> Issa Sesay, Transcript 7 July 2010, pp. 43901-43902, 43909-43910; Fayia Musa, Transcript 14 April 2010, pp. 39035-39039; Transcript 15 April 2010, pp. 39053-39054; TF1-168, Transcript 22 January 2009, pp. 23275-23277 (CS); Transcript 23 January 2009, p. 23459 (CS).

<sup>14102</sup> TF1-168, Transcript 22 January 2009, pp. 23283-23284 (CS), 23288-23289 (CS); Transcript 23 January 2009, pp. 23454-23458 (CS); Fayia Musa, Transcript 14 April 2010, pp. 39019-39020, 39022-39023; Exhibit D-015, "RUF, Follow up request from Foday Sankoh, Leader, RUF/SL to Brother Mohamed Talibi, Libyan Arab People's Jamahiriyya, Accra, Ghana, 26 June 1996"; Exhibit P-272, "Revolutionary United Front of Sierra Leone, Urgent Information, From Cpl. Foday S Sankoh, Leader, RUF/SL, To Brother Mohamed Talibi, Peoples Bureau of Libyan Arab Peoples Jamahiriya, Accra, Ghana, 4 December 1996, 00007797 – 00007798".

<sup>14103</sup> TF1-168, Transcript 26 January 2009, p. 23481 (CS).

<sup>14104</sup> See Exhibit D-015, "RUF, Follow up request from Foday Sankoh, Leader, RUF/SL to Brother Mohamed Talibi, Libyan Arab People's Jamahiriyya, Accra, Ghana, 26 June 1996"; Exhibit P-272, "Revolutionary United Front of Sierra Leone, Urgent Information, From Cpl. Foday S Sankoh, Leader, RUF/SL, To Brother Mohamed Talibi, Peoples Bureau of Libyan Arab Peoples Jamahiriya, Accra, Ghana, 4 December 1996, 00007797 – 00007798".



3. LoméSubmissions of the Parties

6236. The parties do not dispute that a ceasefire between the AFRC/RUF and the Government of Sierra Leone was signed in Lomé on 18 May 1999 to take effect from 24 May 1999, and that the Lomé Peace Accord was signed by President Ahmad Kabbah and Foday Sankoh on 7 July 1999.<sup>14105</sup> The parties' dispute centres on the nature of the Accused's involvement in the negotiations and signing of the Lomé Peace Accord.<sup>14106</sup>

6237. The Prosecution alleges that while publicly portraying himself as a peace-maker, the Accused instructed the rebels to subvert peace agreements and provided critical support and direction to the rebel campaign to seize control of territory and resources in Sierra Leone.<sup>14107</sup> More specifically, the Accused played a crucial role in protecting and advancing his and the AFRC/RUF's common interests during the Lomé peace process. For example, the Prosecution contends that after Sankoh arrived in Lomé, the Accused sent his own negotiating team, headed by a trusted subordinate, to work with Sankoh in formulating positions favourable to the AFRC/RUF and the Accused. The Accused met with Ibrahim Bah and Omrie Golley, who were in Monrovia en route to Lomé, to provide further instructions to Sankoh.<sup>14108</sup> Golley insisted that the press not speak with Sankoh until the other members of the RUF delegation arrived in Lomé, thus ensuring that he would be isolated until he had a chance to meet with the Accused.<sup>14109</sup>

6238. The Prosecution contends that the Accused ensured that the larger AFRC/RUF delegation travelled through Monrovia to Lomé so that he had an opportunity to instruct the group before the negotiations.<sup>14110</sup> Furthermore, while Sankoh was in Lomé and the Accused in Monrovia, the Accused and Sankoh communicated directly, with Sankoh's radio operators sending the Accused updates on the negotiations.<sup>14111</sup>

<sup>14105</sup> *Prosecutor v Taylor*, SCSL-03-01-T-370, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, Annex A, Fact W; *Prosecutor v. Taylor*, SCSL-03-01-PT, Joint Filing by the Prosecution and Defence: Admitted Facts and Law, 26 April 2007, Agreed Fact No. 32.

<sup>14106</sup> Prosecution Final Trial Brief, paras 197-198; Defence Final Trial Brief, paras 95, 571, 575-576.

<sup>14107</sup> Prosecution Final Trial Brief, para. 1.

<sup>14108</sup> Prosecution Final Trial Brief, para. 195.

<sup>14109</sup> Prosecution Final Trial Brief, paras 193, 195.

<sup>14110</sup> Prosecution Final Trial Brief, para. 195.

<sup>14111</sup> Prosecution Final Trial Brief, para. 197.

6239. The Prosecution also contends that once the Accused arrived in Lomé, he met with Sankoh outside the presence of other African leaders in order to ensure that the Lomé Accords were beneficial to himself and the AFRC/RUF.<sup>14112</sup> The Prosecution notes that the result of the Accused's efforts was a peace agreement that bestowed many benefits on the AFRC/RUF, including providing Sankoh with a position that allowed him control over natural resources, including diamonds, in Sierra Leone.<sup>14113</sup>

6240. The Defence claims that the Accused's role in the Lomé negotiations was part of the mandate given to him by ECOWAS, and was carried out transparently and with the full knowledge of ECOWAS and the UN. The Defence claims that the Accused joined the ECOWAS committee because "he thought that he could help", and that unless Sierra Leone had peace "there was no way Liberia could make it". The Defence also refers to the many instances in which the Accused was commended and praised for his role in fostering peace in Sierra Leone. The Defence denies that the Accused was double-handed in his dealings with the peace process, and notes that other African leaders were as involved as he in the peace process.<sup>14114</sup>

## Evidence

### Prosecution Witness TF1-371

6241. Witness TF1-371, an RUF member,<sup>14115</sup> testified that in April 1999, an RUF delegation left Buedu for Lomé, passing through Monrovia on the way. They travelled from Buedu to Vahun in two vehicles brought to them by Daniel Tamba (a.k.a. Jungle), and then from Vahun to Monrovia in a helicopter brought to them by Joe Tuah, a member of Taylor's security team.<sup>14116</sup>

6242. Once in Monrovia, they were taken to the RUF guesthouse, where they remained for two days before going to Lomé. Benjamin Yeaten met the delegates at the guesthouse, where he gave each of them \$USD 300, which he said was from the Accused.<sup>14117</sup> From the

<sup>14112</sup> Prosecution Final Trial Brief, para. 197.

<sup>14113</sup> Prosecution Final Trial Brief, paras 199, 371.

<sup>14114</sup> Defence Final Trial Brief, paras 87-95, 97, 99, 101-102, 574, 1011-1012, 1017-1018.

<sup>14115</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>14116</sup> TF1-371, Transcript 28 January 2008, p. 2434 (CS).

<sup>14117</sup> TF1-371, Transcript 28 January 2008, pp. 2435-2436 (CS); Transcript 1 February 2008, pp. 2796-2798 (CS).

airport, they travelled on a UN plane to Lomé.<sup>14118</sup> The delegation travelling to Lomé included “SYB” Rogers, Rashid Sandi, “Junior” Vandj, Lawrence Womandia and others.<sup>14119</sup>

6243. TF1-371 testified that in Lomé the delegation was met at the airport by the Foreign Minister of Togo, who took them to a hotel.<sup>14120</sup> There was a briefing with the delegates, Mike Lamin, Ibrahim Bah, and Foday Sankoh.<sup>14121</sup> The witness described Ibrahim Bah as an advisor to Sankoh who doubled as a member of the External Delegation.<sup>14122</sup> The witness stated that during Lomé, Bah also continued to serve as a liaison with the Accused.<sup>14123</sup>

6244. When asked about meetings with any Liberians in Lomé, TF1-371 testified that Monie Captan, the Liberian Foreign Affairs Minister, met with Sankoh briefly. The witness described this as a courtesy call to thank Sankoh for participating in the peace process.<sup>14124</sup> There was also a meeting between Sankoh, Mike Lamin, Daniel Tamba (a.k.a. Jungle), Ibrahim Bah and Memunatu Deen, who came from Monrovia with \$USD 20,000 from Taylor for Sankoh.<sup>14125</sup>

#### Prosecution Witness TF1-567

6245. Witness TF1-567, an RUF member,<sup>14126</sup> testified that he was in Koidu when Sankoh called commanders over the radio and asked Bockarie to organise 15 to 17 people, including the witness, to first travel to Monrovia, and then meet him in Lomé.<sup>14127</sup> The witness travelled to Buedu, and waited for the trip to Lomé. While he was there, Bockarie appointed the delegation, which included “SYB Rogers”, Mike Lamin, Idrissa Kamara, Agnes Finnoh, Lawrence Womandia, Dauda Aruna Fornie (a.k.a. DAF), Rashid Sandy, Leather Boot, Amari Vandj, Jr. (a.k.a. Junior Vandj), Major SS Williams, Major Earnest Ngeba, Major M

<sup>14118</sup> TF1-371, Transcript 28 January 2008, p. 2436 (CS).

<sup>14119</sup> TF1-371, Transcript 28 January 2008, pp. 2436 (CS); Transcript 1 February 2008, pp. 2796-2798 (CS).

<sup>14120</sup> TF1-371, Transcript 28 January 2008, pp. 2436-2437 (CS).

<sup>14121</sup> TF1-371, Transcript 28 January 2008, pp. 2437-2439 (CS).

<sup>14122</sup> TF1-371, Transcript 28 January 2008, pp. 2437-2438 (CS).

<sup>14123</sup> TF1-371, Transcript 28 January 2008, pp. 2438-2439 (CS).

<sup>14124</sup> TF1-371, Transcript 29 January 2008, p. 2442 (CS).

<sup>14125</sup> TF1-371, Transcript 29 January 2008, p. 2442 (CS).

<sup>14126</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS); Transcript 4 July 2008, pp. 12986-12988 (PS).

<sup>14127</sup> TF1-567, Transcript 2 July 2008, pp. 12929-12930; Transcript 8 July 2008, pp. 13124-13128.





Jalloh, Captain Alex Williams, Major Morie Gibao, and others.<sup>14128</sup> During a meeting in Buedu, Sam Bockarie gave Dauda Aruna Fornie a radio, which Fornie brought to Lomé.<sup>14129</sup>

6246. While in Buedu, the witness saw Joseph Marzah (a.k.a. Zigzag) and Mike Lama bring ammunition there, saying it was from Taylor. According to the men, Taylor said that “when it was time for peace he should prepare for war”, and because of the peace process the ammunition should be kept underground.<sup>14130</sup>

6247. The delegation travelled by road from Buedu to Vahun, and then took a UN helicopter to Spriggs Field, Monrovia, accompanied by Bockarie, three UN officers and a political officer from the US embassy. They were taken by the SSS to a guesthouse.<sup>14131</sup>

6248. When they arrived in Lomé they saw Sankoh and had a briefing, at which Sankoh talked about his arrest. Rogers said that since Sankoh had not been available, Taylor had provided a great deal of assistance to the RUF, saying that Taylor “really showed us that he was your brother in the revolution”. Rogers also said that Bockarie had been good on the ground.<sup>14132</sup>

6249. On one occasion in Lomé, the witness saw Daniel Tamba (a.k.a. Jungle), and overheard Tamba explaining that he had been sent by Taylor to see how Sankoh was doing.<sup>14133</sup> The witness also saw General Ibrahim Bah at Lomé, whom the witness testified was with the NPFL, and whom Sankoh described as his friend who was “living outside helping the establishment of the RUF movement”. The witness saw Omrie Golley, the spokesman for the RUF.<sup>14134</sup> The witness testified that any time that Sankoh would send Tamba to Monrovia, Bah would accompany him.<sup>14135</sup>

6250. After two weeks at Lomé, Sankoh told the witness and others to go brief Bockarie on developments at Lomé. The witness and “Dr Williams” returned to Monrovia and stayed at the guesthouse. Benjamin Yeaten arrived and gave Williams a parcel. Yeaten told Williams

<sup>14128</sup> TF1-567, Transcript 2 July 2008, p. 12930; Transcript 8 July 2008, pp. 13124-13128, 13143-13144.

<sup>14129</sup> TF1-567, Transcript 8 July 2008, pp. 13133-13134.

<sup>14130</sup> TF1-567, Transcript 4 July 2008, pp. 12965-12966.

<sup>14131</sup> TF1-567, Transcript 4 July 2008, pp. 12965-12966; Transcript 8 July 2008, pp. 13128-13129, 13144.

<sup>14132</sup> TF1-567, Transcript 4 July 2008, pp. 12967-12968.

<sup>14133</sup> TF1-567, Transcript 4 July 2008, p. 12969.

<sup>14134</sup> TF1-567, Transcript 4 July 2008, pp. 12970-12972.

<sup>14135</sup> TF1-567, Transcript 4 July 2008, pp. 12970-12972.

and the witness that Taylor knew they had arrived and they should buy things to take back to Sierra Leone. Williams gave the witness \$USD 200 to buy items. Williams and the witness flew from Monrovia to Vahun, and Bockarie sent vehicles to pick the men up at Vahun and bring them to Buedu.<sup>14136</sup>

6251. Williams and the witness explained to Bockarie in Buedu that Sankoh was happy with him and that the talks were going well. The witness then travelled to Balahun and then Kailahun. After about a month Bockarie summoned the witness to Buedu, saying that Sankoh had sent a message that the witness should visit him in Lomé. The witness went to Buedu and travelled with Bockarie to Foya, where they were picked up by a helicopter and taken to Monrovia. In Monrovia, they were taken back to the guesthouse. Bockarie stated that he would not go to Lomé because he believed he would be arrested, so they waited in Monrovia until Sankoh arrived.<sup>14137</sup> At this time Yeaten came to the guesthouse to collect Bockarie and bring him to the Executive Mansion, and Bockarie met with Taylor. The witness did not attend this meeting and Bockarie did not tell him what the meeting was about.<sup>14138</sup>

6252. Dauda Aruna Fornie was a member of the RUF delegation to Lomé. Fornie set up a radio set in Lomé so that communication could take place with Sierra Leone. Fornie would communicate with Sam Bockarie in Buedu and also with a radio operator named Sunlight, who worked for Benjamin Yeaten in Monrovia. Sankoh also had a telephone; he would tell Fornie that he had communicated with Taylor on this phone, but did not say what they discussed.<sup>14139</sup>

#### Prosecution Witness Dauda Aruna Fornie

6253. Witness Dauda Aruna Fornie (“DAF”), an RUF radio operator,<sup>14140</sup> travelled from Buedu with the AFRC/RUF delegation for the Lomé peace talks in April 1999. Fornie went as a radio operator responsible for keeping Sam Bockarie and the RUF informed of the

<sup>14136</sup> TF1-567, Transcript 4 July 2008, pp. 12972-12974.

<sup>14137</sup> TF1-567, Transcript 4 July 2008, pp. 12974-12976; Transcript 7 July 2008, p. 13026 (PS); Transcript 8 July 2008, pp. 13142-13145.

<sup>14138</sup> TF1-567, Transcript 8 July 2008, pp. 13142-13145.

<sup>14139</sup> TF1-567, Transcript 4 July 2008, pp. 12976-12977.

<sup>14140</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21395; Transcript 2 December 2008, p. 21418.

negotiations and to transmit messages from Foday Sankoh to the frontlines.<sup>14141</sup> The delegation was comprised of Mike Lamin, Lawrence Womandia, “Leather Boot”, “Alex” and “Jalloh”, “Junior Vandí”, Morie Gibba, and “Rashid”.<sup>14142</sup> Fornie stayed in Lomé until early November 1999.<sup>14143</sup>

6254. Fornie kept logbooks during the peace negotiations, which he described as containing messages from Sankoh to Bockarie, Denis Mingo, and other commanders, and vice versa.<sup>14144</sup>

6255. When asked whether he remembered anyone from the Liberian delegation to the Lomé negotiations, Fornie testified that he remembered that Daniel Tamba (a.k.a. Jungle) visited the RUF delegation during negotiations, and he saw Taylor and Benjamin Yeaten during the signing of the Accord.<sup>14145</sup>

6256. Fornie testified that Sankoh was serious about the peace process,<sup>14146</sup> and demanded that the UN deploy military observers to ensure compliance of all parties to the ceasefire.<sup>14147</sup>

#### Prosecution Witness Moses Blah

6257. Witness Moses Blah, Inspector General of the NPFL from 1990 to 1997,<sup>14148</sup> Liberian Ambassador of Libya and Tunisia following Taylor’s election to 2000,<sup>14149</sup> and Vice-President of Liberia from 2000 to 2003,<sup>14150</sup> testified that in December 1998, as part of the peace process, Taylor closed the border with Sierra Leone and kept it closed until October 1999, in order to put pressure on the RUF to begin discussions.<sup>14151</sup> Blah also testified that in May 1998, Taylor was involved in setting up the meetings which eventually

<sup>14141</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21615-21616.

<sup>14142</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21615.

<sup>14143</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21616, 21623.

<sup>14144</sup> Dauda Aruna Fornie, Transcript 3 December 2008, p. 21618; 11 December 2008, p. 22141. See also P-264, “Radio Log Book - 00008636 - 00008726 (P-264) of communications between Sam Bockarie and Foday Sankoh during the Lomé peace talks (kept by TF1-274)”.

<sup>14145</sup> Dauda Aruna Fornie, Transcript 11 December 2008, p. 22198.

<sup>14146</sup> Dauda Aruna Fornie, Transcript 11 December 2008, p. 22163.

<sup>14147</sup> Dauda Aruna Fornie, Transcript 11 December 2008, p. 22154.

<sup>14148</sup> Moses Blah, Transcript 15 May 2008, pp. 9943-9945.

<sup>14149</sup> Moses Blah, Transcript 14 May 2008, pp. 9882-9884.

<sup>14150</sup> Moses Blah, Transcript 14 May 2008, pp. 9882-9884; Blah became President of Liberia for 60 days from 11 August to 11 October 2003: Moses Blah, Transcript 16 May 2008, p. 10065.

led to the Lomé agreement and that Taylor worked “extremely hard” to bring the parties together and secure peace in Sierra Leone.<sup>14152</sup>

6258. Blah then went with Taylor to Togo to attend the Sierra Leonean peace talks, and was also sent as Taylor’s special envoy to Sierra Leone and other countries, in order to hold discussions with leaders on the advancement of peace in Sierra Leone.<sup>14153</sup> Blah also confirmed that Dorothy Museleng Cooper, the former Liberian foreign minister, served as Taylor’s envoy to Lomé from May to July 1999, when the Lomé Accord was signed.<sup>14154</sup> On 5 or 6 July, Taylor joined Presidents Obasanjo, Compaoré, Kabbah and Eyadema to finalise the agreement, because Foday Sankoh at the last minute was threatening not to agree with certain points which had been discussed.<sup>14155</sup>

### The Accused

6259. The Accused testified that upon his election as President of Liberia, he was appointed to the ECOWAS Committee of Four, which had been dealing with the conflict in Sierra Leone. The Committee appointed him because he was “an old rebel” who knew how to deal with rebels, and so they thought he could be of help.<sup>14156</sup>

6260. In April 1999, preparations were made for the movement of RUF delegates, including Foday Sankoh, to Lomé for the peace talks. Transportation was being organised by the UN, but Liberia was involved in terms of giving permission for the flights to come through Liberia, providing Liberian security personnel to escort the UN to the border to pick up the AFRC/RUF delegation, and providing internal helicopter flights.<sup>14157</sup> Taylor was kept abreast of these developments through his foreign minister, Monie Cptan, and the Special Representative to the Secretary General.<sup>14158</sup>

<sup>14151</sup> Moses Blah, Transcript 20 May 2008, pp. 10314, 10362-10363.

<sup>14152</sup> Moses Blah, Transcript 20 May 2008, pp. 10314, 10317.

<sup>14153</sup> Moses Blah, Transcript 20 May 2008, pp. 10312-10313.

<sup>14154</sup> Moses Blah, Transcript 20 May 2008, p. 10314.

<sup>14155</sup> Moses Blah, Transcript 20 May 2008, p. 10314.

<sup>14156</sup> Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24431-24432.

<sup>14157</sup> Charles Ghankay Taylor, Transcript 11 August 2009, pp. 26500-26501; Transcript 12 August 2009, p. 26576; Transcript 8 September 2009, pp. 28351-28352, 28354.

<sup>14158</sup> Charles Ghankay Taylor, Transcript 8 September 2009, pp. 28351-28352, 28354.





6261. The RUF delegation stayed at the RUF guesthouse in Monrovia,<sup>14159</sup> and he gave the representatives some money, but did not remember how much.<sup>14160</sup> The Accused also refutes TF1-371's testimony implying that one of Taylor's helicopters took the delegates from Vahun to Monrovia, saying that "we have produced documents here, reports to the United Nations by Downes-Thomas" confirming that it was a UN helicopter that brought them from Vahun to Monrovia.<sup>14161</sup>

6262. The Accused conceded that Ibrahim Bah and Daniel Tamba (a.k.a. Jungle) were in Monrovia before the AFRC/RUF delegation bound for Lomé arrived, and that he met with them at this time.<sup>14162</sup> The Accused denied, however, that either Tamba or Bah travelled to Lomé at his request.<sup>14163</sup> He stated that Jungle was a member of the RUF, and therefore went to Lomé via Foday Sankoh, and not him.<sup>14164</sup>

6263. Starting in April 1999, Liberia had a negotiating group present, including former foreign minister of Liberia, D Musuleng-Cooper, former general Joe Tuah, and an assistant to Musuleng-Cooper.<sup>14165</sup>

6264. The Accused testified that by the end of June and beginning of July, President Gnassingbe Eyadema of Togo told him he was concerned about the progress of the peace talks, and said that he had already spoken to Presidents Olusegun Obasanjo of Nigeria, and Blaise Compaoré of Burkina Faso. The Presidents agreed to travel to Lomé to apply pressure to the negotiating parties.<sup>14166</sup> The Presidents met in Lomé on 5 July, and Sankoh angrily told them that he would not sign an agreement unless certain issues were resolved.<sup>14167</sup> The Presidents met first with President Kabbah, and then with Sankoh. It was also decided that Obasanjo would manage the Kabbah negotiating side, and the Accused, Eyadema and the

<sup>14159</sup> Charles Ghankay Taylor, Transcript 24 September 2009, p. 29605.

<sup>14160</sup> Charles Ghankay Taylor, Transcript 24 September 2009, p. 29605.

<sup>14161</sup> Charles Ghankay Taylor, Transcript 24 September 2009, pp. 29607-29608.

<sup>14162</sup> Charles Ghankay Taylor, Transcript 24 September 2009, p. 29605.

<sup>14163</sup> Charles Ghankay Taylor, Transcript 24 September 2009, pp. 29609-29610, 29616; Transcript 14 September 2009, pp. 28740-28743.

<sup>14164</sup> Charles Ghankay Taylor, Transcript 24 September 2009, p. 29616.

<sup>14165</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26551-26552.

<sup>14166</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26569-26571, 26578.

<sup>14167</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26571-26572.



OAU chairman would manage Sankoh. The negotiators circulated amongst the different groupings trying to extract whatever compromises they could obtain.<sup>14168</sup>

6265. The Accused confirmed that after the Lomé Accords were signed, Sankoh came to Monrovia on 28 September, on the way to Freetown, and contended that he did so in order to solve the problem of what was to be done with the SLA who were under the command of Johnny Paul Koroma before he returned to Sierra Leone.<sup>14169</sup>

6266. The Accused testified that his main preoccupations after he was elected President were to rebuild Liberia after their seven-year civil war, and to get international assistance to do so.<sup>14170</sup>

#### Defence Witness Issa Sesay

6267. Witness Issa Sesay, senior RUF commander,<sup>14171</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>14172</sup> testified that the British High Commissioner in Freetown provided GBP 50,000 for Foday Sankoh to travel to Lomé and attend the peace talks in May 1999. Sam Bockarie, Ibrahim Bah, and Dr Paulo Bangura accompanied him, and Bah was invited because he was one of Sankoh's best friends.<sup>14173</sup> Sesay stated that while Bah was in Buedu, Bockarie gave him money to take to Sankoh in Lomé.<sup>14174</sup>

6268. Sankoh instructed Bockarie to send an RUF delegation from Sierra Leone to Lomé as well. This delegation was headed by Mike Lamin, and included Rashid Sandy, the general adjutant, Lawrence Womandia, SYB Rogers, Agnes Kamanda, Idriss Kamara (a.k.a. Leather Boot), Captain Musa Jalloh, and Junor Vandj.<sup>14175</sup>

6269. Sankoh did not have a radio operator or radio with him when he first went to Lomé, but when the delegation headed by Lamin arrived, they brought with them Dauda Aruna Fornie, a radio operator, and a radio set.<sup>14176</sup> Fornie was the only radio operator with Sankoh

<sup>14168</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26573-26574.

<sup>14169</sup> Charles Ghankay Taylor, Transcript 13 August 2009, pp. 26795-26796.

<sup>14170</sup> Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24434-24435.

<sup>14171</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596, and

<sup>14172</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>14173</sup> Issa Sesay, Transcript 13 July 2010, pp. 44351-44352.

<sup>14174</sup> Issa Sesay, Transcript 13 July 2010, pp. 44361-44362.

<sup>14175</sup> Issa Sesay, Transcript 13 July 2010, pp. 44352-44353.

<sup>14176</sup> Issa Sesay, Transcript 13 July 2010, p. 44352.





in Lomé.<sup>14177</sup> Sesay testified that radio operator Memunatu Deen was stationed at the RUF guesthouse in Monrovia, where she served as the radio operator during the Lomé Peace Accord.<sup>14178</sup> Sesay also identified Exhibit P-264 as the radio log book kept by Fornie while Sankoh was in Lomé.<sup>14179</sup>

6270. Sesay travelled to Lomé the day before the signing, along with Eldred Collins, Francis Musa, Pa Blue, and Sheku Kumba. They travelled from Foya to Roberts International Airport, where they joined the Liberian delegation, including Taylor, to travel to Lomé. Taylor did not speak to them and they did not speak to him. The Heads of State returned home after it was signed, and Sesay and the others stayed for two more days. They returned to Sierra Leone the same way they came: from Lomé to Monrovia to Buedu.<sup>14180</sup>

6271. In late November 1999, Sankoh sent Sesay a message instructing him to go to Port Loko so that he could accompany Sankoh to Kambia. When he overheard this message on the radio, Bockarie told Sesay that if he went to Port Loko, ECOMOG would arrest him. Sesay consulted with CO Lawrence, Kallon and Gbao, who told him that since Sankoh was the leader he should obey Sankoh. When he met Sankoh in Port Loko, Sankoh told him he would not tolerate anyone sabotaging the peace process. The Lomé Accords had turned ECOMOG into peacekeepers, and the RUF should disarm under ECOMOG.<sup>14181</sup>

#### Defence Witness DCT-008

6272. Witness DCT-008, a Liberian radio operator,<sup>14182</sup> testified that Sunlight met radio operator Dauda Aruna Fornie at the RUF guesthouse in 1999.<sup>14183</sup> Fornie called Sunlight on the radio that he had brought with him to Lomé, saying that he had been in Togo but was now in Monrovia. Fornie invited Sunlight to meet him at the guesthouse, and he went there but only spent about fifteen minutes and then had to get back to work.<sup>14184</sup>

<sup>14177</sup> Issa Sesay, Transcript 13 July 2010, p. 44353.

<sup>14178</sup> Issa Sesay, Transcript 12 July 2010, pp. 44239-44241.

<sup>14179</sup> Issa Sesay, Transcript 13 July 2010, pp. 44353-44354.

<sup>14180</sup> Issa Sesay, Transcript 13 July 2010, pp. 44379-44380, 43594.

<sup>14181</sup> Issa Sesay, Transcript 14 July 2010, pp. 44449-44451.

<sup>14182</sup> DCT-008, Transcript 24 August 2010, pp. 46948-46951 (PS).

<sup>14183</sup> DCT-008, Transcript 27 August 2010, pp. 47477-47480.

<sup>14184</sup> DCT-008, Transcript 27 August 2010, p. 47478.

6273. Witness DCT-008 denied that Sunlight received messages from Fornie while Fornie was in Lomé, and denied that Fornie passed along reports of progress at the peace talks.<sup>14185</sup> Further, DCT-008 testified that Sunlight did not know that Fornie was at Lomé until he came to Monrovia afterwards and told him.<sup>14186</sup>

Prosecution Exhibit P-264

6274. Exhibit P-264 is Dauda Aruna Fornie's radio logbook from May 1999, which Fornie verified was the logbook that he used to record messages while he was in Lomé with Foday Sankoh.<sup>14187</sup> When Fornie returned to Freetown after Lomé, he returned to Buedu but left the logbook in "the Freetown office", which was Sankoh's lodge from which Sankoh was arrested in May 2000.<sup>14188</sup> Several messages in the logbook indicated that Sankoh ordered AFRC/RUF members to join him in Lomé for the peace negotiations. There is no mention of the Accused in these records.

Prosecution Exhibit P-422

6275. Exhibit P-422 is a copy of the Lomé Peace Accords. Part Two indicates that the RUF will be incorporated into the governance of Sierra Leone, and given the status of a political party. Part Three provides for absolute and free pardon for Foday Sankoh and other combatants for actions up to the signing of the agreement.

Defence Exhibits D-193A through K

6276. Exhibits D-193A through K consist of UN documents, including code cables, letters and memoranda. Exhibit 193-E, an unattributed report, indicates that RUF members Omrie Golley and Ibrahim Bah were accompanied by UN officials and SSS members from Monrovia to Sierra Leone on 18 and 19 April in order to consult with RUF leaders inside Sierra Leone to select delegates to meet Foday Sankoh in Lomé. On this trip Golley

<sup>14185</sup> DCT-008, Transcript 1 September 2010, p. 47662.

<sup>14186</sup> DCT-008, Transcript 1 September 2010, pp. 47662-47663.

<sup>14187</sup> Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21618-21819; Transcript 11 December 2008, p. 22141. The log book was also identified as such by Defence Witness Issa Sesay (Issa Sesay, Transcript 13 July 2010, pp. 44353-44354). Fornie testified that the book was used at call sign "Vision 1", which indicated it this was in Lomé, Togo, and that the code names "Lion" and "Smile" refer to Sankoh, "Black Jah" refers to Gullit, "Log" and "Planet" refer to Sam Bockarie, "Gaffa" refers to Gibril Massaquoi, "Equaliser" or "Timing Bomb" refer to Denis Mingo (a.k.a. Superman), and "Sparrow" refers to Morris Kallon. Dauda Aruna Fornie, Transcript 3 December 2008, pp. 21619, 21622; Transcript 11 December 2008, pp. 22142-22144.

<sup>14188</sup> Dauda Aruna Fornie, Transcript 11 December 2008, p. 22141.

telephoned Executive Secretary of ECOWAS, Lansana Kouyate, and stressed to him that “no one should be allowed to talk to Sankoh, especially the press, before the arrival of the RUF delegation”. Golley also told the author of this report that Taylor had been mistreated and disrespected by the UN and ECOWAS.

6277. Exhibit D-193A states that the UN requested permission from Liberia for the delegation to stop in Monrovia en route to Sierra Leone, and Exhibits D-193A through K indicate that the UN was aware that this stop-over in Monrovia occurred. Exhibits 193D and F state that Ibrahim Bah and Omrie Golley travelled from Monrovia to Lomé on 20 April 1999, and Exhibits D-193J and K state that the AFRC/RUF delegation travelled from Sierra Leone to Lomé with a stop-over in Monrovia in two groups, one that left Monrovia for Lomé on 24 April 1999, and one that left Monrovia for Lomé on 25 April 1999.

Defence Exhibit D-195

6278. Exhibit D-195 is a joint communiqué from President Obasanjo of Nigeria and the Accused dated 5 June 1999, describing a visit that the Accused made to Nigeria on 5 June 1999. The two leaders commended ECOWAS’ efforts to resolve the crisis in Sierra Leone and welcome the imposed ceasefire.

Defence Exhibit D-362

6279. Exhibit D-362 is a joint communiqué from President Obasanjo and President Taylor which describes the Presidents’ welcoming of the peace process in Sierra Leone. They stressed that no member of ECOWAS should encourage, support or commit an act of subversion against the government and people of Sierra Leone.

Defence Exhibit D-215

6280. Exhibit D-215 is a letter from the Assistant Secretary of State for African Affairs, Susan E Rice, to a “General Yerks”,<sup>14189</sup> commending the Accused because he “has been positively engaged in the Sierra Leone peace process”. The author states that they

<sup>14189</sup> Taylor testified that General Yerks was a retired US army general and a “friend of Liberia”, who helped in getting the international community to provide assistance to Liberia. He denied that General Yerks was hired by the Government of Liberia. Charles Ghankay Taylor, Transcript 1 February 2010, pp. 34538-34544; Transcript 2 February 2010, pp. 34547-34550; Transcript 18 February 2010, pp. 35332-35336.




“especially hope” that Taylor will continue to encourage Foday Sankoh to return to Freetown to implement the peace process, which was essential for the Lomé Accord to succeed.

Defence Exhibit D-223

6281. Exhibit D-223 is a letter to President Taylor from Madeleine Albright<sup>14190</sup> dated 13 October 1999, thanking Taylor for his critical role in supporting the peace process in Sierra Leone. The letter states that his “work in promoting dialogue among key players and persuading the rebel leaders to return to Freetown” was “an important contribution to the implementation of the Lomé Accord”.

Defence Exhibit D-251

6282. Exhibit D-251 is a letter from Bismarck Myrick, the US Ambassador to Liberia, to the Accused, thanking him for receiving and speaking with the Reverend Jesse Jackson. Myrick praised Taylor’s efforts to secure the release of UN personnel held by the RUF.

Deliberations

6283. The Prosecution puts forth several discrete allegations concerning the role of the Accused in the negotiations at Lomé, several of which are conceded to by the Defence or undisputed. The parties do not dispute that the Accused assisted in transporting Foday Sankoh and others, including Omrie Golley and Ibrahim Bah, to Lomé and provided them with accommodation in Monrovia *en route* to the negotiations.<sup>14191</sup> The Accused also conceded to having met with Golley and Bah in Liberia before they travelled to Lomé.<sup>14192</sup> He conceded to placing a negotiating team, led by his former Foreign Minister D Musuleng Cooper, in Lomé in April 1999 and to receiving daily updates on the negotiations from them.<sup>14193</sup> Finally, the parties do not dispute that the Accused attended the negotiations and

<sup>14190</sup> Exhibit D-233, “Letter to Jonathan C. Taylor, Minister of State/Chief of Staff, Executive Mansion, Monrovia, Liberia, Transmitting a Press Release from the United States Embassy, Monrovia, Liberia, New Years Remarks from United States Ambassador, Bismarck Myrick”.

<sup>14191</sup> Prosecution Final Trial Brief, paras 195, 370; Defence Final Trial Brief, paras 94, 571, 1011-1014, 1017. [See Operational Support: Provision of RUF Guesthouse in Monrovia]. The Trial Chamber recalls its finding that Ibrahim Bah served as a liaison between the RUF and the Accused, but had no permanent affiliation with either the RUF or the Accused. See The Role of Intermediaries: Ibrahim Bah.

<sup>14192</sup> Defence Final Trial Brief, para. 571.

<sup>14193</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26551-26552. The Prosecution further relies on the testimony of Witness TF1-567 to support the allegation that Dauda Aruna Fornie, Sankoh’s radio operator in Lomé, communicated with Sunlight, in Monrovia, in order to update the Accused on the negotiations. TF1-567, Transcript 4 July 2008, pp. 12976-12977. This was refuted by Dauda Aruna Fornie, who, when asked with

met with Sankoh, and that as a result of the Lomé Accord, Sankoh was given control over the natural resources of Sierra Leone.<sup>14194</sup> The Trial Chamber recalls its finding that the Accused provided \$USD 20,000 to Sankoh during the Lomé negotiations for Sankoh's personal use,<sup>14195</sup> and the Accused's concession that he provided a small amount of money to each of the AFRC/RUF delegates when they stopped in Monrovia.<sup>14196</sup>

6284. In this context, the Prosecution alleges that the Accused provided all of the above assistance so that he could instruct Sankoh and the AFRC/RUF delegation to protect their shared interests in "pillaging the resources of Sierra Leone", and "controlling the territory and people of Sierra Leone".<sup>14197</sup> The Accused's assistance to the RUF in furthering the peace negotiations, however, does not *per se* prove that he provided this assistance in order to continue his and the RUF's control over Sierra Leone. The Prosecution cites the fact that the Lomé Accords resulted in Sankoh maintaining control over diamond production in Sierra Leone, an outcome that was mutually beneficial to both the AFRC/RUF and the Accused. The evidence shows, however, that the Lomé Accord was agreed to by both parties after negotiations involving ECOWAS partners other than the Accused. The Prosecution has proffered evidence establishing that the Accused was actively involved in the negotiations but not that he dictated the outcome of the negotiations.

6285. The Prosecution contends that the Accused had some control over the AFRC/RUF delegation, but the Trial Chamber notes that several witnesses testified that it was Sam Bockarie, upon the instructions of Sankoh, who selected the AFRC/RUF delegation that would travel to Lomé. None of the witnesses mentioned the Accused as influencing this decision.<sup>14198</sup> The evidence that Golley directed that "no one should be allowed to talk to

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whom he communicated from Lomé did not mention the Accused. Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21615-21616; Transcript 3 December 2008, p. 21618; Transcript 11 December 2008, p. 22141. Witness DCT-008 testified that Sunlight never received messages from Fornie in Lomé. DCT-008, Transcript 1 September 2010, p. 47662.

<sup>14194</sup> Prosecution Final Trial Brief, paras 197-198; Defence Final Trial Brief, paras 95, 571, 575-576. See also Exhibit P-422 "Excerpts from: Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, Lomé Accord, 7 July 1999".

<sup>14195</sup> See Operational Support: Support and Training, Financial Support.

<sup>14196</sup> Charles Ghankay Taylor, Transcript 24 September 2009, p. 29605. See also TF1-371, Transcript 28 January 2008, p. 2436 (CS) (Taylor gave each delegate \$USD 300 in Monrovia before they travelled to Lomé).

<sup>14197</sup> Prosecution Final Trial Brief, paras 191-192.

<sup>14198</sup> TF1-371, Transcript 29 January 2008, p. 2441 (CS); TF1-567, Transcript 2 July 2008, pp. 12929-12930; Transcript 8 July 2008, pp. 13124-13128; Issa Sesay, Transcript 13 July 2010, pp. 44352-44353. See also Exhibit P-264, "Radio Log Book,, 00008636 - 00008726 (P-264) of communications between Sam Bockarie and Foday Sankoh during the Lomé peace talks (kept by TF1-274)" (describing radio messages in which Sankoh

Sankoh, especially the press, before the arrival of the RUF delegation”<sup>14199</sup> is cited by the Prosecution, but the Trial Chamber notes that TF1-567 identified Golley as a spokesperson for the RUF.<sup>14200</sup> The evidence does not establish that his instruction was in any way related to the Accused. Similarly, the fact that the Accused had a team of his own in Lomé does not support the allegations of the Prosecution absent evidence of any particular improper actions taken by the team.

6286. The Defence contends that the Accused’s involvement in the Lomé negotiations was in accordance with the mandate given him by ECOWAS, and was at all times transparent and above-board. The Defence has presented significant evidence to support this proposition. Prosecution and Defence witness testimony, as well as the contemporaneous documents provided by the Defence, demonstrate that UN officials were aware of the Accused’s involvement in the transport of RUF officials through Monrovia to Sierra Leone.<sup>14201</sup> Further, there is significant evidence that, as the Defence contends, several other world leaders were equally involved in furthering the Lomé Accords.<sup>14202</sup> Finally, although the Accused concedes to having met with Sankoh without other Heads of State present at Lomé,<sup>14203</sup> he also describes a fast-paced negotiation process by which the ECOWAS members circulated among the negotiating parties, and sometimes spoke to each party

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orders members of the RUF to meet him in Lomé, with no mention of Taylor); Exhibit D-193E, “UN Report on the Visit to the Liberia–Sierra Leone Border, 20 April 1999, DCT 90” (UN report stating that Omrie Golley and Ibrahim Bah were taken by the UN to Sierra Leone to consult with RUF leaders on the selection of delegates to meet Sankoh in Lomé).

<sup>14199</sup> Defence Exhibit D-193E.

<sup>14200</sup> TF1-567, Transcript 4 July 2008, pp. 12970-12972.

<sup>14201</sup> TF1-371, Transcript 28 January 2008, p. 2436 (CS); TF1-567, Transcript 4 July 2008, pp. 12965-12966; Transcript 8 July 2008, pp. 13128-13129, 13144; Charles Ghankay Taylor, Transcript 11 August 2009, pp. 26500-26501; Transcript 12 August 2009, p. 26576; Transcript 8 September 2009, pp. 28351-28352, 28354; Defence Exhibits D-193A-K (UN documents concerning RUF/AFRC transport to Lomé in 1999). Prosecution Witness TF1-371 is the only witness to testify that the helicopter bringing the delegation from Vahun to Monrovia was provided by Joe Tuah, a member of Taylor’s security team, TF1-371, Transcript 28 January 2008 p. 2434 (CS), but this evidence is contradicted by the significant evidence cited above.

<sup>14202</sup> TF1-371, Transcript 28 January 2008, pp. 2436-2437 (CS) (testifying that the RUF/AFRC delegation was met at the airport in Lomé by the Foreign Minister of Togo, who took them to their hotel); Moses Blah, Transcript 20 May 2008, p. 10314 (testifying that on 5 or 6 July, Taylor joined several African leaders in Lomé in order to finalise the peace agreement); Issa Sesay, Transcript 13 July 2010, pp. 44351-44352 (testifying that the British High Commissioner in Freetown provided funds for Foday Sankoh to travel to Lomé). See also D-195, “Joint Communique issued by President Obasanjo of Nigeria and President Charles Taylor of Liberia, Abuja, 5 June 1999, DCT 193” and D-362 “Joint Communique following the visit of President Obasanjo to Liberia, dated 25 June 1999”.

<sup>14203</sup> The Prosecution bases their allegation that Taylor met with Sankoh outside the presence of other African leaders on Taylor’s testimony that “Sankoh comes – in fact, Blaise Compaoré visits me. I visit him. Sankoh comes to visit me and you see Senator Keikura here. [W]e just put our best minds to work circulating amongst the different groupings and trying to extract whatever little compromise we could get along the way”. Charles

separately.<sup>14204</sup> The Trial Chamber accepts this description of the negotiation process as credible. Moreover, the Trial Chamber notes that Moses Blah testified that the Accused closed the border between Liberia and Sierra Leone from December 1998 to October 1999, in order to pressure the RUF to start peace negotiations.<sup>14205</sup>

6287. The praise of world leaders of the Accused's involvement in peace negotiations notwithstanding,<sup>14206</sup> the Trial Chamber notes that his involvement in furthering the peace process at Lomé, which is established by the evidence, is not dispositive as to whether he was simultaneously assisting the AFRC/RUF in furtherance of criminal activities.

6288. The Prosecution relies on TF1-567 to support its contention that while publicly supporting the peace process, the Accused was providing instruction to the AFRC/RUF to maintain control of Sierra Leone through other means. TF1-567 testified that before the AFRC/RUF delegation travelled to Lomé, he saw Joseph Marzah and Mike Lama with ammunition that they said was from Taylor. The men told TF1-567 that Taylor stated "when it was time for peace he should prepare for war".<sup>14207</sup> The Trial Chamber notes, however, that TF1-567 did not hear this statement from the Accused first-hand, but rather learned of it second-hand from either Marzah or Lama. The Trial Chamber notes that it has found that Marzah's testimony must be treated with caution and requires corroboration.<sup>14208</sup> Moreover, Marzah himself did not testify to relaying this statement to TF1-567. The Trial Chamber notes that several other witnesses testified that Foday Sankoh made precisely the same statement either during the Abidjan or the Lomé peace negotiations.<sup>14209</sup> For these reasons the Trial Chamber cannot be sure that the Accused made the statement attributed to him indirectly by TF1-567.

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Ghankay Taylor, Transcript 12 August 2009, pp. 26573-26575.

<sup>14204</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26573-26574.

<sup>14205</sup> Moses Blah, Transcript 20 May 2008, pp. 10314, 10362-10363.

<sup>14206</sup> See Exhibit D-215, "Letter to General Yerks, from Susan Rice, Assistant Secretary of State for African Affairs, US Department of State, Washington, D.C., 8 September 1999, DCT 215"; Exhibit D-251, "Letter to the President of Liberia, Charles Taylor from Bismarck Myrick, Ambassador, Embassy of the United States of America, Monrovia, Liberia, 23 May 2000".

<sup>14207</sup> TF1-567, Transcript 4 July 2008, pp. 12965-12966.

<sup>14208</sup> Credibility Assessment, Joseph Marzah, paras 263-268.

<sup>14209</sup> For example, Karmoh Kanneh testified to having heard Sankoh say to his men during a public gathering after signing the Abidjan Peace Accord that "during times of peace, those are times that we should prepare for war". Karmoh Kanneh, Transcript 8 May 2008, pp. 9354-9355. Perry Kamara testified that the moment Sankoh "went for peace" he told them that "in times of peace we should prepare for war". Perry Kamara, Transcript 6 February 2008, pp. 3262-3263. Finally, TF1-168 testified that during the Abidjan peace negotiations, Sankoh



6289. The Trial Chamber recalls, however, that several other Prosecution witnesses corroborate TF1-567's account that Taylor provided ammunition to the RUF at this time. The Trial Chamber notes the substantial evidence in the record that the Accused was engaged in arms transactions at the same time that he was involved in the peace negotiations in Lomé.<sup>14210</sup> This evidence indicates that the Accused was helping the RUF further preparations for war at the same time as he was helping them in the peace process. For this reason, the Trial Chamber finds that while the Accused did not provide subversive assistance to the RUF within the context of the peace negotiations in Lomé, he did at the same time provide other assistance to the RUF outside the peace process that would promote the continuation of war.

### Findings

6290. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the Accused improperly provided assistance and advice to the AFRC/RUF before and during the Lomé negotiations so as to facilitate an outcome most favourable to the AFRC/RUF and himself.

6291. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that while publicly promoting peace at the Lomé negotiations, the Accused was privately providing arms and ammunition to the RUF.

#### 4. Release of UN Peacekeepers (1999)

### Submissions of the Parties

6292. It is undisputed that in August 1999, the West Side Boys kidnapped UN military observers, ECOMOG soldiers, aid workers and journalists and stated that they would not release them until they could account for their leader, Johnny Paul Koroma.<sup>14211</sup> The parties agree that the Accused was involved in the negotiations for the release of these hostages, but disagree as to the motive for his involvement.

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was trying to obtain arms and he "used to tell us that in time of peace you prepare for war". TF1-168, Transcript 22 January 2009, p. 23288 (CS).

<sup>14210</sup> See Arm and Ammunition.

<sup>14211</sup> Prosecution Final Trial Brief, paras 200-202; Defence Final Trial Brief, para. 640.

6293. The Prosecution alleges that the Accused facilitated the release of the hostages in order to keep the AFRC/RUF alliance strong. In addition, this incident indicates that the leaders of both groups yielded to the Accused.<sup>14212</sup> More specifically, the Prosecution alleges that the Accused secured the movement of Johnny Paul Koroma from Sierra Leone to Monrovia by telling Bockarie to release Koroma. At a meeting with Koroma in Monrovia, the Accused informed him that he did not want division between the RUF and the AFRC.<sup>14213</sup>

6294. The Prosecution submits that Koroma instructed a delegation of West Side Boys to meet him in Monrovia, and met with them after his initial meeting with the Accused.<sup>14214</sup> Koroma then brought members of the West Side Boys to meet with the Accused, where the Accused explained that he did not want trouble between the two groups.<sup>14215</sup> The Accused explained that they should be focused on ensuring that the AFRC/RUF obtained power in Sierra Leone.<sup>14216</sup> Foday Sankoh travelled to Monrovia after the signing of the Lomé Peace Accord, and the Accused facilitated meetings between himself, Sankoh and Koroma.<sup>14217</sup> At these meetings, they discussed how they would work together.<sup>14218</sup> The Prosecution relies on the testimony of the Accused, Alimamy Bobson Sesay, TF1-367, and TF1-567.<sup>14219</sup>

6295. The Defence counters that the Accused conducted these negotiations under the auspices of his ECOWOG mandate.<sup>14220</sup> After the hostages were taken, the Defence contends, the Accused spoke with Foday Sankoh, who was in Togo, and Presidents Obasanjo and Kabbah. The Accused requested to speak to the UN Secretary-General to ask that the travel ban imposed on Johnny Paul Koroma be lifted, and the Secretary-General agreed.<sup>14221</sup> The Defence claims that Koroma arrived for the negotiations in August 1999, and the Accused informed Downes-Thomas of this fact, and requested that it be conveyed to the Secretary-General.<sup>14222</sup> Koroma had meetings with the Liberian government, and then

<sup>14212</sup> Prosecution Final Trial Brief, paras 200-202.

<sup>14213</sup> Prosecution Final Trial Brief, para. 200.

<sup>14214</sup> Prosecution Final Trial Brief, para. 200.

<sup>14215</sup> Prosecution Final Trial Brief, para. 201.

<sup>14216</sup> Prosecution Final Trial Brief, para. 201.

<sup>14217</sup> Prosecution Final Trial Brief, para. 202.

<sup>14218</sup> Prosecution Final Trial Brief, para. 202.

<sup>14219</sup> Prosecution Final Trial Brief, paras 200-202.

<sup>14220</sup> Defence Final Trial Brief, paras 640-646.

<sup>14221</sup> Defence Final Trial Brief, para. 641.

<sup>14222</sup> Defence Final Trial Brief, para. 643.

the Liberian government contacted other leaders. The Accused tried to reassure Koroma that the term “RUF” was intended to include the AFRC.<sup>14223</sup>

6296. The UN and Sierra Leonean officials transported a West Side Boys delegation to Liberia to meet Koroma; the Defence contends that the Accused did not meet the delegation. Arrangements were then made to release the hostages.<sup>14224</sup> Sankoh arrived in Monrovia on 28 September 1999 to speak with Koroma, and the Accused mediated talks between them.<sup>14225</sup> The Accused met with each side separately before meeting with them together, and the results of these discussions were transmitted to ECOWAS.<sup>14226</sup> A press conference occurred following these talks, and Sankoh and Koroma left Monrovia for Freetown together.<sup>14227</sup>

## Evidence

### Prosecution Witness Alimamy Bobson Sesay

6297. Witness Alimamy Bobson Sesay, an AFRC member<sup>14228</sup> and officer,<sup>14229</sup> testified that in approximately May 1999, he and other combatants loyal to Johnny Paul Koroma became known as the “West Side Boys”.<sup>14230</sup> In July or August 1999, he and other members of the West Side Boys planned an operation to capture UNAMSIL and ECOMOG officials because, Sesay testified, the AFRC was “completely out of the Lomé Accord” and by doing so “they will be made to recognise us”.<sup>14231</sup> Once the hostages were captured they, as well as a journalist Christo Johnson who was also captured, were taken to Gberibana to where Ibrahim Karama (a.k.a. Bazy) <sup>14232</sup> their commander, was located.<sup>14233</sup>

6298. The witness was present when Christo Johnson was taken in front of Bazy, and Johnson asked Bazy why he and the soldiers were captured. Bazy stated that they were not

<sup>14223</sup> Defence Final Trial Brief, para. 645.

<sup>14224</sup> Defence Final Trial Brief, para. 646.

<sup>14225</sup> Defence Final Trial Brief, paras 646, 652-656.

<sup>14226</sup> Defence Final Trial Brief, para. 654.

<sup>14227</sup> Defence Final Trial Brief, paras 653-656.

<sup>14228</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7859-7867, 7869; 28 April 2008, pp. 8684, 8689.

<sup>14229</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7865-7866.

<sup>14230</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8447-8460. See also Alimamy Bobson Sesay, Transcript 28 April 2008, pp. 8653-8658.

<sup>14231</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 8477-8488.

<sup>14232</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 8489 (naming Bazy as Ibrahim Bazy Kamara).





included in the Lomé Accord, and they believed that their leader, Johnny Paul Koroma, was under arrest in Kailahun. Bazy stated that they wanted Koroma to be released, and the West Side Boys to be reinstated in the national army.<sup>14234</sup>

6299. Johnson convinced Bazy to release him so that he could state their demands to the international media; Johnson was then released, and made statements to the BBC and VOA.<sup>14235</sup> The witness was present when Bockarie then called the radio set at their camp, and said he had heard the news and ordered Bazy to release the hostages. Bazy responded that the only way the hostages would be released was if he could speak to Koroma and confirm that he was not under arrest.<sup>14236</sup>

6300. Later, while the witness was still present, Koroma called on the radio to Bazy, and stated that was “annoyed” with Bazy and he should immediately release the UNAMSIL and ECOMOG hostages.<sup>14237</sup> Bazy said that “it was only today that I have heard your voice”, but that he would not release them until he saw Koroma face to face.<sup>14238</sup>

6301. Koroma hung up and then called back the same day, telling Bazy that they were informed that President Taylor would send a helicopter to pick him up, with a delegation of West Side Boys chosen by Bazy, from Kailahun, through Freetown, to meet Koroma in Liberia to discuss the issue.<sup>14239</sup> Before they left, they were assured that they would not be arrested in their travels.<sup>14240</sup>

6302. Bazy appointed a delegation of 11 members – Bazy, Hassan Papa Bangura (a.k.a. Bomb Blast), George Johnson (a.k.a. Junior Lion), “Major Gbonkelenkeh”, Junior Jones, “Tiger”, Bob Lahai (a.k.a. Captain Blood), “Humpar”, “Hussein”, Issa Mansaray, and the witness, Bobson Sesay, who were taken by Idrissa Kamara (a.k.a. Leather Boot) to Freetown.<sup>14241</sup> In Kailahun they were escorted to Freetown by Idrissa Kamara, Chief Security Officer to Foday Sankoh, who said that Sankoh sent him, and

<sup>14233</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, p. 8481.

<sup>14234</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 8481-8484.

<sup>14235</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 8482-8483.

<sup>14236</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 8482-8484.

<sup>14237</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 8486-8487.

<sup>14238</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 8486-8487.

<sup>14239</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 8486-8488; Transcript 25 April 2008, p. 8581.

<sup>14240</sup> Alimamy Bobson Sesay, Transcript 25 April 2008 pp. 8579-8580.

<sup>14241</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8489-8490, 8494.

UNAMSIL/ECOMOG officers.<sup>14242</sup> The delegation stayed for two days at a hotel when ECOMOG officers, including Maxwell Khobe and Chief Kpamber, came and met them. They were picked up and taken to Aberdeen airfield, in Freetown, where a helicopter flew them to Lungi airport, and they boarded a plane to Liberia.<sup>14243</sup> The delegation was met by special bodyguards to Taylor, and taken to the Boulevard Hotel in Monrovia where they met Momoh Gibba, aide-de-camp to Taylor.<sup>14244</sup> Gibba stated that they could have whatever they wanted at the hotel, excepting alcohol, and that they should rest but he would be in touch later and they could go see Johnny Paul Koroma.<sup>14245</sup>

6303. The next day the delegation, including the witness, was picked up by two cars sent by Gibba, with the license plates “Guest 1” and “Guest 2”, and taken to see Koroma where he was staying.<sup>14246</sup> The place where Koroma was staying was fortified, and the witness saw that guards were with Koroma, whom Koroma said were ATU, or members of Taylor’s Anti-Terrorist Unit.<sup>14247</sup>

6304. Bazy explained to Koroma that they had been left out of the Lomé Accord and Koroma had not been given an appointment, and that was the reason they captured the hostages. They had come to find a solution to these issues, and to be reinstated into the army.<sup>14248</sup> Koroma said that they should talk quietly because there were “RUF boys” patrolling, but said plainly that he had no control over “the men”, and this is why he could not talk to them, but that he was happy that they did this.<sup>14249</sup>

6305. Koroma told Bazy to choose a few men to go with him to meet Taylor because Taylor was “concerned”, about the division between the RUF and the AFRC and “wanted to actually know about this issue so that we will be able to solve it”.<sup>14250</sup> Taylor had airlifted Koroma to Monrovia so that issues could be resolved, but Koroma felt pressure after the ECOMOG officials were captured. For this reason, Bazy was brought to Monrovia, so and

<sup>14242</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8489-8490.

<sup>14243</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8489-8491.

<sup>14244</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8490, 8494-8496; Transcript 25 April 2008, p. 8580.

<sup>14245</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, p. 8496.

<sup>14246</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8497-8498.

<sup>14247</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8499, 8502.

<sup>14248</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8498-8499.

<sup>14249</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8500-8501.

<sup>14250</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8500-8501; Transcript 25 April 2008, pp. 8581-8582.

they could “push the Lomé Accord and come together”.<sup>14251</sup> He said Taylor did not want division because “it is not at the end, when they declared peace that this person will be saying this, and that one will be saying that”. Taylor wanted them to resolve their issues once and for all.<sup>14252</sup> Koroma agreed that he had not been given an appointment in the government, but believed he would be given the chairmanship for the Consolidation of Peace, which he preferred because then he could coordinate the peace in Freetown.<sup>14253</sup>

6306. The delegation returned to the hotel, where Bazzy appointed himself, the witness, Junior Lion, Bomb Blast and Major Gbonkelenkeh to meet with Taylor. After one or two days, they drove to meet Taylor at Taylor’s office.<sup>14254</sup> Taylor stated that he had been giving assistance to the AFRC/RUF, by mobilising the SLAs and sending them to fight, so that they could remove the Kabbah government. He said that he was not happy that there was a division between the RUF and the AFRC, and if they continued this division then “the politicians will use you”, and “you will find yourselves in prison”.<sup>14255</sup> Their main focus, Taylor said, should be to fight for the Presidency, and make sure that they were in the seat of power, and so they must come together to resolve their issues.<sup>14256</sup>

6307. Taylor said that Foday Sankoh was *en route* to Liberia from Togo, and he would like them to meet so that they could go to Freetown together. Koroma explained to Taylor why the West Side Boys had captured the hostages, and the meeting was then at an end. Taylor took \$USD 15,000 and gave it to Koroma so he could give it to the delegation, so that they could “refresh [themselves] and buy things ... in Monrovia”.<sup>14257</sup>

6308. Upon cross-examination, when asked by the Defence whether Taylor brought the two parties together to facilitate peace, Bobson Sesay responded that Taylor did so because “he was the immediate person that had direct influence on the AFRC and the RUF”.<sup>14258</sup>

#### Prosecution Witness Sam Kargbo

<sup>14251</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, p. 8502.

<sup>14252</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8503-8504.

<sup>14253</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, p. 8501.

<sup>14254</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8503, 8578.

<sup>14255</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8504-8506, 8509-8511.

<sup>14256</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8504-8506, 8509.

<sup>14257</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8505-8506; Transcript 25 April 2008, pp. 8582, 8585-8587.

<sup>14258</sup> Alimamy Bobson Sesay, Transcript 25 April 2008, p. 8596.

6309. Witness Sam Kargbo, an AFRC Supreme Council member,<sup>14259</sup> testified that on 7 August 1999 he travelled to Buedu, but when he approached, an RUF girl told him not to go down where Sam Bockarie was because there was a problem there “between the SLAs and RUFs”.<sup>14260</sup> He parked and as he walked down he saw a white Land Cruiser with a radio set in it, and saw Morris Kallon, Issa Sesay and other SLA colleagues standing there, and their faces were morose.<sup>14261</sup> When Kallon saw Kargbo coming he said “Ha, brigade, come and see what your man have done again”, and “Those your [sic] men at the West Side do have problems”. He said that they had arrested the UNOMSIL at West Side, saying that the AFRC was not included in the Accord, and they wanted Johnny Paul Koroma to be free.<sup>14262</sup> Kallon asked Kargbo to speak with them because he had been with them for a long time.<sup>14263</sup>

6310. The witness called the West Side Boys on the radio at the call sign Bravo 33, and started talking to Ibrahim Bazy, who then put him on the phone with his “brother, Tito”.<sup>14264</sup> Tito asked if Koroma was there, to which Kargbo responded that Koroma was there, and even he himself was a deputy brigade commander there, and tried to get him to calm down. Once Kargbo got off the phone, one of Issa Sesay’s radio men said that someone was calling him on the satellite phone. Sesay spoke to this person on the satellite phone, and Kargbo heard Sesay say “yes sir” repeatedly.<sup>14265</sup> Sesay told the witness and the others that Taylor told them to take the satellite phone and the radio set to Koroma in Kangama where he was under house arrest, and they did so. When they got to Kangama, the phone rang and Sesay answered “yes sir” and “no problem”, and then gave the phone to Koroma, who also said “yes sir” and “no problem”, and gave the receiver back to Sesay.<sup>14266</sup> They called the West Side Boys at call sign Bravo 33, and Koroma spoke to Bazy, their commander, telling them to calm down, and that everything would be fine.<sup>14267</sup> Bazy said that he would not

<sup>14259</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10439, 10448, 10450; Exhibit P-058, “Excerpts from the Sierra Leone Gazette No. 52, 4 September 1997, 00007703 - 00007704”, ERN 7703-7704.

<sup>14260</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10565-10566.

<sup>14261</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10565-10566.

<sup>14262</sup> Sam Kargbo, Transcript 22 May 2008, p. 10567. See also Sam Kargbo, Transcript 3 June 2008, pp. 10822-10823.

<sup>14263</sup> Sam Kargbo, Transcript 22 May 2008, p. 10567.

<sup>14264</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10567-10568.

<sup>14265</sup> Sam Kargbo, Transcript 22 May 2008, p. 10568.

<sup>14266</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10568-10569. See also Sam Kargbo, Transcript 3 June 2008, p. 10821 (testifying that Koroma was “under house arrest” at this time).

<sup>14267</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10568-10569.

release the hostages unless they could meet with him, and Koroma tried to negotiate with them, but failed and got off the phone.<sup>14268</sup>

6311. The satellite phone rang again, and Sesay handed it to Koroma, and he spoke on it again. When the phone rang again Koroma said “No problem, we will go”, and put down the receiver.<sup>14269</sup> Koroma then told the witness and the others that Taylor told him and the other “supreme members” to go to Liberia.<sup>14270</sup> The witness and the others drove to Foya, where a helicopter came with Sam Bockarie, Daniel Tamba (a.k.a. Jungle) and SSS security men inside.<sup>14271</sup> Bockarie said that Taylor instructed only four people to travel to Monrovia with Koroma, and Koroma appointed the witness, Jumu Jalloh, and Brima Kamara (a.k.a. Cobra) to go.<sup>14272</sup>

6312. They arrived in Monrovia and were taken to the RUF guesthouse, where they would stay from August until approximately mid-September.<sup>14273</sup> About one week after they arrived the West Side Boys came to Monrovia, and the witness and others went and received them at the airport.<sup>14274</sup> The West Side Boys brought their position statement to Koroma and said they would like Taylor to see it.<sup>14275</sup> A man named “50” or “Short Man”, whom the SSS said was a close aide to Taylor, said he would tell Taylor that they had come. He came the next day to say that a meeting with Taylor was scheduled for the day after.<sup>14276</sup> The next day Koroma, the witness, Brima Kamara and Jumu Jalloh were driven to see Taylor, and the West Side Boys were taken in another car.<sup>14277</sup> Ibrahim Bazy Kamarah presented the position statement to Taylor, and thereafter Taylor started talking, giving “words of encouragement that we should all see each other as one and that the accord was in our favour”.<sup>14278</sup> Kargbo testified that Taylor said many things in the meeting, all of which he could not remember.<sup>14279</sup> Taylor then took two envelopes out of a briefcase, and gave one to

<sup>14268</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10568-10569.

<sup>14269</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10569-10570.

<sup>14270</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10569-10571.

<sup>14271</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10569-10570.

<sup>14272</sup> Sam Kargbo, Transcript 22 May 2008, p. 10570.

<sup>14273</sup> Sam Kargbo, Transcript 22 May 2008, p. 10573.

<sup>14274</sup> Sam Kargbo, Transcript 22 May 2008, p. 10575.

<sup>14275</sup> Sam Kargbo, Transcript 22 May 2008, p. 10575.

<sup>14276</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10575-10577.

<sup>14277</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10577-10578.

<sup>14278</sup> Sam Kargbo, Transcript 22 May 2008, p. 10579; Transcript 3 June 2008, p. 10826.

<sup>14279</sup> Sam Kargbo, Transcript 22 May 2008, p. 10579.



Koroma and one to Bazy, and said that this was for the witness and the others.<sup>14280</sup> Once they returned to the hotel, they asked Bazy how much was in the envelope and he said it was \$USD 5,000 that Taylor said should be shared amongst them.<sup>14281</sup> The witness received approximately \$USD 700.<sup>14282</sup>

6313. After this meeting the West Side Boys stayed there a short time, less than a week, and then Koroma told them to return to Freetown. Koroma continued to speak to the West Side Boys over the radio, and the hostages were released.<sup>14283</sup> During this time, a UN representative, Francis Okelo, met with Koroma and said that his combatants would be reinstated in the Sierra Leonean Army.<sup>14284</sup> The witness stayed with Koroma for about two or three weeks, until he flew to Koroma's men to relay to them the fact that they would be reinstated in the army.<sup>14285</sup> Kargbo was not present in Monrovia for the talks between Koroma and Sankoh.<sup>14286</sup>

Prosecution Witness TF1-367

6314. Witness TF1-367, an RUF member,<sup>14287</sup> testified that at the end of 1998, "people told him" that Issa Sesay had "molested" Johnny Paul Koroma in Buedu by taking away his diamonds. The witness heard from Sam Bockarie that Charles Taylor heard about this episode, and called Koroma and his wife to move to Monrovia. Bockarie "released" Koroma, who with his wife and bodyguards travelled to Monrovia, and did not return to Sierra Leone until after the Lomé Accords.<sup>14288</sup>

Prosecution Witness TF1-567

6315. Witness TF1-567, an RUF member,<sup>14289</sup> testified that while Sam Bockarie was in Monrovia waiting for Foday Sankoh to finish with the Lomé Accord, Sankoh told Bockarie to send a message to Johnny Paul Koroma asking him to meet Sankoh in Monrovia before

<sup>14280</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10579-10580.

<sup>14281</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10579-10580.

<sup>14282</sup> Sam Kargbo, Transcript 22 May 2008, pp. 10579-10580.

<sup>14283</sup> Sam Kargbo, Transcript 22 May 2008, pp. 105780-10581.

<sup>14284</sup> Sam Kargbo, Transcript 3 June 2008, pp. 10824-10825.

<sup>14285</sup> Sam Kargbo, Transcript 22 May 2008, pp. 105780-10581; Transcript 3 June 2008, p. 10825.

<sup>14286</sup> Samuel Kargbo, Transcript 22 May 2008, pp. 10593-10594.

<sup>14287</sup> TF1-367, Transcript 20 August 2008, p. 14158.

<sup>14288</sup> TF1-367, Transcript 21 August 2008, pp. 14298-14300.

<sup>14289</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS); Transcript 4 July 2008, pp. 12986-12988 (PS).

going on to Freetown.<sup>14290</sup> Sankoh said that before he returned from the Lomé Accord, he wanted to meet with Koroma in Monrovia, so they could meet with Taylor before returning to Freetown.<sup>14291</sup> Bockarie sent the message to Koroma, who in turn came to Monrovia with “some of his boys from Freetown”, and they were all lodged at the Hotel Boulevard, and guarded by Liberian security.<sup>14292</sup> The witness stated that he not present at the meeting between Sankoh, Koroma and Taylor, and so did not know its purpose.<sup>14293</sup> The witness saw Joe Tuah give a parcel to Koroma, which Koroma said was sent to him by Taylor. Koroma said that the parcel contained \$USD 15,000, to “take care of him and his family”.<sup>14294</sup>

### The Accused

6316. The Accused testified that following the Lomé Accords, the Heads of State had to decide how to get Foday Sankoh, who was now a free man, back to Freetown and not back to “the bush”. There was an agreement that he would return through Liberia, but not by road, because he would end up in his controlled area and “God knows” what would happen after that.<sup>14295</sup>

6317. However, there was one more concern, the Accused testified, and that was that the AFRC did not feel that they had been a part of the Lomé Agreement. In late July or early August, a group called the West Side Boys, who had taken a position in Okra Hills, Sierra Leone, wanted to speak to Johnny Paul Koroma and ask him why he was not involved in the Lomé negotiations, but neither the Accused, nor the other Heads of State, knew where Koroma was.<sup>14296</sup> These West Side Boys then arrested UN officials and journalists and said that they would not release them until they could speak to and account for Koroma.<sup>14297</sup>

<sup>14290</sup> TF1-567, Transcript 4 July 2008, pp. 12978-12979. See also TF1-567, Transcript 8 July 2008, pp. 13166-13168.

<sup>14291</sup> TF1-567, Transcript 8 July 2008, pp. 13166-13168.

<sup>14292</sup> TF1-567, Transcript 4 July 2008, pp. 12978-12979. See also TF1-567, Transcript 8 July 2008, pp. 13166-13170.

<sup>14293</sup> TF1-567, Transcript 8 July 2008, pp. 13166-13169.

<sup>14294</sup> TF1-567, Transcript 4 July 2008, pp. 12978-12979. See also TF1-567, Transcript 8 July 2008, pp. 13166-13168.

<sup>14295</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26666-26668.

<sup>14296</sup> Charles Ghankay Taylor, Transcript 12 August 2009, p. 26668.

<sup>14297</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26668, 26676.

6318. The Heads of State begin exchanging messages and the Accused testified that he was “told again to get in high gear”.<sup>14298</sup> They began the process of getting the hostages released, and President Kabbah and Sankoh was involved every step of the way.<sup>14299</sup> The Accused also spoke with President Eyadema.<sup>14300</sup>

6319. During the process of negotiating these issues, RUF members staying at the RUF guesthouse in Monrovia informed the Accused that Koroma was being held in a different location by the RUF.<sup>14301</sup> The Accused testified that there had been problems between the RUF and the AFRC for months prior to this, and there was “no love” between these organisations.<sup>14302</sup> He spoke to both Sankoh and Bockarie to convince them to release Koroma.<sup>14303</sup> The Accused said that “we” told the RUF that they had a peace agreement, and keeping Koroma detained was not helpful to the process, and so they consented to release him.<sup>14304</sup> He also asked Bockarie to take the telephone to Koroma so that he could speak with him, and spoke to Koroma.<sup>14305</sup>

6320. After they worked out the details, they decided to remove Johnny Paul Koroma from Sierra Leone and bring him to Liberia, and the West Side Boys would release the hostages. The problem remained that Koroma was on a travel ban, and so the Accused called the Secretary-General, President Kabbah, Sankoh and “everybody else”, and received approval for Koroma to travel to Liberia.<sup>14306</sup> The Accused contended that all the movements, communications and agreements concerning these negotiations were “above board”, and open to the UN and the other Heads of State.<sup>14307</sup>

6321. Koroma arrived in Monrovia on 7 August 1999, and the Accused provided him accommodation at a hotel, and with a long-range radio, so he could communicate directly

<sup>14298</sup> Charles Ghankay Taylor, Transcript 12 August 2009, p. 26669.

<sup>14299</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26669, 26671. See also Charles Ghankay Taylor, Transcript 28 July 2009, pp. 25436-25437.

<sup>14300</sup> Charles Ghankay Taylor, Transcript 12 August 2009, p. 26669.

<sup>14301</sup> Charles Ghankay Taylor, Transcript 12 August 2009, p. 26672; Transcript 2 November 2009, p. 30845.

<sup>14302</sup> Charles Ghankay Taylor, Transcript 12 August 2009, p. 26676.

<sup>14303</sup> Charles Ghankay Taylor, Transcript 10 September 2009, pp. 28652-28654; Transcript 2 November 2009, pp. 30844-30845.

<sup>14304</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26675-26676.

<sup>14305</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30845-30846; Transcript 26 November 2009, pp. 32586-32587.

<sup>14306</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26669-26670, 26673-26674.

<sup>14307</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26673, 26677; Transcript 30 September 2009, pp. 30019-30020, 30024-30025; Transcript 16 November 2009, pp. 31651-31652.

with the West Side Boys and give them instructions.<sup>14308</sup> Koroma was not housed in the guesthouse because the RUF members were there, and Koroma was angry at being held against his will by the RUF.<sup>14309</sup> The Accused assured Koroma that the use of the term “RUF” in the Lomé Accords included the AFRC, but said that the Accords were not going to be re-written to include the AFRC.<sup>14310</sup> The first thing Koroma asked for was to see a delegation of the West Side Boys, and so the Accused communicated with the UN and President Kabbah to arrange for them to travel to Monrovia.<sup>14311</sup> The West Side Boys were brought to Monrovia by either the UN or someone from President Kabbah’s office, and met with Koroma in Monrovia.<sup>14312</sup> The Accused testified that he did not meet with the West Side Boys at this time, because his “business was with their leader”, Koroma.<sup>14313</sup> The West Side Boys met with Koroma and approximately two or three weeks later, the hostages were released.<sup>14314</sup>

6322. Koroma wanted to meet Sankoh in Lomé to air his grievances against Sankoh, but the Accused convinced him to stay in Monrovia, where Sankoh would travel on his return to Freetown from the Accords.<sup>14315</sup> Sankoh arrived in Monrovia on 28 September 1999, and the Government of Liberia created a full itinerary of activities while Sankoh was there, including the Accused having meetings with each leader separately, and then a meeting with them together.<sup>14316</sup> There was a press briefing on Friday 1 October. President Obasanjo sent \$USD 25,000 to the Accused for the two men, and they left Monrovia on a Nigerian plane.<sup>14317</sup>

<sup>14308</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26678-26679; Transcript 13 August 2009, pp. 26723-26724; Transcript 16 November 2009, pp. 31651-31652.

<sup>14309</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26678-26679; Transcript 13 August 2009, p. 26724; Transcript 30 September 2009, pp. 30010-30011.

<sup>14310</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26680-26681; Transcript 26 November 2009, p. 32600.

<sup>14311</sup> Charles Ghankay Taylor, Transcript 13 August 2009, pp. 26725-26726; Transcript 2 November 2009, pp. 30851-30852.

<sup>14312</sup> Charles Ghankay Taylor, Transcript 13 August 2009, pp. 26725-26726.

<sup>14313</sup> Charles Ghankay Taylor, Transcript 13 August 2009, p. 26726.

<sup>14314</sup> Charles Ghankay Taylor, Transcript 13 August 2009, pp. 26726-26727.

<sup>14315</sup> Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26682-26685.

<sup>14316</sup> Charles Ghankay Taylor, Transcript 12 August 2009, p. 26685; Transcript 13 August 2009, pp. 26771-26772, 26796-26799; Transcript 26 November 2009, p. 32585.

<sup>14317</sup> Charles Ghankay Taylor, Transcript 12 August 2009, p. 26685; Transcript 13 August 2009, pp. 26771-26772, 26799-268125; Transcript 26 November 2009, p. 32592.

6323. When presented with the testimony of Alimamy Bobson Sesay regarding his meeting with Koroma and the witness in Liberia, the Accused denied that Koroma would have said that RUF men were hanging around his hotel, because the two groups would have been kept separate because of the conflict between them.<sup>14318</sup> The Accused conceded that he did not want a division between the RUF and AFRC, and wanted the matters between them to be resolved so that the Lomé Accords did not have to be revisited.<sup>14319</sup> He denied, however, instructing the two groups to come together so as to seize power from President Kabbah, stating that his intentions were only to bring unity and ensure that the Lomé Accords were implemented.<sup>14320</sup>

6324. When presented the testimony of Sam Kargbo regarding a meeting between himself, the West Side Boys and Koroma, the Accused did not deny that it occurred,<sup>14321</sup> despite stating earlier in his testimony that he did not meet with the West Side Boys at this time, only Koroma.

6325. The Accused was asked upon cross-examination why members of the Government of Sierra Leone were not involved in the talks between the Accused, Sankoh and Koroma.<sup>14322</sup> He answer that the issue of the reinstatement of the SLA in the national army was discussed at Lomé, and President Kabbah was present during the Lomé negotiations. Koroma, who was not involved at Lomé, needed reassurance that this was the case, and so the Accused reassured him of this after his discussions with Presidents Kabbah and Eyadema. Koroma was also made Chairman for the Consolidation of Peace in Monrovia, with the backing of Presidents Kabbah, Eyadema and Obasanjo.<sup>14323</sup>

#### Defence Witness Issa Sesay

6326. Witness Issa Sesay, senior RUF commander,<sup>14324</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>14325</sup> testified that during the Lomé peace negotiations,

<sup>14318</sup> Charles Ghankay Taylor, Transcript 30 September 2009, pp. 30012-30013.

<sup>14319</sup> Charles Ghankay Taylor, Transcript 30 September 2009, pp. 30015-30016, 30019.

<sup>14320</sup> Charles Ghankay Taylor, Transcript 30 September 2009, pp. 30022-30024.

<sup>14321</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30848-30851; Transcript 26 November 2009, p. 32585.

<sup>14322</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32588-32590.

<sup>14323</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32588-32591.

<sup>14324</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596, and

<sup>14325</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

while Sesay was stationed in Buedu, “General Joshi” of UNAMSIL would call on Sam Bockarie’s satellite phone, and if Bockarie was not present then Sesay would answer the phone. On 4 August, Joshi called on the satellite phone and told Sesay that he had been speaking with “Bazzy” and the West Side Boys about releasing the UN officials that had been captured.<sup>14326</sup> Sesay sent a message to Sankoh explaining the incident the same day, explaining those who had been released, those still held in captivity, and the West Side Boys’ demands, including recognition in the Lomé agreement and the release of Johnny Paul Koroma.<sup>14327</sup> Sankoh sent an instruction to Sesay to bring a radio set to Koroma in Kangama so that Koroma could speak with the West Side Boys, and when he did Koroma told his men that he was not under arrest, and tried to tell them to wait.<sup>14328</sup>

6327. Sesay also knew about a message from Foday Sankoh to Isaac Mongor, sent on 5 August 1999, instructing Mongor to travel to the West Side Boys’ location in order to ensure that the UN officials were released. Sesay testified that Mongor did what Sankoh had asked, but that the mission was not successful in convincing the West Side Boys.<sup>14329</sup> Sesay understood that the West Side Boys refused to take orders from anyone but Koroma.<sup>14330</sup>

6328. After approximately one week, Sankoh sent a message that Sesay should bring a message to Koroma in Kangama that the Liberian government was airlifting him to Monrovia.<sup>14331</sup> Sesay, along with Sam Kargbo and Jumu Jalloh, drove Koroma from Kangama to Foya, and a Liberian government helicopter took Koroma to Monrovia.<sup>14332</sup> When the Koroma arrived in Monrovia, Koroma, Sesay, the Liberian government and the Sierra Leonean government had a conversation. They then flew Bazzy and a delegation of West Side Boys from Freetown to Lungu and then on to Monrovia, where negotiations were conducted.<sup>14333</sup>

### Defence Witness Isatu Kallon

<sup>14326</sup> Issa Sesay, Transcript 13 July 2010, pp. 44387-44390; Transcript 14 July 2010, pp. 44399-44400.

<sup>14327</sup> Issa Sesay, Transcript 13 July 2010, pp. 44389-44390. See also Issa Sesay, Transcript 14 July 2010, p. 44397.

<sup>14328</sup> Issa Sesay, Transcript 13 July 2010, p. 44391; Transcript 14 July 2010, pp. 44402-44404.

<sup>14329</sup> Issa Sesay, Transcript 14 July 2010, pp. 44417-44418.

<sup>14330</sup> Issa Sesay, Transcript 14 July 2010, p. 44419.

<sup>14331</sup> Issa Sesay, Transcript 13 July 2010, p. 44392.

<sup>14332</sup> Issa Sesay, Transcript 13 July 2010, p. 44392; Transcript 14 July 2010, p. 44425.

<sup>14333</sup> Issa Sesay, Transcript 13 July 2010, p. 44392.





6329. Witness Isatu Kallon, a businesswoman who arranged supplies for the RUF,<sup>14334</sup> was in Monrovia when Johnny Paul Koroma and Foday Sankoh arrived to meet with Taylor.<sup>14335</sup> The witness saw Koroma and the West Side Boys at the RUF guesthouse, where Koroma stayed until Sankoh arrived, at which point he was moved to another location.<sup>14336</sup> Kallon went to see Sankoh when he arrived because she thought he would facilitate her return to Sierra Leone.<sup>14337</sup> Sankoh told her to wait for a bit, and so Kallon waited in Monrovia.<sup>14338</sup>

6330. Isatu Kallon's husband, Daniel Kallon, had been with Sankoh in Lomé and also arrived with Sankoh in Monrovia.<sup>14339</sup> After Sankoh arrived, Sankoh chose the witness, her husband, "Pa Rogers", "Shek Nabieu", "SS Williams" and to accompany him to the Executive Mansion to meet with Taylor.<sup>14340</sup> After a few minutes Johnny Paul Koroma and Jumu Jalloh came in, and as it was the first day Koroma and Sankoh had met, they embraced each other.<sup>14341</sup> Taylor stated that he had been charged with the responsibility of making peace between the two men, and that they should go in unity to Sierra Leone in peace because the war was over.<sup>14342</sup> Sankoh said that he had no problems with Koroma, that he was like his son, and Koroma stated that he heard what Sankoh had said, and regarded Sankoh as his "pa".<sup>14343</sup> The witness saw people taking photographs, in the room as well.<sup>14344</sup>

6331. After the meeting Sankoh told the witness that if she wanted to return to Sierra Leone she should pack her bags.<sup>14345</sup> Two days later the witness boarded a plane, which Pa Rogers and others said was a UN plane.<sup>14346</sup>

#### Defence Exhibit D-206

<sup>14334</sup> Isatu Kallon, Transcript 16 June 2010, pp. 42687-42688, 42708; 17 June 2010, pp. 42733-42735, 42759-42760, 42807.

<sup>14335</sup> Isatu Kallon, Transcript 22 June 2010, pp. 43043-43044.

<sup>14336</sup> Isatu Kallon, Transcript 22 June 2010, pp. 43045-43047.

<sup>14337</sup> Isatu Kallon, Transcript 22 June 2010, p. 43047.

<sup>14338</sup> Isatu Kallon, Transcript 22 June 2010, p. 43047.

<sup>14339</sup> Isatu Kallon, Transcript 22 June 2010, p. 43049.

<sup>14340</sup> Isatu Kallon, Transcript 22 June 2010, pp. 43049-43052; Transcript 23 June 2010, p. 43247.

<sup>14341</sup> Isatu Kallon, Transcript 22 June 2010, pp. 43049-43052, 43054.

<sup>14342</sup> Isatu Kallon, Transcript 22 June 2010, pp. 43050-43053.

<sup>14343</sup> Isatu Kallon, Transcript 22 June 2010, p. 43055.

<sup>14344</sup> Isatu Kallon, Transcript 22 June 2010, pp. 43053-43054.

<sup>14345</sup> Isatu Kallon, Transcript 22 June 2010, pp. 43055-43056.

<sup>14346</sup> Isatu Kallon, Transcript 22 June 2010, p. 43057; Transcript 24 June 2010, pp. 43393-43394.





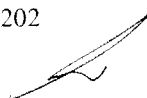
6332. Exhibit D-206 is a code cable dated 6 August 1999 from Felix Downes-Thomas, representative of the Secretary-General, UNOL, in Monrovia to a representative of the UN Secretary-General in New York. In this cable, Downes-Thomas relays Taylor's request for a telephone conversation with the UN Secretary-General concerning the capture of the hostages by the West Side Boys, whom Downes-Thomas calls ex-members of the Sierra Leonean army. Downes-Thomas states that Taylor informed him that as of the date of the cable he had already spoken twice to President Kabbah, once to Foday Sankoh, and once to President Obasanjo on this issue. Taylor told Downes-Thomas that "on learning that the 'RUF Commander' in charge of the area in which the abduction and detention has taken place was in Liberia", he, with the knowledge and consent of President Kabbah, chartered a plane to transport the RUF Commander from Monrovia to Freetown so as to diffuse the crisis. Taylor also told Downes-Thomas that according to his sources an element in the incident was that Johnny Paul Koroma was being held against his will, and Taylor believed that bringing Koroma to Liberia for negotiations could contribute to ending the crisis. He informed Downes-Thomas that he discussed this with Presidents Kabbah and Obasanjo, who "did not seem to have a problem with it". Taylor told Downes-Thomas that he was apprehensive about making travel arrangements for Koroma to Liberia owing to the Security Council travel ban on certain Sierra Leoneans.<sup>14347</sup>

#### Defence Exhibit D-024

6333. Exhibit D-024 is a BBC Online News report dated 6 August 1999 in which Christo Johnson, the Reuters journalist held hostage by the West Side Boys, speaks of the incident following his release. Johnson stated that they arrived in a village where the rebels were supposed to release a group of children, and a rebel spokesman came out with a statement saying that they had a lot of problems, including needing food and medicine, but that "people seemed to be neglecting them". As this was happening a group of rebels came and took them hostage. The rebels told the hostages that they would not harm them, but that they just wanted to air their grievances to the Sierra Leonean government and the international community. One of the commanders told Johnson that he believed Sam Bockarie had arrested their leader, Johnny Paul Koroma, and they wanted President Kabbah to use his

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<sup>14347</sup> Exhibit D-206, "Outgoing Code Cable, To Riza for SECGEN, United Nations, New York, From Downes-Thomas, RSG, UNOL, Monrovia, Sierra Leone: Urgent Issues - President Taylor's Request for Telcon with SECGEN, 6 August 1999".





influence to get “Foday Sankoh and Charles Taylor to get Sam Bockarie to release Johnny Paul immediately” so that Koroma could travel to Freetown, announce his position on the radio, and instruct them to lay down their arms to keep the peace process going. Johnson described the mood of the rebels as desperate, because they “desperately needed peace”, otherwise they would fight the RUF. While Johnson was there the rebels spoke on the radio to Johnny Paul Koroma, but they said they believed that he spoke under duress.<sup>14348</sup>

#### Defence Exhibit D-207

6334. Exhibit D-207 is a code cable dated 7 August 1999 from Felix Downes-Thomas, representative of the Secretary-General, UNOL, in Monrovia to officials at the UN in New York regarding the arrival of Johnny Paul Koroma in Liberia. Downes-Thomas relayed that Taylor called him at 11.00pm and requested that he convey to the Secretary-General that Koroma arrived in Monrovia at around 5.30pm and arrangements were made for him to speak to the BBC, on which he called for the unconditional release of the hostages. Downes-Thomas also stated that the Government of Liberia made radio facilities available to Koroma, and he was expected to repeat his call for the unconditional release of the hostages the next morning.

6335. Taylor told Downes-Thomas that Koroma contended that the Lomé Peace Accord made a distinction between the RUF and Koroma’s group, which was indicated by the omission of any mention of his group in the text of the Accords. Taylor stated that he assured Koroma that the Lomé facilitators did not intend to exclude his group, and that the term “RUF” in the text meant to include Koroma’s faction. Taylor also told Koroma that the text of the Accords would not be redrafted. Downes-Thomas wrote that Taylor was not able to contact President Eyadema today, but that he would do so tomorrow when he spoke with President Obasanjo to confirm that his interpretation of the term “RUF” in the Lomé Accords was correct. Koroma expressed a desire to travel to Lomé to meet with Sankoh to establish unity, and Taylor conveyed this to President Kabbah, who had no objection. Downes-Taylor said that Taylor was making arrangements for him to do so.<sup>14349</sup>

#### Defence Exhibit D-217

<sup>14348</sup> Exhibit D-024, “BBC News Article, World: Africa, Sierra Leone Hostage Tells of Ordeal, 6 August 1999”.

<sup>14349</sup> Exhibit D-207, “Outgoing Cable to Miyet/Pendergast, United Nations New York, From Downs-Thomas, RSG, UNOL, Monrovia, Arrival of Johnny Paul Koroma in Liberia, 7 August 1999”.





6336. Exhibit D-217 is an unattributed itinerary for Foday Sankoh and his delegation's visit to Liberia from 28 to 30 September 1999. The itinerary indicates that Sankoh would arrive in Liberia on 28 September 1999, and stay at the RUF guesthouse in Monrovia. On 29 September, Sankoh would meet with the Acting Minister of Foreign Affairs of Liberia, Christopher Minikon; the Vice President of Liberia, Enoch Dogolea; Special Representative to the UN Secretary-General, Felix Downes-Thomas; and the United States Ambassador, Bismack Murick. At 5.00pm Sankoh would meet with Taylor; at 6.00pm Taylor would meet with Johnny Paul Koroma; and at 7.00pm, Taylor would meet with both Sankoh and Koroma. On 30 September 1999, Taylor would meet with both Sankoh and Koroma again at 11.00am, and on 1 October 1999, there would be a press briefing before the parties departure to the airport.<sup>14350</sup>

#### Defence Exhibit D-023

6337. Exhibit D-023 is a BBC Online News report, dated 1 October 1999, reporting that Foday Sankoh has delayed his return trip to Sierra Leone following his meetings in Monrovia with Taylor and Johnny Paul Koroma. The report indicates that Sankoh was scheduled to return to Sierra Leone on 1 October, but Sankoh told the BBC he would not return until the following week. The report states that Sankoh and Koroma held more than three hours of reconciliation talks in Monrovia mediated by Taylor. Koroma stated after the meetings that he was satisfied, and that "everything is fine now", but would not elaborate on how his earlier complaints were addressed. Sankoh said that the fate of Koroma's soldiers could be discussed with President Kabbah, but that he had no problem with them.<sup>14351</sup>

#### Defence Exhibit D-218

6338. Exhibit D-218 is a statement by Taylor, dated 2 October 1999, at the conclusion of the talks in Monrovia between Foday Sankoh and Johnny Paul Koroma. In it, Taylor states that the peace deal was brokered by the Government of Liberia and ECOWAS, and that his government was facilitating the return of Sankoh and Koroma to Sierra Leone. Taylor commends several African leaders and UN officials for their facilitation of the Lomé Peace Accords. Taylor states that he hosted the recent meetings between Sankoh and Koroma in

<sup>14350</sup> Exhibit D-217, "Itinerary for the Visit of Hon. Foday Sankoh and Delegation Visit to Liberia, 8-30 September 1999".

<sup>14351</sup> Exhibit D-023, "BBC News Article: Africa, Sierra Leone Rebel Leader Delays Return, 1 October 1999".





Liberia in order to “provide an atmosphere for stabilizing and maintaining the momentum of the peace process in Sierra Leone by sharing our experience in Conflict Resolution”. Taylor then stated that he was considering re-opening the Liberian-Sierra Leonean border in order to revitalise the Mano River Union. Finally Taylor stated that he had appointed a delegation to accompany Sankoh and Koroma to Freetown, including President Pro-Tempore of the Liberian Senate, Kekura B Kpoto; Minister of Overseas Cooperation of Nigeria, Jerry Gana; the Minister of Defence of Togo; the United States Ambassador to Liberia; representatives of the UN and ECOWAS; and members of the press.<sup>14352</sup>

Defence Exhibit D-078

6339. Exhibit D-078 is a statement by Johnny Paul Koroma, dated 2 October 1999, made at the conclusion of the talks in Monrovia between himself and Foday Sankoh. Koroma announced that under the auspices of Taylor, he and Sankoh had successful meetings in Monrovia and were able to clear any misunderstandings that would have impeded the peace process. These meetings “strengthened the alliance between the [AFRC] and the [RUF]”, and, he stated, it was time for the two men to return to Sierra Leone. He ended by expressing “profound gratitude” to Taylor and the people of Liberia for their role in facilitating peace.<sup>14353</sup>

Defence Exhibit D-220

6340. Exhibit D-220 is a “Statement of the Alliance of the [RUF] and [AFRC]” on the occasion of their return to Sierra Leone, dated 2 October 1999. In this statement the two groups express their “profound gratitude” to Taylor and the people of Liberia for the sacrifices they made in order to foster peace in Sierra Leone. They also thanked the ECOWAS Heads of State, the UN, the OAU, the European Union and the Commonwealth for their roles in the peace process.

6341. The statement continues by saying there had been concern that the RUF and AFRC alliance had been split; the groups acknowledged that they did experience “some internal

<sup>14352</sup> Exhibit D-218, “Statement by his Excellency Dahkpannah Dr Charles Ghankay Taylor, President of the Republic of Liberia, at the Conclusion of Reconciliatory Talks with Cpl. Foday Sankoh, Chairman, RUF and Lt/Col. Johnny Paul Koromah, Leader, AFRC, on the Implementation of the Sierra Leonean Peace Agreement, 2 October 1999, Executive Mansion, Monrovia, Liberia”.

<sup>14353</sup> Exhibit D-078, “Statement by Lt. Col. Johnny Paul Koromah, Chairman of the Armed Forces Revolutionary Council, Made at the Executive Mansion, Monrovia, 2 October 1999”.

problems”, but that they were “put behind [them]” by the intervention of Taylor, and supported by the ECOWAS Heads of State. The statement reiterated that the alliance was “for peace” and that it is “strong”.<sup>14354</sup>

#### Defence Exhibit D-222

6342. Exhibit D-222 is a code cable, dated 3 October 1999, from Felix Downes-Thomas, representative of the Secretary-General, UNOL, in Monrovia to officials at the UN in New York regarding Foday Sankoh and Johnny Paul Koroma’s departure from Monrovia for Freetown. Downes-Thomas relays that Sankoh and Koroma flew from Monrovia to Freetown with international observers on 3 October 1999. They were scheduled to depart on 2 October immediately following the press statements made at a ceremony at the Executive Mansion, but, Downes-Thomas wrote, it was delayed due to “protracted negotiations” which took place before the ceremony. Downes-Thomas confirmed that there was a ceremony in which both Sankoh and Koroma made statements before Taylor, senior members of the Liberian Government, and members of the diplomatic corp. Sankoh and Koroma flew on board an executive jet provided by the Nigerian government, while approximately seventy of their supporters and family members were flown on commercial planes provided by the Government of Liberia.<sup>14355</sup>

#### Deliberations

6343. The Trial Chamber notes that the evidence of both Prosecution and Defence witnesses is strikingly consistent with respect to the events surrounding the kidnapping by the West Side Boys of the UN peacekeepers and others, and the negotiations for their release. The West Side Boys demanded to talk to, and then see, Johnny Paul Koroma, and the Accused made arrangements to bring Koroma to Monrovia, negotiating a waiver of the UN travel ban.<sup>14356</sup> The underlying issue - the perception by the AFRC that they had been sidelined and excluded from the Lomé process and that their combatants would not be

<sup>14354</sup> Exhibit D-220, “Statement of the Alliance of the Revolutionary United Front of Sierra Leone (RUF/SL) and the Armed Forces Revolutionary Council (AFRC) on the Occasion of the Return of the Leadership of the Alliance for Peace to Freetown, Sierra Leone, Facilitated by his Excellency President Charles Ghankay Taylor on Behalf of the ECOWAS Authority, 2 October 1999”.

<sup>14355</sup> Exhibit D-222, “Code Cade from Pendergast, United Nations, New York, to Downs-Thomas, RSG, UNOL, Sankoh and Koromah’s Departure from Monrovia and Return to Freetown, 3 October 1999”.

<sup>14356</sup> The Trial Chamber notes that the testimony of TF1-367 cited by the Prosecution, that Koroma travelled to Monrovia long before the capture of the UN officials by the West Side Boys, is not corroborated by any other





reintegrated into the Sierra Leonean army - was addressed by the Accused and others in the meetings. By all accounts, the Accused played a central role in bringing Koroma and Foday Sankoh together and achieving a reduction in the tension between them. In addition, several pieces of documentary evidence demonstrate that, as the Accused contends, the UN and ECOWAS Heads of State knew about the Accused's public role in the negotiations.

6344. The Defence refers to a prior statement of Alimamy Bobson Sesay, in which he did not mention a few details concerning his meeting with Koroma and Taylor, and the provision of the \$USD 15,000.<sup>14357</sup> Recalling that Bobson Sesay is a generally credible witness,<sup>14358</sup> the Trial Chamber accepts his explanation, noting that his testimony of the meeting is corroborated in its key elements by Samuel Kargbo, as well as the Accused. The Accused challenged the testimony of Kargbo that Sam Bockarie came in a helicopter to Foya with Jungle and others to pick him and the rest of the delegation up to bring them to Monrovia, saying that Bockarie was not in Monrovia at that time, so he could not have come in the helicopter.<sup>14359</sup> However, the Trial Chamber notes that TF1-567 testified that Bockarie was in Monrovia waiting for Sankoh to finish with the Lomé Accord<sup>14360</sup> and accepts this evidence, which corroborates the evidence of Kargbo.

6345. The evidence makes it clear that while the Accused was involved in the negotiations for the release of the hostages and made a number of phone calls to this end, the West Side Boys responded to Koroma, not the Accused. The Accused's primary contribution to the process was in getting Koroma and the West Side Boys to Monrovia to meet, and then facilitating the meeting between Sankoh and Koroma.

6346. The Trial Chamber notes the Prosecution allegation that the Accused said he did not want division between the RUF and the AFRC and that they should be focused on gaining power in Sierra Leone. Bobson Sesay testified that Taylor stated the two parties must come together to resolve their issues, and that they should fight for the Presidency to make sure they were in the seat of power. When presented with Bobson Sesay's evidence, the Accused denied that his words had any nefarious intention, and stated that he was only instructing the

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witnesses or the documentary evidence cited. See TF1-367, Transcript 21 August 2008, pp. 14298-14300.

<sup>14357</sup> Alimamy Bobson Sesay, Transcript 25 April 2008, pp. 8587-8603.

<sup>14358</sup> Credibility Assessment, Alimamy Bobson Sesay, paras 285-289.

<sup>14359</sup> Charles Ghankay Taylor, Transcript 2 November 2009, p. 30848.

<sup>14360</sup> TF1-567, Transcript 4 July 2008, pp. 12978-12979. See also TF1-567, Transcript 8 July 2008, pp. 13166-13168.

two parties to come together in order to implement the Lomé Accords. In addition, Isatu Kallon testified that Taylor said they should go in peace to Sierra Leone because the war was over. The Trial Chamber finds that Bobson Sesay's testimony does not indicate that Taylor was advocating the overthrow of the Kabbah government, as the Prosecution alleges, and the Accused's statement as to his intentions were corroborated by Isatu Kallon.

6347. While the evidence does not indicate that the Accused exercised control over the West Side Boys or Koroma, his influence with both Koroma and Sankoh made him a significant actor in the process, and he effectively brought the two leaders together over the course of his meetings with them and their meeting in Monrovia. Bobson Sesay characterized the Accused in his testimony as "the immediate person that had direct influence on the AFRC and the RUF".<sup>14361</sup> In addition, in Exhibit D-024, the journalist Christo Johnson is recalled as saying that one of the West Side Boys' commanders told him that they believed Sam Bockarie had arrested their leader, Koroma, and wanted President Kabbah to use his influence to "get Foday Sankoh and Charles Taylor to get Sam Bockarie to release Johnny Paul Koroma". Though this news account is hearsay and not direct in-court testimony, the Trial Chamber notes that it is also a reporting of contemporaneous facts, and believes that it speaks to the relationship between the Accused and the other parties.

### Findings

6348. The Trial Chamber finds beyond reasonable doubt the Accused used his influence with both Johnny Paul Koroma and Foday Sankoh to facilitate the release of the UN peacekeepers and others who had been taken captive by the West Side Boys, and to bring the AFRC and RUF leaders together to reduce tension between the RUF and the AFRC following the Lomé Peace Accord, with the knowledge of the UN and ECOWAS.

### 5. Release of UNAMSIL Peacekeepers (2000)

#### Submissions of the Parties

6349. The Prosecution submits that after the arrest by the RUF of the UN peacekeepers in May 2000, Issa Sesay sent his representatives to the Accused to inform him of the capture of the UN peacekeepers and to seek the Accused's advice. Summoning Sesay to Monrovia, the

<sup>14361</sup> Alimamy Bobson Sesay, Transcript 25 April 2008, p. 8596.

Accused then told Sesay to release the hostages, which Sesay then did, telling his subordinates that he had no choice but to do so once it had been directed by the Accused. The Prosecution alleges that in return for Sesay's cooperation the Accused provided Sesay with arms and ammunition.<sup>14362</sup> According to the Prosecution, had it not been for the Accused's order, Sesay would not have released the hostages.<sup>14363</sup>

6350. The Prosecution alleges that the Accused's motivation for securing the release of the peacekeepers was (i) to raise his stature both regionally and internationally; and (ii) to protect AFRC/RUF forces from being assaulted by UNAMSIL and, thereby, to ensure the control by the AFRC/RUF of their territories in Sierra Leone, particularly the diamond mining areas. The Prosecution submits that he was able to achieve both. The Prosecution maintains that the Accused's manipulation of the situation can be "clearly demonstrated" by the manner in which the peacekeepers were released. While UNAMSIL was headquartered in Sierra Leone with access to Lungi Airport, the peacekeepers were taken to Liberia and then flown to Monrovia.<sup>14364</sup> The Prosecution adduced evidence from TF1-338, TF1-567, Abu Keita, Perry Kamara, and Moses Blah.

6351. The Defence contests the evidence that the Accused ordered, rather than negotiated, the release of the UNAMSIL peacekeepers. The Defence avers that incontrovertible evidence independent of the Accused's testimony confirms that the Accused's role in facilitating the release of UNAMSIL peacekeepers was both requested and sanctioned by ECOWAS, and that mandate was carried out transparently and with the full knowledge of ECOWAS and UN officials at all stages of the peace process.<sup>14365</sup> According to the Defence, the Accused was able to secure the release of the hostages as a result of Liberia's long term association with the peace process and having built up that confidence over the months and years.<sup>14366</sup>

6352. The Defence contends that much of the evidence on the meeting between the Accused and Issa Sesay in fact indicates that Sesay went to the Accused to seek advice on

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<sup>14362</sup> Prosecution Final Trial Brief, para. 178.

<sup>14363</sup> Prosecution Final Trial Brief, para. 647.

<sup>14364</sup> Prosecution Final Trial Brief, para. 179.

<sup>14365</sup> Defence Final Trial Brief, paras 92-94.

<sup>14366</sup> Defence Final Trial Brief, paras 672-678.



how to proceed after the peacekeepers were taken hostage,<sup>14367</sup> and the mere fact that Issa Sesay found himself in a predicament and chose to comply with the Accused's alleged instruction cannot be sufficient to sustain a superior/subordinate relationship.<sup>14368</sup> It submits that the evidence of Prosecution witnesses who testified to the Accused ordering the release of the peacekeepers is largely based on hearsay, directly refuted by the evidence of the parties involved in the alleged transactions, namely Sesay and the Accused, and consequently must be disregarded.<sup>14369</sup> The Defence points to evidence from Issa Sesay denying the Accused's control of the RUF, and contradicting the accounts of Prosecution witnesses.<sup>14370</sup>

6353. The Defence also suggests that the evidence of Prosecution witnesses deliberately attempted to implicate the Accused and exaggerate his influence over the RUF.<sup>14371</sup> The Defence submit that the Prosecution has neglected to address the mandate the Accused received from ECOWAS and the international community to secure the release of the peacekeepers.<sup>14372</sup> The Defence contrasted an "extraordinary body of independent documentary evidence" which recorded international commendation and praise for the Accused's efforts in releasing the UN personnel to the oral testimony of witnesses "whose credibility were found wanting under cross-examination" that the Accused acted in a duplicitous and criminal manner.<sup>14373</sup> The Defence adduced evidence from the Accused, Issa Sesay, and Exhibits D-223, D-237, D-241, D-243, D-248, D-245, D-247, D-249, D-250, D-251, and D-252.

## Evidence

### Prosecution Witness TF1-338

6354. Witness TF1-338, an RUF member,<sup>14374</sup> testified that around 8 May 2000, he received a radio message in Freetown from Makeni relating to the arrest of UN peacekeepers

<sup>14367</sup> Defence Final Trial Brief, paras 1321-1322.

<sup>14368</sup> Defence Final Trial Brief, paras 1321-1322.

<sup>14369</sup> Defence Final Trial Brief, paras 956, 964.

<sup>14370</sup> Defence Response to Prosecution Final Trial Brief, para. 35.

<sup>14371</sup> Defence Final Trial Brief, paras 950-956.

<sup>14372</sup> Defence Response to Prosecution Final Trial Brief, para. 36.

<sup>14373</sup> Defence Final Trial Brief, paras 99-101.

<sup>14374</sup> TF1-338, Transcript 1 September 2008, pp. 15085-15086 (PS).



by commanders Morris Kallon, Augustine Gbao and Kailundo.<sup>14375</sup> Foday Sankoh's immediate reaction was to dispatch two commanders, Lawrence Womandia and Isaac Mongor, to meet Kallon, Issa Sesay and others to negotiate the release of the UN peacekeepers. The group released some of the peacekeepers but not all of the hostages were released until Sankoh's residence was attacked on 8 May 2000.<sup>14376</sup>

6355. TF1-338 testified that at the end of May 2000, Issa Sesay took a trip to Monrovia because Taylor had invited him to discuss the release of the UN peacekeepers captured by the RUF.<sup>14377</sup> Sesay travelled by road from Koidu to Foya and from Foya, he travelled by helicopter to Monrovia, using a "Weasua" branded helicopter.<sup>14378</sup> From Monrovia, Benjamin Yeaten met Sesay and took him to the Congo Town guesthouse, rented by Taylor for foreign leaders during the "peace accord". Around 10.00pm or 11.00pm at night, Sesay was taken to see Taylor at the Executive Mansion. At the meeting, Taylor stated that the UN "was after him" to talk to the RUF about releasing the UN peacekeepers. Taylor said that he had been promised that if he spearheaded the release of the UN peacekeepers he would be made the ECOWAS chairman. Taylor promised Sesay that if the RUF released the peacekeepers, Taylor would "help Issa in the struggle".<sup>14379</sup>

6356. TF1-338 testified that after the discussion, Sesay accepted Taylor's proposal and went back to his lodge, where he had radios available. He contacted the RUF base by radio and instructed them to bring the Zambian peacekeepers to the "riverside". The following day he flew to Foya by helicopter, where Benjamin Yeaten met him, and sent someone to take the convoy of peacekeepers to the Manowa crossing point in Pendembu. After the peacekeepers were brought to Foya, they were airlifted to Monrovia to meet with Charles Taylor. Sesay returned to Sierra Leone.<sup>14380</sup>

6357. TF1-338 testified that at the end of 2000,<sup>14381</sup> Sesay went again to see Taylor at the Executive Mansion, delivering a parcel of diamonds.<sup>14382</sup> The witness stated that Sesay told

<sup>14375</sup> TF1-338, Transcript 1 September 2008, p. 15119.

<sup>14376</sup> TF1-338, Transcript 1 September 2008, pp. 15120-15121.

<sup>14377</sup> TF1-338, Transcript 2 September 2008, pp. 15141-15142, 15208-15209 (PS).

<sup>14378</sup> TF1-338, Transcript 2 September 2008, p. 15142.

<sup>14379</sup> TF1-338, Transcript 2 September 2008, pp. 15143-15144.

<sup>14380</sup> TF1-338, Transcript 2 September 2008, pp. 15144-15145, 15207-15209 (PS).

<sup>14381</sup> TF1-338, Transcript 2 September 2008, p. 15156.

<sup>14382</sup> TF1-338, Transcript 2 September 2008, pp. 15156-15158, 15213-15214 (PS).

Taylor that the RUF lacked “materials” and “enemies were threatening their positions”.<sup>14383</sup> After the meeting, Sesay travelled with Yeaten to Camp Schefflein, a barracks in Monrovia, where they collected uniforms, boots, AK-47 rounds in large quantities, G3 rounds and RPG rockets, some of which were loaded on the ATU helicopter and transported to Foya and to Sierra Leone.<sup>14384</sup>

Prosecution Witness TF1-567

6358. Witness TF1-567, an RUF member,<sup>14385</sup> testified that while in Liberia, he heard that the RUF had captured a large number of UN peacekeepers. On learning of the capture of the peacekeepers, the witness went to Foya and met Benjamin Yeaten. He told Yeaten that he was going to see General Issa Sesay, and Yeaten provided a vehicle for him and one of Yeaten’s bodyguards, Junior Bayalo, as an escort. On his way, TF1-567 met Junior Vandí and Dauda Aruna Fornie, who were in some UN vehicles, and returned with Fornie and Vandí to Foya. At Foya, Vandí and others told Benjamin Yeaten that Sesay wanted word sent to Taylor that the RUF had captured the UN peacekeepers and that Sesay needed advice from him. Yeaten responded that “Taylor will immediately know about that”.<sup>14386</sup> The witness travelled to Sierra Leone, where Sesay gave him a UN vehicle. He took that vehicle to Monrovia. Shortly afterwards, the witness was instructed by Benjamin Yeaten to call Issa Sesay and tell him that Taylor wanted to see him urgently.<sup>14387</sup>

6359. TF1-567 testified that in Monrovia, Taylor met with Sesay and Bockarie in an unsuccessful attempt to reconcile the two men so that Bockarie could return to Sierra Leone, but Bockarie and Sesay had a serious argument, leading to Taylor telling Sesay to return to the guesthouse in Monrovia.<sup>14388</sup> Sesay sought advice from Taylor, whom Sesay described to the witness as “our big revolutionary father”. Sesay told the witness that Taylor had requested him to release the captured peacekeepers, because it would “serve as a help to him to show to the world that when he says anything that thing will happen”.<sup>14389</sup> When Sesay returned to Sierra Leone, the peacekeepers were brought to Foya and from Foya, airlifted to

<sup>14383</sup> TF1-338, Transcript 2 September 2008, p. 15161.

<sup>14384</sup> TF1-338, Transcript 2 September 2008, pp. 15162-15163, 15217-15218 (PS).

<sup>14385</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS); Transcript 4 July 2008, pp. 12986-12988 (PS).

<sup>14386</sup> TF1-567, Transcript 7 July 2008, pp. 13037-13038.

<sup>14387</sup> TF1-567, Transcript 7 July 2008, p. 13038.

<sup>14388</sup> TF1-567, Transcript 7 July 2008, p. 13039.

<sup>14389</sup> TF1-567, Transcript 7 July 2008, pp. 13037-13040.

Spriggs Payne Field.<sup>14390</sup> Sesay left Monrovia on Charles Taylor's helicopter, which also contained a supply of ammunition provided by the Accused. The witness stated that he accompanied Sesay during Sesay's time in Monrovia, travelled with him to Spriggs Payne Field and saw the materiel himself in the helicopter. It is not clear whether the witness accompanied Sesay back to Sierra Leone.<sup>14391</sup>

6360. On cross-examination, the witness affirmed the proposition of Defence counsel that Taylor was responsible for "negotiating" the release of the UN peacekeepers held hostage during the period when Sankoh had been arrested and was in custody. He denied that Foday Sankoh was upset that they had been released because he had wanted Issa Sesay to use the hostages to bargain for his own release from custody.<sup>14392</sup>

6361. TF1-567 testified that on the evening after Foday Sankoh was arrested in Freetown,<sup>14393</sup> Issa Sesay came to Liberia and Taylor summoned the witness to the Executive Mansion. As he approached, Taylor appeared to be angry. Taylor told the witness that he had advised Sankoh not to base himself in Freetown, but rather to remain in a more secure area, such as Kailahun. Taylor asked the witness to explain to him what had happened to Sankoh. After the witness explained what he knew, Taylor told Yeaten to take the witness to the guesthouse.<sup>14394</sup> The meeting occurred past 10.00pm at night,<sup>14395</sup> and Taylor was wearing pyjamas during this meeting.<sup>14396</sup>

#### Prosecution Witness Abu Keita

6362. Witness Abu Keita, a former deputy chief of staff and commander of ULIMO-K who later became commander of the Scorpion Unit,<sup>14397</sup> testified that in May 2000<sup>14398</sup> he was informed by Augustine Gbao that the RUF had arrested a group of roughly 500 Kenyan and Zambian UNAMSIL peacekeepers who were involved in the disarmament programme in Sierra Leone. The witness heard that the RUF arrested the peacekeepers because the latter

<sup>14390</sup> TF1-567, Transcript 7 July 2008, p. 13040.

<sup>14391</sup> TF1-567, Transcript 7 July 2008, p. 13040.

<sup>14392</sup> TF1-567, Transcript 8 July 2008, pp. 13172-13173.

<sup>14393</sup> TF1-567, Transcript 7 July 2008, pp. 13020-13021 (PS).

<sup>14394</sup> TF1-567, Transcript 7 July 2008, pp. 13021-13022 (PS).

<sup>14395</sup> TF1-567, Transcript 7 July 2008, p. 13022 (PS).

<sup>14396</sup> TF1-567, Transcript 7 July 2008, p. 13024 (PS).

<sup>14397</sup> Abu Keita, Transcript 22 January 2008, pp. 1953-1954; 23 January 2008, pp. 1970, 2000; Transcript 24 January 2008, pp. 2110, 2145.

had attempted to forcefully take some members of the Small Boys Units (SBUs) to the disarmament camps and the RUF believed that the Lomé Peace Accord did not give UNAMSIL the right to forcibly disarm any RUF members. The peacekeepers were kept in Kono until the attack took place on Foday Sankoh's house in Freetown.<sup>14399</sup>

6363. Following that attack, Marzah and Jungle arrived in Makeni and took Issa Sesay to Liberia. When Sesay returned to Sierra Leone, he brought a satellite phone and 50 boxes of ammunition, which he said had been issued to him by Charles Taylor. Sesay called a meeting at the Makeni police headquarters. Keita stated:

6364. So he spoke to all the commanders. He said, "Charles Taylor said we should release the peacekeepers over to him in Liberia", and then now he never had any alternative but for us to release the peacekeepers.<sup>14400</sup>

6365. The peacekeepers were driven to the border and handed over to Benjamin Yeaten and then Joe Tuah in Foya.<sup>14401</sup>

#### Prosecution Witness Perry Kamara

6366. Witness Perry Kamara, an RUF radio operator,<sup>14402</sup> testified that Foday Sankoh was arrested in May 2000. Just before this arrest, Issa Sesay ordered the arrest in Makeni Town of UN personnel. After the RUF had confiscated all the arms, ammunition, communication devices and vehicles from the captured personnel, Sesay informed Taylor through a satellite phone that the UN personnel were under detention. Immediately after Taylor received this news, he ordered Sesay to bring the captured UN personnel to him in Liberia.<sup>14403</sup> Sesay called everyone in Makeni and told all the authorities and fighters on the ground and they transported the UN personnel, stripped naked, from Makeni to Yengema. From Yengema, the personnel were transferred to Foya. At Foya, a helicopter loaded with ammunition arrived from Monrovia. The ammunition was unloaded and in return it took the peacekeeping forces to Monrovia.<sup>14404</sup> Taylor said the RUF should expect further military

<sup>14398</sup> Abu Keita, Transcript 23 January 2008, pp. 2030-2031.

<sup>14399</sup> Abu Keita, Transcript 23 January 2008, p. 2030.

<sup>14400</sup> Abu Keita, Transcript 23 January 2008, p. 2031.

<sup>14401</sup> Abu Keita, Transcript 23 January 2008, pp. 2031-2032.

<sup>14402</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>14403</sup> Perry Kamara, Transcript 6 February 2008, p. 3269.

<sup>14404</sup> Perry Kamara, Transcript 6 February 2008, p. 3270.





action as a result of having “molested” UN personnel and should keep the ammunition from the helicopter to defend themselves.<sup>14405</sup>

6367. In cross-examination, Kamara testified that he was not aware that Taylor worked with other authorities for the release of the UN personnel, or that Taylor sent a former Foreign Minister of Liberia to Freetown to negotiate the release of these peacekeepers. He testified that the helicopter sent to pick up these individuals in Foya was Taylor’s helicopter rather than a UN helicopter. He was also in Makeni, not in Foya, when these peacekeepers were picked up and did not personally witness the helicopter coming to Foya, but “there was a message to the effect that the helicopter had come to Foya to receive [the UN personnel]”.<sup>14406</sup>

#### Prosecution Witness Moses Blah

6368. Witness Moses Blah, Inspector General of the NPFL from 1990 to 1997,<sup>14407</sup> Liberian Ambassador of Libya and Tunisia following Taylor’s election to 2000,<sup>14408</sup> and Vice-President of Liberia from 2000 to 2003.<sup>14409</sup> testified that he heard about an incident in which the RUF disarmed some peacekeepers and took them hostage. At that point, ECOWAS asked Taylor to intervene to secure the release of the peacekeepers. Taylor did intervene and instructed the RUF to release the men and turn them over to him in Monrovia. Consequently, some of the peacekeepers were brought to Monrovia, where they were turned over to their rightful commanders.<sup>14410</sup>

#### The Accused

6369. The Accused testified that around 8 May 2000 he left Monrovia for an ECOWAS meeting in Abuja, which he attended on 9 to 10 May 2000. Towards the end of May, Issa Sesay came to Liberia in relation to negotiations for the release of the UNAMSIL hostages. The Accused stated that this was the first time that he ever met Sesay. The UN was involved

<sup>14405</sup> Perry Kamara, Transcript 6 February 2008, p. 3271.

<sup>14406</sup> Perry Kamara, Transcript 7 February 2008, pp. 3395-3396.

<sup>14407</sup> Moses Blah, Transcript 15 May 2008, pp. 9943-9945.

<sup>14408</sup> Moses Blah, Transcript 14 May 2008, pp. 9882-9884.

<sup>14409</sup> Moses Blah, Transcript 14 May 2008, pp. 9882-9884; Blah became President of Liberia for 60 days from 11 August to 11 October 2003: Moses Blah, Transcript 16 May 2008, p. 10065.

<sup>14410</sup> Moses Blah, Transcript 15 May 2008, pp. 9968-9969.



Joe

in transporting Issa Sesay from Sierra Leone to Monrovia in order to resolve the hostage situation.<sup>14411</sup>

6370. With regard to Exhibit D-243,<sup>14412</sup> the Accused explained that at the time he received the letter from Sesay on 11 May 2000, he had a mandate from ECOWAS from the meeting on 9 to 10 May 2000 to become personally involved, and certain western countries had also requested his intervention.<sup>14413</sup> At this stage, it was not clear who the leader of the RUF was because Sankoh had been arrested. There was a “vacuum” at the top of the RUF. However, in consultation with his colleagues at ECOWAS, a decision was made to invite Issa Sesay to Monrovia to discuss the hostage release. ECOWAS leaders, the UN personnel and the US embassy were all aware of Taylor’s invitation to Sesay to visit Monrovia.<sup>14414</sup> Prior to this stage, the Accused had spoken to Sesay by telephone at least once and made it clear to him that the UN personnel had to be released unconditionally.<sup>14415</sup> To the Accused’s knowledge, Sesay had not been to Monrovia before.<sup>14416</sup> When Sesay came to Monrovia, he stayed at the RUF guesthouse and brought several individuals that the Accused believed to be bodyguards.<sup>14417</sup>

6371. The Accused denied, as TF1-338 testified, that he would have sought the release of the peacekeepers in order to obtain appointment as chairman of ECOWAS, explaining that the chairmanship was determined by rotation, rather than election.<sup>14418</sup>

6372. The Accused also denied TF1-338’s account of who was present at his meeting with Sesay, stating that no person of a junior rank was present at the meeting. The meeting occurred in the morning after Issa Sesay arrived in Monrovia. Sesay brought his spokesperson, Gibril Massaquoi. The Accused’s chief of staff was also present at the meeting.<sup>14419</sup>

<sup>14411</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30865-30866.

<sup>14412</sup> Exhibit D-243, “Letter from General Issa Sesay, RUF Field Commander to the President of Liberia, Dahkpannah Dr Charles Ghankay Taylor, 11 May 2000, DCT 195 (3 pages)”. See *infra*.

<sup>14413</sup> Charles Ghankay Taylor, Transcript 18 August 2009, p. 27041.

<sup>14414</sup> Charles Ghankay Taylor, Transcript 18 August 2009, pp. 27041-27043, 27048.

<sup>14415</sup> Charles Ghankay Taylor, Transcript 18 August 2009, p. 27047.

<sup>14416</sup> Charles Ghankay Taylor, Transcript 18 August 2009, pp. 27043-27044.

<sup>14417</sup> Charles Ghankay Taylor, Transcript 18 August 2009, p. 27044.

<sup>14418</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27176-27177.

<sup>14419</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27177-27178.





6373. The Accused testified that when he met with Issa Sesay to discuss the release of the peacekeepers, he was very firm. Sesay brought up similar concerns to those he had raised in his letter of 11 May 2000. The Accused noted that he promised Sesay that he would ask for a Heads of State meeting to discuss some of the RUF's complaints and testified that he did request such a meeting, which occurred in the last week of May. Ultimately Sesay stated that he would discuss it with his "council" but agreed in principle to release the UN personnel.<sup>14420</sup> The Accused saw the meeting as both a negotiation and a statement of a fixed position on his part; he made clear to Sesay that while he was willing to bring the RUF concerns to the attention of ECOWAS, the hostages had to be released unconditionally.<sup>14421</sup>

6374. The Accused affirmed TF1-338's evidence that after the meeting, Sesay communicated via radio at the RUF guesthouse, instructing the hostages to be brought to the Liberian border.<sup>14422</sup> The Accused also acknowledged it was possible that Sesay travelled with Benjamin Yeaten back to Foya, as Yeaten was responsible for his security.<sup>14423</sup>

6375. The Accused explained that at a summit meeting of ECOWAS Heads of State in Abuja on 9 May 2000, he had informed the other leaders that he no longer wanted to be part of any committee. However, the leaders prevailed upon him to remain involved and endorsed a mandate to the Accused to "involve himself personally to ensure the liberation of the hostages and the resumption of the application of the Lomé Peace Agreement".<sup>14424</sup> The Accused testified that this mandate was not new and indicated approval of his continued involvement from 1997 in relation to the Sierra Leonean situation. He also noted that he was not the only person involved in the matter of the capture of the UNAMSIL peacekeepers. Many diplomats from all over the world, in particular from troop-contributing countries, were involved in discussions over the peacekeepers.<sup>14425</sup>

6376. The Accused denied that he had any influence over the RUF. He explained that he was able to secure the release of the hostages due to his long-term association with the peace process. Having built up confidence with the RUF in that context over the years, he was able to mediate the situation. While other leaders in the sub-region had very good contacts with

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<sup>14420</sup> Charles Ghankay Taylor, Transcript 18 August 2009, pp. 27051-27052.

<sup>14421</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27178-27180.

<sup>14422</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27180-27181.

<sup>14423</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27181-27182.

<sup>14424</sup> Charles Ghankay Taylor, Transcript 18 August 2009, pp. 27031-27032.

the RUF, the Accused believed that he was appointed the point man for dealing with the Sierra Leonean situation because Liberia shared a border with Sierra Leone.<sup>14426</sup> The Accused testified that his meetings with Issa Sesay related to exactly what the UN said and wanted.<sup>14427</sup>

Defence Witness Issa Sesay

6377. Witness Issa Sesay, senior RUF commander,<sup>14428</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>14429</sup> testified that the RUF captured over 400 UNAMSIL personnel in Makeni during ambushes around 2 May or 3 May 2000. The fighting started because three RUF commanders—Kailondo, Morris Kallon and Augustine Gbao—were travelling from Magburaka to Makeni when they were forcefully disarmed by UNAMSIL at the DDR camp at Makump. The RUF commanders went back to the camp to retrieve their arms and UNAMSIL resisted.<sup>14430</sup> After the capture of the UNAMSIL personnel, people started demonstrating against Foday Sankoh outside of his house and firing weapons. Sankoh escaped his house, but on 8 May 2000 the government arrested and imprisoned him. Sesay was in Makeni at this point. There were helicopter gunships bombarding Lunsar and Makeni, and after Sankoh's arrest, it was as if the war had returned.<sup>14431</sup>

6378. Sesay testified that he was field commander at the time of the detention of the UNAMSIL peacekeepers. Sesay confirmed that Sankoh did not order the release of the peacekeepers and while Sankoh told him to take the peacekeepers to the forest in the Kangari Hills, Sesay decided instead to send them to Kono.<sup>14432</sup> A few of them were sent to the Number 11 plant in Kono, the mining quarters, and the rest stayed in Yengema.<sup>14433</sup> Sesay stated that the peacekeepers were detained by the RUF until late May.<sup>14434</sup> Sesay denied, as Abu Keita had testified, receiving a message from Sankoh to take charge of the

<sup>14425</sup> Charles Ghankay Taylor, Transcript 18 August 2009, pp. 27032-27033.

<sup>14426</sup> Charles Ghankay Taylor, Transcript 20 August 2009, pp. 27325-27326.

<sup>14427</sup> Charles Ghankay Taylor, Transcript 2 November 2009, p. 30869.

<sup>14428</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596, and

<sup>14429</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>14430</sup> Issa Sesay, Transcript 14 July 2010, pp. 44505-44507.

<sup>14431</sup> Issa Sesay, Transcript 14 July 2010, pp. 44504-44505.

<sup>14432</sup> Issa Sesay, Transcript 6 August 2010, pp. 45595-45596.

<sup>14433</sup> Issa Sesay, Transcript 6 August 2010, p. 45597.

<sup>14434</sup> Issa Sesay, Transcript 6 August 2010, p. 45597.







RUF delivered by Gibril Massaquoi and Superman.<sup>14435</sup> He also denied, as Abu Keita testified, that Marzah and Jungle came for him in Makeni to go to Liberia. Sesay testified that instead Benjamin Yeaten arrived by helicopter in Pendembu asking the RUF commander there, Dennis Lansana, for Sesay. Yeaten said to pass a message to Sesay that President Taylor wanted to see him urgently.<sup>14436</sup>

6379. Sesay was in Makeni when he received the message.<sup>14437</sup> Sesay informed Kallon and Gbao about it and drove through Kono to Kailahun and crossed the border to Foya, where Joe Tuah escorted Sesay to Monrovia in a helicopter. Sesay denied, as Abu Keita testified, that Keita came with Sesay to the border. Rather, Keita stayed in Makeni.<sup>14438</sup> Sesay testified that in late May 2000, he did not talk to Taylor before going to Monrovia, and prior to this, Taylor did not try to call Sesay on Sesay's satellite phone.<sup>14439</sup>

6380. Around 4.00pm or 5.00pm on the day of his arrival, Sesay met with Charles Taylor at the Executive Mansion. Sesay was accompanied on the trip to Monrovia by his adjutant, Samuel Jabba. Only Joe Tuah, a few of Tuah's guards, and Taylor were present at this meeting. The meeting lasted approximately 45 minutes. Charles Taylor was angry and told Sesay that this was the worst mistake Sankoh has made and that the Lomé Peace Accord was "the thing that gave Mr Sankoh the last chance and he is about to destroy it". Sesay stated that Taylor expressed concern that the United States and Great Britain would believe that he, Taylor, was involved in the detention of the peacekeepers.<sup>14440</sup> Taylor then told Sesay that he had a mandate from the guarantors of the Lomé Accord to speak with the RUF and facilitate the release of the peacekeepers. He asked where the UNAMSIL personnel were being held and then told Sesay that he should pass the night in Monrovia.<sup>14441</sup> Sesay testified that prior to this meeting in late May 2000, he had not spoken to Charles Taylor before.<sup>14442</sup>

6381. The next morning, the plan was for Sesay to go to Kono and transport the UNAMSIL captives to Foya, where Taylor's helicopter would be waiting to transport them

<sup>14435</sup> Issa Sesay, Transcript 6 August 2010, p. 45599.

<sup>14436</sup> Issa Sesay, Transcript 6 August 2010, p. 45599.

<sup>14437</sup> Issa Sesay, Transcript 14 July 2010, p. 44486.

<sup>14438</sup> Issa Sesay, Transcript 14 July 2010, pp. 44515-44516; Transcript 6 August 2010, p. 45600.

<sup>14439</sup> Issa Sesay, Transcript 14 July 2010, pp. 44485, 44488.

<sup>14440</sup> Issa Sesay, Transcript 14 July 2010, pp. 44517-44518.

<sup>14441</sup> Issa Sesay, Transcript 14 July 2010, p. 44518.

<sup>14442</sup> Issa Sesay, Transcript 14 July 2010, p. 44517.

to Monrovia. Sesay told Taylor that he could not do this because he did not have fuel, so Charles Taylor gave him \$USD 5,000. Sesay then spent the night at the guesthouse the RUF used in Monrovia and returned to Sierra Leone the next day. When he reached Kono, he used part of the money to buy diesel to transport the UNAMSIL personnel.<sup>14443</sup> He moved with the hostages from Kono to Foya, approximately 315 personnel. A separate group of about 23 captured Indian peacekeepers from Kailahun were taken to Foya on a different day. One helicopter owned by the Liberian government arrived to transport the peacekeepers in two trips to Monrovia. The process took two or three days from his return to Kono from Monrovia until the last batch of peacekeepers were flown out from Foya.<sup>14444</sup>

6382. Sesay testified that Taylor spoke to him because Taylor had a mandate from the ECOWAS leaders not because Taylor was in control of the RUF. The RUF was under Sankoh's control.<sup>14445</sup> However, Taylor "made [Sesay] understand that he had got a mandate from his colleague ECOWAS leaders". Since Sesay "knew that the ECOWAS leaders were the guarantors to the Lomé Accord", he "had to accept, because of what [he] had heard from Mr Taylor, because of the guarantors".<sup>14446</sup> Sesay also agreed to release the peacekeepers because it was a sensible decision: the RUF could not fight the UN, and the situation was also causing problems for the implementation of the Lomé Accord.<sup>14447</sup> Sesay did not consult with Sankoh about the release of the UNAMSIL personnel. At the time of Sesay's meeting with Charles Taylor - late May 2000 - Sankoh was under arrest and had no means of communicating with Sesay or anyone else.<sup>14448</sup>

6383. The decision to release the personnel was not accepted by everyone in the RUF. Gibril Massaquoi, Superman and others stated that Sesay had no right to release the personnel and Sesay should have negotiated the release of Sankoh in exchange for UNAMSIL personnel.<sup>14449</sup> Sesay testified that he made the decision to release the UNAMSIL personnel because he had never been in favour of capturing them in the first place. He had disagreed with a plan proposed by Sankoh in February 2000 to set an ambush for UNAMSIL contingents. Sesay supported Sankoh over Bockarie in December 1999

<sup>14443</sup> Issa Sesay, Transcript 14 July 2010, pp. 44519-44522.

<sup>14444</sup> Issa Sesay, Transcript 26 July 2010, pp. 44537-44539.

<sup>14445</sup> Issa Sesay, Transcript 14 July 2010, pp. 44520-44521.

<sup>14446</sup> Issa Sesay, Transcript 6 August 2010, p. 45600.

<sup>14447</sup> Issa Sesay, Transcript 14 July 2010, p. 44521; Transcript 26 July 2010, pp. 44539-44540.

<sup>14448</sup> Issa Sesay, Transcript 14 July 2010, p. 44521.

because Sankoh wanted to disarm and Bockarie did not. Sesay testified that if the UN or anybody else had contacted him about the release of the UNAMSIL personnel, he would have released them. However, the only person who contacted him was Taylor.<sup>14450</sup> He also explained that he released the peacekeepers in Liberia, rather than to the UNAMSIL headquarters in Sierra Leone, because it had been Taylor who had contacted him concerning their release.<sup>14451</sup>

6384. Sesay denied receiving 50 boxes of ammunition from Taylor or a satellite phone, stating that he was using a satellite phone provided to him by Sankoh and was only given \$USD 5,000 by Taylor to cover the costs of transportation of the captured UNAMSIL personnel.<sup>14452</sup> When he returned from Monrovia, he collected the UNAMSIL peacekeepers from Kono and went back to Liberia for them to be released. He did not go to Makeni or call a meeting there.<sup>14453</sup>

6385. In response to TF1-338's evidence, Issa Sesay denied ever receiving instructions from Taylor to brief him regarding Sankoh's arrest.<sup>14454</sup> Further, Sesay denied travelling from Foya to Monrovia in a Weasua helicopter and stated that for all the meetings with Taylor, he was collected in an ATU helicopter from Foya.<sup>14455</sup> Sesay also maintained that he only made one trip to Monrovia to visit Taylor in May 2000, instead of two, as TF1-338 testified, and that was to arrange the release of the UNAMSIL personnel in Kono.<sup>14456</sup> Sesay testified that he did go to Monrovia in late May 2000 to discuss the UN hostage incident<sup>14457</sup> but denied returning with supplies of materiel. According to Sesay, this was the first time he spoke to Taylor.<sup>14458</sup>

6386. In relation to TF1-567's evidence, Sesay denied that Taylor asked for the release of the UN peacekeepers to increase Taylor's international standing. Sesay understood the

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<sup>14449</sup> Issa Sesay, Transcript 26 July 2010, pp. 44540-44541.

<sup>14450</sup> Issa Sesay, Transcript 26 July 2010, pp. 44541-44543.

<sup>14451</sup> Issa Sesay, Transcript 23 August 2010, p. 46893.

<sup>14452</sup> Issa Sesay, Transcript 6 August 2010, pp. 45600-45601.

<sup>14453</sup> Issa Sesay, Transcript 6 August 2010, p. 45601.

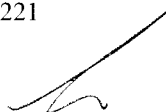
<sup>14454</sup> Issa Sesay, Transcript 2 August 2010, p. 45212.

<sup>14455</sup> Issa Sesay, Transcript 2 August 2010, pp. 45213-45214.

<sup>14456</sup> Issa Sesay, Transcript 2 August 2010, pp. 45232-45234.

<sup>14457</sup> Issa Sesay, Transcript 11 August 2010, p. 46026.

<sup>14458</sup> Issa Sesay, Transcript 5 July 2010, p. 43594.



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release of the UN personnel to be in the interest of ECOWAS as guarantors of the Lomé Accord and neither Taylor nor Benjamin Yeaten gave him ammunition on the trip.<sup>14459</sup>

6387. Issa Sesay testified that Francis Oscar Charles (a.k.a. FOC) accompanied him to Monrovia.<sup>14460</sup> Charles was one of the RUF personnel staying with Sankoh at Spur Road in Freetown when the 8 May incident occurred and only returned to RUF held territory in early June, after Sesay had already released the UNAMSIL peacekeepers in late May.<sup>14461</sup>

Defence Witness Martin George

6388. Witness Martin George (a.k.a. Mao Mao), a lieutenant, captain, major, brigade commander, colonel, and area commander of the RUF,<sup>14462</sup> was the RUF commander in Kailahun between early and late 2000 when there was a problem between the RUF and the Kenyan contingent of UN troops stationed in Magburaka and Makeni. When the witness was in Kailahun, he received a message from Issa Sesay informing all front lines that those UN troops were disarming RUF soldiers by force without the knowledge of RUF commanders.<sup>14463</sup> Augustine Gbao and Morris Kallon then went to the UN base in Makeni to request the release of the men who had been disarmed. Morris Kallon told the witness that fighting erupted between the RUF and the UN.<sup>14464</sup> The witness later learnt that as a result of this incident Issa Sesay had taken some Kenyan UN troops hostage in Magburaka and Makeni and then taken them to Liberia.<sup>14465</sup>

Defence Witness DCT-292

6389. Witness DCT-292, an RUF member,<sup>14466</sup> testified that arrests of UN peacekeepers in Makeni began after an incident in which UN officers told some RUF members that they could not enter a particular area while armed. These RUF members then falsely reported to Augustine Gbao that they had been being forcibly disarmed by the UN. Gbao then gave the order to take the UN peacekeepers hostage. The RUF then captured about 500 Zambian

<sup>14459</sup> Issa Sesay, Transcript 11 August 2010, pp. 46030-46031.

<sup>14460</sup> Issa Sesay, Transcript 2 August 2010, pp. 45300, 45178.

<sup>14461</sup> Issa Sesay, Transcript 2 August 2010, pp. 45209-45210.

<sup>14462</sup> Martin George, Transcript 21 April 2010, p. 39592; 22 April 2010, pp. 39627, 39708, 39710; 23 April 2010, pp. 39766, 39787-39795.

<sup>14463</sup> Martin George, Transcript 23 April 2010, pp. 39819-39820.

<sup>14464</sup> Martin George, Transcript 23 April 2010, pp. 39820-39821.

<sup>14465</sup> Martin George, Transcript 23 April 2010, pp. 39835-39838.





peacekeepers at Makeni. While they were a heavily armed force with armoured vehicles, the RUF was able to capture this group because the peacekeepers were not allowed to fight so they merely gave up their arms. Issa Sesay then arrived in Makeni and took the peacekeepers to Kono where they were imprisoned for some weeks.<sup>14467</sup>

6390. The Zambian hostages were released in Liberia. They were taken to Foya and then Monrovia, even though the UN was present in force in Freetown.<sup>14468</sup> The witness was not monitoring the radio during this hostage crisis. The witness was not aware of any communications with Taylor about these hostages and states that Taylor had no role in the hostage crisis.<sup>14469</sup>

#### Defence Exhibits D-223 and D-237

6391. Exhibit D-223 is a letter to Charles Taylor from US Secretary of State Madeleine K. Albright, dated 13 October 1999.<sup>14470</sup> In the letter, Albright extends her appreciation and gratitude for the “critical role” played by Taylor recently in supporting the peace process in Sierra Leone, in particular in “promoting dialogue among key players and persuading the rebel leaders to return to Freetown” and urges Taylor to “continue to support efforts in the region to foster peace and stability”.<sup>14471</sup>

6392. Exhibit D-237 is the Final Communiqué of the Consultation Meeting of the Heads of State on the Mano River Union, held at Bamako, Mali, and dated 2 March 2000. It records that Taylor was asked by the Heads of State of Guinea and Sierra Leone to “get personally [sic] involved in solving the issues which hamper the peace process in Sierra Leone and to seek adequate solutions in consultation with the other Heads of State”.<sup>14472</sup>

#### Defence Exhibit D-241

<sup>14466</sup> DCT-292, Transcript 31 May 2010, pp. 41673-41674 (PS).

<sup>14467</sup> DCT-292, Transcript 2 June 2010, pp. 41970-41972.

<sup>14468</sup> DCT-292, Transcript 2 June 2010, pp. 41975-41977.

<sup>14469</sup> DCT-292, Transcript 2 June 2010, p. 41978.

<sup>14470</sup> Exhibit D-223, “Letter to the President of Liberia, Charles Ghankay Taylor from Madeleine K. Albright, 13 October 1999”; Charles Ghankay Taylor, Transcript 13 August 2009, pp. 26821-26826.

<sup>14471</sup> Exhibit D-223, “Letter to the President of Liberia, Charles Ghankay Taylor from Madeleine K. Albright, 13 October 1999”.

<sup>14472</sup> Exhibit D-237, “Final Communiqué of the Consultation Meeting of the Heads of State on the Mano River Union, Bamako, Mali, 2 March 2000, DCT 50”.

6393. Exhibit D-241 is a Press Release by the Ministry of State for Presidential Affairs, Liberia, dated 4 May 2000. It states that the President of Liberia has called for a total cease-fire in the Sierra Leonean conflict and that President Taylor has sent his Former Foreign Minister Mrs D. Musuleng Cooper to Freetown to open up dialogue with the RUF in relation to the freeing of UN peacekeepers being held hostage.<sup>14473</sup>

Defence Exhibit D-243

6394. Exhibit D-243 is a letter from General Issa Sesay, RUF Field Commander, to the President of Liberia, Charles Ghankay Taylor, dated 11 May 2000. The letter complains about attacks on RUF forces by UNAMSIL and other alleged violations of the Lomé Peace Accord by the UN and the government of Sierra Leone. The letter expresses the RUF's firm belief that the situation in Sierra Leone can only be resolved by ECOWAS, and not by the UN and sets out a list of demands on behalf of the RUF movement. The letter states that the RUF is "convinced that [Taylor's] mediation will achieve an end to the war in our country, given your experience and your abilities, which are recognized by all", and concludes with the assurance of cooperation.<sup>14474</sup>

Defence Exhibits D-248

6395. Exhibit D-248 is a communiqué following the summit of ECOWAS Heads of State Members of the Committee on Sierra Leone on the Lomé Peace Agreement, held in Abuja on 9 May 2000. Present at the meeting were among others, President Charles Taylor. The communiqué condemns the actions of the RUF soldiers in taking hostage soldiers of UNAMSIL and called for their immediate and unconditional release. It also approved the mandate given by the current ECOWAS Chairman and by the Heads of State of the Mano River Union to the President of the Republic of Liberia, "to involve himself personally to ensure the liberation of the hostages and the resumption of the application of the Lomé Peace Agreement".<sup>14475</sup>

Defence Exhibit D-245

<sup>14473</sup> Exhibit D-241, "Press Release by the President of Liberia, Ministry of State for Presidential Affairs, Liberia, 4 May 2000".

<sup>14474</sup> Exhibit D-243, "Letter from General Issa Sesay, RUF Field Commander to the President of Liberia, Dahkpannah Dr Charles Ghankay Taylor, 11 May 2000, DCT 195 (3 pages)".

<sup>14475</sup> Exhibit D-248, "Final Communiqué, Summit of ECOWAS Heads of State Members of the Committee on

6396. Exhibit D-245 is a press release from the Secretary-General, Department of Public Information, New York, titled “Secretary-General Acknowledges Liberian President’s Role in Peacekeepers Release”, dated 15 May 2000. It states that 139 captured peacekeepers had been transferred to Liberia and that the Secretary-General “would like to acknowledge the important role played by President Charles Taylor of Liberia in the release of detained United Nations peacekeepers in Sierra Leone”. It also encouraged Taylor to “press on until the roughly 350 remaining detainees held by the [RUF] are freed and their weapons and equipment recovered”.<sup>14476</sup>

#### Defence Exhibit D-400

6397. Exhibit D-400 is a declassified memorandum dated May 2000 from the US London Embassy to the US Secretary of State reporting on meetings between President Taylor and various Liberian officials with the Reverend Jesse Jackson on 19 May 2000.<sup>14477</sup> The meetings concerned, among other things, allegations of Liberian support for the RUF, and Taylor’s ongoing negotiations for the release of the UNAMSIL peacekeepers. It records Taylor’s statements that he could not guarantee the release of the hostages because he did not control the RUF,<sup>14478</sup> the RUF were generally “out of control”,<sup>14479</sup> but that he believed the hostages would be released.<sup>14480</sup> The memorandum also notes that Taylor had not been getting along with Sankoh and had “tough differences”.<sup>14481</sup> The author of the memorandum commented that Taylor’s message was “predictable but unbelievable.”

6398. He doesn’t control the RUF, he is not involved in gun-running, diamond-smuggling or deforestation. He obviously does retain some influence with at least some portions of the RUF and with newly re-armed Johnny Paul Koroma Taylor is also effectively engaged on

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Sierra Leone on the Lomé Peace Agreement, Abuja, 9 May 2000”, para. 5.

<sup>14476</sup> Exhibit D-245, “Press release, Secretary-General, Department of Public Information, New York, Secretary-General Acknowledges Liberian President’s Role in Peacekeepers Release, 15 May 2000, DCT 194”.

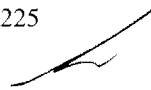
<sup>14477</sup> Exhibit D-400, “Unclassified: Unclassified Release in full, 19 May 2000, ERN 0005828 to 0005842, DCT 267 (15 pages) SE Jackson’s May 19 meeting with Charles Taylor”, para. 3, ERN 5829.

<sup>14478</sup> Exhibit D-400, “Unclassified: Unclassified Release in full, 19 May 2000, ERN 0005828 to 0005842, DCT 267 (15 pages) SE Jackson’s May 19 meeting with Charles Taylor”, para. 1, ERN 5828.

<sup>14479</sup> Exhibit D-400, “Unclassified: Unclassified Release in full, 19 May 2000, ERN 0005828 to 0005842, DCT 267 (15 pages) SE Jackson’s May 19 meeting with Charles Taylor”, para. 24, ERN 5835.

<sup>14480</sup> Exhibit D-400, “Unclassified: Unclassified Release in full, 19 May 2000, ERN 0005828 to 0005842, DCT 267 (15 pages) SE Jackson’s May 19 meeting with Charles Taylor”, para. 28, ERN 5837.

<sup>14481</sup> Exhibit D-400, “Unclassified: Unclassified Release in full, 19 May 2000, ERN 0005828 to 0005842, DCT 267 (15 pages) SE Jackson’s May 19 meeting with Charles Taylor”, para. 24, ERN 5835.





the UN hostage release, and we should encourage him. He seems to think he will succeed.<sup>14482</sup>

Defence Exhibit D-247

6399. Exhibit D-247 is a press release by the Ministry of State for Presidential Affairs, Liberia, dated 22 May 2000. It states that President Taylor expresses dissatisfaction over the slow pace of the release of the UN hostages owing to continuing attacks against the RUF by government forces and reiterated his call for a cease-fire in order to allow his mediation efforts at freeing the remaining hostages to proceed without difficulties.<sup>14483</sup>

Defence Exhibit D-249

6400. Exhibit D-249 is another press release by the Ministry of State for Presidential Affairs, dated 22 May 2000, recording that 54 additional UN hostages had been released by the RUF in Sierra Leone and given passage through Liberian territory, bringing to 204 the number of UN peacekeepers "set free to date since President Taylor was given the mandate to mediate their release by the ECOWAS authority". The Press release states that the 54 UN personnel arrived by helicopter in Monrovia from Foya, Lofa County after being airlifted from Sierra Leonean territory.<sup>14484</sup>

Defence Exhibit D-250

6401. Exhibit D-250 is a facsimile to the Special Representative of the UN Secretary-General, Oluyemi Adeniji, from the President of Sierra Leone, Ahmad Tejan Kabbah, titled "Government Statement", and dated 23 May 2000. It acknowledges the role of Taylor in securing the release of UN peacekeepers held hostage, but denies Liberian press releases indicating that the Government of Sierra Leone is attacking RUF positions within the country.<sup>14485</sup>

<sup>14482</sup> Exhibit D-400, "Unclassified: Unclassified Release in full, 19 May 2000, ERN 0005828 to 0005842, DCT 267 (15 pages) SE Jackson's May 19 meeting with Charles Taylor", para. 42, ERN 5842.

<sup>14483</sup> Exhibit D-247, "Press release by the President of Liberia, Ministry of State for Presidential Affairs, Liberia, 22 May 2000, DCT 15".

<sup>14484</sup> Exhibit D-249, "Press release by the President of Liberia, Ministry of State for Presidential Affairs, Monrovia, Liberia, 22 May 2000, DCT 141".

<sup>14485</sup> Exhibit D-250, "Fax-Letter to the Special Representative of the UN Secretary General, Oluyemi Adeniji, from the President of Sierra Leone, Ahmad Tejan Kabbah, Government Statement, 23 May 2000", pp. 1-2.



Defence Exhibit D-251

6402. Exhibit D-251 is a letter to the President of Liberia, Charles Taylor, from Bismarck Myrick, the US Ambassador to Liberia, dated 23 May 2000. It applauds Taylor's efforts to secure the release of the UN personnel being held by the RUF, and notes "with appreciation their continuing success". The Ambassador states in the letter that "[w]e hope you will be able to secure the release of all those being detained".<sup>14486</sup>

Defence Exhibit D-252

6403. Exhibit D-252 is the Final Communiqué of the Twenty-Third Summit of the Authority of Heads of State and Government on the ECOWAS Silver Jubilee Anniversary, held in Abuja on 28 to 29 May 2000. It endorsed the conclusions of the Committee of Heads of State and Government on Sierra Leone, which met in Abuja on 27 May 2000 and had expressed its gratitude to the Liberian President for sparing no effort in securing the release of large number of the hostages, and renewed his mandate to use his good offices in obtaining the release of the remaining hostages and the recovery of the arms seized.<sup>14487</sup>

Deliberations

6404. The evidence unequivocally establishes that some time in late April or early May 2000,<sup>14488</sup> the RUF forcibly disarmed and detained a group of approximately 500<sup>14489</sup> UNAMSIL peacekeepers.<sup>14490</sup> The capture of these peacekeepers was affected by a group of

<sup>14486</sup> Exhibit D-251, "Letter to the President of Liberia, Charles Taylor from Bismarck Myrick, Ambassador, Embassy of the United States of America, Monrovia, Liberia, 23 May 2000".

<sup>14487</sup> Exhibit D-252, "ECOWAS Silver Jubilee Anniversary, Final Communiqué of the Twenty-Third Summit of the Authority of the authority of Heads of State and Government, Abuja, 28-29 May 2000", para. 21.

<sup>14488</sup> Exhibit D-241, "Press Release by the President of Liberia, Ministry of State for Presidential Affairs, Liberia, 4 May 2000, DCT 55" (by 4 May 2000, the President of Liberia had sent his Former Foreign Minister to Freetown to open up dialogue with the RUF relation to the freeing of United Nations Peacekeepers being held hostage).

<sup>14489</sup> Exhibit D-245, "Press release, Secretary-General, Department of Public Information, New York, Secretary-General Acknowledges Liberian President's Role in Peacekeepers Release, 15 May 2000, DCT 194" (stating that 139 captured peacekeepers had been transferred to Liberia with roughly 350 detainees remaining); Abu Keita, Transcript 23 January 2008, pp. 2030-2031.

<sup>14490</sup> TF1-338, Transcript 1 September 2008, p. 15119 (around 8 May 2000, the witness received a radio message at Freetown from Makeni relating to the arrest of UN peacekeepers by commanders Morris Kallon, Augustine Gbao and Kailundo); TF1-567, Transcript 7 July 2008, pp. 13037-13038 (while in Liberia, the witness heard that the RUF had captured a large number of UN peacekeepers); Abu Keita, Transcript 23 January 2008, pp. 2030-2031 (in May 2000, the witness was informed by Augustine Gbao that the RUF had arrested a group of roughly 500 Kenyan and Zambian UNAMSIL peacekeepers who were involved in the disarmament programme in Sierra Leone); Perry Kamara, Transcript 6 February 2008, p. 3269 (just before Sankoh's arrest, Issa Sesay ordered the arrest in Makeni Town of UN personnel because Sankoh was arrested in Freetown); Issa Sesay, Transcript 14

RUF commanders, including Morris Kallon and Augustine Gbao, in relation to a dispute over the conduct of the disarmament process in or around Makeni.<sup>14491</sup> It is unclear whether Issa Sesay himself was involved in ordering the detention of the UNAMSIL personnel.<sup>14492</sup> The captured UNAMSIL personnel were stripped of their clothing and equipment and taken to Kono, where they were detained for a period of approximately three weeks.<sup>14493</sup>

6405. It is not contested that at some point after the capture of the peacekeepers, the Accused invited Issa Sesay to Monrovia to discuss the matter of their release.<sup>14494</sup> After this meeting, from about the middle to the end of May 2000 the RUF acceded to the release of the captured UN peacekeepers into Liberian territory in stages.<sup>14495</sup> It is also not disputed that the Accused was asked by ECOWAS to become involved in negotiations for their release,<sup>14496</sup> and that this mandate was endorsed by the United Nations.<sup>14497</sup>

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July 2010, pp. 44505-44507 (the RUF captured over 400 UNAMSIL personnel in Makeni during ambushes around 2 May or 3 May 2000).

<sup>14491</sup> TF1-338, Transcript 1 September 2008, p. 15119; Abu Keita, Transcript 23 January 2008, pp. 2030-2031; Issa Sesay, Transcript 14 July 2010, pp. 44505-44507; DCT-292, Transcript 2 June 2010, pp. 41970-41972.

<sup>14492</sup> Three witnesses state that Issa Sesay ordered the arrest of the UNAMSIL peacekeepers: Perry Kamara, Transcript 6 February 2008, p. 3269; Martin George, Transcript 23 April 2010, pp. 39819-39821, 39835-39838 (although note that George testified that Sesay's order was in relation to the detention of a separate group of Indian UNAMSIL peacekeepers in Kailahun); DCT-292, Transcript 2 June 2010, pp. 41973-41975 (reporting what he was told by Martin George at the time); contrast Issa Sesay, Transcript 26 July 2010, pp. 44541-44543 (Sesay took the decision to release the UNAMSIL because he had never been in favour of capturing them in the first place).

<sup>14493</sup> Issa Sesay, Transcript 14 July 2010, pp. 44513-44515 (admitting that some of the UNAMSIL personnel were stripped and their clothes were left behind); Perry Kamara, Transcript 6 February 2008, p. 3269 (after the arrest the RUF confiscated all the arms, ammunition, communication devices and vehicles from the captured personnel), 3270 (UNAMSIL personnel were stripped naked and taken from Makeni to Yengema); DCT-292, Transcript 2 June 2010, pp. 41970-41972 (Issa Sesay then arrived in Makeni and took the peacekeepers to Kono where they were imprisoned for some weeks).

<sup>14494</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30865-30866 (towards the end of May, Issa Sesay came to Liberia in relation to negotiations for the release of the UNAMSIL hostages in late May).

<sup>14495</sup> Issa Sesay, Transcript 26 July 2010, pp. 44537-44539 (the process took two or three days from his return to Kono from Monrovia until the last batch of peacekeepers were flown out from Foya); Exhibit D-245, "Press release, Secretary-General, Department of Public Information, New York, Secretary-General Acknowledges Liberian President's Role in Peacekeepers Release, 15 May 2000, DCT 194" (139 captured peacekeepers had been transferred to Liberia by 15 May 2000); Exhibit D-249, "Press release by the President of Liberia, Ministry of State for Presidential Affairs, Monrovia, Liberia, 22 May 2000, DCT 141" (204 peacekeepers set free by 22 May 2000); Moses Blah, Transcript 15 May 2008, pp. 9968-9969.

<sup>14496</sup> Charles Ghankay Taylor, Transcript 18 August 2009, pp. 27031-27032, 27041; Moses Blah, Transcript 15 May 2008, pp. 9968-9969; Issa Sesay, Transcript 14 July 2010, pp. 44520-44521; Exhibit D-248, "Final Communiqué, Summit of ECOWAS Heads of State Members of the Committee on Sierra Leone on the Lomé Peace Agreement, Abuja, 9 May 2000", para. 5 (approving the mandate given by the current ECOWAS Chairman and by the Heads of State of the Mano River Union to the President of the Republic of Liberia, "to involve himself personally to ensure the liberation of the hostages and the resumption of the application of the Lomé Peace Agreement"); Exhibit D-252, "ECOWAS Silver Jubilee Anniversary, Final Communiqué of the Twenty-Third Summit of the Authority of the authority of Heads of State and Government, Abuja, 28-29 May 2000", para. 21 (endorsing the conclusions of the Committee of Heads of State and Government on Sierra

6406. The Prosecution, however, maintains that the incident evidenced the Accused's high degree of control over the RUF and the existence of a superior-subordinate relationship between the Accused and the RUF.<sup>14498</sup> According to the Prosecution, the Accused ordered Issa Sesay to release the peacekeepers.<sup>14499</sup> The Prosecution also contends that his involvement in the peace process masked more nefarious purposes, including protecting "his proxy force from a full assault by UNAMSIL" and ensuring that the RUF would continue to hold onto Sierra Leonean territory.<sup>14500</sup>

6407. The Prosecution relies predominantly on the evidence of TF1-338, TF1-567 and Abu Keita. TF1-338 stated that when the Accused met Sesay, the former told the latter that he had been promised that if he spearheaded the release of the UN peacekeepers he would be made the ECOWAS chairman and he promised Sesay that if the RUF released the peacekeepers, Taylor would "help Issa in the struggle".<sup>14501</sup> TF1-567 testified that after the capture of the peacekeepers, Sesay sought advice from Taylor, whom Sesay described to the witness as "our big revolutionary father", and Sesay told the witness that Taylor had requested him to release the captured peacekeepers, because it would "serve as a help to him to show to the world that when he says anything that thing will happen".<sup>14502</sup> Abu Keita testified that when Sesay returned from the meeting with the Accused, he told the RUF commanders that the Accused said the RUF should release the peacekeepers over to him in Liberia.<sup>14503</sup> TF1-567 and Keita testified that when Sesay returned from the meeting in Liberia concerning the hostages, he came with materiel for the RUF provided by the Accused.<sup>14504</sup>

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Leone, which met in Abuja on 27 May 2000 and had expressed their gratitude to the Liberian President for sparing no effort in securing the release of large number of the hostages, and renewed his mandate to use his good offices in obtaining the release of the remaining hostages and the recovery of the arms).

<sup>14497</sup> Exhibit D-245, "Press release, Secretary-General, Department of Public Information, New York, Secretary-General Acknowledges Liberian President's Role in Peacekeepers Release, 15 May 2000, DCT 194" (acknowledging the role played by Taylor in the release of detained United Nations peacekeepers in Sierra Leone and encouraging Taylor to "press on until the roughly 350 remaining detainees held by the [RUF] are freed and their weapons and equipment recovered").

<sup>14498</sup> Prosecution Final Trial Brief, paras 645, 647.

<sup>14499</sup> Prosecution Final Trial Brief, para. 647.

<sup>14500</sup> Prosecution Final Trial Brief, para. 179.

<sup>14501</sup> TF1-338, Transcript 2 September 2008, pp. 15143-15144.

<sup>14502</sup> TF1-567, Transcript 7 July 2008, pp. 13037-13040.

<sup>14503</sup> Abu Keita, Transcript 23 January 2008, p. 2031.

<sup>14504</sup> TF1-567, Transcript 7 July 2008, p. 13040; Abu Keita, Transcript 23 January 2008, p. 2031. TF1-338 also testified that the Accused supplied ammunition to the RUF but the timing is different. He stated that Sesay went on two other trips to Monrovia in which he returned with materiel: in early May 2000 and at the end of 2000:

6408. The Trial Chamber has also considered the evidence of Perry Kamara, who testified that when the Accused heard the news concerning the detention of the UN personnel, he “ordered” Sesay to bring the captured UN personnel to him in Liberia.<sup>14505</sup> The Trial Chamber recalls its finding that Kamara is a generally credible witness. However, Kamara did not explain, nor was he asked, how he knew the Accused told Sesay to release the peacekeepers, and was not questioned on why he believed that this was an “order”. Further, his account of the release of the peacekeepers departs from the evidence of other witnesses: unlike other witnesses, he omitted any account of a trip by Sesay to see the Accused to discuss the release of the peacekeepers; he was the only witness to describe the peacekeepers being transferred directly from Makeni to Kono and then to Foya,<sup>14506</sup> rather than being held at Kono for a period of time while Sesay went to see the Accused,<sup>14507</sup> and the only witness to have described materiel from the Accused arriving in the same helicopter that had come to Foya to pick up the released UN personnel.<sup>14508</sup>

6409. Despite the discrepancies between Kamara’s testimony and the evidence of witnesses with first hand knowledge of the incident, the Trial Chamber finds a fair degree of consistency among the witnesses in relaying the message from the Accused that the captured UN peacekeepers should be released. Kamara said the Accused “ordered” Sesay to bring the captured UN personnel to him in Liberia. Abu Keita testified that Sesay told the RUF that the Accused had said the peacekeepers should be released and there was no “alternative but for us to release the peacekeepers”.<sup>14509</sup> TF1-338 testified that the Accused told Sesay that he had personal reasons for wanting the RUF to release the UN peacekeepers, and promised to assist the RUF.<sup>14510</sup> According to TF1-567, Sesay went to the Accused to seek advice on the correct course of action after the capture of the peacekeepers, described the Accused to the witness as “our big revolutionary father”,<sup>14511</sup> although he agreed on cross-examination

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TF1-338, Transcript 1 September 2008, p. 15136; Transcript 2 September 2008, pp. 15207-15209 (PS), 15162-15163, 15217-15218 (PS).

<sup>14505</sup> Perry Kamara, Transcript 6 February 2008, p. 3269.

<sup>14506</sup> Perry Kamara, Transcript 6 February 2008, p. 3270.

<sup>14507</sup> Issa Sesay, Transcript 6 August 2010, p. 45597; Abu Keita, Transcript 23 January 2008, p. 2030.

<sup>14508</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused, During Issa Sesay’s Leadership (December 1999-January 2002).

<sup>14509</sup> Abu Keita, Transcript 23 January 2008, p. 2031.

<sup>14510</sup> TF1-338, Transcript 2 September 2008, pp. 15143-15144; TF1-567, Transcript 7 July 2008, pp. 13037-13040.

<sup>14511</sup> TF1-567, Transcript 7 July 2008, pp. 13037-13040.

that the Accused was “negotiating” the release of the UN peacekeepers held hostage.<sup>14512</sup> Even Issa Sesay stated that he felt he “had to accept” the Accused’s proposal, “because of what [he] had heard from Mr Taylor”, although he explained that it was also a good decision on independent grounds.

6410. The Trial Chamber notes that the Accused had, and was seen to have, a great deal of influence over the RUF.<sup>14513</sup> The evidence indicates that he exerted this influence over the RUF to effect the release of the UN peacekeepers, and the Trial Chamber considers that while the witnesses vary as to precisely how coercive the Accused was in securing the release of the peacekeepers, that he told them to release the peacekeepers would be a fair characterisation of his message, which was not reported *verbatim* by any of the witnesses. The Trial Chamber notes that the question of whether in this instance the contact between the Accused and the RUF satisfies the threshold of effective control is to be dealt with, in light of the totality of evidence, when analysing the criminal responsibility of the Accused.

6411. The Trial Chamber recalls that it had no general reservations concerning the evidence of TF1-338, TF1-567 and Abu Keita.<sup>14514</sup> The Defence contends that the evidence of Prosecution witnesses who testified to the conversation between the Accused and Issa Sesay relating to the release of the peacekeepers is largely based on hearsay, directly refuted by the evidence of the parties involved in the alleged transactions, namely Sesay and the Accused, and cannot be relied on.<sup>14515</sup> In this respect, the Trial Chamber notes that both Issa Sesay and the Accused denied that Sesay only released the peacekeepers because the Accused had control over the RUF,<sup>14516</sup> or that the May 2000 meeting related to anything other than a good faith negotiation on the part of the Accused based on the furtherance of the peace process.<sup>14517</sup> The Defence further notes that the details of the meeting provided by TF1-338 is also refuted by Sesay and the Accused. In particular, the Defence points out that

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<sup>14512</sup> TF1-567, Transcript 8 July 2008, pp. 13172-13173.

<sup>14513</sup> See for example Peace Process: Release of UN Peacekeepers and others (1999).

<sup>14514</sup> Credibility Assessment, TF1-338, paras 318-329; Credibility Assessment, TF1-567, paras 313-317; Credibility Assessment, Abu Keita, paras 213-219.

<sup>14515</sup> Defence Final Trial Brief, paras 956, 964.

<sup>14516</sup> Charles Ghankay Taylor, Transcript 20 August 2009, pp. 27325-27326; Issa Sesay, Transcript 14 July 2010, pp. 44520-44521; Transcript 6 August 2010, p. 45600.

<sup>14517</sup> Charles Ghankay Taylor, Transcript 2 November 2009, p. 30869.



Sesay testified that his meeting with the Accused took place in the afternoon, not at 10.00pm or 11.00pm, and that he did not take anyone with him to Monrovia except his adjutant.<sup>14518</sup>

6412. The Trial Chamber recalls its finding that the testimony of Issa Sesay must be considered with caution and requires corroboration.<sup>14519</sup> The testimony of the Accused, in the view of the Trial Chamber, is self-serving. In relation to inconsistencies concerning the details of the meeting, the Trial Chamber also notes that even the accounts of the Accused and Sesay contradict each other on these details. For example, while Sesay testified that the meeting took place on the afternoon of his arrival,<sup>14520</sup> the Accused testified that it occurred the next morning.<sup>14521</sup> While Sesay testified that he did not take anyone with him to Monrovia except his adjutant,<sup>14522</sup> the Accused first testified that Sesay arrived with several individuals that the Accused believed to be bodyguards<sup>14523</sup> and then stated that Sesay brought his spokesperson, Gibril Massaquoi, to the meeting.<sup>14524</sup>

6413. Furthermore, the testimony of both Sesay and the Accused is contradicted by the evidence of TF1-338, TF1-567 and Abu Keita. The Trial Chamber notes that this evidence is not entirely hearsay and includes direct evidence of the meeting. On the basis of this evidence, the Trial Chamber does not accept the evidence of Sesay and the Accused regarding this event.

6414. Further, none of the reports given by these witnesses of the meeting between the Accused and Sesay support the Prosecution's allegation that the Accused became involved in the negotiations in order to ensure that the RUF would continue to hold onto Sierra Leonean territory.<sup>14525</sup> This evidence indicates at the most, as TF1-338 and TF1-567 testified, that the Accused requested Sesay's compliance with the intention of heightening the Accused's international standing.

6415. The Trial Chamber also rejects the Prosecution contention that the Accused's "manipulation of the situation" can be demonstrated by the fact that the peacekeepers were

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<sup>14518</sup> Defence Response to Prosecution Final Trial Brief, para 35; Issa Sesay, Transcript 14 July 2010, p. 44517.

<sup>14519</sup> Credibility Assessment, Issa Sesay, paras 359-372.

<sup>14520</sup> Issa Sesay, Transcript 14 July 2010, pp. 44517-44518.

<sup>14521</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27177-27178.

<sup>14522</sup> Issa Sesay, Transcript 14 July 2010, p. 44517.

<sup>14523</sup> Charles Ghankay Taylor, Transcript 18 August 2009, p. 27044.

<sup>14524</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27177-27178.

<sup>14525</sup> Prosecution Final Trial Brief, para. 179.



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released in Liberia, rather than taken to UNAMSIL controlled territories in Sierra Leone.<sup>14526</sup> The Trial Chamber accepts Sesay's explanation that he had released the peacekeepers in Liberia because his contact for the negotiation for their release was from Monrovia,<sup>14527</sup> considering also that Sesay knew ECOWAS had requested the Accused's assistance in facilitating their release, and that the Accused had provided funds for the RUF to transport the UNAMSIL personnel to the Liberian border.<sup>14528</sup> The Trial Chamber also considers the evidence indicating that the RUF mistrusted UNAMSIL at the time,<sup>14529</sup> and that fighting persisted in areas of Sierra Leone between UNAMSIL, government forces and the RUF,<sup>14530</sup> to be further reasons for why the hostages were released in Liberia rather than Sierra Leone.

6416. In light of these considerations, the Trial Chamber agrees with the Defence contention that Sesay's decision to comply with the Accused's advice is not sufficient to sustain a superior/subordinate relationship, or that the Prosecution evidence shows that the Accused had the specific ulterior motive of protecting his "proxy force".<sup>14531</sup> Nevertheless, the Trial Chamber concludes that the evidence adduced establishing that the Accused was selected to be the point person for these negotiations, as well as the evidence of the witnesses regarding the interaction between the Accused and Sesay to indicate that the Accused did have influence over the actions of the RUF and Sesay. As Sesay himself described it, the Accused "made him understand", in light of the ongoing peace process, that he had to accept the proposal.<sup>14532</sup> The evidence in Exhibit D-400 that the Accused "obviously does retain some influence with at least some portions of the RUF" also supports this view.<sup>14533</sup>

<sup>14526</sup> Prosecution Final Trial Brief, para. 179.

<sup>14527</sup> Issa Sesay, Transcript 23 August 2010, p. 46893.

<sup>14528</sup> Issa Sesay, Transcript 14 July 2010, pp. 44519-44522.

<sup>14529</sup> Exhibit D-243, "Letter from General Issa Sesay, RUF Field Commander to the President of Liberia, Dahkpannah Dr Charles Ghankay Taylor, 11 May 2000, DCT 195 (3 pages)" (complains about attacks on RUF forces by UNAMSIL and other alleged violations of the Lomé Peace Accord by the United Nations and the government of Sierra Leone)

<sup>14530</sup> Exhibit D-247, "Press release by the President of Liberia, Ministry of State for Presidential Affairs, Liberia, 22 May 2000, DCT 15" (expressing dissatisfaction over the slow pace of the release of the United Nations hostages owing to continuing attacks against the RUF by government forces).

<sup>14531</sup> Defence Final Trial Brief, paras 1321-1322.

<sup>14532</sup> Issa Sesay, Transcript 6 August 2010, p. 45600.

<sup>14533</sup> Exhibit D-400, "Unclassified: Unclassified Release in full, 19 May 2000, ERN 0005828 to 0005842, DCT 267 (15 pages) SE Jackson's May 19 meeting with Charles Taylor", para. 42.

6417. Turning to whether the Accused provided the RUF with ammunition in return for the release of the peacekeepers, the Trial Chamber recalls its previous finding on the basis of the evidence of TF1-338, TF1-567 and Abu Keita, that the Accused provided Issa Sesay with a helicopter loaded with materiel when Sesay travelled to Liberia in May 2000.<sup>14534</sup> However, although both TF1-567 and TF1-338 testified that when Sesay returned from the meeting in Liberia concerning the hostages, the Accused provided the RUF with arms and ammunition,<sup>14535</sup> neither witness explicitly indicated that the materiel was provided in return for the release of the peacekeepers. TF1-338 stated that the Accused offered to “help Issa in the struggle” in return for the release of the peacekeepers.<sup>14536</sup> However, TF1-338 did not make clear what the Accused meant by these words, or whether the materiel later provided at the end of 2000, was the promised assistance. On the contrary, TF1-338 indicated that the materiel provided at the end of 2000 was procured after Issa Sesay went again to see Taylor at the Executive Mansion, delivering a parcel of diamonds<sup>14537</sup> and complaining that the RUF lacked “materials”.<sup>14538</sup>

6418. Due to the lack of clear evidence, the Trial Chamber is unable to find beyond reasonable doubt that the Accused provided materiel to the RUF in May 2000 or thereafter in exchange for Issa Sesay agreeing to release the UNAMSIL peacekeepers.

### Findings

6419. The Trial Chamber finds beyond reasonable doubt that the Accused had significant influence over Issa Sesay’s decision to release the UNAMSIL peacekeepers, and that he was asked by ECOWAS to become involved in negotiations for their release.

6420. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the arms and ammunition Issa Sesay obtained from the Accused during Sesay’s trip to Liberia in May 2000 were provided in exchange for Issa Sesay agreeing to release the UNAMSIL peacekeepers.

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<sup>14534</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused, During Issa Sesay’s Leadership (December 1999-January 2002).

<sup>14535</sup> TF1-567, Transcript 7 July 2008, p. 13040.

<sup>14536</sup> TF1-338, Transcript 2 September 2008, pp. 15143-15144.

<sup>14537</sup> TF1-338, Transcript 2 September 2008, pp. 15156-15158, 15213-15214 (PS).

<sup>14538</sup> TF1-338, Transcript 2 September 2008, p. 15161.



## 6. Communications with Issa Sesay on Disarmament

### Submissions of the Parties

6421. The Prosecution submits that the Accused “gave ongoing instruction, direction and guidance to Issa Sesay to resist the disarmament in Sierra Leone”, and that Sesay followed this instruction, thereby prolonging the conflict. The Prosecution submits that the Accused first gave this instruction to Sesay at a private meeting following the July 2000 meeting that the Accused convened with the ECOWAS presidents and an RUF delegation headed by Sesay to discuss a change in the RUF leadership.<sup>14539</sup> At the private meeting “Taylor’s real agenda was laid out”. The Accused directed Sesay not to listen to the Sierra Leonean government since it was a British elected government and “remote controlled” by the British. The Accused told Sesay that anytime the UN asked him to disarm “he should say yes but not do it”. The Accused also assured Sesay that he would provide continued support to the RUF as he had already been doing, and gave Sesay \$USD 15,000.<sup>14540</sup>

6422. The Prosecution further submits that during Sesay’s time in power, the Accused and his commanders met regularly with Sesay, who was often in Monrovia, and directed him to resist disarmament, which he did. In as late as 2001, the Accused met with Sesay and other top commanders in Monrovia, where he said that he mistrusted the UN disarmament process for Sierra Leone and provided Sesay with money “to make sure the RUF stayed strong and did not disarm Kono and Kailahun districts”.<sup>14541</sup> Even when disarmament in Sierra Leone became “an inevitable reality”, the Accused still was successful in postponing it.<sup>14542</sup>

6423. The Defence submits that after the Accused, Presidents Konaré and Obasanjo, Issa Sesay and his delegation met at Roberts International Airport in 21 August 2001 in order to formally confirm Sesay’s interim leadership of the RUF, Sesay then attended a “closed-door meeting” with Presidents Taylor, Obasanjo, and Konaré, where among other matters discussed, Sesay agreed to immediately begin the disarmament and demobilisation process. The Defence also submits that the Accused never gave Sesay a consignment of arms and/or

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<sup>14539</sup> Prosecution Final Trial Brief, para. 182.

<sup>14540</sup> Prosecution Final Trial Brief, para. 182.

<sup>14541</sup> Prosecution Final Trial Brief, para. 183.

<sup>14542</sup> Prosecution Final Trial Brief, paras 183-184.

ammunition to bring back to Sierra Leone when he was making his return trip from Monrovia.<sup>14543</sup>

### Evidence

#### Prosecution Witness TF1-338

6424. Witness TF1-338, an RUF member,<sup>14544</sup> testified that after the July 2000 meeting in Monrovia where Taylor suggested that Issa Sesay take over as interim leader of the RUF, Sesay and the rest of the RUF delegation returned to the guesthouse at which they were staying in Congo Town. That night, at around 11.00pm or midnight, Benjamin Yeaten came to collect Sesay, Augustine Gbao and one other person to go to meet with Taylor. TF1-338 testified that Taylor told Sesay that he should bear in mind that the people who were talking to him before were British elected presidents and that he should not listen to the Sierra Leone government because it was a British elected government that was remote-controlled by the British. According to the witness, Taylor told Sesay that any time he would be asked by the UN to disarm he should just say yes, but he should not do it in reality. And in that case he, Taylor, will continue to assist the RUF as he was doing before. Taylor also told Sesay that he should not listen to the other Heads of State because “today...they will embrace him and the other day they will just deny him”. Taylor then gave Sesay \$USD 15,000 and he returned to the guesthouse. Sesay then flew back to Sierra Leone the next day.<sup>14545</sup>

6425. TF1-338 was asked about his earlier testimony to the Trial Chamber that although Sesay began the disarmament of the RUF at the end of 2001 into 2002, in certain areas he also delayed the disarmament “because of certain things that were happening”, including his assistance to the Government of Liberia in repelling rebel attacks in that country. TF1-338 testified that, for example, Sesay said “he got an instruction from Charles Taylor that he should organise the troops to enter Guinea through Pamelap” and that they should enter Guinea by Kissidougou through Kono, not Koinadugu, and send manpower to Foya to

<sup>14543</sup> Defence Final Trial Brief, paras 691-694.

<sup>14544</sup> TF1-338, Transcript 1 September 2008, pp. 15085-15086 (PS).

<sup>14545</sup> TF1-338, Transcript 1 September 2008, pp. 15149-15150.

Benjamin Yeaten to join the other forces who were there to enter through Guéckédou. TF1-338 said that was why there was delay in the disarmament in that area.<sup>14546</sup>

6426. TF1-338 testified that in mid-2001 UN Force Commander Opande, Adenigi, the UN Secretary-General's representative in Sierra Leone, and Sesay met in Magburaka to discuss the disarmament of child soldiers. The UN representative proposed first finding a way to disarm child soldiers before moving on to find a way to disarm the adult ones. Sesay told the UN representatives that he wanted to first consult the "RUF family" or RUF commanders. When he returned to Kono, Sesay said that he wanted to go to meet Taylor to brief him and to get his advice. Sesay briefed Taylor about the meeting at the Executive Mansion in Monrovia, and Taylor asked if it would be safe for him and the RUF movement to disarm. Taylor then advised him not to disarm at all because "the United Nations were people who were would talk nicely to you today and tomorrow they would turn around and arrest you...".<sup>14547</sup> Sesay left for Sierra Leone the next day. On his way back he complained to the commanders with whom he was travelling that he would no longer take instructions not to disarm from Taylor, pointing out that Taylor was now living in peace and that Liberia had held elections and had made Taylor President. Sesay said that he wanted to allow disarmament to take place in Sierra Leone so that he would also "be able to give peace to his own people in Sierra Leone".<sup>14548</sup>

6427. TF1-338 testified that Issa Sesay made four trips to Monrovia in late 2000 into the spring of 2001, wherein Sesay brought diamonds to Taylor or Taylor's middleman and then returned to Sierra Leone with supplies or money.<sup>14549</sup> After the first meeting, which took place in the end of 2000, Sesay went to the Camp Schefflein barracks in Monrovia and took AK-47 rounds, RPG rockets, G3 rounds, and large quantities of boots and uniforms. Some of these materials were used by the RUF against the Kamajors and UNAMSIL forces that were "fighting and pushing toward Makeni".<sup>14550</sup> After the second meeting, which was in early 2001, Sesay told Taylor that he had gotten UNAMSIL under control, but that the Kamajors were still a threat. Sesay returned to Sierra Leone with a few AK rifles, a few G3 rifles, G3 rounds, RPG rockets, bags of rice and about four drums of diesel. Sesay later used

<sup>14546</sup> TF1-338, Transcript 1 September 2008, pp. 15556-15557.

<sup>14547</sup> TF1-338, Transcript 2 September 2008, pp. 15171-15175.

<sup>14548</sup> TF1-338, Transcript 2 September 2008, pp. 15175-15176.

<sup>14549</sup> TF1-338, Transcript 2 September 2008, pp. 15161-15172.

<sup>14550</sup> TF1-338, Transcript 2 September 2008, pp. 15161-15164.

some of the arms and ammunition that he brought back from this trip against the Kamajors and UNAMSIL.<sup>14551</sup>

6428. After the third meeting, which was in the spring of 2001, Taylor told Sesay that because UN observers and the international community were watching him, he would set up “Alpha Bravo” as a middle man to whom could Sesay to bring small amounts of diamonds in exchange for money, so that Sesay could buy the basic things that he needed for the front lines. When Sesay returned to Sierra Leone after this trip, he brought with him bags of rice, diesel, medicine and drugs.<sup>14552</sup> On the fourth trip to Monrovia, which also took place in 2001, Sesay gave diamonds to Alpha Bravo in exchange for \$USD 300,000. Sesay left half of this amount with Taylor in Monrovia for safe-keeping and took the other half back with him to Sierra Leone.<sup>14553</sup> TF1-338 further testified that on each of these trips, Sesay left Monrovia via helicopter.<sup>14554</sup>

#### Prosecution Witness TF1-371

6429. Witness TF1-371, an RUF member,<sup>14555</sup> testified that in 2001 Mike Lamin attended a meeting that took place at midnight with Issa Sesay, who was then the Field Commander, Morris Kallon, and Taylor at White Flower in which Taylor asked Sesay about the disarmament process, specifically wanting to know how many men they had disarmed thus far. Sesay told Taylor that they had disarmed about forty percent of his men. TF1-371 further testified that Lamin told him that Taylor asked Sesay whether “he trusted the disarmament process, whether the United Nations system in Sierra Leone in terms of being really very honest about the genuineness of disarming them and that kind of stuff”.<sup>14556</sup>

#### Prosecution Witness TF1-375

6430. Witness TF1-375, an RUF fighter,<sup>14557</sup> testified that in early 2002, when Issa Sesay entered Liberia through Vahun, he heard Benjamin Yeaten call Sesay and say to him, “[s]o you are turning your guns over to the UN peacekeeping force?” TF1-375 testified that he

<sup>14551</sup> TF1-338, Transcript 2 September 2008, pp. 15164-15167.

<sup>14552</sup> TF1-338, Transcript 2 September 2008, pp. 15167-15170.

<sup>14553</sup> TF1-338, Transcript 2 September 2008, pp. 15170-15172.

<sup>14554</sup> TF1-338, Transcript 2 September 2008, pp. 15161-15172.

<sup>14555</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>14556</sup> TF1-371, Transcript 29 January 2008, pp. 2454-2455 (CS).

<sup>14557</sup> TF1-375, Transcript 23 June 2008, p. 12485.

then heard Sesay reply, “[b]ut [we] have no objective except to disarm”. TF1-375 then heard Yeaten tell Sesay that “you think the people are not fooling you to disarm because they, the Liberian government....” Yeaten then said “[w]e think we have a war and the people are fighting against us. If you disarm over there we will have more pressure, so we do not want – the old man told me to advise you strongly that you should not turn over your weapons yet to the UN peacekeeping force”. TF1-375 testified that when Yeaten referred to “the old man” that he meant Taylor. TF1-375 further explained that Yeaten said to Sesay that the RUF should not disarm, because if they did it would not be good for them in Liberia.<sup>14558</sup>

6431. TF1-375 also testified that he heard Benjamin Yeaten say “[w]hat do you think we can do with this kind of problem when these people have crossed in here? When the United Nations know they are here we will have more pressure on our government and we already have our own problem and are not able to solve it and the people are just causing problems over there and crossing over here. The people are causing problems over there to come here thinking that we will grant them asylum. We told them before that they should not disarm and that they would encounter problems, but they did not listen to us. That is the same thing that is going on now. What do they think we will do for them?” TF1-375 testified that Yeaten then said to him that “he had told Issa Sesay not to disarm, and others, so when they were encountering any problems they were not responsible”.<sup>14559</sup>

### The Accused

6432. The Accused testified that he invited the ECOWAS Heads of State to the Executive Mansion in Monrovia on 26 July 2000, where the leadership of the RUF was discussed. President Jammah of the Gambia, President Konaré of Mali, President Obasanjo of Nigeria, President Compaoré of Burkina Faso, and President Eyadema of Togo attended the meeting, while President Robert of the Côte d’Ivoire did not. At the meeting there were at least three or four delegates from the RUF.<sup>14560</sup>

6433. The Accused also testified that there was a second part to this meeting, which was held at Roberts International Airport on 21 August 2000, and which was attended by only

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<sup>14558</sup> TF1-375, Transcript 24 June 2008, p. 12691.

<sup>14559</sup> TF1-375, Transcript 24 June 2008, p. 12765 (PS).

<sup>14560</sup> Charles Ghankay Taylor, Transcript 18 August 2009, p. 27053; Transcript 19 August 2009, pp. 27159-27164. Taylor also noted that 26 July was also Liberian Independence Day, Transcript 19 August 2009, p. 27159.

himself, Obasanjo, Konaré, Issa Sesay and Gibril Massaquoi, who was Sesay's spokesman. The purpose of the meeting was to formalise Sesay's appointment as interim leader. Taylor testified that at this meeting Sesay appeared to be "very understanding and wanting to move forward". Sesay also agreed to immediately begin the disarmament and demobilisation process.<sup>14561</sup>

6434. The Accused was questioned concerning TF1-338's testimony that Taylor called the RUF delegation back for a late night meeting where he is alleged to have instructed Issa Sesay to say he would disarm but "not do it in reality". Taylor testified that: 1) the meeting did not take place; 2) the record was clear that he was pushing Foday Sankoh to disarm; and 3) Liberia would have nothing to gain by the RUF not disarming. Taylor also disputed that he would have said that Sesay should not listen to the "British elected" presidents, as President Konaré is French and had a good relationship with Francophone countries, President Jammeh was French speaking and had almost more problems with the British than Nigeria, and President Eyadema is a "personal friend of Chirac and the French and all preceding French governments from Mitterand to Valery Giscard d'Estaing...". Therefore, "these little boys don't know what they are talking about".<sup>14562</sup>

6435. The Accused further testified that he found Sesay "to be extremely reasonable in doing what was required under Lomé. We found him enthusiastic about it. Issa was very, very understanding and agreeable [...] we found him to be a very reasonable fellow and, quite frankly, if Issa had not taken over the leadership of the RUF – the interim leadership at that time, quite frankly I do not think that peace would have come and the disarmament would have continued".<sup>14563</sup>

#### Defence Witness Issa Sesay

6436. Witness Issa Sesay, senior RUF commander,<sup>14564</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>14565</sup> testified that on the behalf of ECOWAS, Taylor invited

<sup>14561</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27167-27171; Transcript 20 August 2009, pp. 27272-27273 (testifying that "When it got down to the major decision, Issa kept Gibril Massaquoi with him"); Exhibit D-259, "Press Communique Issued by the Revolutionary United Front (RUF) following a meeting with H.E. Alpha Oumar Konaré, President of Mali and Chairman of ECOWAS, H.E. Olusegun Obasanjo, President of Nigeria, and H.E. Dahkpannah Dr Charles Ghankay Taylor, President of Liberia, August 21 2000".

<sup>14562</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27193-27199.

<sup>14563</sup> Charles Ghankay Taylor, Transcript 19 August 2009, p. 27212.

<sup>14564</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596, and

him to a meeting in the end of July via radio. After spending the first night in Monrovia in the guesthouse, Sesay and the RUF delegation went to the Executive Mansion where they met with Taylor and Presidents Obasanjo, Jammeh, Konaré, and Eyadema.<sup>14566</sup> Sesay testified that at this meeting, the Heads of State proposed that he take over the leadership of the RUF;<sup>14567</sup> Sesay stated he would need to first consult with the “RUF family”, including Foday Sankoh.<sup>14568</sup> Sesay and his delegation then left to return to Sierra Leone the next day.<sup>14569</sup>

6437. On 5 August 2000, about a week after his July 2000 meeting in Monrovia with Taylor and the ECOWAS Heads of State, he returned to Liberia for a second meeting at Roberts International Airport with a delegation that included Augustine Gbao, Jonathan Kposowa, Samuel Jabba, Patrick PS Binda, and Colonel Lion.<sup>14570</sup> Taylor was there along with Presidents Konaré and Obasanjo, representatives of the other Heads of State, for example Togo and the Gambia, and the press. At the meeting, which took place in a large conference room, Presidents Taylor, Obasanjo, and Konaré expressed that they wanted Sesay to become the interim leader of the RUF.<sup>14571</sup>

6438. After this meeting ended, Presidents Taylor, Obasanjo and Konaré and Sesay met in a smaller conference room. They told Sesay that the ECOWAS leaders, including President Kabbah, were supportive of his appointment. Further, they instructed him to arrange the return of the seized UNAMSIL equipment, to work with UNAMSIL, to be available whenever UNAMSIL contacted him, and to prepare “to work with the Government of Sierra Leone in respect of the implementation of the Lomé Accord”. The meeting ended and the following day he returned to Sierra Leone.<sup>14572</sup>

6439. Sesay was questioned concerning the evidence of TF1-338 that after the July 2000 meeting, at about 11.00pm or midnight, Benjamin Yeaten collected him, Gbao and one other member of the RUF delegation to meet again privately with Taylor, who instructed Sesay to

<sup>14565</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

<sup>14566</sup> Issa Sesay, Transcript 26 July 2010, pp. 44548-44550.

<sup>14567</sup> Issa Sesay, Transcript 26 July 2010, pp. 44548-44550.

<sup>14568</sup> Issa Sesay, Transcript 26 July 2010, p. 44552.

<sup>14569</sup> Issa Sesay, Transcript 26 July 2010, p. 44553; Transcript 2 August 2010, p. 45260.

<sup>14570</sup> Issa Sesay, Transcript 26 July 2010, pp. 44555-44556.

<sup>14571</sup> Issa Sesay, Transcript 26 July 2010, pp. 44558-44559, 44568.

<sup>14572</sup> Issa Sesay, Transcript 26 July 2010, pp. 44560-44561.

not listen to the British elected presidents and to tell the UN that he would disarm, but that he should not do it, and that he would continue to support that as before. Sesay testified that after the July 2000 meeting he was not picked up by Yeaten and taken back to Taylor's place that night, but that they had the meeting in the daytime, and then the RUF delegation left the next day.<sup>14573</sup> Sesay further testified that Taylor did not give him one set of instructions in front of the other ECOWAS leaders during the day, and then another set of instructions behind their backs at night. Sesay testified that what the ECOWAS leaders, including Taylor, instructed him to do was to work with the Government of Sierra Leone and the UN mission in Sierra Leone, and "that is what I did at the end of the day". Sesay also testified that contrary to the testimony of TF1-338 that Taylor gave Sesay \$USD 15,000 after the private night meeting, Taylor did not give him any money on that trip.<sup>14574</sup>

6440. Sesay was also questioned concerning Exhibit D-259, an RUF "Press Communique" dated 21 August 2000, and signed by Issa Sesay. The communiqué recounted this meeting at Roberts International Airport with Presidents Konaré, Obasanjo, and Taylor wherein Presidents Konaré and Obasanjo delivered a letter from Foday Sankoh approving the appointment of Issa Sesay as interim leader of the RUF. Among other things, the RUF "assures of our readiness to cooperate with [UNAMSIL] in order to ensure the success of the DDR Programme [Disarmament, Demobilisation, and Reintegration] in particular, and the peace process in general as mandated in the Lomé Peace Accord".<sup>14575</sup>

6441. Sesay was questioned concerning Exhibit P-538, a letter approved by Issa Sesay as Acting Chairman of the RUF, informing Charles Taylor that Gibril Massaquoi was impeached by the External Delegation.<sup>14576</sup> Sesay testified that this happened because Massaquoi was working with Foday Sankoh's wife to push "documents through the internet saying that they were my instruction [sic], which was not the case so – and the way he was communicating over the media, we realised that he was opposed to the peace process that was afoot". General Opande would forward to Sesay the "internet documents" because he

<sup>14573</sup> Issa Sesay, Transcript 2 August 2010, pp. 45260-45261.

<sup>14574</sup> Issa Sesay, Transcript 2 August 2010, pp. 45261-45262.

<sup>14575</sup> Issa Sesay, Transcript 26 July 2010, pp. 44567-44568 (testifying that communiqué was drafted by Gibril Massaquoi); Exhibit D-259, "Press Communique Issued by the Revolutionary United Front (RUF) following a meeting with H.E. Alpha Oumar Konaré, President of Mali and Chairman of ECOWAS, H.E. Olusegun Obasanjo, President of Nigeria, and H.E. Dahkpannah Dr Charles Ghankay Taylor, President of Liberia, August 21 2000".

<sup>14576</sup> Exhibit P-538 (confidential), ERN 25491.



was surprised by their contents. Sesay testified that he told Opande that “I did not send something like this. And this was talking about threats to the peace process that I, General Issa, would never disarm the RUF whilst Foday Sankoh was behind bars, which means it was going contrary to what the ECOWAS had told me and what I had accepted. So it was a direct opposite of what the ECOWAS had told me and what was on the internet”.<sup>14577</sup>

6442. When questioned as to how the disarmament process progressed following his appointment as interim leader through the end of 2000, Sesay testified that the fighting between the RUF and the Government of Sierra Leone ceased, and that only a few raids took place between the RUF and Kamajors in Kono and Kailahun until October 2000 when the ECOWAS sponsored Abuja I meeting was held,<sup>14578</sup> and that from August 2000 through disarmament, there were no hostilities.<sup>14579</sup> Sesay further testified that although disarmament of the RUF had begun in as early as December 1999, that after he was appointed as interim leader in August 2000 further disarmament halted while he sent a delegation to Abuja I in October 2000 and then was waiting for an invitation from ECOWAS for a follow-up meeting. Once Abuja II took place in May 2000 disarmament restarted.<sup>14580</sup>

6443. Sesay was questioned concerning the evidence of TF1-338 that Sesay made trips to Monrovia in late 2000 into the spring of 2001. Sesay testified that concerning the trip that was alleged to have taken place at the end of 2000, where he was supposed to have gone to the Camp Schefflin barracks in Monrovia and taken arms and ammunition and large quantities of boots and uniforms, while he had driven by Camp Schefflin he had never entered it. Further, since he “was appointed interim leader, I never brought uniforms and boots to the RUF, nor did I bring AKs”.<sup>14581</sup> Sesay testified that the second trip in early 2001 recounted by TF1-338 occurred, wherein he was alleged to have taken back a few AK rifles, a few G3 rifles, G3 rounds, RPG rockets, bags of rice, and about four drums of diesel. Sesay testified that in December 2000 he had a meeting with UN General Opande and then in early 2001 UNAMSIL had redeployed in Makeni and Magburaka, and from that time the RUF and UNAMSIL never had any problems until disarmament came to an end. Therefore he did

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<sup>14577</sup> Issa Sesay, Transcript 26 July 2010, pp. 44568-44569.

<sup>14578</sup> Issa Sesay, Transcript 26 July 2010, pp. 44570-44571.

<sup>14579</sup> Issa Sesay, Transcript 26 July 2010, p. 44573.

<sup>14580</sup> Issa Sesay, Transcript 2 August 2010, pp. 45285-45286.

<sup>14581</sup> Issa Sesay, Transcript 2 August 2010, pp. 45282-45283.

not have any need for ammunition in either 2000 or early 2001.<sup>14582</sup> Sesay also disputed TF1-338's evidence that he gave diamonds to Alpha Bravo in exchange for \$USD 300,000, half of which he left for safe-keeping with Taylor. Sesay testified that he never sold diamonds to a person named Alpha and that the witness was telling lies because none of this had occurred.<sup>14583</sup> Sesay further testified that on no occasion in which he travelled from Monrovia to Foya by helicopter did Taylor give him arms and ammunition to take back with him.<sup>14584</sup>

6444. Sesay also disputed the evidence of TF1-338 that he met with UN officials Opande and Adenigi in mid-2001 to discuss child disarmament, and that he then went to brief Taylor in order to get his advice. Sesay testified that he did not specifically remember meeting with General Opande in Magburaka in mid-2001, although General Opande and he did hold a number of meetings. Similarly, he did not remember a meeting to discuss specifically the disarming of child combatants. Sesay also testified that he never had a meeting with Taylor to discuss the disarmament of child soldiers, and that on no occasion did Taylor ever tell him not to disarm with the UN.<sup>14585</sup> Finally, in regard to TF1-338's testimony that Sesay complained that he would no longer take instructions from Taylor not to disarm, as Taylor was living in peace and he wanted to give peace to the people of Sierra Leone, Sesay testified that he never had such a conversation.<sup>14586</sup>

6445. In relation to TF1-338's evidence that the RUF attacked Gueckedou and Koinadugu in Guinea pursuant to an instruction from Charles Taylor, Sesay testified that the RUF never left Sierra Leone to attack Gueckedou and Koinadugu, and that he never sent any organised force to go and join Benjamin Yeaten to attack Guinea.<sup>14587</sup>

### Deliberations

6446. TF1-338, the Accused, and Issa Sesay all testified concerning meetings that were held in Liberia in July and/or August 2000, and that were convened in relation to selecting new leadership for the RUF after Sankoh's imprisonment. All three witnesses testified that

<sup>14582</sup> Issa Sesay, Transcript 2 August 2010, pp. 45289-45292.

<sup>14583</sup> Issa Sesay, Transcript 2 August 2010, pp. 45311-45313.

<sup>14584</sup> Issa Sesay, Transcript 26 July 2010, p. 44563.

<sup>14585</sup> Issa Sesay, Transcript 4 August 2010, pp. 45329-45331.

<sup>14586</sup> Issa Sesay, Transcript 4 August 2010, pp. 45331-45332.

<sup>14587</sup> Issa Sesay, Transcript 6 August 2010, pp. 45617-45618.

there was a meeting in July 2000 in Monrovia that included all of the ECOWAS presidents and an RUF delegation led by Issa Sesay where it was proposed that Sesay take over as interim leader, and that there was a second meeting at Roberts International Airport in August 2000 which Presidents Taylor, Obasanjo, and Konaré attended to formalise Sesay's appointment as interim leader after receiving Foday Sankoh's consent.<sup>14588</sup>

6447. The Prosecution allegation that the Accused told Sesay that he should say he would disarm, but then "not do it in reality" is supported by TF1-338, who testified that Taylor told this to Sesay at a smaller meeting that took place in Monrovia immediately after the July meeting at around midnight and included the Accused, Sesay, and Augustine Gbao.<sup>14589</sup>

6448. When examined regarding TF1-338's evidence concerning the midnight meeting in Monrovia, the Accused denied that such a meeting took place. He also disputed that he would have told Sesay not to listen to the English elected presidents as several of the ECOWAS presidents were Francophone without strong ties to England, and because Liberia had nothing to gain if Sierra Leone did not disarm.<sup>14590</sup> Sesay disputed that the midnight meeting took place as well, and that Taylor was telling him one thing in front of the ECOWAS Heads of State, but another thing in private.<sup>14591</sup> The evidence of the Accused and Sesay supports the proposition that during the time of the July and August 2000 meetings, Sesay was enthusiastic about carrying out disarmament.<sup>14592</sup>

6449. In addition to the evidence concerning the meeting that allegedly took place in July 2000 in Monrovia, the Prosecution brought evidence through TF1-338 that Sesay delayed the disarmament process in certain areas because of "things that were happening", including repelling rebel attacks in Liberia. TF1-338 provided as an example that Taylor gave orders to Sesay to send fighters to Guinea, and that this was why "there was delay, the disarmament

<sup>14588</sup> TF1-338, Transcript 1 September 2008, pp. 15149-15150; Charles Ghankay Taylor, Transcript 18 August 2009, p. 27053; Transcript 19 August 2009, pp. 27159-27164, 27167-27171; Transcript 20 August 2009, p. 27272-27273; Issa Sesay, Transcript 26 July 2010, pp. 44548-44561.

<sup>14589</sup> TF1-338, Transcript 1 September 2008, pp. 15149-15150.

<sup>14590</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27193-27199.

<sup>14591</sup> Issa Sesay, Transcript 2 August 2010, pp. 45260-45262.

<sup>14592</sup> Charles Ghankay Taylor, Transcript 19 August 2009, p. 27212; Issa Sesay, Transcript 26 July 2010, pp. 44567-44569; Exhibit D-259, "Press Communique Issued by the Revolutionary United Front (RUF) following a meeting with H.E. Alpha Oumar Konaré, President of Mali and Chairman of ECOWAS, H.E. Olusegun Obasanjo, President of Nigeria, and H.E. Dahkpannah Dr Charles Ghankay Taylor, President of Liberia, August 21 2000"; Exhibit P-538 (confidential), ERN 25491.





in that area”.<sup>14593</sup> The operations in Guinea and Liberia with RUF support refute the argument of the Accused that Liberia had nothing to gain if Sesay did not disarm. He would call upon their fighters to help him in Guinea. Although Sesay disputed this evidence,<sup>14594</sup> the Trial Chamber recalls its finding, based in part on TF1-338’s evidence, that in 2000 and 2001 the Accused instructed Issa Sesay to send RUF forces, who fought alongside AFL forces in Liberia and Guinea under the command of the Accused’s subordinates.<sup>14595</sup>

6450. In a related vein, the Prosecution also presented the evidence of TF1-375, who testified that when Sesay entered Liberia in 2002, he heard Benjamin Yeaten call Sesay and ask whether it was true that he was “turning [his] guns over to the UN peacekeeping force” and Sesay replied that “[we] don’t have any objective but to disarm”. TF1-375 then heard Yeaten tell Sesay that Taylor told him to strongly advise Sesay not to disarm because if he did, it would not be good for them in Liberia.<sup>14596</sup> TF1-375 went on to testify that he heard Benjamin Yeaten say that when “these people” were crossing into Liberia hoping for asylum, that “[w]e had told them before that they should not disarm and that they would encounter problems, but they did not listen to us”. TF1-375 then testified that Yeaten said to him directly that he had told Sesay and others not to disarm, so if they were having problems that “they were not responsible”.<sup>14597</sup> The Trial Chamber recalls that TF1-375’s evidence must be considered with caution and cannot be relied upon without corroboration.<sup>14598</sup>

6451. TF1-375 suggests that although Taylor may have advised Sesay not to disarm, Sesay may have been reluctant to follow his advice. TF1-371 testified that Mike Lamin attended a meeting in 2001 with the Accused, Sesay, and Morris Kallon where the Accused had a discussion with Sesay concerning his progress in disarming the RUF, and asked him whether he trusted the process.<sup>14599</sup>

6452. TF1-338 also testified that in mid-2001, after Sesay’s meeting to discuss the disarmament of child soldiers, that Sesay said Taylor asked him whether it would be safe for

<sup>14593</sup> TF1-338, Transcript 1 September 2008, pp. 15556-15557.

<sup>14594</sup> Issa Sesay, Transcript 6 August 2010, pp. 45617-45618.

<sup>14595</sup> Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Operations Outside Sierra Leone.

<sup>14596</sup> TF1-375, Transcript 24 June 2008, p. 12691.

<sup>14597</sup> TF1-375, Transcript 24 June 2008, p. 12765 (PS).

<sup>14598</sup> Credibility Assessment, TF1-375, paras 308-312.

<sup>14599</sup> TF1-371, Transcript 29 January 2008, pp. 2454-2455 (CS).

the RUF to disarm, and “advised him not to disarm at all” because the UN would be nice “to you today and tomorrow they would turn around and arrest you...”. The evidence suggests that the Accused was calling on Sesay to question the disarmament process. TF1-338 recounted that on the way back Sesay complained to the commanders he was travelling with that he would no longer take instructions from Taylor telling him to disarm, as Taylor and Liberia were living in peace, and Sesay believed that disarmament would also bring peace to Sierra Leone.<sup>14600</sup> Sesay disputed that this conversation occurred.<sup>14601</sup>

6453. The Prosecution also brought evidence through TF1-338 that in late 2000 into 2001, Sesay made four trips to Monrovia in which he gave Taylor diamonds and then left Monrovia via helicopter with supplies.<sup>14602</sup> Although Sesay disputed this evidence,<sup>14603</sup> the Trial Chamber recalls its finding, based in part on TF1-338’s evidence, that the Accused supplied Issa Sesay with military equipment when he travelled to Liberia in the second half of 2000 and early 2001.<sup>14604</sup>

6454. Taking into consideration the ongoing provision of arms and ammunition by the Accused to Issa Sesay during this period, as well as the Accused’s own interest in keeping the RUF armed so that it could help him fight enemies in Liberia and Guinea, and recalling its finding that TF1-338 is a generally credible witness,<sup>14605</sup> the Trial Chamber accepts the evidence of TF1-338 that the Accused privately advised Sesay not to disarm.

### Findings

6455. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused privately advised Issa Sesay to resist disarmament in Sierra Leone.

### Summary of Findings

6456. The Trial Chamber has found that -

<sup>14600</sup> TF1-338, Transcript 2 September 2008, pp. 15175-15176.

<sup>14601</sup> Issa Sesay, Transcript 4 August 2010, pp. 45329-45332.

<sup>14602</sup> TF1-338, Transcript 2 September 2008, pp. 15161-15172.

<sup>14603</sup> Issa Sesay, Transcript 26 July 2010, p. 44563; Transcript 2 August 2010, pp. 45282-45283, 45289-45292, 45311-45313.

<sup>14604</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused, During Issa Sesay’s Leadership (December 1999-January 2002).

<sup>14605</sup> Credibility Assessment, TF1-338, paras 318-329.

- (i) The Prosecution has proved beyond reasonable doubt that during a radio conversation with Foday Sankoh, the Accused advised the RUF leader to send an External Delegation to Côte d'Ivoire. In Côte d'Ivoire, the delegates met Musa Cissé, an NPFL representative, who allowed them to use his radio for communications with Sankoh.
- (ii) The Prosecution has proved beyond reasonable doubt that the Accused, through contact with Musa Cissé, invited members of the External Delegation to Liberia, where he met them twice in 1995. In December 1995 the Accused met members of the External Delegation in Côte d'Ivoire on the occasion of the publication "Footpaths to Democracy", at which time he gave them CFA 10 million francs for their maintenance.
- (iii) The Prosecution failed to prove beyond reasonable doubt that the trip by members of the External Delegation to Accra at the invitation of the Accused was made in order to facilitate contacts for arms deals.
- (iv) The Prosecution has proved beyond reasonable doubt that the Accused instructed Foday Sankoh to attend the Abidjan peace negotiations in order to obtain arms and ammunitions for the RUF.
- (v) The Prosecution failed to prove beyond reasonable doubt that Foday Sankoh used the contacts of the Accused to obtain arms and ammunition for the RUF during the Abidjan peace process.
- (vi) The Prosecution failed to prove beyond reasonable doubt that the Accused improperly provided assistance and advice to the AFRC/RUF before and during the Lomé negotiations so as to facilitate an outcome most favourable to the AFRC/RUF and himself.
- (vii) The Prosecution has proved beyond reasonable doubt that while publicly promoting peace at the Lomé negotiations, the Accused was privately providing arms and ammunition to the RUF.
- (viii) The Accused used his influence with both Johnny Paul Koroma and Foday Sankoh to facilitate the release of the UN peacekeepers and others who had been taken captive by the West Side Boys, and to bring the AFRC and



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RUF leaders together to reduce tension between the RUF and the AFRC following the Lomé Peace Accord, with the knowledge of the UN and ECOWAS.

- (ix) The Accused had significant influence over Issa Sesay's decision to release the UNAMSIL peacekeepers, and that he was asked by ECOWAS to become involved in negotiations for their release.
- (x) The Prosecution failed to prove beyond reasonable doubt that the arms and ammunition Issa Sesay obtained from the Accused during Sesay's trip to Liberia in May 2000 were provided in exchange for Issa Sesay agreeing to release the UNAMSIL peacekeepers.
- (xi) The Prosecution has proved beyond reasonable doubt that the Accused privately advised Issa Sesay to resist disarmament in Sierra Leone.

#### Conclusion

6457. The Trial Chamber has considered the role of the Accused in the peace process and the Defence contention that his involvement with the RUF/AFRC was solely for the purpose of promoting peace.

6458. The Trial Chamber has found that during a radio conversation with Foday Sankoh, following the attack on Sierra Rutile in 1994, the Accused advised the RUF leader to send an External Delegation to Côte d'Ivoire. In Côte d'Ivoire, the delegates met Musa Cissé, an NPFL representative, who allowed them to use his radio for communications with Sankoh. The Accused, through contact with Musa Cissé, invited members of the External Delegation to Liberia, where he met them twice in 1995. In December 1995 he met members of the External Delegation in Cote d'Ivoire on the occasion of the publication "Footpaths to Democracy", at which time he gave them CFA 10 million francs for their maintenance. The evidence was insufficient to establish that the trip by members of the External Delegation to Accra in 1995 at the invitation of the Accused was made in order to facilitate contacts for arms deals.

6459. The Accused instructed Foday Sankoh to participate in the Abidjan peace talks from March to November 1996 in order to obtain ammunition and materiel for the RUF. The evidence established that while in Abidjan, Sankoh obtained arms and ammunition for the

RUF. However, the evidence was insufficient to establish that Sankoh used contacts of the Accused to obtain arms and ammunition in Abidjan.

6460. The Accused played an active role in the Lomé peace negotiations, which role the Prosecution alleged to be subversive, suggesting that the Accused improperly assisted and instructed the RUF before and during the negotiations so as to procure the most favourable outcome for AFRC/RUF and himself. The Trial Chamber did not find this to be the case in the absence of evidence of improper actions during the negotiations or evidence that the Accused controlled the RUF delegation or dictated the outcome of the negotiations. However, the evidence established that the Accused was engaged in arms transactions at the same time that he was involved in the peace negotiations in Lomé, publicly promoting peace at the Lomé negotiations, while privately providing arms and ammunition to the RUF.

6461. Following the Lomé Peace Accord, discontent with the apparent exclusion of the AFRC from the process, the so-called West Side Boys kidnapped UN peacekeepers and others and demanded to talk to, and then see, Johnny Paul Koroma. The Accused made arrangements to bring Koroma to Monrovia, including negotiating a waiver of the UN travel ban, and facilitating several meetings, thereby playing a central role in bringing Koroma and Sankoh together and achieving a reduction in the tension between the RUF and the AFRC. The evidence establishes, as the Accused contends, that the UN and ECOWAS Heads of State knew about his public role in the negotiations. The influence of the Accused with both Koroma and Sankoh made him a significant actor in the process and helped to facilitate the release of the UN peacekeepers and others who had been taken captive by the West Side Boys.

6462. In late April or early May 2000, the RUF forcibly disarmed and detained a group of approximately 500 UNAMSIL peacekeepers in Sierra Leone. The Accused was asked by ECOWAS to become involved in the negotiations for the release of these hostages, and his mandate was endorsed by the UN. Thereafter, the Accused invited Issa Sesay to Monrovia to discuss the matter of their release. After this meeting, from about the middle to the end of May 2000 the RUF released the captured UNAMSIL peacekeepers into Liberian territory in stages. The Trial Chamber has found that the Accused had significant influence over the RUF decision to release the UNAMSIL peacekeepers, and that in his meeting concerning the release of the peacekeepers with Issa Sesay he promised assistance "in the struggle". While the Trial Chamber has found that Issa Sesay made a trip to Liberia in May 2000 in which he



obtained arms and ammunitions from the Accused, the evidence was insufficient to establish that this materiel was provided in exchange for Issa Sesay agreeing to release the UNAMSIL peacekeepers.

6463. In July 2000, a meeting was convened in Monrovia to discuss the selection of new leadership for the RUF following Sankoh's imprisonment. The meeting was attended by all of the ECOWAS heads of state and an RUF delegation led by Issa Sesay where it was proposed that Sesay take over as interim leader of the RUF. In another meeting late that night, the Accused privately advised Issa Sesay to say that he would disarm but "not do it in reality". At that time, the Accused was supplying Sesay with arms and ammunition, and also calling on the RUF to send forces to help him fight his own enemies together with the AFL in Liberia and in Guinea.

## I. Leadership and Command Structure

### 1. Accused Relationship with the RUF/AFRC

6464. The Prosecution alleges that Taylor played a critical, authoritative role *vis a vis* the RUF. It submits that from the beginning and throughout his association with the RUF and later the AFRC/RUF, Taylor was the ultimate authority, the overall leader, the one who truly created and sustained his proxy forces, the RUF and later the AFRC/RUF. These proxy forces rightly referred to Taylor as “Chief” or “Commander in Chief”, “Father” or “Papay/Pa” or “Godfather” accurately reflecting his central role in the life of the RUF and later the AFRC/RUF and his overall control of these his surrogate forces in Sierra Leone.<sup>14606</sup>

6465. The Defence contends that the Prosecution’s allegation is unclear and inconsistent with its previous allegation of a Joint Criminal Enterprise (JCE) between the Accused and the RUF based on an equal and mutually beneficial relationship. The Defence further submits that the evidence fails to establish a superior/subordinate relationship in that there is no indication of Taylor’s effective control over the RUF, the Junta or the AFRC/RUF.<sup>14607</sup>

#### Preliminary Remarks

6466. The Trial Chamber recalls that a significant part of the entire evidence adduced by both the Prosecution and the Defence is relevant to Taylor’s relationship with the RUF and later the AFRC/RUF. Thus, Taylor’s role *vis a vis* the RUF and later the AFRC/RUF can only be assessed by examining the entirety of the evidence. The following parts of this section are only those which have not been considered previously in the Judgement. However, in making its conclusion regarding Taylor’s relationship *vis a vis* the RUF and AFRC/RUF, the Trial Chamber has considered the evidence in its entirety and all the findings made in the other parts of the Judgement.

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<sup>14606</sup> Prosecution Final Trial Brief, paras. 1, 48, 51-58, 60, 115, 139

<sup>14607</sup> Defence Final Trial Brief paras. 1230-1258

(a) Foday SankohSubmissions of the Parties

6467. The Prosecution alleges that toward the end of 1996, Sankoh made it clear that in his absence, Bockarie should take orders from Taylor. According to the Prosecution, AFRC/RUF leaders from Foday Sankoh to Issa Sesay and Johnny Paul Koroma all regarded Charles Taylor as their “boss”, “senior brother” or “chief”. The Prosecution submits that immediately after his arrest in March 1997,<sup>14608</sup> Sankoh reiterated to Bockarie that in his absence, Bockarie should take instructions from Charles Taylor, and that Bockarie indicated he would obey that order and did follow that instruction before, during, and after the Junta took power in Sierra Leone in May 1997.<sup>14609</sup> The Prosecution relies on the evidence of Karmoh Kanneh, TF1-338, and Augustine Mallah in support of these allegations.

6468. The Defence challenges Mallah’s allegation that after Sankoh’s arrest in Nigeria, Sankoh used Musa Cissé’s radio to send a message to Bockarie instructing him to take advice and orders from the Accused during the period of Sankoh’s incarceration in Nigeria. The Defence submits that, as the RUF had its own radio base and operators in Côte d’Ivoire in 1997, there would have been no need for Foday Sankoh to use Musa Cissé’s radio to relay a message.<sup>14610</sup> The Defence submits that Mallah’s evidence that Sam Bockarie should take instructions from the Accused should “be dismissed in much the same way that Mallah’s other alleged overheard conversations between the two estranged leaders during the long period when everyone else says they had fallen out”.<sup>14611</sup> The Defence relies on the evidence of the Accused and Issa Sesay, and Fayia Musa provided relevant evidence.

EvidenceProsecution Witness Karmoh Kanneh

6469. Witness Karmoh Kanneh, an RUF commander, testified that shortly after the Abidjan Peace Accord was signed, Foday Sankoh called a meeting for RUF officers and soldiers in Giema. The witness attended this meeting and heard Foday Sankoh tell those

<sup>14608</sup> The Prosecution in fact states “March 1998” but this is assumed to be an error.

<sup>14609</sup> Prosecution Final Trial Brief, para. 55.

<sup>14610</sup> Defence Final Trial Brief, para. 993.

<sup>14611</sup> Defence Final Trial Brief, para. 454.

assembled that he had signed the peace process in the interest of the movement. Sankoh also promoted Kanneh to Captain, and promoted Bockarie to Colonel. Sankoh then told Issa Sesay to assemble all the senior officers at his home for an officers' meeting. Those present included Bockarie, Sesay, Daniel Tamba (a.k.a. Jungle), "Abubakar", Francis Oscar Charles (a.k.a. FOC), Jackson Swaray, and other commanders.

6470. Sankoh gave Bockarie a satellite phone, and said that all commanders should take orders from Bockarie while Sankoh was away on a political tour, and that Bockarie should take instructions from the Accused. Sankoh then introduced Tamba to the commanders as a representative of the Accused.<sup>14612</sup>

Prosecution Witness TF1-338

6471. Witness TF1-338, an RUF member, testified that after Foday Sankoh was arrested in Nigeria in 1997, Daniel Tamba (a.k.a. Jungle) called Bockarie on the radio and said that Taylor had instructed him to give a message to Bockarie, which had been passed on to Taylor by Sankoh. Tamba said that Sankoh instructed that Bockarie be promoted, and that he should take all direct orders from Taylor until Sankoh returned from Nigeria.<sup>14613</sup>

Prosecution Witness Augustine Mallah

6472. Witness Augustine Mallah, an RUF security officer, testified that while he was in Danané, Côte d'Ivoire, a man known as Action Man, an NPFL radio operator who worked for Musa Cissé, invited the witness to Cissé's house approximately two days after Sankoh had been arrested in Nigeria. At Cissé's house, Action Man told the witness that he had been in radio communication with Sankoh, who had asked Action Man to contact Bockarie and to establish a direct radio link between Sankoh and Bockarie so that Sankoh could communicate instructions to Bockarie.<sup>14614</sup>

6473. The following night, Mallah again went to Musa Cissé's house, this time with CO Brown, and saw Action Man contact Bockarie by radio. The witness testified that he heard Sankoh's voice over the radio, and that Sankoh instructed Bockarie to stop dealing with Fayia Musa and others and instead to take advice and orders from the Accused in Liberia

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<sup>14612</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9353-9359.

<sup>14613</sup> TF1-338, Transcript 1 September 2008, pp. 15114-15116.

<sup>14614</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20125-20127.



during the period of Sankoh's incarceration in Nigeria.<sup>14615</sup> He then heard Bockarie say that he would accept these instructions.<sup>14616</sup>

### The Accused

6474. The Accused denied that he was receiving messages from Foday Sankoh while the latter was incarcerated in Nigeria. The Accused testified that Sankoh would not have needed his services to relay messages to Sierra Leone, as Sankoh's guesthouse in Côte d'Ivoire was equipped with facilities for the RUF to communicate with Sierra Leone.<sup>14617</sup> The Accused also denied the allegation that he sent a message to Sam Bockarie through Daniel Tamba (a.k.a. Jungle). The Accused testified that he had never known Tamba, and that he heard this name for the first time in court.<sup>14618</sup> The Accused asserted that he was not in communication with Sankoh or Bockarie after Sankoh's arrest in Nigeria, and that he was not involved in any RUF promotions.<sup>14619</sup>

### Defence Witness Issa Sesay

6475. Witness Issa Sesay testified that two RUF radio operators remained in Côte d'Ivoire after Foday Sankoh's arrest. When Sankoh wanted to communicate with Sam Bockarie in Sierra Leone, he would telephone either Daniel Tamba (a.k.a. Jungle) or "Pa Kallon" at Sankoh's house in Abidjan and leave a message for Bockarie. Memunatu Deen, Sankoh's radio operator in Abidjan, would then communicate the message to Bockarie in Sierra Leone.<sup>14620</sup>

6476. Sesay testified that Sankoh promoted several RUF members through a message sent in this way: Bockarie was promoted to Field Commander, Mike Lamin became a Colonel, Denis Mingo became a Colonel, Isaac Mongor a Colonel, and Issa Sesay a Lieutenant Colonel. Sankoh made no mention of Taylor in this message, nor did he direct that Bockarie should take instructions from Taylor, but told Bockarie to take instructions from Johnny

<sup>14615</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20125-20127.

<sup>14616</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20127-20128.

<sup>14617</sup> Charles Ghankay Taylor, Transcript 28 October 2009, pp. 30530-30532.

<sup>14618</sup> Charles Ghankay Taylor, Transcript 14 September 2009, p. 28717; Transcript 28 October 2009, p. 30530.

<sup>14619</sup> Charles Ghankay Taylor, Transcript 2 November 2009, pp. 30859-30860; Transcript 28 October 2009, pp. 30530-30532.

<sup>14620</sup> Issa Sesay, Transcript 6 July 2010, pp. 43736-43737, 43768-43769.

Paul Koroma.<sup>14621</sup> Sesay was inconsistent on the time period in which Sankoh made these promotions, stating first that he sent the message after he was arrested in Nigeria, and then that he sent the message while he was still in Abidjan, before he was arrested.<sup>14622</sup>

6477. Sesay also stated that Tamba was a close friend of his, and was not a member of Taylor's special security forces in Liberia, nor did he work for Taylor. Tamba was a member of the RUF, and worked at Foday Sankoh's house in Abidjan in 1996.<sup>14623</sup> Sesay also testified that following his arrest, Sankoh used to communicate with Bockarie in Abidjan through telephone lines.<sup>14624</sup>

6478. Sesay denied Augustine Mallah's claim that Sankoh ordered Bockarie to take advice from Taylor over the radio at Musa Cissé's home in Danané. Sesay contends that in October 1996, Mallah was in Liberia with Mike Lamin, and therefore could not have been in Danané to hear that conversation.<sup>14625</sup>

#### Defence Witness Fayia Musa

6479. Witness Fayia Musa denied the veracity of Augustine Mallah's claim that he was present when Action Man connected Sankoh and Bockarie on the radio at Cissé's house in Côte d'Ivoire. First, Musa denied that Musa Cissé had a radio operator named "Action Man", stating that instead his operator was named "Cassell".<sup>14626</sup> Second, Musa stated that at the time of Sankoh's arrest, he had several other ways of communicating and did not need to use Cissé's radio. When Foday Sankoh arrived in Côte d'Ivoire in March 1996, he brought with him two radios and several radio operators, including Juliet Gbessy James, Martin Moinama, Menamutu Deen, Eddie Murphy, and Dauda Aruna Fornie (a.k.a "DAF"). One radio was set up at Phillip Palmer's house in Danané, and the other was in Abidjan at Sankoh's "Cocody house".<sup>14627</sup> The witness and other members of the Eexternal Delegation

<sup>14621</sup> Issa Sesay, Transcript 6 July 2010, pp. 43776-43779, 43800; 2 August 2010, pp. 45184-45185.

<sup>14622</sup> Issa Sesay, Transcript 17 August 2010, pp. 46528-46532

<sup>14623</sup> Issa Sesay, Transcript 2 August 2010, pp. 45183-45184; Transcript 6 July 2010, p. 43801-43806, 43809.

<sup>14624</sup> Issa Sesay, Transcript 6 July 2010, p. 43797.

<sup>14625</sup> Issa Sesay, Transcript 12 August 2010, p.46132-46133; Transcript 17 August 2010, p. 46524.

<sup>14626</sup> Fayia Musa, Transcript 21 April 2010, p. 39565.

<sup>14627</sup> Fayia Musa, Transcript 14 April 2010, pp. 39010-39011; Transcript 21 April 2010, pp. 39566-39567.

had good relationships with the RUF operators in Abidjan, and none of them told him of a message from Sankoh to Bockarie that he should take orders from Taylor.<sup>14628</sup>

### Deliberations

6480. Prosecution Witnesses Karmoh Kanneh, TF1-338, and Augustine Mallah each testified that Foday Sankoh conveyed a message to Sam Bockarie that he should take orders from the Accused. Kanneh testified that this message was conveyed shortly after the Abidjan Peace Accord was signed, at a meeting that he attended of RUF officers in Giema. Mallah testified that a few days after Sankoh's detention in Nigeria, in 1997, he heard this message conveyed through a radio conversation between Sankoh and Bockarie, via Musa Cissé's radio. TF1-338 testified that this communication occurred while Sankoh was in detention in Nigeria in the beginning of 1997. According to TF1-338, Daniel Tamba (a.k.a. Jungle) relayed the message to Bockarie over the radio, stating that the instruction had come from Sankoh to Taylor, and then to Tamba.

6481. Kanneh testified to having heard Sankoh tell Bockarie directly that he should take instructions from the Accused while he was away. The Trial Chamber recalls its finding that Kanneh is a generally credible witness.<sup>14629</sup> TF1-338, also found by the Trial Chamber to be a credible witness,<sup>14630</sup> testified that Sankoh gave this instruction after he had been arrested. The Trial Chamber notes that TF1-338 did not mention the earlier instruction in his testimony, but the Trial Chamber does not find that this undermines the credibility of Kanneh's account. It is unclear from TF1-338's testimony whether he was in the room when the radio message between Tamba and Bockarie transpired, and the Trial Chamber notes that his evidence that Sankoh gave these instructions to Bockarie came from Tamba, who received it from Taylor. Nevertheless, the content of the message delivered is consistent with the content of the message about which Mallah testified. Mallah testified that he was present and heard Sankoh tell Bockarie over the radio to take orders from Taylor. The Trial Chamber recalls its finding that Mallah is a generally credible witness.<sup>14631</sup> These three directives, delivered at different times and in different manners, all convey the same message, that Bockarie was to take orders from the Accused.

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<sup>14628</sup> Fayia Musa, Transcript 21 April 2010, p. 39568.

<sup>14629</sup> Credibility Assessment, Karmoh Kanneh, The Role of Intermediaries, para. 2704.

<sup>14630</sup> Credibility Assessment, TF1-338, paras 318-329.

<sup>14631</sup> Credibility Assessment, Augustine Mallah, Pre-Indictment Period (1988-1996), para. 2522.

6482. The Trial Chamber considers that the three messages testified to by Kanneh, TF1-338 and Mallah, respectively, are mutually corroborative. Prior to his departure Sankoh instructed his men on an interim delegation of authority during his absence on a political tour. Once he was arrested, Sankoh reiterated the delegation of authority to cover his time in detention. He informed both Bockarie and Taylor, Mallah's testimony describing his communication with Bockarie, and TF1-338 describing his communication with Taylor, who then passed the message to Bockarie.

6483. The Defence challenges the credibility of Mallah's account by offering evidence that Sankoh had other means of communicating this message to Bockarie, such as through Sankoh's own operators in Côte d'Ivoire. The Trial Chamber finds, however, that Sankoh's access to other operators does not negate the evidence that Sankoh communicated instructions via Musa Cissé's operator as well. Issa Sesay testified that in October 1996, Mallah was in Liberia with Mike Lamin and therefore could not have been in Côte d'Ivoire to hear this conversation. The Trial Chamber recalls, however, that Mallah testified that this incident occurred two days after Sankoh's arrest, which took place in March 1997.<sup>14632</sup> Finally, Sesay testified that Musa Cissé's radio operator was named "Cassell", and not "Action Man". The Trial Chamber notes, however, that Prosecution Witness TF1-168 testified to Cissé having two operators, Cassell and Action Man.<sup>14633</sup>

6484. The Trial Chamber recalls its finding that the testimony of Issa Sesay must be treated with caution.<sup>14634</sup> In light of the aforementioned evidence, the Trial Chamber does not find his testimony that Sankoh told Bockarie to take instructions from Johnny Paul Koroma to be credible, nor does it find the denials of the Accused to be credible.

### Findings

6485. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that before he left Sierra Leone on a political tour, and following his arrest in Nigeria in March 1997, Sankoh instructed Bockarie to take orders from the Accused.

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<sup>14632</sup> See Exhibit P-078, "Sierra Leone 1998, A Year of Atrocities Against Civilians, Amnesty International Report", p. 2; Fayia Musa, Transcript 15 April 2010, p. 39098; Issa Sesay, Transcript 6 July 2010, p. 43737. This incident therefore allegedly also occurred in March 1997

<sup>14633</sup> TF1-168, Transcript 22 January 2009 p. 23262.

<sup>14634</sup> Credibility Assessment, Issa Sesay, paras 359-372.





(b) Junta PeriodSubmissions of the Parties

6486. It is undisputed that the AFRC seized power from the elected government of Sierra Leone in a coup d'état on 25 May 1997, and Johnny Paul Koroma became the leader and chairman of the AFRC.<sup>14635</sup> Shortly after the AFRC seized power, Foday Sankoh ordered the RUF to join the AFRC in governing Sierra Leone.<sup>14636</sup> As the founders of the AFRC belonged to the Sierra Leonean Army and had therefore been fighting the RUF since 1991, the coalition between the two factions was not based on longstanding common interests, but both factions officially declared that they were joining forces to bring peace and political stability to Sierra Leone. On approximately 14 February 1998, ECOMOG ousted the AFRC/RUF Junta government from power.<sup>14637</sup>

6487. The Prosecution submits that the Accused realized the importance of a strong AFRC/RUF alliance in achieving the ultimate objectives of pillaging the resources, in particular the diamonds, and controlling the people and territory of Sierra Leone. The Accused believed that the RUF would have a better position if it forged and maintained an alliance with the AFRC than if the AFRC became yet another force against which the RUF must fight.<sup>14638</sup>

6488. According to the Prosecution, Taylor was instrumental in creating and maintaining a viable and strong AFRC/RUF alliance during and after the Junta period. During the Junta, Taylor remained informed of the situation on the ground in Sierra Leone, including with regard to the movement of troops and progress at the front lines, via communications between his radio operators in Liberia and AFRC/RUF operators. This, the Prosecution alleges, enabled Taylor to continue to take informed action to keep the alliance functional.<sup>14639</sup>

<sup>14635</sup> Joint Filing by the Prosecution and Defence: Admitted Facts and Law, Nos. 17 and 18.

<sup>14636</sup> Joint Filing by the Prosecution and Defence: Admitted Facts and Law, No. 30. *See also* Defence Final Trial Brief para. 581; Samuel Kargbo, Transcript 21 May 2008 pp. 10441-10442; Alimamy Bobson Sesay, Transcript 17 April 2008 pp. 7872-7873; Jabaty Jaward, Transcript 9 July 2008 pp. 13338-13339; Perry Kamara, Transcript 5 February 2008 pp. 3086-3087; Foday Lansana, Transcript 21 February 2008 pp. 4491-4492; Issa Sesay, Transcript 18 August 2010 pp. 46540-46541.

<sup>14637</sup> Decision on the Prosecution Motion for Judicial Notice, Fact AD.

<sup>14638</sup> Prosecution Final Trial Brief, paras. 115, 139, 185.

<sup>14639</sup> Prosecution Final Trial Brief, para. 185.





6489. The Prosecution submits that the main reason AFRC leaders requested the RUF to join them was to bring Taylor on their side, and for that they needed the RUF. According to the Prosecution, it was the RUF that provided Johnny Paul Koroma with the contact number for Taylor, and Taylor was one of the first contacts Koroma made after taking over as Chairman of the Junta government. After the call to Taylor, Koroma relayed the conversation with Taylor to his men, saying that Taylor said he accepted the AFRC/RUF alliance, and advised Koroma to work as a team with the RUF. Taylor indicated his control over the RUF, telling Koroma that if the AFRC had any problems with the RUF, Koroma should call him.<sup>14640</sup> The Prosecution further alleges that Taylor “reorganized” the Junta Government and agreed to act as an “ambassador” or “advocate” for them in relation to ECOWAS.<sup>14641</sup>

6490. The Defence denies that the AFRC invited the RUF to join the government in order to get to Taylor, stating that the AFRC did so in order to “foster peace”.<sup>14642</sup> The Defence further denies that Foday Sankoh provided Taylor’s phone number to Koroma, or that Taylor spoke to Koroma, saying that he first spoke to him in 1999.<sup>14643</sup> The Defence denied that Taylor told Koroma that if there were any problems between the two groups they should call Taylor,<sup>14644</sup> that he encouraged the two groups to work together,<sup>14645</sup> or that Taylor controlled the Junta.<sup>14646</sup> The Defence further denied that Taylor recognised the Junta, and noted that Taylor was not President of Liberia when the RUF joined the AFRC.<sup>14647</sup> After Taylor was inaugurated President and joined ECOWAS, the Defence contends, Taylor followed ECOWAS’s prohibition on recognising the Junta, and agreed with the decision to return President Kabbah to power.<sup>14648</sup> The Defence denies that, as the Prosecution alleges, the RUF and AFRC functioned cordially, and contends that the AFRC/RUF alliance was not unified,<sup>14649</sup> and denies that Taylor was in communication with the Junta either through

<sup>14640</sup> Prosecution Final Trial Brief, para. 186.

<sup>14641</sup> Prosecution Final Trial Brief, paras 187-188.

<sup>14642</sup> Defence Response to Prosecution Final Trial Brief, para. 106.

<sup>14643</sup> Defence Final Trial Brief, paras 366, 860; Defence Response to Prosecution Final Trial Brief, para. 105.

<sup>14644</sup> Defence Final Trial Brief, paras 366, 860; Defence Response to Prosecution Final Trial Brief, para. 105.

<sup>14645</sup> Defence Final Trial Brief, paras 843, 851, 854, 1243.

<sup>14646</sup> Defence Final Trial Brief, paras 1241-1243.

<sup>14647</sup> Defence Final Trial Brief, paras 366, 851-852, 854, 856; Defence Response to Prosecution Final Trial Brief, para. 105.

<sup>14648</sup> Defence Final Trial Brief, paras 855-859.

<sup>14649</sup> Defence Final Trial Brief, para. 842; Defence Response to Prosecution Final Trial Brief, paras. 107-111.

communications equipment or alleged intermediaries such as Ibrahim Bah.<sup>14650</sup> Finally, the Defence contends that had Bockarie been in contact with Taylor prior to the Junta period, as the Prosecution alleges, the AFRC/RUF's struggles to gain acceptance from Taylor after the coup d'etat would be unbelievable.<sup>14651</sup>

## Evidence

### Prosecution Witness Samuel Kargbo

6491. Witness Samuel Kargbo, a former SLA and member of the AFRC Supreme Council,<sup>14652</sup> testified that after the AFRC coup, the AFRC government was not recognized by the international community, although they were recognised by Niger, Burkina Faso and Libya. They therefore discussed asking the RUF for their support, manpower and contacts. They knew that the RUF had contact with Taylor, who was the RUF's "godfather", and they needed the RUF to have Taylor on their side.<sup>14653</sup>

6492. One to two weeks after the AFRC had taken power, Johnny Paul Koroma called Foday Sankoh, in the presence of the witness, from a landline phone in the office of the Chief of Defence Staff in the Defence Headquarters in Cockerill. Koroma told Sankoh that he would like the RUF to join forces with the AFRC, because the Kamajors were fighting alongside the Nigerians and the soldiers and officers wanted peace. Koroma then told those present that Sankoh promised him that the RUF would join the AFRC, and that he would send them someone who would come to meet with them. Within 48 or 72 hours the RUF joined the AFRC, when Gibril Massaquoi met with the "supreme members" and the chairman in Cockerill. Massaquoi told them that he was an RUF member and that he was sent by his leader, Foday Sankoh.<sup>14654</sup>

6493. Massaquoi told the witness that he brought with him phone numbers to give to Koroma for Taylor, President Mainassara of Niger, President Blaise Compaoré of Burkina

<sup>14650</sup> Defence Final Trial Brief, paras 855, 860-861.

<sup>14651</sup> Defence Final Trial Brief, para. 1244.

<sup>14652</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10421-10423, 10433-10440; Transcript 2 June 2008, p. 10717; Transcript 3 June 2008 pp. 10852-10854.

<sup>14653</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10440-10442; Transcript 22 May 2008, pp. 10512-10513; Transcript 2 June 2008 p. 10669.

<sup>14654</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10440-10442; Transcript 22 May 2008, pp. 10512-10513; Transcript 2 June 2008 pp. 10664-10667, 10734.

Faso, and President Mohamed Gaddafi of Libya.<sup>14655</sup> About 48 hours after Massaquoi arrived in Cockerill, Koroma ordered his control officer Banja Marrah to dial a number. Banjah made the call and handed the phone over to Koroma. Koroma then spoke on the phone and asked for recognition from Taylor in Liberia. Those present in the room during the conversation, including the witness, could not hear the other side of the conversation, but heard Koroma saying “Yes, sir. Yes, sir. We need a [sic] recognition” and other things the witness could not recall. After the call, Koroma said that he had spoken with Taylor and asked for Taylor’s recognition and that Taylor had advised them to “work with other brothers who had come to join us”, meaning the RUF, and Koroma said that this would not be a problem. Taylor also told Koroma that in case of any “hiccups”, problems between the AFRC and the RUF, Koroma should call him.<sup>14656</sup>

6494. After this phone call, the witness and the Supreme Council were present when Koroma called Presidents Mainassara, Compaoré, and Gaddafi. Koroma then told those present that all of them said that they were ready to assist them.<sup>14657</sup> The calls lasted for about an hour, and the longest call was with Taylor.<sup>14658</sup>

6495. Kargbo also testified that at some point before 19 July 1997, Koroma called Taylor on the telephone in a meeting of the Supreme Council, at which Kargbo was not present, to discuss Koroma sending a delegation to Taylor in Liberia. In a second meeting at which Kargbo was present, Koroma told the delegation that they should take a letter he had written to Taylor asking him to recognise the AFRC government.<sup>14659</sup> The delegation was headed by SYB Rogers and included Mike Lamin, AK Sesay and Colonel Charles Conteh, among others.<sup>14660</sup> The delegation travelled to Monrovia, and then went from Liberia on to Niger,

<sup>14655</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10442; Transcript 2 June 2008 p. 10672.

<sup>14656</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10443-10446; Transcript 22 May 2008, pp. 10512-10513; Transcript 2 June 2008 pp. 10666-10668, 10671-10672, 10738.

<sup>14657</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10446-10447; Transcript 2 June 2008 p. 10737.

<sup>14658</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10447.

<sup>14659</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10453-10454; Transcript 2 June 2008 pp. 10704-10707. *See* Samuel Kargbo, Transcript 2 June 2008 p. 10684 (testifying that this delegation led by SYB Rogers travelled to Liberia before 19 July, 1999).

<sup>14660</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10453-10455; Transcript 2 June 2008 pp. 10704-10708.

Libya and Burkina Faso.<sup>14661</sup> It was through this meeting that the Junta received formal recognition by the Government of Liberia.<sup>14662</sup>

6496. The witness stated that there were several phone calls between Koroma and Taylor during this time period. After the first delegation went to Liberia, Koroma told another Supreme Council meeting that Kargbo attended that he was sending a second delegation to Liberia led by Mike Lamin of the RUF, Lieutenant-Colonel Fonti Kanu of the AFRC and General Ibrahim Bah to purchase arms and ammunition for the Junta.<sup>14663</sup> Between 48 and 78 hours later,<sup>14664</sup> a delegation headed by Mike Lamin and including Fonti Kanu, and General Ibrahim<sup>14665</sup> travelled to Liberia<sup>14666</sup> and between one and two weeks later an arms shipment arrived by plane at Magburaka.<sup>14667</sup>

6497. Kargbo confirmed that he was present at the first meeting of the AFRC held on 19 July 1997.<sup>14668</sup> He testified that before this meeting, Tamba Gborie travelled to Abidjan to meet with ECOWAS leaders so as to “know how to solve the problems between [the AFRC] and the SLPP government”.<sup>14669</sup> The witness stated ECOWAS leaders were refusing to recognise the Junta government, excepting Liberia, Burkina Faso and Niger, which did recognise the Junta.<sup>14670</sup> At this first meeting of the AFRC, the members discussed the recognition by these foreign governments of their regime, but this discussion was not written in the minutes of the meeting because it was secret.<sup>14671</sup> He then stated that with his testimony in this trial, he was the first person to reveal this secret recognition by these foreign governments.<sup>14672</sup> The witness testified that the countries wanted to keep this a secret

<sup>14661</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10455-10456.

<sup>14662</sup> Samuel Kargbo, Transcript 2 June 2008, pp. 10668, 10685.

<sup>14663</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10455-10459, 10477; Transcript 2 June 2008 pp. 10704-10708.

<sup>14664</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10458.

<sup>14665</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10457.

<sup>14666</sup> Samuel Kargbo, Transcript 21 May 2008, p. 10478.

<sup>14667</sup> Samuel Kargbo, Transcript 21 May 2008, pp. 10458-10459; Transcript 2 June 2008, p. 10710.

<sup>14668</sup> Samuel Kargbo, Transcript 2 June 2008, pp. 10674-10675.

<sup>14669</sup> Samuel Kargbo, Transcript 2 June 2008, pp. 10681-10682.

<sup>14670</sup> Samuel Kargbo, Transcript 2 June 2008, pp. 10681-10682, 10684.

<sup>14671</sup> Samuel Kargbo, Transcript 2 June 2008, pp. 10686-10689.

<sup>14672</sup> Samuel Kargbo, Transcript 2 June 2008, pp. 10689-10690.





so that in public they could abide by ECOWAS rules, such as not allowing the Junta members to cross through Liberia, while in private they could support the Junta.<sup>14673</sup>

Prosecution Witness TF1-371

6498. Prosecution Witness TF1-371 testified that at the end of May 1997,<sup>14674</sup> he travelled to Monrovia and spent approximately one and a half weeks there.<sup>14675</sup> From there he crossed into Sierra Leone and travelled to Buedu.<sup>14676</sup> The next day, Bockarie sent a vehicle to collect the witness, and he travelled to Kenema where he met with Bockarie, Issa Sesay and Eddie Kanneh.<sup>14677</sup> Bockarie told the witness that he had been given instructions by Sankoh to join the AFRC, and that he was on his way to Freetown.<sup>14678</sup>

6499. When the witness arrived in Freetown in July, they had an emergency meeting of the AFRC at Cockerill military barracks because of a major invasion of Nigerian troops that had occurred.<sup>14679</sup> The meeting was about sending a delegation to Abidjan to participate in peace negotiations on the Sierra Leonean conflict organised by the ECOWAS Committee of Four.<sup>14680</sup> The meeting was not successful, however, because ECOWAS wanted the Junta to turn the government over to the democratically elected government of President Kabbah, which the Junta refused to do.<sup>14681</sup> The Foreign Minister of the government of Sani Abacha stated that it was useless to continue negotiating and they would be forced to take military action to eject the Junta from Sierra Leone.<sup>14682</sup>

6500. After the witness returned to Freetown, in August 1997, he received a call from Johnny Paul Koroma to report to his office. Koroma gave him a letter to be delivered by a delegation to Taylor, asking him to assist the AFRC in getting recognition within ECOWAS, and stating that they were fighting for this recognition because they were "besieged".<sup>14683</sup>

<sup>14673</sup> Samuel Kargbo, Transcript 2 June 2008, p. 10691.

<sup>14674</sup> TF1-371, Transcript 25 January 2008, pp. 2286-2287.

<sup>14675</sup> TF1-371, Transcript 25 January 2008, p. 228 (CS).

<sup>14676</sup> TF1-371, Transcript 25 January 2008, p. 2287(CS).

<sup>14677</sup> TF1-371, Transcript 25 January 2008, p. 2289-2291 (CS).

<sup>14678</sup> TF1-371, Transcript 25 January 2008, p. 2290 (CS).

<sup>14679</sup> TF1-371, Transcript 25 January 2008, p. 2292 (CS).

<sup>14680</sup> TF1-371, Transcript 25 January 2008, pp. 2293-2294 (CS).

<sup>14681</sup> TF1-371, Transcript 25 January 2008, pp. 2293-2294; TF1-371, Transcript 31 January 2008 p. 2781 (CS).

<sup>14682</sup> TF1-371, Transcript 25 January 2008, pp. 2293-2294 (CS).

<sup>14683</sup> TF1-371, Transcript 25 January 2008, p. 2300; TF1-371, Transcript 31 January 2008 pp. 2778-2780 (CS).



6501. When the delegation, headed by Karifa Smart, arrived in Monrovia they met with John T. Richardson, who was a member of Taylor's government, and Smart briefed Richardson on their mission in Monrovia. Richardson in turn got in touch with Moni Captan, the Liberian Foreign Minister who also met with the delegation.<sup>14684</sup> Captan said that he was also "disappointed" with the Kabbah government, and he would see what he could do to transmit the letter to Taylor. The delegation stayed in Monrovia for two days. Captan told the delegation that he had given the letter to Taylor, and that Taylor was very busy and could not meet with them, but he was willing with work with the ECOWAS committee to recognise the AFRC Junta. Captan said that Taylor had been in touch with Johnny Paul Koroma and they should return to Freetown, and that Taylor would send his deputy minister to pay their bills and escort them to the airport, which the deputy minister did the following morning.<sup>14685</sup>

6502. On their return to Freetown the delegation briefed Koroma on their trip, who stated he had already been in touch with Taylor and he assured Koroma he would work with them to get recognition.<sup>14686</sup> Following the meeting with Koroma, the witness went to see Sam Bockarie at his residence in Monrovia and briefed him on the trip. Bockarie told him that Ibrahim Bah was in town, and he wanted the witness to accompany him to meet Bah at his hotel. Bah told the witness that he was coming from Monrovia, where he had been told by Taylor to meet Koroma in order to help the Junta to get arms and ammunition.<sup>14687</sup> TF1-371 testified that the Accused was in control of the RUF in 1997, but that he did not control the Junta government.<sup>14688</sup>

#### Prosecution Witness Isaac Mongor

6503. Witness Isaac Mongor testified that the day after the AFRC coup d'etat he was in the bush, and he received an instruction from Sam Bockarie, which Bockarie said was from Sankoh, to leave there with his soldiers and join the AFRC in Freetown.<sup>14689</sup> Approximately

<sup>14684</sup> TF1-371, Transcript 28 January 2008, pp. 2303-2304 (CS).

<sup>14685</sup> TF1-371, Transcript 28 January 2008, pp. 2305-2306 (CS); TF1-371, Transcript 31 January 2008, pp. 2775-2778 (CS).

<sup>14686</sup> TF1-371, Transcript 28 January 2008, p. 2307 (CS).

<sup>14687</sup> TF1-371, Transcript 28 January 2008, p. 2308 (CS).

<sup>14688</sup> TF1-371, Transcript 1 February 2008, p. 2894 (CS).

<sup>14689</sup> Isaac Mongor, 10 March 2008, pp. 5698-5703.

one week later he and his men arrived in Freetown, and Mongor became a member of the Supreme Council.<sup>14690</sup>

6504. Mongor testified that he was present at a meeting at Bockarie's residence at Hill Station in Freetown at which Ibrahim Bah, whom Mongor knew to be an NPFL Special Forces fighter, said that Taylor sent him to ask the RUF to work together with the AFRC.<sup>14691</sup> Also present in the meeting were Issa Sesay, Morris Kallon, Foday Lansana (a.k.a. CO Nya,) Gibril Massaquoi and others.<sup>14692</sup>

6505. The RUF members were happy to hear this message, and took Bah to the residence of Johnny Paul Koroma to give him the same message. Koroma sent for other AFRC members including SO Williams, Gullit and Bazzy, after which Bah repeated the message from Taylor that the RUF and AFRC should "work hand in hand", a message that was "well received" by everyone present.<sup>14693</sup> Mongor testified that they were happy because they needed help, and believed Bah would be able to help them get ammunition. The RUF members told Bah that they agreed to work with the AFRC, and then Koroma and Bah held "a closed-door meeting", but the contents of these discussions were not disclosed to Mongor.<sup>14694</sup> Bah stayed the night, and then left Freetown.<sup>14695</sup> After this, Koroma would tell the Supreme Council that he was communicating with Taylor, and he told Mongor that he planned to travel to Liberia.<sup>14696</sup>

#### Prosecution Witness Albert Saidu

6506. Witness Albert Saidu, an RUF adjutant from 1991 to 2001,<sup>14697</sup> testified that during the Junta period problems sometimes erupted between the AFRC and RUF; the AFRC were former SLAs and the RUF former guerrillas and so the AFRC believed the RUF were not "fully-trained military personnel".<sup>14698</sup> In approximately April 1998, when Saidu was based in Koindu, he read a message in the radio logbook of the radio operator Selasie which came

<sup>14690</sup> Isaac Mongor, 10 March 2008, p. 5705.

<sup>14691</sup> Isaac Mongor, 10 March 2008, pp. 5702-5704; Transcript. 11 March 2008, pp. 5711-5712

<sup>14692</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5712-5713.

<sup>14693</sup> Isaac Mongor, Transcript. 11 March 2008, pp. 5712-5714.

<sup>14694</sup> Isaac Mongor, Transcript. 11 March 2008, pp. 5713-5715; Transcript 4 April 2008, pp. 6658-6659.

<sup>14695</sup> Isaac Mongor, Transcript. 11 March 2008, p. 5714.

<sup>14696</sup> Isaac Mongor, Transcript. 11 March 2008, p. 5717.

<sup>14697</sup> Albert Saidu, Transcript 4 June 2008, p. 10895.

<sup>14698</sup> Albert Saidu, Transcript, 4 June 2008, pp. 11005-11008.



from Buedu. According to this message, Taylor and Bockarie had a discussion and Taylor sent a message that the AFRC and RUF should “come together as one”, and should “work hand in glove” in order to fight together to achieve their goals.<sup>14699</sup>

Prosecution Witness TF1-567

6507. Witness TF1-567 testified that while he was based in Tongo he would mine on his own, and travel to Kenema to sell his diamonds or to visit Sam Bockarie. On one occasion at the end of 1997, the witness met Daniel Tamba (a.k.a. Jungle), with Bockarie. Jungle gave Bockarie a message from Taylor telling him that he should not be “so involved” in the AFRC government.<sup>14700</sup>

Prosecution Witness Dauda Aruna Fornie

6508. Witness Dauda Aruna Fornie, a radio operator, testified that around late 1997, he was assigned to work as a radio operator with Sam Bockarie in Kenema Town. Fornie was in communication with almost every AFRC/RUF station concerning the movement of troops, the coordination of mining, and requests for arms and ammunition. The witness was also in contact with the radio station in Liberia where Taylor was based.<sup>14701</sup>

The Accused

6509. The Accused denied that, as Samuel Kargbo testified, the AFRC asked the RUF to join the Junta government in order to gain himself as a contact, and that following this he was in frequent contact with Johnny Paul Koroma, providing support. The Accused further denied that he spoke to Koroma during the Junta period, saying the first time he spoke to Koroma was in August 1999.<sup>14702</sup> He stated that even if he had spoken to Koroma, he would have been authorised to do so as a member of the Committee of Four. He also denied that Liberia recognised the Junta government, and stated that not one West African country did so.<sup>14703</sup>

<sup>14699</sup> Albert Saidu, Transcript, 4 June 2008, pp. 11005-11006.

<sup>14700</sup> TF1-567, Transcript 2 June 2008, pp. 12889-12890; Transcript 8 July 2008, pp. 13150-13151.

<sup>14701</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21418-21421, 21428-21433.

<sup>14702</sup> Charles Ghankay Taylor, Transcript 2 November 2008, pp. 30813-30817.

<sup>14703</sup> Charles Ghankay Taylor, Transcript 2 November 2008, pp. 30814-30815.





6510. Further, the Accused noted that Samuel Kargbo testified that the phone call between the Accused and Koroma occurred two weeks after the coup d'etat on 25 May, while other testimony indicates that within days of the coup a recording was played on the BCC that Sankoh had instructed the RUF to join the AFRC.<sup>14704</sup>

#### Defence Witness Issa Sesay

6511. Issa Sesay testified that when he arrived in Freetown, approximately three or four days after the AFRC coup d'etat, Johnny Paul Koroma called Foday Sankoh at his hotel in Abuja. Koroma recorded the conversation, and played the tape of this communication on SLBS radio. Sesay denied that Gibril Massaquoi brought telephone numbers from Sankoh to Koroma, saying that in June or July of 1997 he brought letters.<sup>14705</sup>

#### Prosecution Exhibit P-131

6512. Exhibit P-131 is a copy of the minutes of the first AFRC meeting held at their Defence Headquarters on 19 July 1997. A note at the top indicates that the document was "secret". The document states that Johnny Paul Koroma and other members of the AFRC and RUF, including Witness Samuel Kargbo, were present. It also states that at this meeting, Corporal Gborie briefed members on his trip to Abidjan, explaining that he encountered "difficulties" with the Nigerian Foreign Minister, until there was a change of mind by the Foreign Minister and the other delegates "in favour of the Sierra Leone Delegation". He emphasised that any act of aggression against civilians would not help them at the next ECOWAS meeting. According to a note at the bottom of the page, the document was distributed to all members.<sup>14706</sup>

#### Deliberations

6513. The Prosecution puts forth several allegations concerning the Accused's relationship with the AFRC/RUF government during the Junta period, and the Trial Chamber summarises these as follows: The Prosecution alleges that the AFRC invited the RUF to join the Junta government so that they could gain access to the Accused, and that, in joining the

<sup>14704</sup> Charles Ghankay Taylor, Transcript 2 November 2008, pp. 30816-30817.

<sup>14705</sup> Issa Sesay, Transcript 30 July 2010, pp. 45116-45118.

<sup>14706</sup> Prosecution Exhibit P-131 "Minutes of the First Meeting of the AFRC held at the Conference Hall, Defence Headquarters on Saturday 19 July 1997".

Junta government the RUF gave the Accused's contact information to the AFRC.<sup>14707</sup> The Accused accepted and recognised the Junta government, and told the AFRC that he would encourage ECOWAS members to do so as well.<sup>14708</sup> The Accused urged the two parties to work together, and said that if Johnny Paul Koroma had any problems with the RUF, they should call him.<sup>14709</sup> Finally, the Prosecution alleges that the Accused remained informed of the activities of AFRC/RUF government via radio communications and intermediaries, and maintained the strong alliance between the two groups.<sup>14710</sup> The Defence denies that the Accused played any of these roles.

6514. Several of the Prosecution allegations rely on the testimony of Prosecution Witness Samuel Kargbo: that the AFRC invited the RUF to join the Junta in order to gain contact with Taylor, that the RUF supplied Koroma with Taylor's phone number, and that Taylor recognised the AFRC/RUF alliance and told Koroma that if he had any trouble with the RUF they should call Taylor. Kargbo also testified to the delegation sent by Koroma, which travelled to Liberia in order to gain Taylor's recognition and assistance, and Kargbo stated that it was through this meeting that the Junta received recognition by the Government of Liberia.

6515. The Trial Chamber notes some confusion in Kargbo's testimony with regard to dates. He testified about two different delegations sent by Johnny Paul Koroma, one of which was later in time and sent to Monrovia for the purpose of purchasing arms and ammunition. In this context, the Trial Chamber will not consider Kargbo's testimony concerning this second delegation, as it is not relevant to the Prosecution's allegations. With regard to the first delegation, Kargbo testified that it was led by SYB Rogers and sent to ask "the Liberian government headed by Mr Charles Ghankay Taylor" to recognise the Junta.<sup>14711</sup> Kargbo contended, however, that the delegation's trip occurred before the first AFRC/RUF meeting,

<sup>14707</sup> Prosecution Final Trial Brief, para. 186.

<sup>14708</sup> Prosecution Final Trial Brief, paras. 185-188.

<sup>14709</sup> Prosecution Final Trial Brief, para. 186.

<sup>14710</sup> Prosecution Final Trial Brief, para. 185.

<sup>14711</sup> Samuel Kargbo, Transcript 2 June 2008, p. 10669. The Trial Chamber notes that on direct examination, Kargbo testified that Koroma asked for recognition from Taylor himself, Samuel Kargbo, Transcript 21 May 2008, p. 10445 (Johnny Paul was ... asking for recognition from Mr Ghankay Taylor in Liberia), but on cross examination, the Defence asked Kargbo if Koroma had requested recognition from "the Liberian government", and Kargbo answered that this was "exactly it", but that "Taylor was ready to recognise us". Samuel Kargbo, Transcript 2 June 2008, p. 10668.





which he confirmed took place on 19 July 1997.<sup>14712</sup> Kargbo mistakenly said that Taylor was President of Liberia in July 1997,<sup>14713</sup> when in fact Taylor was inaugurated President in August 1997.<sup>14714</sup>

6516. The Trial Chamber notes that TF1-371 also testified about a delegation sent by Koroma to deliver a letter to the Accused asking for his assistance in getting recognition for the AFRC within ECOWAS. The Trial Chamber considers that this is the same delegation to which Kargbo testified, although TF1-371 said it was led by Karifa Smart, not SYB Rogers. Both witnesses testified that the delegation was sent to deliver a letter to the Accused seeking recognition for the AFRC government. TF1-371 testified that the delegation went to Monrovia in August 1997. The Trial Chamber recalls its finding that TF1-371 and Samuel Kargbo are both generally credible witnesses.<sup>14715</sup> However, in these circumstances, the Trial Chamber considers that TF1-371 would have been better placed to know how these events transpired and accepts his evidence that the delegation travelled in August 1997, which would have been after the inauguration of the Accused as President of Liberia. Though the Defence notes that in a previous statement, TF1-371 stated he went to Monrovia to discuss “peace proposals”, the Trial Chamber accepts his testimony that he did clarify this to investigators at the time of his statement.<sup>14716</sup>

6517. When confronted with the inconsistency of his evidence on the date that this delegation travelled to Monrovia, Kargbo insisted that the Governments of Liberia, Niger, and Burkina Faso had recognised the Junta government before the July 1997 meeting, but he said that it was a “secret” so that they could support the Junta while still abiding by ECOWAS rules.<sup>14717</sup> He stated that he was the first person to reveal this secret recognition of the Junta by these foreign governments during his testimony in these proceedings.<sup>14718</sup> The Trial Chamber notes Kargbo’s evidence that one or two weeks after the AFRC took power, Sankoh and Koroma spoke and Gibril Massaquoi was sent by the RUF to Monrovia, bringing telephone numbers for Taylor and the heads of state of Niger, Burkina Faso and

<sup>14712</sup> Exhibit P-131 “Minutes of the First Meeting of the AFRC held at the Conference Hall, Defence Headquarters on Saturday 19 July 1997” p. 1; Samuel Kargbo, Transcript 2 June 2008, p. 10684.

<sup>14713</sup> Samuel Kargbo, Transcript 2 June 2008, pp. 10670-10671.

<sup>14714</sup> “Joint Filing by the Prosecution and Defence: Admitted Facts and Law” No. (1)(d).

<sup>14715</sup> Credibility Assessment, Samuel Kargbo, paras 290-295; Credibility Assessment, TF1-371, paras 220-226.

<sup>14716</sup> TF1-371, Transcript 31 January 2008, pp. 2775-2778.

<sup>14717</sup> Samuel Kargbo, Transcript 2 June 2008, pp. 10688-10689.

<sup>14718</sup> Samuel Kargbo, Transcript 2 June 2008, pp. 10689-10690.

Libya. Koroma called these leaders, and according to Kargbo, they were ready to assist. The longest call was with the Accused, who would not have been a head of state at that time but who advised Koroma to work with the RUF and told Koroma to call if there were any problems.

6518. The Trial Chamber considers that these phone calls indicated the support of the Accused and the Heads of State for the AFRC and notes Kargbo's explanation that the recognition by these states was to be kept a secret so that in public they could comply with ECOWAS rules while in private they could support the Junta. The Trial Chamber considers that by secret recognition, Kargbo was referring to private support, and accepts that these commitments came before the July meeting of the AFRC. Although Taylor was not a head of state at that time, he became President soon after and from Kargbo's perspective, his commitment would have continued into his presidency.

6519. The Trial Chamber notes that the minutes of the 19 July 1997 AFRC meeting, in the record as Exhibit P-131, indicate that Corporal Gborie reported to AFRC/RUF members on his trip to Abidjan, at which he spoke with ECOWAS officials about the legitimacy of the Junta government.<sup>14719</sup> The report does not mention recognition of the Junta government by Niger, Burkina Faso or Libya, and it indicates that difficulties were encountered in the discussions. TF1-371 testified that the Abidjan meeting was not successful, and that the members of the ECOWAS committee were committed to returning President Kabbah to power.<sup>14720</sup> The Trial Chamber finds this evidence consistent with Kargbo's testimony that there was concern about ECOWAS rules, and that commitments made to the AFRC were made secretly. The fact that these commitments are not recorded in the minutes of the meeting is not surprising as they were made privately and were in contradiction with the public positions of the concerned heads of state.

6520. Witness TF1-371's testimony that the head of the delegation to Monrovia, Karifa Smart, reported that the Liberian Foreign Minister told him the Accused was willing to work to get the Junta recognised by ECOWAS<sup>14721</sup> is further supported by TF1-371's testimony that Johnny Paul Koroma told him that he had spoken with the Accused who had said the

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<sup>14719</sup> Exhibit P-131 "Minutes of the First Meeting of the AFRC held at the Conference Hall, Defence Headquarters on Saturday 19 July 1997", pp. 3-4.

<sup>14720</sup> TF1-371, Transcript 25 January 2008, pp. 2293-2294; Transcript 31 January 2008, p. 2781 (CS).

<sup>14721</sup> TF1-371, Transcript 28 January 2008, pp. 2305-2306; Transcript 31 January 2008, pp. 2775-2778 (CS).



same.<sup>14722</sup> TF1-371 also met Ibrahim Bah in Monrovia, who told him Taylor would work with the Junta.<sup>14723</sup> That the Accused told the AFRC right after the coup d'état that he would work with the Junta is also corroborated by the testimony of Isaac Mongor and Albert Saidu.<sup>14724</sup>

6521. The Trial Chamber notes that the Defence contention that the Accused followed ECOWAS prohibitions against recognising the Junta is not dispositive as to whether Taylor privately accepted and supported the Junta, implicitly recognising them while publicly he agreed to ECOWAS demands. Further, the Defence claim that the AFRC/RUF were not, in fact, as united as the Prosecution contends does not preclude Taylor's recognition and aid to the Junta government as a whole.<sup>14725</sup> Finally, the Defence contention that Bockarie and the RUF's communications with Taylor prior to the Junta period make the AFRC/RUF's struggle to gain recognition from Taylor unbelievable are unavailing; the Trial Chamber notes that the new Junta government would have needed a reaffirmation of Taylor's support following the joining of the two groups, and their overthrow of the Kabbah government.

6522. For the above reasons, the Trial Chamber finds that the Prosecution has proven beyond reasonable doubt that the Accused accepted and recognised the Junta government, and told the AFRC/RUF that he would encourage ECOWAS members to do so as well.

6523. The Trial Chamber notes that Kargbo's evidence regarding Koroma's telephone conversation with the Accused, in which the Accused told Koroma to work with the RUF is confirmed in substance by the evidence of Isaac Mongor, who testified that Ibrahim Bah brought the same message from the Accused to both Bockarie and Koroma, that they should "work hand in hand".<sup>14726</sup>

<sup>14722</sup> TF1-371, Transcript 28 January 2008, p. 2307 (CS).

<sup>14723</sup> TF1-371, Transcript 28 January 2008, p. 2308 (CS).

<sup>14724</sup> Isaac Mongor 10 March 2008 pp. 5702-5704; Transcript 11 March 2008, pp. 5711-5717; Albert Saidu, Transcript Albert Saidu, Transcript, 4 June 2008, pp. 11005-11008.

<sup>14725</sup> Defence Final Trial Brief, para. 842, *citing* Adjudicated Fact 4; Exhibit D-084; Exhibit D-085; Exhibit P-067; Dauda Aruna Fornie, 4 December 2008 pp. 21737-21742, 21748-21749; TF1-567, Transcript 8 July 2008 pp. 13170-13172. The Trial Chamber also notes that the Defence contention that Kargbo testified that the phone call between Koroma and Sankoh occurred "two weeks" after the coup d'état, Charles Ghankay Taylor, Transcript 2 November 2008 p. 30816-30817, misrepresents Kargbo's testimony. Kargbo testified that the phone call occurred between one and two weeks after the coup, Samuel Kargbo, Transcript 21 May 2008, pp. 10440-10442, testimony which the Trial Chamber does not find in and of itself incredible. .

<sup>14726</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5712-5714.

6524. The Trial Chamber further notes the substantial evidence in the record that the Accused was engaged in arms and diamonds transactions and communications with the AFRC/RUF government during the Junta.<sup>14727</sup> For example, the Trial Chamber has found that a shipment of materiel negotiated with Sam Bockarie and Johnny Paul Koroma by Ibrahim Bah on behalf of the Accused was delivered by plane to Magburaka some time between October and December 1997.<sup>14728</sup> The Trial Chamber also found that during the Junta period, Daniel Tamba (a.k.a. Jungle) brought ammunition provided by the Accused to the RUF in Sierra Leone.<sup>14729</sup> The Trial Chamber found that diamonds mined in Kono and Tongo fields were delivered from the RUF to the Accused by Jungle in exchange for arms and ammunition during the period of May 1997 to February 1998.<sup>14730</sup> The Trial Chamber also notes the testimony of Dauda Aruna Fornie, whom the Trial Chamber found to be a generally credible witness,<sup>14731</sup> that the RUF remained in contact with Taylor during the Junta period.<sup>14732</sup> The Trial Chamber notes that the evidence of Prosecution Witness TF1-567, that while in Kenema, at the end of 1997, he heard Daniel Tamba (a.k.a. Jungle) deliver a message from Taylor telling him not to be “so involved” with the AFRC,<sup>14733</sup> indicates that the Accused remained informed of the activities of the AFRC/RUF government.

### Findings

6525. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that the Accused accepted and supported the Junta government, and told the AFRC/RUF that he would encourage ECOWAS members to do so as well. He also encouraged the AFRC and RUF to work together

#### (c) Sam Bockarie

##### (i) Bockarie’s promotions in the Post-Intervention Period

### Submissions of the Parties

<sup>14727</sup>See also Samuel Kargbo, Transcript 21 May 2008, pp. 10448-10452 (Taylor instructed Johnny Paul Koroma to arrest persons who had looted the Iranian Embassy in Freetown).

<sup>14728</sup> Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Magburaka Shipment.

<sup>14729</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused, During the Junta Period.

<sup>14730</sup> Diamonds: Alleged Delivery of Diamonds to the Accused, Junta Period.

<sup>14731</sup> Credibility Assessment, Dauda Aruna Fornie, paras 346-358.

<sup>14732</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21418-21421, 21428-21433.

<sup>14733</sup> TF1-567, Transcript 2 June 2008 pp. 12889-12890; Transcript 8 July 2008 pp. 13150-13151.

6526. The Prosecution submits that around March 1998, as part of the restructuring of the AFRC/RUF alliance after the ECOMOG Intervention, Bockarie was promoted to Chief of Defence Staff for the whole movement, which made him the “highest man” and “the leader” in charge of all the RUF, AFRC and STF forces. Bockarie was also, at the same time, promoted to “General”. The Prosecution submits that this promotion was either a direct promotion from Taylor or a joint decision made between Taylor and Koroma.<sup>14734</sup> Bockarie himself explained in a meeting that everyone should take instruction from him because “the chief”, Taylor, had promoted him to the rank of General, and Johnny Paul Koroma was present during a meeting when Bockarie explained this”.<sup>14735</sup> The Prosecution further alleges that following the Freetown Invasion, Taylor rewarded Bockarie by promoting him to two-star general.<sup>14736</sup>

6527. The Defence contends that it was Johnny Paul Koroma, and not Taylor, who promoted Bockarie after the Intervention, and Koroma promoted Bockarie to be Chief of Defence Staff and “Brigadier”.<sup>14737</sup> The Defence also claims that it was Johnny Paul Koroma who promoted Bockarie to two-star general after the Freetown Invasion.<sup>14738</sup>

## Evidence

### Prosecution Witness TF1-371

6528. Witness TF1-371, an RUF member,<sup>14739</sup> testified that he arrived from Freetown to Buedu in the middle of March 1998.<sup>14740</sup> Shortly after his arrival, he attended a meeting at Sam Bockarie’s home; Bockarie had given Johnny Paul Koroma his house to stay in. At the meeting Koroma promoted Bockarie to be the Chief of the Defence Staff and at the same time appointed Bockarie to a brigadier because, TF1-371 testified, that rank was “commensurate with that office”.<sup>14741</sup> TF1-371 testified that Koroma decided to promote Bockarie to Chief of Defence Staff because Koroma’s brother, SFY Koroma, had abandoned

<sup>14734</sup> Prosecution Final Trial Brief, paras 56, 147-148, 450, 454-455.

<sup>14735</sup> Prosecution Final Trial Brief, para. 147.

<sup>14736</sup> Prosecution Final Trial Brief, para. 56.

<sup>14737</sup> Defence Final Trial Brief, paras. 597-602, 1259-1265.

<sup>14738</sup> Defence Final Trial Brief, paras. 875, 1266-1268.

<sup>14739</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>14740</sup> TF1-371, Transcript 28 January 2008, pp. 2363 (CS).

<sup>14741</sup> TF1-371, Transcript 28 January 2008, pp. 2364 (CS).



the fighters and went to his village to hide.<sup>14742</sup> TF1-371 further testified that although he was not supposed to be, Bockarie was then “in charge of all of the AFRC, as well as the SLAs and the RUF”.<sup>14743</sup>

6529. Witness TF1-371 also testified that after the retreat of forces from Freetown in 1999, Bockarie left for Monrovia with his security detail and Daniel Tamba (a.k.a. Jungle), saying to the witness that he was going to meet Taylor. Bockarie was in Monrovia for approximately one week, and while there, sent a message to Issa Sesay stating that he had arrived in Monrovia, had met with Benjamin Yeaten, and was waiting to see Taylor.<sup>14744</sup>

6530. When Bockarie returned to Buedu, he was received by the witness and others.<sup>14745</sup> Bockarie arrived with Joseph Marzah (a.k.a. Zigzag), who was a member of the SSS, and Bockarie was dressed in “an American camouflage uniform”, and a “green military beret with two stars on it”.<sup>14746</sup> Bockarie summoned “all of us” to his office, where, when they addressed Bockarie as “Brigadier”, Tamba said “[T]he man is no longer brigadier, he is a lieutenant-general, he’s a two star general”. Everyone applauded for Bockarie and Bockarie said that he had a “two star crown on his beret”, and that Taylor promoted him because the capture of Koidu and Freetown had been a “mission accomplished”.<sup>14747</sup> The witness also saw that Bockarie had brought back from Monrovia two sets of the SSS uniform which were used by Taylor’s security members.<sup>14748</sup>

#### Prosecution Witness Karmoh Kanneh

6531. Witness Karmoh Kanneh, an RUF commander,<sup>14749</sup> testified that at a meeting of approximately 600 soldiers and commanders at Waterworks that took place sometime in the spring after the February 1998 ECOMOG Intervention, in the presence of Johnny Paul Koroma, Bockarie announced the changes to the AFRC and RUF command structure and his “new promotion”. Kanneh testified that prior to the meeting, Bockarie had travelled to Monrovia as a Colonel, but had returned with “two high promotions” and was now a

<sup>14742</sup> TF1-371, Transcript 28 January 2008, pp. 2364 (CS).

<sup>14743</sup> TF1-371, Transcript 28 January 2008, pp. 2385-2386 (CS).

<sup>14744</sup> TF1-371, Transcript 28 January 2008, pp. 2429-2430 (CS).

<sup>14745</sup> TF1-371, Transcript 28 January 2008, pp. 2429-2430 (CS).

<sup>14746</sup> TF1-371, Transcript 28 January 2008, pp. 2430-2431 (CS).

<sup>14747</sup> TF1-371, Transcript 28 January 2008, pp. 2430-2431 (CS).

<sup>14748</sup> TF1-371, Transcript 28 January 2008, p. 2431 (CS).

<sup>14749</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9390.

General. Kanneh further testified that Bockarie said that it was “President Taylor, Pa Taylor” (a.k.a. Charles Taylor) who had given him these promotions.<sup>14750</sup>

Prosecution Witness TF1-516

6532. Witness TF1-516, an RUF radio operator,<sup>14751</sup> testified that after the 1998 ECOMOG Intervention, Bockarie immediately retreated to Buedu. Right after TF1-516 arrived in Buedu, Bockarie called a muster parade “right to the MP” and announced that “I am just here from the other side” and that he had been promoted “by the Chief, Charles Taylor” to the rank of General, and that everyone should now take their instructions from him. Bockarie had a new combat fatigue with the insignia of a general, and with the military jeep that “the Chief” had given to him. The military fatigue was the same type of fatigue that was worn by the Liberian Anti-Terrorist Unit (a.k.a. ATU), who the witness understood to be the body guards to Charles Taylor.<sup>14752</sup>

Prosecution Witness Albert Saidu

6533. Witness Albert Saidu, an RUF adjutant from 1991 to 2001,<sup>14753</sup> testified that when he was assigned to Koindu in March 1998 an RUF junior commando named Selasie showed him a radio message they had received from Buedu from Charles Taylor with the subject line “promotion”, which stated that Taylor had promoted Sam Bockarie to the rank of General.<sup>14754</sup>

Prosecution Witness TF1-585

6534. Witness TF1-585, an RUF radio operator,<sup>14755</sup> testified that prior to Johnny Paul Koroma’s arrival in Buedu in the period after the February 1998 ECOMOG Intervention, Sam Bockarie travelled to Monrovia and returned with a green tactical jeep, new arms, and a combat suit with a crown or badge that signified the rank of General. TF1-585 testified that Bockarie “told us” that it was the “Pa”, or Charles Taylor, who promoted him, and that there

<sup>14750</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9392- 9396.

<sup>14751</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>14752</sup> TF1-516, Transcript 8 April 2008, pp. 6854-6856.

<sup>14753</sup> Albert Saidu, Transcript 4 June 2008, p. 10895.

<sup>14754</sup> Albert Saidu, Transcript 4 June 2008, pp. 11004-11005.

<sup>14755</sup> TF1-585, Transcript 5 September 2008, pp. 15582-15584, 15589-15592 (PS).

were documents to that effect. Bockarie took this trip to Monrovia before Johnny Paul Koroma arrived in Buedu.<sup>14756</sup>

Prosecution Witness Perry Kamara

6535. Witness Perry Kamara, an RUF radio operator,<sup>14757</sup> testified that when Johnny Paul Koroma arrived in Buedu sometime after the ECOMOG Intervention, that Koroma immediately met with Sam Bockarie. During that same week, Koroma transmitted a message over the radio for all of the AFRC, RUF, and STF, announcing that because he did not understand jungle exercise, that all of the AFRC and RUF were to take commands from Bockarie (a.k.a. Mosquito), and that from that date onwards Bockarie should be the “leader for the movement”.<sup>14758</sup>

Prosecution Witness Isaac Mongor

6536. Witness Isaac Mongor, an RUF senior commander,<sup>14759</sup> testified that after the AFRC/RUF fighters were pushed out of Freetown in February 1998, and after he had taken Johnny Paul Koroma to Koidu Town, that the command of the “People’s Army” was restructured. Among other changes, Koroma promoted Sam Bockarie to “defence chief of staff for the whole movement”. Mongor testified that Koroma said that he made this promotion after speaking to “his brother” Charles Taylor, because Koroma was planning to travel and prior to leaving he wanted to leave the AFRC and RUF “in one accord”.<sup>14760</sup>

Prosecution Witness Augustine Mallah

6537. Witness Augustine Mallah, a security officer to Mike Lamin from 1996 to disarmament,<sup>14761</sup> was posed the following question: “You mentioned to the Judges earlier that when Johnny Paul Koroma and Sam Bockarie or Mosquito met, that Mosquito told

<sup>14756</sup> TF1-585, Transcript 5 September 2008, pp. 15617-15622. The new arms were described as “a series of AK-47, brand new ones that were not even being used with new AK rounds. They were in something like sardine tins with rockets”.

<sup>14757</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>14758</sup> Perry Kamara, Transcript 5 February 2008, pp. 3094, 3110-3111.

<sup>14759</sup> See for example: Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March 2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>14760</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5740-5741.

<sup>14761</sup> Augustine Mallah, Transcript 12 November 2008, pp. 20092-200923, 20102-20103; Transcript 13 November 2008, pp. 20209-20210.

Johnny Paul Koroma that now Mosquito was in charge. Can you tell us what was the command structure now after the intervention and after you had come back to Buedu?" Mallah responded, in pertinent part, that in the post-Intervention period, after Mallah had returned to Buedu, Bockarie "had structured the RUF command structure. He was there taking care of the RUF on behalf of our leader Foday Sankoh....". He further testified that everyone, including the AFRC, reported to Sam Bockarie at that time.<sup>14762</sup> Later in his testimony, Mallah testified that Sam Bockarie had promoted himself to the rank of General, after which he also assigned himself the position of battlefield commander.<sup>14763</sup>

#### Prosecution Witness TF1-539

6538. Witness TF1-539 testified that following the February 1998 ECOMOG Intervention, the entire army fell into disarray, disturbing the command structure. However, Sam Bockarie "was able to put the entire RUF structure under a strong command and control....the men we expected to receive commands from, like Johnny Paul and some of his Supreme Council members, they had all gone into disarray somewhere in the north, whilst some of us found ourselves in the east, so there was actually no command structure amongst the SLA. It was only Sam Bockarie who had the absolute command".<sup>14764</sup>

#### The Accused

6539. The Accused, denied that he promoted Sam Bockarie when Bockarie met with him for the first time in Monrovia in February 1998 after the ECOMOG Intervention.<sup>14765</sup> Taylor further denied that he provided Bockarie with a jeep, medicines, uniforms, or that he promised him a safe house in Monrovia. When asked whether he promoted Bockarie to be commander of the RUF, Taylor testified that he had not done so, but that rather Foday Sankoh had made that promotion.<sup>14766</sup>

6540. When questioned on the testimony of Prosecution Witness Karmoh Kanneh, Taylor responded that he did not promote Bockarie, and that this evidence conflicted with evidence

<sup>14762</sup> Augustine Mallah, Transcript 13 November 2008, pp. 20203-20204.

<sup>14763</sup> Augustine Mallah, Transcript 17 November 2008, pp. 20412.

<sup>14764</sup> TF1-539, Transcript 10 June 2008, pp. 11397-11398.

<sup>14765</sup> Charles Ghankay Taylor, Transcript 3 August 2009, pp. 25811-25814. When asked "Did you promote Sam Bockarie to General?" Taylor testified "No, no, no, no, no, no. Why would I do that? Sam Bockarie is not my - he is not my military personnel. How could I promote him?"

<sup>14766</sup> Charles Ghankay Taylor, Transcript 3 August 2009, p. 25815.

already before the Trial Chamber that those promotions were made by Johnny Paul Koroma after he retreated from Freetown in February 1998, and that Johnny Paul Koroma held a meeting and he made those promotions in which Sam Bockarie became the chief of defence staff in Sierra Leone. Taylor said, “Now he is attributing that to me. Never, ever gave any suggestion or recommendation for any promotion or anything closely related to that in Sierra Leone. Never did”.<sup>14767</sup> When questioned again concerning this promotion, Taylor stated, “I’m not and I really mean not involved in any promotion or recommendation of any officers of the RUF at all. None”.<sup>14768</sup>

6541. The Accused also denied that he promoted Bockarie to Lieutenant-General after the Freetown Invasion.<sup>14769</sup> He stated that if Bockarie was promoted to Lieutenant General, he would have had three stars, and not two, because two stars denotes a Major General.<sup>14770</sup> The Accused, as President, could not have promoted a general anywhere, because even in the Government of Liberia the President does not promote generals. The Accused also wondered why, if Bockarie has been in charge all of the years that Foday Sankoh was gone, that he would have been promoted by Taylor, and testifies that perhaps Bockarie was “just messing with these boys”.<sup>14771</sup> Further, even if Bockarie did return to Sierra Leone from Liberia with a two-star beret, he could have bought it at any military store in Monrovia, put it on, and pronounced he was a general.<sup>14772</sup>

#### Defence Witness Issa Sesay

6542. Witness Issa Sesay, a senior RUF commander,<sup>14773</sup> testified that he arrived in Buedu in late February or early March 1998. When he arrived, Sam Bockarie was still a field commander, but a few days later Johnny Paul Koroma appointed Bockarie as Chief of Defence Staff and promoted him to the rank of Brigadier. When asked in examination-in-chief whether it was in fact Charles Taylor who promoted Bockarie, Sesay testified that “No, it was not Charles Taylor. In fact, this was...in the presence of many of us. I was not the only person or Bockarie alone; all the other officers in Buedu were at Sam Bockarie’s house

<sup>14767</sup> Charles Ghankay Taylor, Transcript 28 October 2009, pp. 30574-30575.

<sup>14768</sup> Charles Ghankay Taylor, 2 November 2009, pp. 30859-30860.

<sup>14769</sup> Charles Ghankay Taylor, 23 September 2009, p. 29590.

<sup>14770</sup> Charles Ghankay Taylor, 23 September 2009, p. 29589.

<sup>14771</sup> Charles Ghankay Taylor, 23 September 2009, pp. 29589-29591.

<sup>14772</sup> Charles Ghankay Taylor, 23 September 2009, pp. 29589-29591.

<sup>14773</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.





when Johnny Paul announced that promotion to Bockarie”. Koroma also promoted Sesay to the rank of Colonel. Sesay explained that Koroma had the power to make these promotions because at that time he, Bockarie and Lamin still regarded Koroma as the leader of the AFRC, and because Foday Sankoh had told them to take instructions from Koroma. Sesay also testified that Bockarie’s deference to Koroma at that time was exhibited in the fact that Bockarie had left his bedroom and given it to Koroma.<sup>14774</sup>

6543. Sesay further testified that he was in Makeni after the Freetown Invasion in January 1999 when he heard that Johnny Paul Koroma had promoted Bockarie to be a two-star general, and after this Bockarie started to wear two stars on his beret.<sup>14775</sup>

#### Prosecution Exhibit P-062

6544. Exhibit P-062 is a chart created by the Prosecution and based on TF1-371’s testimony on the AFRC/RUF alliance command structure in the Post-Intervention period. Sam Bockarie is designated as the Chief of Defence Staff (“CDS”), and the Head of the AFRC/RUF fighters that were in RUF-controlled territory.<sup>14776</sup>

#### Prosecution Exhibit P-572

6545. Exhibit P-572 is a colour photograph of two men, one of whom is dressed in a green camouflage uniform and a red beret with two stars on it whom Issa Sesay identified as Sam Bockarie.<sup>14777</sup>

#### Defence Exhibit D-009

6546. Exhibit D-009 is an RUF Salute Report dated 26 September 1999 from “Major General Sam Bockarie” to Foday Sankoh as “Leader of the Revolution”. In this report, Bockarie is reporting to Sankoh on what had taken place during his detention in Nigeria. In reference to his promotion, Bockarie wrote that “[W]hen J P Koroma arrived in Kailahun, he appointed me to take over command for both the RUF and the SLA as Chief of Defence Staff with the rank of Brigadier General. In order to motivate the most senior officers, I took

<sup>14774</sup> Issa Sesay, Transcript 8 July 2010, pp. 44014-44017.

<sup>14775</sup> Issa Sesay, Transcript 18 August 2010, pp. 46662-46663, 46667.

<sup>14776</sup> Exhibit P-062, “AFRC/RUF Alliance Command Structure After the Fall of the Junta, circa March 1998, as indicated by TF1-371”.

<sup>14777</sup> Exhibit P-572, “Photograph of Sam Bockarie with Camouflage and Beret”. See Issa Sesay, Transcript 18

it upon myself to appoint Brig. Issa as Battlefield Commander and Colonel Mingo as Battle Group Commander”. Bockarie then writes that after the Freetown Invasion, in January 1999, he was “again promoted by J P Koroma to the rank of Major General”.<sup>14778</sup>

#### Defence Exhibit D-084

6547. Exhibit D-084 is an RUF Salute Report dated 27 September 1999 from Brigadier Issa Sesay in his capacity as RUF Battle Field Commander to Foday Sankoh as “Leader of the Revolution”. In reference to Sam Bockarie’s 1998 post-ECOMOG Intervention promotion, Sesay wrote that “J P Koroma appointed General Mosquito as Chief of Defence Staff with overall command over both the RUF and the SLA and promoted him to the rank of Brigadier General. General Mosquito called on me and informed me that since he had been made Chief of Defence Staff for both the RUF and the SLA by J P Koroma he wanted to turn over his assignment of Battle Field Commander to me and asked me to turn my assignment of Battle Group Commander over to Superman”.<sup>14779</sup>

#### Deliberations

6548. At the outset, the Trial Chamber is cognisant of the Defence’s challenges to the Prosecution’s evidence regarding the date and circumstances of the first meeting between the Accused and Bockarie, in particular the discrepancies between the testimonies of Varmuyan Sherif and Dauda Aruna Fornie.<sup>14780</sup> However, the Trial Chamber has accepted Fornie’s evidence with regard to the trip made by Bockarie immediately after the Intervention to Monrovia.<sup>14781</sup> In the Trial Chambers view, Fornie’s testimony that on their way back from Monrovia to Sierra Leone Bockarie told Fornie that he met with the Accused and the Accused said that he would help the RUF “to the best of his ability”,<sup>14782</sup> is corroborated by Prosecution Exhibit P-067, according to which following the Intervention the “High Command” met with the Accused who “promised to give his maximum support to

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August 2008 pp. 46663-46668.

<sup>14778</sup> Exhibit D-009, “RUF Defence Headquarters, Salute Report to the Leader of the Revolution from Major General Sam Bockarie, dated 26 September 1999”, p. 5, ERN 9662.

<sup>14779</sup> Exhibit D-084, “RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999”, p. 6, ERN 7761.

<sup>14780</sup> Defence Final Trial Brief, paras 1513-1518.

<sup>14781</sup> Operational Support: Communications, RUF and NPFL Radio Codes and Communications; Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockaire’s Leadership (February 1998-December 1999).

<sup>14782</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21454-21455.





the RUF".<sup>14783</sup> Moreover, the Trial Chamber has found that Bockarie met the Accused in February/March 1998 during which the Accused instructed Bockarie to maintain hold over Kono.<sup>14784</sup> The Trial Chamber also notes that on the first day of his testimony the Accused said that he first met Bockarie in late 1997/early 1998,<sup>14785</sup> only to change his version later on in his testimony that he first met Bockarie in September 1998.<sup>14786</sup> The Trial Chamber therefore finds the Accused's testimony incredible. In light of the evidence, the Trial Chamber finds that the Accused first met Bockarie in late February/early March 1998.

6549. With regards to the Prosecution allegation that Taylor promoted Bockarie after the Intervention, the Trial Chamber finds that evidence adduced by the Prosecution to prove that sometime around March 1998 the Accused either directly, or through a joint decision made between himself and Johnny Paul Koroma, promoted Sam Bockarie, is inconsistent. While Prosecution witnesses Karmoh Kanneh, TF1-516, Albert Saidu, and TF1-585 testified that Taylor promoted Bockarie,<sup>14787</sup> Prosecution Witnesses TF1-371 and Perry Kamara testified that Johnny Paul Koroma promoted Sam Bockarie.<sup>14788</sup> Prosecution Witness Isaac Mongor also testified that Koroma promoted Bockarie after first consulting with Taylor,<sup>14789</sup> while Prosecution witness Augustine Mallah testified that Bockarie promoted himself.<sup>14790</sup>

6550. The Trial Chamber notes that both Issa Sesay and TF1-371 provided first-hand evidence that Bockarie was promoted by Koroma at a meeting at Sam Bockarie's house in Buedu in late February or March 1998, at a time when Bockarie had vacated his bedroom in order to host Koroma as a guest.<sup>14791</sup> The closely matching accounts of the two witnesses do not mention the Accused as having been involved in the promotion. Their account is

<sup>14783</sup> Exhibit P-067, RUF People's Arm – Situation Report to Foday Sankoh from the Black Guard Commander", ERN 9674.

<sup>14784</sup> Military Operations: Operations in Kono (Early 1998); Diamonds: Alleged Delivery of Diamonds to the Accused, February 1998-July 1999.

<sup>14785</sup> Charles Ghankay Taylor, Transcript 14 July 2009, pp. 24337-24338.

<sup>14786</sup> Charles Ghankay Taylor, Transcript 3 August 2009, pp. 25805-25806, 25819, 25827; 25828-25830; Transcript 5 August 2009, p. 26004.

<sup>14787</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9392- 9396; TF1-516, Transcript 8 April 2008, pp. 6854-6856; Albert Saidu, Transcript 4 June 2008, pp. 11004-11005; TF1-585, Transcript 5 September 2008, pp. 15617-15622.

<sup>14788</sup> TF1-371, Transcript 28 January 2008, pp. 2363-2364 (CS); Perry Kamara, Transcript 5 February 2008, pp. 3110-3111.

<sup>14789</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5740-5741.

<sup>14790</sup> Augustine Mallah, Transcript 17 November 2008, pp. 20412.

<sup>14791</sup> TF1-371, Transcript 28 January 2008, pp. 2364 (CS); Issa Sesay, Transcript 8 July 2010, pp. 44014-44017.



corroborated by the hearsay evidence of Perry Kamara,<sup>14792</sup> and the documentary evidence of the reports introduced as Exhibit D-009,<sup>14793</sup> and Exhibit D-084.<sup>14794</sup>

6551. With regard to the rank and title of the promotion, Kanneh, Mallah and TF1-371 testified that Bockarie was promoted to General and Chief of the Defence Staff.<sup>14795</sup> Mongor testified that Bockarie was promoted to Chief of the Defence Staff.<sup>14796</sup> TF1-516, Albert Saidu, and TF1-585 testified that Bockarie was promoted to General.<sup>14797</sup> Perry Kamara testified that Bockarie was promoted to be the “leader of the movement”.<sup>14798</sup> TF1-539 testified that because the entire army had fallen into disarray, there was no command structure amongst the SLA and it was only Sam Bockarie who had the absolute command.<sup>14799</sup> The Trial Chamber also recalls the testimony of Isaac Mongor that Bockarie was promoted to “defence chief of staff for the whole movement”<sup>14800</sup> and Mallah’s testimony that Bockarie promoted himself.<sup>14801</sup>

6552. Considering the many witnesses who mentioned the Accused in their testimony relating to Bockarie’s promotion,<sup>14802</sup> the Trial Chamber considers that he may well have been consulted by Koroma, as one witness testified, or talked directly with Bockarie about the promotion as Bockarie had just been in Monrovia. The Trial Chamber notes that much of the evidence is hearsay, which might explain the many different versions of this promotion. In light of these many different versions, the Trial Chamber is unable to find beyond a reasonable doubt that the Accused promoted Bockarie, as alleged by the Prosecution.

<sup>14792</sup> Perry Kamara, Transcript 5 February 2008, pp. 3110-3111.

<sup>14793</sup> Exhibit D-009, “RUF Defence Headquarters, Salute Report to the Leader of the Revolution from Major General Sam Bockarie, dated 26 September 1999” p. 5, ERN 9662.

<sup>14794</sup> Exhibit D-084, “RUF, Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H Sesay Battlefield Commander RUF/SL, to the Leader of the Revolution, 27 September 1999”, p. 6, ERN 7761.

<sup>14795</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9392- 9396; Augustine Mallah, Transcript 17 November 2008, pp. 20412; TF1-371, Transcript 28 January 2008, pp. 2364 (CS); Exhibit P-062 “AFRC/RUF Alliance Command Structure After the Fall of the Junta, circa March 1998, as indicated by TF1-371”.

<sup>14796</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5740-5741.

<sup>14797</sup> TF1-516, Transcript 8 April 2008, pp. 6854-6856; Albert Saidu, Transcript 4 June 2008, pp. 11004-11005; TF1-585, Transcript 5 September 2008, pp. 15617-15622.

<sup>14798</sup> Perry Kamara, Transcript 5 February 2008, pp. 3110-3111.

<sup>14799</sup> TF1-539, Transcript 10 June 2008, pp. 11397-11398.

<sup>14800</sup> Isaac Mongor, Transcript 11 March 2008, pp. 5740-5741.

<sup>14801</sup> Augustine Mallah, Transcript 17 November 2008, pp. 20412.

<sup>14802</sup> Karmoh Kanneh, Transcript 8 May 2008, pp. 9392- 9396; Isaac Mongor, Transcript 11 March 2008, pp. 5740-5741; TF1-516, Transcript 8 April 2008, pp. 6854-6856; TF1-585, Transcript 5 September 2008, pp. 15617-15622; Albert Saidu, Transcript 4 June 2008, pp. 11004-11005.

6553. Concerning the Prosecution's allegation that Taylor promoted Bockarie to two-star general after the Freetown Invasion, the Prosecution relies on the evidence of TF1-371 to support this proposition. TF1-371, however, heard from Bockarie in a meeting in Sierra Leone that Taylor made this promotion in Liberia, but TF1-371 had no way of confirming that Taylor was, indeed, the person who made the promotion. The Prosecution also proffers Exhibit P-572, a color photograph of Bockarie in a camouflage uniform and red beret with two stars; though this corroborates TF1-371's testimony that Bockarie wore this uniform and beret, the photograph does not corroborate TF1-371's testimony that Taylor promoted Bockarie.

6554. Issa Sesay testified that he heard that it was Johnny Paul Koroma who promoted Bockarie, but the Trial Chamber notes that this evidence is also hearsay. The Trial Chamber further recalls its finding that Sesay is not a generally credible witness and his testimony must be corroborated.

6555. The Defence proffered DCT-009, an RUF Salute Report dated 26 September 1999, written from Bockarie to Sankoh. In this report, Bockarie informs Sankoh that in January 1999, he was promoted by Johnny Paul Koroma. The Trial Chamber has no reason to believe that this contemporaneous document is not reliable, and in fact, both parties rely on the document as evidence of the matters asserted therein.<sup>14803</sup> This document, corroborated by the testimony of Issa Sesay, raises a doubt as to the Prosecution's allegation that Taylor promoted Bockarie.

### Findings

6556. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that in about March 1998 Taylor promoted Sam Bockarie to the post of Chief of Defence Staff for the AFRC/RUF alliance with the rank of Brigadier General.

6557. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the Accused promoted Sam Bockarie to the post of two-star general after the Freetown Intervention.

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<sup>14803</sup> See Prosecution Final Trial Brief, para. 145, footnote 471; para. 146, footnote 476-477; para. 161, footnote 512; para. 220, footnote 683; para. 273, footnote 796; para. 520, footnote 1505; para. 539, footnote 1538; para. 565, footnote 1586. See Defence Final Trial Brief, para. 582, footnote 1464, 1466; para. 583, footnote 1471;



(ii) Allegation that in December 1999 the Accused ordered Sam Bockarie to leave Sierra Leone and come to Liberia

Submissions of the Parties

6558. The Prosecution alleges that the conflict which arose between Foday Sankoh and Sam Bockarie after the Lomé negotiations prompted the latter to leave Sierra Leone on 14 December 1999 and seek “safe haven” with the Accused in Liberia.<sup>14804</sup> According to the Prosecution, the Accused in fact ordered Bockarie to do so.<sup>14805</sup> The Prosecution further submits that the Accused kept Bockarie’s arrival in Liberia secret from President Obasanjo when on 21 December 1999 the two of them met at Roberts International Airport to discuss the peace process and the problems arising from the conflict between Sankoh and Bockarie.<sup>14806</sup> The Prosecution therefore submits that this meeting was a “diplomatic deceit”, organized by the Accused to cover his clandestine actions.<sup>14807</sup>

6559. The Defence does not dispute that in December 1999 Bockarie was told by the Accused to travel to Liberia but submits that the evidence used by the Prosecution is insufficient to show a superior/subordinate relationship between the two of them and only shows that the Accused was playing a mediating role between Bockarie and Foday Sankoh.<sup>14808</sup> The Defence further argues that the Accused’s efforts to “extract” Bockarie from Sierra Leone and into Liberia in December 1999 were carried out under the auspices of ECOWAS<sup>14809</sup> for the purpose of convening a meeting between the Accused, President Obasanjo, Sam Bockarie and Foday Sankoh, as part of the peace process.<sup>14810</sup>

Evidence

Prosecution Witness Perry Kamara

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para. 585, footnote 1471, 1476; para. 586, footnote 1484; para. 587, footnote 1485, 1487-1488; para. 601, footnote 1544; para. 602, footnote 1546.

<sup>14804</sup> Prosecution Final Trial Brief, paras 204, 334, 388.

<sup>14805</sup> Charles Ghankay Taylor, Transcript 5 February 2010, p. 34859.

<sup>14806</sup> Prosecution Final Trial Brief, para. 204.

<sup>14807</sup> Prosecution Final Trial Brief, para. 204.

<sup>14808</sup> Defence Final Trial Brief, para. 1297.

<sup>14809</sup> Defence Final Trial Brief, para. 663.

<sup>14810</sup> Defence Final Trial Brief, para. 933.

6560. Witness Perry Kamara, an RUF radio operator,<sup>14811</sup> recognised the resignation message sent by Sam Bockarie and testified that it was written at the time Bockarie had a conflict with the RUF and decided to leave and go to the Accused in Liberia.<sup>14812</sup>

Prosecution Witness Foday Lansana

6561. Witness Foday Lansana, (a.k.a. CO Nya) an RUF radio operator,<sup>14813</sup> gave evidence to the effect that toward the end of 1999, Sam Bockarie had come to challenge the leadership of Foday Sankoh within the RUF.<sup>14814</sup> As a result, the latter contacted the Accused and asked him to intervene and calm down Bockarie.<sup>14815</sup> The witness further testified that under the command of the Accused, Bockarie was then ordered to leave Sierra Leone and go to Liberia.<sup>14816</sup> Lansana testified that he knew this because the events took place at the time he entered Monrovia and was in touch with Benjamin Yeaten.<sup>14817</sup>

Prosecution Witness TF1-579

6562. Witness TF1-579, an SSS member,<sup>14818</sup> testified that in late 1999 Sam Bockarie entered Liberia with a large number of bodyguards.<sup>14819</sup> The witness further testified that Bockarie spoke with him in Monrovia and told him that he had left Sierra Leone only because the Accused called him and told him he should do so.<sup>14820</sup> The witness also gave evidence that the Accused told Bockarie he should leave Sierra Leone because of Foday Sankoh's fears that Bockarie might take over the RUF. The witness then quoted Bockarie saying: "had it not been for the Chief who called me to come we would have all fought for that place until all of us lost the ground".<sup>14821</sup> TF1-579 testified that Bockarie used the term "Chief" to refer to the Accused.<sup>14822</sup> Furthermore, the witness gave testimony that during

<sup>14811</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.

<sup>14812</sup> Perry Kamara, Transcript 4 February 2008, p. 3080.

<sup>14813</sup> Foday Lansana, Transcript 20 February 2008, pp. 4361-4362.

<sup>14814</sup> Foday Lansana, Transcript 22 February 2008, pp. 4573-4574.

<sup>14815</sup> Foday Lansana, Transcript 22 February 2008, pp. 4574.

<sup>14816</sup> Foday Lansana, Transcript 22 February 2008, pp. 4574.

<sup>14817</sup> Foday Lansana, Transcript 22 February 2008, pp. 4574.

<sup>14818</sup> TF1-579, Transcript 5 November 2008, pp. 19822-19823.

<sup>14819</sup> TF1-579, Transcript 5 November 2008, pp. 19856, 19858.

<sup>14820</sup> TF1-579, Transcript 5 November 2008, pp. 19859.

<sup>14821</sup> TF1-579, Transcript 5 November 2008, pp. 19859.

<sup>14822</sup> TF1-579, Transcript 5 November 2008, pp. 19860.

this conversation Bockarie also stated that with Sankoh wanting him dead, he would now only follow orders from the Accused.<sup>14823</sup>

#### Prosecution Witnesses TF1-516 and TF1-371

6563. Witness TF1-516, an RUF radio operator,<sup>14824</sup> gave testimony to the effect that when Sam Bockarie left the RUF, he took with him a good number of RUF soldiers and then crossed the border into Liberia.<sup>14825</sup> The witness also stated that Bockarie was chased by a group of RUF soldiers who were sent by Issa Sesay to attack his base in Buedu and subsequently followed him to the Liberian border.<sup>14826</sup> TF1-371 further testified that while Sam Bockarie and his group of soldiers were allowed to cross, the pursuers were stopped and severely beaten by the Liberian soldiers.<sup>14827</sup>

#### The Accused

6564. The Accused testified that toward the end of 1999 the conflict between Bockarie and Sankoh led to a split within the RUF and violent clashes between the two newly formed camps.<sup>14828</sup> The Accused further stated that, following discussions within ECOWAS, a decision was taken to “extract” Bockarie from Sierra Leone to Liberia because Bockarie’s ideas to challenge Sankoh’s leadership over the RUF were threatening the peace process.<sup>14829</sup> The Accused therefore stressed that Bockarie did not arrive in Liberia on his personal invitation,<sup>14830</sup> but that his arrival in Monrovia in December 1999 was the result of many previous consultations amongst the Committee of Six.<sup>14831</sup>

6565. The Accused further testified that he saw Bockarie’s belligerency as a threat to the disarmament process, which is why the Accused communicated his concerns to President Obasanjo and eventually organised a meeting at Roberts International Airport.<sup>14832</sup> The Accused testified that this meeting was held on 21 December 1999 and was attended by the

<sup>14823</sup> TF1-579, Transcript 5 November 2008, pp. 19860.

<sup>14824</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>14825</sup> TF1-516, Transcript 9 April 2008, pp. 7037-7038

<sup>14826</sup> TF1-516, Transcript 9 April 2008, p. 7038.

<sup>14827</sup> TF1-371, Transcript 29 January 2008, pp. 7038-7039.

<sup>14828</sup> Charles Ghankay Taylor, Transcript 17 August 2009, pp. 26858, 26878.

<sup>14829</sup> Charles Ghankay Taylor, Transcript 17 August 2009, pp. 26859-26860.

<sup>14830</sup> Charles Ghankay Taylor, Transcript 17 August 2009, p. 26859.

<sup>14831</sup> Charles Ghankay Taylor, Transcript 17 August 2009, pp. 26844, 26859.

<sup>14832</sup> Charles Ghankay Taylor, Transcript 17 August 2009, pp. 26853-26854, 26859, 26878.

Accused, President Obasanjo, Sam Bockarie and Foday Sankoh.<sup>14833</sup> The Accused stated that the purpose of this meeting, and President Obasanjo being there, was to “reinforce some strong medicine”, namely that disarmament would continue and Bockarie would stay out of Sierra Leone.<sup>14834</sup> According to the Accused, Bockarie was given a choice to either stay in Liberia or go to a third country<sup>14835</sup> and the decisions made in this meeting were then communicated to the UN Special Representative in Liberia.<sup>14836</sup>

Prosecution Exhibit P-050

6566. Exhibit P-50 is a message from Sam Bockarie in which he announces that as a result of the increasing tension within the RUF and for the purpose of preventing more bloodshed, he has decided to leave the movement. The message is dated 14 December 1999.<sup>14837</sup>

Defence Exhibit D-226

6567. Exhibit D-226 contains a message from the Accused, conveyed to the UN Secretary-General through the UN Special Representative Felix Downes-Thomas. The message is dated 14 December 1999 and states that the Accused is currently holding talks in Monrovia with Sam Bockarie and Foday Sankoh in an effort to ensure that the peace process remains on course. The message goes on to say that President Obasanjo will fly to Monrovia on 20 December 1999 to assist the Accused in this matter.<sup>14838</sup>

Defence Exhibit D-227

6568. Exhibit D-227 is a code cable dated 21 December 1999, in which the United Nations special representative in Liberia writes about a meeting at Roberts International Airport between the Accused and President Obasanjo, where a decision was made to temporarily relocate Sam Bockarie and his followers to other countries.<sup>14839</sup> Downes-Thomas also refers to a report by the BBC correspondent in Monrovia, Jonathan Pellele, which states that Sam

<sup>14833</sup> Charles Ghankay Taylor, Transcript 17 August 2009, pp. 26856-26857.

<sup>14834</sup> Charles Ghankay Taylor, Transcript 17 August 2009, pp. 26857, 26859.

<sup>14835</sup> Charles Ghankay Taylor, Transcript 17 August 2009, p. 26858.

<sup>14836</sup> Charles Ghankay Taylor, Transcript 17 August 2009, p. 26854.

<sup>14837</sup> Exhibit P-50, “Radio Message – 00008764 19 December 1999 Radio Log Book Three”, ERN 52.

<sup>14838</sup> Exhibit D-226, “UN Interoffice Memorandum, to IQAL Rizza, Chef de Cabinet, to Felix Downes-Thomas, RSG, Liberia, Message from President Taylor to Secretary General, December 14 1999 – DCT 84 (3 Pages)”, p. 2, ERN 625.

<sup>14839</sup> Exhibit D-227, “Code Cable, To Predergast, United Nations, New York, From Downes-Thomas, RSG,

Bockarie also attended the meeting at RIA and was told that he must stay out of Sierra Leone. According to the BBC report, Bockarie was given the choice to either stay in Liberia or go to any other third country.<sup>14840</sup>

### Deliberations

6569. The Trial Chamber observes that it is undisputed that in December 1999, Sam Bockarie left Sierra Leone and went to Liberia, and that he was told to do so by the Accused. It is the nature of this contact between the Accused and Bockarie that is disputed. According to the Prosecution, this communication between the Accused and Bockarie amounted to an order and shows the existence of superior/subordinate relationship between the two of them. According to the Defence, the Accused relied on the authority of ECOWAS when summoning Bockarie to Liberia and also sought the help of President Obasanjo in the effort to deal with Sam Bockarie and ensure that he did not return to Sierra Leone.

6570. The Trial Chamber notes that the question of whether in this instance the contact between the Accused and Sam Bockarie satisfies the threshold of effective control is to be dealt with, in light of the totality of evidence, when analyzing the criminal responsibility of the Accused. At present, the Trial Chamber finds that the communication between the Accused and Bockarie resulted in the latter leaving Sierra Leone and entering Liberia in December 1999. This is supported by the testimony of Prosecution witnesses Foday Lansana<sup>14841</sup> and TF1-579,<sup>14842</sup> and the Defence has not disputed it or presented evidence to the contrary.

6571. The Trial Chamber further notes that a second, interrelated issue arises from the evidence presented by the Parties, namely the reasons for Bockarie's stay in Liberia in December 1999. The Prosecution's allegation that the Accused provided a safe haven for Bockarie and kept this secret from President Obasanjo during his meeting with him at Roberts International Airport on 21 December 1999 is not supported by the evidence. Both the Prosecution and the Defence have presented evidence to the effect that towards the end of 1999 there was a split within the RUF, leading to violent clashes between RUF fighters

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UNOL, Monrovia, Discussion on the Sierra Leonean Situation, December 21, 1999 – DCT 174”, ERN 626

<sup>14840</sup> Exhibit D-227, “Code Cable, To Predergast, United Nations, New York, From Downes-Thomas, RSG, UNOL, Monrovia, Discussion on the Sierra Leonean Situation, December 21, 1999 – DCT 174”, ERN 626

<sup>14841</sup> Foday Lansana, Transcript 22 February 2008, pp. 4574.

<sup>14842</sup> TF1-579, Transcript 5 November 2008, pp. 19859.

loyal to Foday Sankoh and RUF fighters loyal to Sam Bockarie.<sup>14843</sup> Contrary to the allegation that Bockarie sought a safe haven in Liberia, Prosecution Witness TF1-579 testified that Bockarie declared that he would have kept fighting in Sierra Leone if the Accused had not called him to Liberia.<sup>14844</sup> The Trial Chamber recalls that TF1-579's evidence is to be considered with caution and requires corroboration.<sup>14845</sup> Exhibit D-226 and Exhibit D-227 show that the Accused in fact organized a meeting at Roberts International Airport between Foday Sankoh, Sam Bockarie, President Obasanjo and himself, as a result of which a decision was made that Bockarie would not return to Sierra Leone until the disarmament process had been completed.<sup>14846</sup>

### Findings

6572. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the instruction given by the Accused to Sam Bockarie to leave Sierra Leone for Liberia in December 1999 was a 'diplomatic deceit' to cover clandestine actions.

#### (d) Issa Sesay

### Submissions of the Parties

6573. The Prosecution submits that after Sankoh's arrest and detention in May 2000, Charles Taylor selected Issa Sesay to take over the leadership of the RUF. In July 2000 Taylor called Sesay to Monrovia, where he arrived with a delegation that included Augustine Gbao. Sesay and his delegation met with Taylor and the other ECOWAS presidents, including President Obasanjo of Nigeria, President Jammeh of Gambia, President Eyadema of Togo, and President Konaré of Côte d'Ivoire.<sup>14847</sup>

6574. Taylor told them that the RUF needed new leadership because "Sankoh was too old, stubborn and lazy", a point that Sesay and Gbao objected to. Taylor's first proposal was for Sam Bockarie to be reinstated, which the Prosecution submits Taylor wanted because it would be better for him to have "as leader the man closest and most useful to him, as well as

<sup>14843</sup> TF1-516, Transcript 9 April 2008, p. 7038; Perry Kamara, Transcript 4 February 2008, p. 3080; Charles Ghankay Taylor, Transcript 17 August 2009, pp. 26858, 26878.

<sup>14844</sup> TF1-579, Transcript 5 November 2008, pp. 19859.

<sup>14845</sup> Credibility Assessment, TF1-579, paras 339-345.

<sup>14846</sup> Exhibit D-227, "Code Cable, To Predergast, United Nations, New York, From Downes-Thomas, RSG, UNOL, Monrovia, Discussion on the Sierra Leonean Situation, December 21, 1999 – DCT 174", ERN 626



most trusted". However when Taylor suggested this Sesay objected, after which Taylor suggested that Sesay become the leader. Sesay said that "he would need to inform the RUF family before accepting the position or appointing someone else". The meeting attended by the presidents closed and Taylor then held a private meeting with just "the delegation".<sup>14848</sup>

6575. The Prosecution further submits that after these meetings Sesay held a meeting in Sierra Leone to discuss the proposal that he take over the RUF leadership. The meeting attendees agreed in principal that Sesay could be the interim leader while Sankoh was still in detention on the condition that Sankoh provided a written confirmation of his agreement with this. On Taylor's invitation, Sesay travelled back to Monrovia where he met with Taylor, Obasanjo, and Konaré at Roberts International Airport.<sup>14849</sup> Sesay was given a letter signed by Sankoh which stated that "he did not approve of Sesay becoming the leader of the RUF; however, Issa Sesay could be the interim leader whilst Foday Sankoh was detained". The letter also directed that just as Bockarie had taken instructions from Taylor when Sankoh had been previously detained, Sesay would now take instructions from Taylor. Sesay then returned to Sierra Leone where he reconvened another meeting to have his appointment as interim leader of the RUF officially endorsed.<sup>14850</sup>

6576. The Defence submits that in the summer of 2000, because Foday Sankoh was in prison, ECOWAS did not know who was in charge of the RUF. Charles Taylor and his counterparts on the Committee of Six decided that Taylor should host a mini-summit in Monrovia "to deal with the issue of Issa Sesay and the RUF so that the Lomé agreement would not be torn up and so that disarmament and demobilisation could continue". Presidents Yahya Jammeh, Alpha Konaré, Olesegun Obasanjo, Gnassingbe Eyadema, Blaise Compoaré and Robert Guie attended the meeting arranged by Taylor which took place on 26 July 2000 at the Executive Mansion in Monrovia. Sesay attended as well with a delegation. While Kabbah did not attend because he was not a member of the Committee of Six and was a party to the conflict in Sierra Leone, he was still aware of the meeting and its purpose.<sup>14851</sup>

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<sup>14847</sup> Prosecution Final Trial Brief, para. 180.

<sup>14848</sup> Prosecution Final Trial Brief, para. 180.

<sup>14849</sup> Prosecution Final Trial Brief, para. 181.

<sup>14850</sup> Prosecution Final Trial Brief, para. 181.

<sup>14851</sup> Defence Final Trial Brief, paras 686-687.

6577. The Defence further submits that the heads of state asked Sesay who “was in charge” of the RUF while Sankoh was being incarcerated by Sierra Leone, and Sesay informed them that he was the RUF’s most senior officer. The heads of state suggested that Sesay become the new leader of the RUF, based on an agreement between Obasanjo and Taylor who were impressed that Sesay had swiftly surrendered the peacekeepers to Taylor in May. Sesay explained that he would need the approval of the War Council and Sankoh, and the heads of state then “facilitated” the sending of a letter to Sankoh, and gave Sesay time to consult the War Council.<sup>14852</sup>

6578. Then ECOWAS Chairman President Konaré and Obasanjo took the letter to Sierra Leone where they met with Sankoh and Kabbah. Sankoh “approved” Sesay’s interim leadership. Kabbah was kept updated on all developments concerning Sesay’s appointment to interim leader. Sesay then returned to Liberia in order for his appointment to be formally confirmed at a meeting that had been arranged on 21 August 2000 in Roberts International Airport in Liberia. President Taylor, Konaré, and Obasanjo attended the meeting, which also included Sesay and RUF spokesman Gibril Massaquoi.<sup>14853</sup>

6579. The Defence further submits that Sesay confirmed that he and his delegation, which included Augustine Gbao, Konathan Kposowa, Samuel Jabba, Patrick Binda and Colonel Lion, were invited to a meeting at RIA with Presidents Taylor, Konaré and Obasanjo. In addition to the aforementioned heads of state and the RUF delegation, the meeting was also attended by other ECOWAS representatives and the press. Taylor and Obasanjo reiterated their preference that Sesay become the RUF interim leader, and Konaré complained about Sankoh and stated that they would no longer work with him.<sup>14854</sup>

## Evidence

### Prosecution Witness TF1-338

6580. Witness TF1-338 testified that Issa Sesay travelled with a delegation to Monrovia on 26 July 2000. Upon arrival, which was at about 4.00pm, they went to the sixth floor of the Executive Mansion where they met Taylor and four other heads of state. The heads of state

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<sup>14852</sup> Defence Final Trial Brief, para. 688.

<sup>14853</sup> Defence Final Trial Brief, paras 689-691.

<sup>14854</sup> Defence Final Trial Brief, para. 692.

were Nigerian President Obasanjo, Togolese President Eyadema, Gambian President Yahya Jammeh, and the Malian President Oumar Konaré. Taylor had invited them there to celebrate “an occasion in Liberia” and to change the RUF leadership.<sup>14855</sup>

6581. After the introductions were made, he heard Obasanjo thank the RUF delegation for coming and directed them “to continue with the good relationship that they had with Charles Taylor...because Charles Taylor was doing good things to them and ... Charles Taylor was a good leader. If Africa could only get ten of his type then the unity Africa is fighting for, they will be able to achieve it”. TF1-338 also testified that he heard Jammeh thank the RUF delegation and say that it was “Charles Lord [sic] who had invited them to come and talk to the RUF delegation for them to have a new leadership so that they will be able to carry on with the peace process so peace and stability will return to Sierra Leone”, and that “if the RUF took the initiative to have a young leader who would be able to carry on with the process then they would achieve their objective”. TF1-338 testified that both Konaré and Eyadema addressed them as well, but they spoke in French and he was unable to understand what they said.<sup>14856</sup>

6582. TF1-338 testified that Taylor then addressed them and said that because “Foday Sankoh was too old...too stubborn...always being arrested, and ...a lazy leader” that it was necessary for the RUF leadership to change. Augustine Gbao and Issa Sesay “emphasised that no, that shouldn’t happen, but Charles Taylor spoke with them to listen to what the leaders were telling them”. Taylor first suggested that they “take Mosquito back”, meaning to send Sam Bockarie back to Sierra Leone as RUF leader, but Sesay said no, and then Taylor said “Ah, but Issa if you would take care as a commander or as a leader”. Sesay said that because the RUF was a family, he would inform the “RUF family” first, and then respond as to whether he would accept the position or appoint someone else.<sup>14857</sup>

6583. Later that night, at around 11.00pm or midnight, Benjamin Yeaten came to collect Sesay and others, including Augustine Gbao, to go to meet with Taylor. TF1-338 testified that Taylor told Sesay that “he should bear in mind that the people who were talking to him before then were British elected presidents and he should...not to listen to the Sierra Leone

<sup>14855</sup> TF1-338, Transcript 2 September 2008, pp. 15145-15146. The “occasion” was Liberia’s 26 July independence celebration. Charles Ghankay Taylor, Transcript 19 August 2009, p. 27159.

<sup>14856</sup> TF1-338, Transcript 2 September 2008, 15147.

<sup>14857</sup> TF1-338, Transcript 2 September 2008, pp. 15147-15148.

government because...[it] was a British elected government...remote controlled by the British.....And so any time he would be asked [by the United Nations] to disarm he should just say yes, but he should not do it in reality. And in that case he, Charles Taylor, will continue to assist the RUF as he was doing before". Taylor also told Sesay that he should not listen to the other heads of state because "today...they will embrace him and the other day they will just deny him". Taylor then gave Sesay \$USD 15,000 and he returned to the guesthouse. Sesay then travelled back to Sierra Leone the next day, 27 July 2000.<sup>14858</sup>

6584. When Sesay arrived he convened an RUF meeting in Lebanon, Koidu Town, where he informed his "colleagues" of Taylor's proposal that he take over the RUF leadership and said that he had "just come to ask who should be the leader". They all agreed that Sesay could take over as leader, but only if they received a message from Sankoh showing his consent. Sesay informed them that Obasanjo had volunteered to meet with Sankoh to find out his view once they gave him a name to propose, however they insisted that they needed to see a letter from Sankoh agreeing to it.<sup>14859</sup>

6585. Two or three days later, Sesay said that Taylor had invited him to Liberia where he landed at the international airport (RIA), and where he met Obasanjo and Konaré. They were taken to a waiting room for a meeting where Obasanjo handed a letter from Sankoh to Taylor, who then handed it to Sesay. Sesay agreed that the signature on the letter belonged to Sankoh, and then Jabba, Sesay's adjutant, read the letter aloud. TF1-338 recalls that Jabba read from that letter that "Issa should now take control of the leadership and he should take instructions, just as Mosquito used to do while [Sankoh] was in jail...in Nigeria, that Issa should now take control and instructions from Charles Taylor".<sup>14860</sup> Obasanjo then handed Sesay a parcel and he and Konaré left to fly back to their own countries. Sesay then spent the night in Monrovia before leaving for Sierra Leone the next day.<sup>14861</sup>

6586. When Sesay arrived back in Sierra Leone he convened another meeting in Lebanon, Koidu Town, where he showed Sankoh's letter "to the people and the people were happy about it because Issa had been appointed the new leader and should carry on with the work

<sup>14858</sup> TF1-338, Transcript 1 September 2008, pp. 15149-15150. TF1-338 explained that when Taylor spoke about the "British elected presidents" that he was referring to the four other heads of state.

<sup>14859</sup> TF1-338, Transcript 2 September 2008, p. 15151.

<sup>14860</sup> TF1-338, Transcript 2 September 2008, pp. 15152-15154.

<sup>14861</sup> TF1-338, Transcript 2 September 2008, pp. 15154.-15155.

Pa Sankoh was to do". The letter explained that Issa was there to be the "interim chairman", and "at the same time he should take instructions from Charles Taylor just as before as Mosquito had been doing and he should take care of the revolution, and he should not allow anybody to mislead him into disarmament".<sup>14862</sup>

### The Accused

6587. The Accused testified that he invited the ECOWAS heads of state to the Executive Mansion in Monrovia on 26 July 2000, in order to resolve who was in charge of the RUF while Foday Sankoh was incarcerated so that they could "make absolutely sure the [Lomé] agreement is not thrown away". President Jammah of the Gambia, President Konaré of Mali, President Obasanjo of Nigeria, President Compaore of Burkina Faso, and President Eyadema of Togo attended the meeting, while President Robert of Côte d'Ivoire did not. At the meeting there was also an RUF delegation which included General Issa Sesay.<sup>14863</sup>

6588. The Accused testified that "General Sesay made us to understand that he was the most senior officer, so after we threw it around and we said, 'Well, then of course you are in charge and you will be the new leader. Can we assume that?'" Sesay said no because two conditions needed to be met in order for him to take over the RUF leadership: 1) he would need the approval of "what he called a War Council", and "even more importantly, he said that it would take the approval of Foday Sankoh...". Sesay asked for time to consult with the War Council and that the presidents find a way to get a message to Foday Sankoh.<sup>14864</sup>

6589. About a week later, in the first week of August 2000, Presidents Obasanjo and Konaré travelled to Sierra Leone with a letter written by Issa Sesay to Foday Sankoh, informing him that the senior commander and officer of the RUF had met and decided that Sesay would become the Interim Leader until Sankoh's return.<sup>14865</sup>

6590. Presidents Obasanjo and Konaré then met with Tejan Kabbah "and Foday Sankoh was brought to the meeting" where Sankoh gave his approval of Sesay being appointed as the Interim Leader. Obasanjo and Konaré then discussed Sankoh's agreement over the

<sup>14862</sup> TF1-338, Transcript 2 September 2008, pp. 15155-15156.

<sup>14863</sup> Charles Ghankay Taylor, Transcript 18 August 2009, p. 27053; Transcript 19 August 2009, pp. 27159-27163. First Taylor testified that President Robert of the Côte d'Ivoire attended, but then later testified that he did not. Charles Ghankay Taylor, Transcript 18 August 2009, pp. 27161, 27164.

<sup>14864</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27161-27165.

phone with Taylor, and then they arranged for a meeting to be held three weeks later on 21 August 2000 at Roberts International Airport in Liberia, in order to formalise Sesay's appointment as Interim Leader. Taylor testified that this meeting was attended by himself, Obasanjo, Konaré, Sesay and Gibril Massaquoi, who was Sesay's spokesperson.<sup>14866</sup>

6591. The Accused also testified about Exhibit D-259, an RUF press communiqué signed by Issa Sesay that confirms that this meeting at RIA occurred as a "sequel to the one held in Monrovia on 26 July 2000", and that Sankoh sent a signed letter through Konaré and Obasanjo confirming Sesay as the Interim Leader of the RUF.<sup>14867</sup> Taylor further testified that President Kabbah was "fully kept abreast" of each development leading to the appointment of Sesay as the Interim Leader.<sup>14868</sup>

6592. The Accused was questioned concerning TF1-338's testimony about the 26 July 2000 meeting. Taylor contested TF1-338's testimony that the meeting occurred on the sixth floor of the Executive Mansion, saying that they met in his office on the fourth floor. Taylor also recalled that he remembered the RUF delegation being represented at the meeting by only Sesay and Massaquoi. He also did not recall the presence of Augustine Gbao. Taylor also explained that when TF1-338 testified that he had invited them there to celebrate an "occasion", that the witness was referring to the Liberian Independence Day celebrations, but that he had not invited the RUF delegation there to attend the celebrations, only to discuss the RUF leadership issue in the wake of Sankoh's incarceration.<sup>14869</sup> The Accused also contested TF1-338's testimony that he referred to Sankoh as too old, stupid and stubborn, testifying that "I wouldn't say anything so stupid to Issa. I know the relationship between Issa and Sankoh. That alone would have spoiled the whole program".<sup>14870</sup>

6593. The Accused further contested TF1-338's testimony that at that meeting Issa was appointed as the RUF Interim Leader. Taylor testified instead that Sesay "made it very clear

<sup>14865</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27165-27167.

<sup>14866</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27163-27168.

<sup>14867</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27167-27171; Transcript 20 August 2009, pp. 27272-27273 (testifying that "When it got down to the major decision, Issa kept Gibril Massaquoi with him".); Exhibit D-259, "Press Communiqué Issued by the Revolutionary United Front (RUF) following a meeting with H.E. Alpha Oumar Konaré, President of Mali and Chairman of ECOWAS, H.E. Olusegun Obasanjo, President of Nigeria, and H.E. Dahkpannah Dr Charles Ghankay Taylor, President of Liberia, 21 August 2000".

<sup>14868</sup> Charles Ghankay Taylor, Transcript 19 August 2009, p. 27172.

<sup>14869</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27184-27187, 27191.

<sup>14870</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27189-27191.

in that meeting that he could not accept the leadership at that particular place and claim that he was the leader, that he needed the blessing of the War Council and Sankoh himself. That's why it took almost a month to settle all of these things".<sup>14871</sup> Taylor also testified that, contrary to the testimony of TF1-338, he did not suggest sending Sam Bockarie back as the leader of the RUF.<sup>14872</sup>

6594. The Accused also disputed TF1-338's testimony that he met with the RUF delegation later that night at around 11.00pm or midnight, and that he gave Sesay \$USD 15,000. Taylor testified instead that he did not meet with them again until the next morning, 27 July 2000, when he gave Sesay about \$USD 5,000 to 7,000 to shop for things they needed like jeans and sneakers before they returned, as was the custom of African heads of state when receiving "little delegations".<sup>14873</sup>

6595. The Accused also disputed the testimony of TF1-338 that the letter from Sankoh authorizing Sesay's leadership also said that Sesay should now take instructions from Taylor. Taylor testified that "if the letter had said that, the first thing Obasanjo and Konaré would have done, they would have never brought such nonsense, where Foday Sankoh read a letter and say from now on take instructions from Charles Taylor. In fact, knowing Obasanjo and Konaré, they would not have countenanced such nonsense". Taylor goes on to further explain that "this letter is written by Foday Sankoh in the presence of three Presidents. Tejani Kabbah, Obasanjo and Alpha Konaré....You know who would have been the first to object and you would have heard about it immediately....Kabbah would have objected. Obasanjo would have never countenanced such. Neither Konaré".<sup>14874</sup>

#### Defence Witness Issa Sesay

6596. Witness Issa Sesay, senior RUF commander<sup>14875</sup> and interim leader of the RUF from 2000 until disarmament in 2002,<sup>14876</sup> testified that his appointment as Interim Leader of the RUF first came up at a meeting in the end of July 2000, which he was invited to via radio communication from Charles Taylor, acting on behalf of ECOWAS. Taylor told him that he

<sup>14871</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27191-27192.

<sup>14872</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27192-27193.

<sup>14873</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27196-27197, 27199-27200.

<sup>14874</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27205-27210.

<sup>14875</sup> Issa Sesay, Transcript 26 July 2010, pp. 44590-44591, 44596.

<sup>14876</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589; Transcript 23 August 2010, p. 46883.

should travel to Monrovia with some of his colleagues because ECOWAS wanted to have a meeting with the RUF. Sesay took with a delegation with him. They spent the first night in Monrovia in the guesthouse, and then Joe Tuah came and brought Sesay and his entire delegation to the Executive Mansion where they met with Taylor and Presidents Obasanjo, Jammeh, Konaré, and Eyadema.<sup>14877</sup>

6597. Sesay testified that at the meeting the Heads of State each took a turn to speak, and the gist of their discussions was that they as ECOWAS leaders, who were the guarantors to the Lomé Peace Accord, had decided that they were no longer going to work with Sankoh, because he did not respect anyone and did not want to implement the Lomé Peace Accord, and that they, as leaders in the region, would not allow the Lomé Accord to fail. For that reason, they said they deemed it necessary to change the leadership of Mr Sankoh. Obasanjo then proposed giving the leadership to Sesay based on his quick resolution of the UNAMSIL hostage situation, and Taylor agreed that “Issa is somebody who listens....I believe that he will do the job that we will want him to do”. Obasanjo then said, “Then it is better we give Issa the leadership”, followed by support from Eyadema and Konaré.<sup>14878</sup>

6598. Sesay testified that he responded to this proposal by saying:

this leadership that you want to give me now, I will ask of you to give me a week so that I will go back and consult with my fellow RUF people. I said because Mr Sankoh was operating over a divided loyalty, and I said it would not be good at this point,...if you make me interim leader and then I go back to Sierra Leone, then you hear that people have started attacking again, or we start attacking each other....what I want you to do, and the job you would want me to do, it would not be possible for it to happen. So I said they should give me time to go and inform my colleague RUF that this is the decision of the ECOWAS leaders. And ... number two, we as RUF who were here now, please allow us to write a letter so that you will send this letter to Mr Sankoh who is already under the custody of the Government of Sierra Leone.<sup>14879</sup>

Obasanjo objected, saying that “Issa if we make you leader, we are the Heads of States of the region, who else will challenge your leadership?” But then Sesay testified that Eyadema said they should listen to Sesay, and that Sesay should write a letter that they would take to Sankoh.<sup>14880</sup>

<sup>14877</sup> Issa Sesay, Transcript 26 July 2010, pp. 44548-44550.

<sup>14878</sup> Issa Sesay, Transcript 26 July 2010, p. 44551.

<sup>14879</sup> Issa Sesay, Transcript 26 July 2010, p. 44552.

<sup>14880</sup> Issa Sesay, Transcript 26 July 2010, p. 44552.



6599. Sesay testified that Gbao wrote the letter there in Monrovia, and that they informed Sankoh about the decision of ECOWAS concerning his appointment. They then they gave the letter to Obasanjo, who took it to Freetown with Konaré. President Kabbah brought Sankoh to Lungi airport, and it was there that Obasanjo and Konaré handed the letter over to him. Sankoh rejected the proposal, saying that he wanted the ECOWAS leaders to ask Mike Lamin to take over but both Obasanjo and Konaré said no, and that the time for Sankoh to tell them anything whatsoever has already passed. The ECOWAS leaders wanted Issa, so Mr Sankoh was no longer in a place to tell them who they should appoint. Sesay heard about Sankoh's reaction from Obasanjo during the next time he met with him at RIA in August 2000.<sup>14881</sup>

6600. After Sesay had given the letter to Obasanjo and Konaré, he and the RUF delegation returned to Sierra Leone where he convened a meeting of commanders in Kono and informed them about what had happened at the Monrovia meeting, and of the decision taken by ECOWAS. During the meeting some of them suggested that Mike Lamin or Pa Rogers should take over as Interim Leader instead, but others also supported Sesay, as he was the one ECOWAS wanted. When the meeting ended Sesay had the most support, and a week later he left to return to Monrovia with only Gbao, Jonathan Kposowa, Samuel Jabba, Patrick PS Binda, and Colonel Lion.<sup>14882</sup>

6601. Sesay testified that after arriving at the guesthouse in Monrovia they were collected and taken to RIA, where he and the RUF delegation met with Obasanjo, Konaré, Taylor, representatives of the ECOWAS heads of state who could not attend, and the press. At the meeting Taylor told Sesay about Sankoh's rejection of their suggestion, and said that they did not accept it, and wanted to know what the outcome of the meeting with Sesay and the RUF commanders was. Sesay explained that people had suggested him, Mike Lamin and Pa Rogers. Obasanjo then said they wanted Sesay as RUF Interim Leader and Taylor concurred. Konaré said that they had given enough time to Sankoh and that they would not listen to him anymore, and that Sesay should become the leader.<sup>14883</sup>

6602. After that meeting ended, Taylor, Konaré, and Obasanjo invited Sesay into a small conference room. They told Sesay that all of the ECOWAS leaders, including President

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<sup>14881</sup> Issa Sesay, Transcript 26 July 2010, pp. 44553, 44557-44558.

<sup>14882</sup> Issa Sesay, Transcript 26 July 2010, pp. 44554-44556; Transcript 2 August 2010, p. 45268.

Kabbah, supported Sesay becoming the Interim Leader. They also said that he was a young man, and should not make them ashamed of him, and that he should do whatever they told him to. They gave him instructions, including that he should prepare to work with Sierra Leone in implementing the Lomé Accord.<sup>14884</sup>

6603. Sesay again testified that he was not appointed Interim Leader by Taylor alone, and that it was Obasanjo who first brought up the idea of his appointment.<sup>14885</sup> He also testified that Exhibit D-259, an RUF press communiqué issued on 21 August 2000 which recounted the events of the meeting at RIA, was drafted by Gibril Massaquoi, and that although it appears to be signed by him, he does not remember doing so. Sesay testified that even though the communiqué stated that the meeting was held in late August, it actually took place on 5 August 2000.<sup>14886</sup>

6604. Sesay testified that contrary to the testimony of TF1-338, at the July 2000 meeting with Taylor and the ECOWAS heads of state in Monrovia, he did not object to the proposal that Foday Sankoh be replaced as RUF leader. It was only Gbao who made this objection. Sesay also disputed the testimony of TF1-338 that Sam Bockarie was discussed at that meeting. Sesay testified that Bockarie's name "was not even mentioned in the entire discussion". Sesay also recalled in relation to this issue that after Bockarie resigned from the RUF and left to Monrovia, that Sankoh and Obasanjo went to Monrovia and "facilitated" a meeting with Bockarie. At the meeting they decided that Bockarie should stay in Monrovia in order to ensure that he would not obstruct the peace process in Sierra Leone.<sup>14887</sup>

6605. Sesay also disputed the testimony of TF1-338 in relation to the letter that Foday Sankoh sent to the August 2000 meeting at RIA, acceding to Sesay's interim leadership. Sesay testified that he did not hand the letter to Jabba, as TF1-338 testified, but rather to Kposowa, who read through it and said that Sankoh had written that he approved of ECOWAS's proposal that Sesay become the interim leader. Sesay also testified that he read Sankoh's letter himself and that it did not instruct him to take orders from Taylor. Sesay further explained that when Kabbah testified at Sesay's trial, he recounted that at the

<sup>14883</sup> Issa Sesay, Transcript 26 July 2010, pp. 44558-44560.

<sup>14884</sup> Issa Sesay, Transcript 26 July 2010, pp. 44560-44561.

<sup>14885</sup> Issa Sesay, Transcript 26 July 2010, p. 44562.

<sup>14886</sup> Issa Sesay, Transcript 26 July 2010, pp. 44567-44568.

<sup>14887</sup> Issa Sesay, Transcript 2 August 2010, pp. 45256-45258.

meeting in Freetown with Sankoh, Kabbah first wrote the letter and asked Sankoh to sign it. Sankoh refused and said that he needed to write it so that his men would recognize his handwriting, which he did. The letter was then sent to RIA through Obasanjo. Sesay also testified that he believed it was impossible that Sankoh would have been allowed to write that Sesay should take instruction from Taylor.<sup>14888</sup>

6606. When questioned as to whom he was supposed to take instruction from as RUF Interim Leader, Sesay testified that in that position he was not required to take instruction from anyone, just as Foday Sankoh as leader did not take instructions from anyone. Sesay further testified that at the meeting at RIA the ECOWAS leaders did not tell him to take instruction from anyone, they only advised him to work with the Government of Sierra Leone and the United Nations mission in Sierra Leone.<sup>14889</sup>

6607. Sesay was also questioned concerning the testimony of TF1-338 that after the August 2000 meeting at RIA Sesay returned to Lebanon, Koidu Town and showed the people the letter from Sankoh which stated that Sesay was to be the interim leader and that he should take instructions from Charles Taylor and not allow anyone to lead him into disarmament. Sesay testified that if these were the contents of the letter, Presidents Obasanjo and Konaré would not have delivered it him, and President Kabbah would not have allowed his colleagues to bring a letter to Sesay instructing him not to disarm, especially as the disarmament was what all of the ECOWAS leaders were disturbing “their lives and their reigns...to talk about”.<sup>14890</sup>

6608. Sesay also disputed the testimony of the Accused that Gibril Massaquoi was present at the August 2000 meeting at RIA, testifying instead that Massaquoi was not there.<sup>14891</sup>

#### Defence Exhibit D-258

6609. Exhibit D-258 is a letter that Charles Taylor testified was written by Issa Sesay to the “Papay”, Foday Sankoh, dated 1 August 2000.<sup>14892</sup> It states in pertinent part that all of the

<sup>14888</sup> Issa Sesay, Transcript 2 August 2010, pp. 45267-45270.

<sup>14889</sup> Issa Sesay, Transcript 2 August 2010, pp. 45271-45272.

<sup>14890</sup> Issa Sesay, Transcript 2 August 2010, pp. 45272 -45274.

<sup>14891</sup> Issa Sesay, Transcript 2 August 2010, pp. 45271.

<sup>14892</sup> Taylor testified that between the marking of the words “DECISION” on the letter is the signature of Issa Sesay, and that he knows this because he was told that Issa signed the letter as Interim Leader. The Trial Chamber notes that it is unable to see whose signature is on the letter that was admitted into evidence. Charles





senior commanders and officers of the RUF had met and come to a decision “that Brigadier General Issa Sesay will head the RUF as interim leader until your return....We would like to inform you about such development and your advice and instruction, which will be carried out fully through the high command of the RUF”. The letter was signed “Your children of the revolution, signed on behalf of the high command of the RUF”, with the word “intrem” written below the signature.<sup>14893</sup>

Defence Exhibit D-259

6610. Exhibit D-259 is an RUF press communiqué issued following a meeting on 21 August 2000 between the RUF High Command and Presidents Konaré, Obasanjo, and Taylor. It states in pertinent part that the “meeting was a sequel to the one held in Monrovia on 26 July 2000 and the High command’s letter dated 01 August 2000 to Chairman Foday Sankoh on developments connected with the peace process in Sierra Leone. His Excellency President Obasanjo brought a hand written and signed reply to our letter addressed to Chairman Foday Sankoh. We are convinced that the letter, which confirmed Brig. Gen. Issa Sessay [sic] as the Interim Leader of the RUF, is authentic”.<sup>14894</sup>

Defence Exhibit D-263

6611. Exhibit D-263 is a letter from Monie R. Captan, the Liberian Foreign Minister, to United States Under Secretary of State Thomas P. Pickering, dated 17 August 2000. In this letter, Captan informed Pickering that “in keeping with consultations held among the Chairman of ECOWAS, the Chairman of the OAU, the Presidents of Liberia, Nigeria, and the Gambia in Monrovia on 26 July 2000; a new interlocutor and leader of the RUF has been proposed by the RUF Command through letter to the Chairman of ECOWAS”.<sup>14895</sup>

Defence Exhibit D-264

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Ghankay Taylor, Transcript 19 August 2009, pp. 27165-27167; Exhibit D-258, “Handwritten Letter from Issa Sesay to Foday Sankoh, August 1 2000”.

<sup>14893</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27165-27167; Exhibit D-258, “Handwritten Letter from Issa Sesay to Foday Sankoh, 1 August 2000”.

<sup>14894</sup> Exhibit D-259, “Press Communique Issued by the Revolutionary United Front (RUF) following a meeting with H.E. Alpha Oumar Konaré, President of Mali and Chairman of ECOWAS, H.E. Olusegun Obasanjo, President of Nigeria, and H.E. Dahkpannah Dr Charles Ghankay Taylor, President of Liberia, 21 August 2000”.

<sup>14895</sup> Exhibit D-263 “Letter from President of Liberia, Charles Ghankay Taylor to Thomas Pickering, Under Secretary of State, Department of State, Washington, 17 August 2000”, p. 2.





6612. Exhibit D-264 is a letter from Charles Taylor to President William Clinton, dated 23 August 2000, in which he informs Clinton that “the RUF has announced a new leadership acceptable to ECOWAS...”<sup>14896</sup>

### Deliberations

6613. The Trial Chamber observes that the evidence presented by both the Prosecution and Defence concerning the appointment of Issa Sesay as Interim Leader of the RUF in August 2000 is substantially similar, even if there is disagreement over some points. Specifically, each of the witnesses testified that: 1) a meeting occurred on 26 July 2000 at the Executive Mansion in Monrovia between the heads of state of ECOWAS and an RUF delegation led by Issa Sesay, where Taylor was either in agreement with the other heads of state that Sesay should become the Interim Leader, or was himself responsible for first suggesting it;<sup>14897</sup> 2) Sesay would not accept the appointment without it first being approved by the RUF, including Foday Sankoh;<sup>14898</sup> 3) Sesay held a meeting with the RUF commanders to discuss the appointment of a new interim leader;<sup>14899</sup> 4) a message was brought to Foday Sankoh by President Obasanjo from Sesay asking for his consent;<sup>14900</sup> and 5) a follow-up meeting took place at RIA in Liberia in August 2000, where Sesay was confirmed as the RUF Interim Leader.<sup>14901</sup>

<sup>14896</sup> Exhibit D-264, “Letter to the President of the United States, H.E. William Jefferson Clinton, from the President of Liberia, Dahkpannah, Dr Charles Ghankay Taylor, 23 August 2000”, p. 2.

<sup>14897</sup> TF1-338, Transcript 2 September 2008, pp. 15147-15148; Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27161-27165; Issa Sesay, Transcript 26 July 2010, p. 44551; Exhibit D-263 “Letter from President of Liberia, Charles Ghankay Taylor to Thomas Pickering, Under Secretary of State, Department of State, Washington, 17 August 2000”, p. 2;

<sup>14898</sup> TF1-338, Transcript 2 September 2008, pp. 15147-15148; Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27161-27165; Issa Sesay, Transcript 26 July 2010, p. 44552.

<sup>14899</sup> Witness TF1-338, Transcript 2 September 2008, p. 15151; Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27165-27167; Issa Sesay, Transcript 26 July 2010, pp. 44554-44556; Exhibit D-258, “Handwritten Letter from Issa Sesay to Foday Sankoh, August 1 2000”.

<sup>14900</sup> TF1-338, Transcript 2 September 2008, p. 15151; Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27165-27167; Issa Sesay, Transcript 26 July 2010, p. 44553, 44557-44558; Exhibit D-258, “Handwritten Letter from Issa Sesay to Foday Sankoh, August 1 2000;” Exhibit D-259, “Press Communique Issued by the Revolutionary United Front (RUF) following a meeting with H.E. Alpha Oumar Konaré , President of Mali and Chairman of ECOWAS, H.E. Olusegun Obasanjo, President of Nigeria, and H.E. Dahkpannah Dr Charles Ghankay Taylor, President of Liberia, August 21 2000;” Exhibit D-263 “Letter from President of Liberia, Charles Ghankay Taylor to Thomas Pickering, Under Secretary of State, Department of State, Washington, August 17 2000”, p. 2.

<sup>14901</sup> TF1-338, Transcript 2 September 2008, pp. 15152-15154; Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27163-27168; Issa Sesay, Transcript 26 July 2010, pp. 44558-44560; Exhibit D-259, “Press Communique Issued by the Revolutionary United Front (RUF) following a meeting with H.E. Alpha Oumar Konaré , President of Mali and Chairman of ECOWAS, H.E. Olusegun Obasanjo, President of Nigeria, and H.E.

6614. The Trial Chamber will focus its deliberations on three points in dispute: 1) whether Sesay disagreed and refused to comply with a recommendation from Taylor that Bockarie be appointed as Interim Leader of the RUF; 2) the extent of the involvement of the other ECOWAS heads of state in appointing Sesay to Interim Leader of the RUF; and 3) whether Sankoh instructed that Sesay take instructions from Taylor.

6615. Concerning the first point in dispute, the evidence that the Prosecution presented to support the proposition that at the 26 July 2000 meeting, Taylor recommended that Bockarie be appointed as the RUF Interim Leader, and that Sesay rejected this proposal, is the testimony of TF1-338.<sup>14902</sup> The Accused denied in his testimony that he made this recommendation,<sup>14903</sup> and Sesay also denied that Bockarie's name came up at the meeting, explaining that at that time Bockarie was in Liberia because Obasanjo and Sankoh wanted to prevent him from derailing the peace process in Sierra Leone.<sup>14904</sup> The Trial Chamber also recalls its finding that on 14 December 1999 Sam Bockarie left Sierra Leone to relocate to Monrovia at the instruction of the Accused, who made great efforts in conjunction with other ECOWAS members to remove him from Sierra Leone.<sup>14905</sup> While the Trial Chamber also recalls its finding that TF1-338 is a generally credible witness,<sup>14906</sup> the circumstances in this context make it unlikely, in the Trial Chamber's view, that the Accused would have suggested Bockarie for leadership of the RUF.

6616. Concerning the second point in dispute, the testimony of the witnesses indicates that the other ECOWAS heads of state were as involved as Taylor, if not more so, in selecting Sesay to take over as Interim Leader of the RUF at the 26 July 2000 meeting. TF1-338 testified that at the 26 July 2000 meeting President Jammeh said that it was Taylor who had invited the ECOWAS heads of state to come together with the RUF delegation to discuss the RUF taking on new leadership.<sup>14907</sup> This suggests that it was a decision that was deliberated on by the attendees at the meeting, and not a unilateral decision by Taylor. The Accused testified that at the 26 July 2000 meeting he and the ECOWAS leaders "threw around" the

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Dahkpannah Dr Charles Ghankay Taylor, President of Liberia, August 21 2000". See also Exhibit D-264, "Letter to the President of the United States, H.E. William Jefferson Clinton, from the President of Liberia, Dahkpannah, Dr Charles Ghankay Taylor, August 23 2000", p. 2.

<sup>14902</sup> TF1-338, Transcript 2 September 2008, pp. 15147-15148.

<sup>14903</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27163-27168.

<sup>14904</sup> Issa Sesay, Transcript 2 August 2010, pp. 45256-45258.

<sup>14905</sup> Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Sam Bockarie.

<sup>14906</sup> Credibility Assessment, TF1-338, paras 318-329.

idea that Sesay should be the RUF Interim Leader because Sesay was at that time the most senior officer of the RUF.<sup>14908</sup> The Accused's testimony therefore also does not support the proposition that the suggestion of Sesay was a unilateral proposal that he made by himself.

6617. According to Sesay's testimony, Obasanjo first proposed that Sesay should take over the leadership based on his quick resolution of the UNAMSIL hostage situation, and Taylor then agreed, followed by Eyadema and Konaré.<sup>14909</sup> Sesay further testified that when Obasanjo and Konaré took the letter to Sankoh informing him about the decision of ECOWAS confirming his appointment, Sankoh said he wanted Mike Lamin as leader instead. However, Obasanjo and Eyadema told Sankoh that he no longer could choose whom to appoint.<sup>14910</sup> The Trial Chamber notes, that President Obasanjo and Konaré both met with Sankoh in Freetown, without the Accused present, indicating that this process was undertaken by ECOWAS heads of state collectively, rather than by the Accused unilaterally. Taylor then told Sesay at the meeting in August 2000 at RIA that Sankoh had rejected ECOWAS's suggestion, but that they were disregarding it, and asked for the outcome of the meeting that Sesay held with the RUF commanders. When Sesay told Taylor, Obasanjo and Konaré that the RUF commanders had suggested him, Mike Lamin and Pa Rogers, Obasanjo responded that he wanted Sesay as Interim Leader followed by concurrences from Taylor and Konaré.<sup>14911</sup> According to Sesay, the three leaders then invited him into a small conference room where they told him that his leadership had the support of all of the ECOWAS leaders, including President Kabbah.<sup>14912</sup> The Trial Chamber finds that taken together, the evidence of TF1-338, the Accused and Issa Sesay shows that Taylor did not unilaterally select Sesay to be the Interim Leader of the RUF in July and August 2000, and that the ECOWAS leaders appeared to in fact have all had a say in the matter.

6618. Finally, the third point in dispute is whether in acceding to the appointment of Issa Sesay as RUF Interim Leader, Foday Sankoh also instructed Sesay to take instructions from Taylor just as Sam Bockarie had when he was RUF Interim Leader. The Prosecution relies on the testimony of TF1-338, whose basis of knowledge was his recollection of the reading

<sup>14907</sup> TF1-338, Transcript 2 September 2008, p. 15147.

<sup>14908</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27161-27162.

<sup>14909</sup> Issa Sesay, Transcript 26 July 2010, p. 44551.

<sup>14910</sup> Issa Sesay, Transcript 26 July 2010, pp. 44553, 44557-44558.

<sup>14911</sup> Issa Sesay, Transcript 26 July 2010, pp. 44558-44560.

<sup>14912</sup> Issa Sesay, Transcript 26 July 2010, pp. 44560-44561.

of Sankoh's letter by Sesay's adjutant at the RIA meeting in August 2000.<sup>14913</sup> The Accused disputed TF1-338's testimony on this point, and testified that as Sankoh wrote the letter in question in front of Obasanjo, Konaré, and Kabbah, they would have objected to him including such an instruction.<sup>14914</sup> Sesay also disputed TF1-338's evidence on this point, arguing that Obasanjo, Konaré and Kabbah would not have allowed a letter that included an instruction to follow Taylor's instructions, as well as the instruction not to disarm, to reach Sesay.

6619. While Sesay did testify that Taylor, Konaré and Obasanjo told him that as he was a young man, that he should not make them ashamed and that he should do whatever they told him to,<sup>14915</sup> he also testified his understanding of his position was that he was not required to take instructions from anyone else and that the ECOWAS leaders had not told him to take instructions from anyone, but advised him to cooperate with the Government of Sierra Leone and the United Nations mission in Sierra Leone.<sup>14916</sup> The Trial Chamber recalls that President Kabbah was present when the letter was turned over by Sankoh, as well as Presidents Obasanjo and Konaré. The Trial Chamber finds the argument that Kabbah and the other heads of state would not have allowed such a direction to be included in the letter from Sankoh to be compelling, particularly given Sankoh's weakened position with the ECOWAS leaders, who were willing to replace him as RUF leader without his input. For these reasons the Trial Chamber does not find this allegation to be sufficiently supported by the evidence for a finding beyond reasonable doubt.

### Findings

6620. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that at a meeting that took place in the Executive Mansion in Monrovia on 26 July 2000 with ECOWAS Heads of State present, the Accused proposed that Sam Bockarie take over as Interim Leader of the RUF and Issa Sesay rejected this proposal.

<sup>14913</sup> TF1-338, Transcript 2 September 2008, pp. 15155-15156.

<sup>14914</sup> Charles Ghankay Taylor, Transcript 19 August 2009, pp. 27205-27210.

<sup>14915</sup> Issa Sesay, Transcript 26 July 2010, pp. 44560-44561.

<sup>14916</sup> Issa Sesay, Transcript 2 August 2010, pp. 45271-45272.



6621. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that when Issa Sesay was appointed Interim Leader of the RUF, it was with the direction from Sankoh that he should take instruction from the Accused.

(e) Operations outside Sierra Leone

(i) RUF/AFRC against Mosquito Spray/LURD in Liberia, 1999

Submissions of the Parties

6622. The Prosecution alleges that throughout the conflicts in Liberia and Sierra Leone, Taylor made free use of his proxy forces, the RUF and later the AFRC/RUF.<sup>14917</sup> More specifically, the Prosecution submits that, in 1999 and onwards, Taylor made free use of AFRC/RUF forces to assist him in his fight against Mosquito Spray and LURD forces that attacked his forces. Bockarie obeyed Taylor's order to send Taylor's proxy forces, AFRC/RUF fighters, to Liberia to reinforce Taylor's own Liberian subordinates to repel these attacks. During the fighting, the AFRC/RUF operated under the overall command of Taylor's Liberian subordinates.<sup>14918</sup>

6623. The Defence submits that the Prosecution's evidence is highly suspect and contested.<sup>14919</sup> Most importantly, however, even assuming *arguendo* that these allegations were true, the Defence submits that the fact that orders were allegedly issued and followed does not, *ipso facto*, establish effective control in this case where the Accused was a civilian leader in a different country altogether. In those instances, as established in international jurisprudence, traditional indicia of effective control are not enough. There is a need for objective evidence that the Accused had the material ability to exercise effective control.<sup>14920</sup>

Evidence

Prosecution Witness TF1-375

<sup>14917</sup> Prosecution Final Trial Brief para. 383.

<sup>14918</sup> Prosecution Final Trial Brief paras 31, 385-387; See also para. 320.

<sup>14919</sup> Defence Final Trial Brief para. 1293.

<sup>14920</sup> Defence Final Trial Brief para. 1294

6624. Witness TF1-375, an RUF fighter,<sup>14921</sup> testified that during the rainy season of 1999, Superman told him to go to Buedu with other RUF and AFRC fighters to take instructions from Bockarie about crossing the Liberian border in order to help the Liberian Government, who were having problems there. When the RUF/AFRC troops arrived in Buedu, Sam Bockarie called a muster parade of around 400-500 people and told them to cross over to Foya in order to repel Mosquito Spray's troops, which were attacking the AFL (Armed Forces of Liberia) from Guinea. After the muster parade, Bockarie sent these forces to Foya under the command of CO Eagle. The group was well-armed with AK-47s, RPGs, GMG and some 60 millimetre mortar and other weapons. When they arrived in Foya, the AFL soldiers under the command of Christopher Varmoh, Liberian Mosquito, started jubilating.  
14922

6625. TF1-375 testified that the next day, Benjamin Yeaten arrived in a helicopter with Dopoe Menkarzon and some other Special Forces. Yeaten also called a muster parade during which he explained that the AFL and the RUF/AFRC should fight together to repel Mosquito Spray's forces since they were "all fighting for the same goal".<sup>14923</sup>

6626. TF1-375 stated that after the parade, Christopher Varmoh, CO Eagle, Benjamin Yeaten, Dopoe Menkarzon, Colonel Sheriff from Sierra Leone, and other senior commanders planned the attack against Mosquito Spray's forces. The AFL, RUF and AFRC forces attacked the LURD in Kolahun and pushed them from Voinjama to Guinea.<sup>14924</sup> After the LURD was pushed out of Liberia, the AFL deployed at the border, while TF1-375 and the RUF forces retreated to Voinjama. TF1-375 testified that during the operation, the RUF forces looted NGO cars, food, medicine and other items which the commanders used to enter into Sierra Leone. The cars were marked with UNDP, UNICEF and different NGOs signs.<sup>14925</sup>

6627. TF1-375 testified that at the time they moved to Liberia, CO Eagle was the overall boss of the RUF and AFRC combined forces but that, while in Liberia, Christopher Varmoh, an AFL Commander, was the overall commander of the operation against Mosquito Spray.

<sup>14921</sup> TF1-375, Transcript 23 June 2008, p. 12485.

<sup>14922</sup> TF1-375, Transcript 24 June 2008, pp. 12617-12623; Transcript 22 August 2008, p. 14324; Transcript 27 August 2008, p. 14742.

<sup>14923</sup> TF1-375, Transcript 24 June 2008, pp. 12617-12620.

<sup>14924</sup> TF1-375, Transcript 24 June 2008, p. 12622.

<sup>14925</sup> -375, Transcript 24 June 2008, p. 12623.

TF1-375 stated that Varmoh reported sometimes to Sam Bockarie or to the army headquarters about the ongoing operation.<sup>14926</sup>

Prosecution Witness Abu Keita

6628. Witness Abu Keita, a former deputy chief of staff and commander of ULIMO-K who later became commander of the Scorpion Unit,<sup>14927</sup> testified that he participated in several RUF operations outside of Sierra Leone.<sup>14928</sup> The first one, “Operation Mosquito Spray” took place in Liberia in August 1999, when the LURD’s leader called “Mosquito Spray” and his troops attacked AFL forces in Foya and Voinjama, Liberia in order to remove Taylor from power. Keita testified that Benjamin Yeaten instructed Sam Bockarie to join the AFL, the Liberian police and the ATU, Taylor’s palace guard, in attacking LURD’s forces invading Liberia. Issa Sesay and Morris Kallon also participated in the RUF effort. Keita testified that the AFL/RUF forces were successful and were able to repel the LURD from Kolahun and Voinjama.<sup>14929</sup> During the attack against Mosquito Spray, the RUF used Small Boys Units.<sup>14930</sup>

6629. Keita stated that the overall commander of the operation on the field was Benjamin Yeaten,<sup>14931</sup> who provided the ammunition for the RUF’s operations against the LURD in Liberia and Guinea.<sup>14932</sup> After the attack, Yeaten, Bockarie and the Liberian Defence Minister Daniel Chea flew by helicopter from Foya to Monrovia.<sup>14933</sup>

Prosecution Witness Karmoh Kanneh

6630. Witness Karmoh Kanneh, a senior commander in the RUF,<sup>14934</sup> testified that in March/April 1998, Bockarie called Kanneh to Buedu and said that Taylor told him that ULIMO and LURD forces had invaded Lofa County. Sam Bockarie instructed Kanneh to

<sup>14926</sup> Witness TF1-375, Transcript 24 June 2008, p. 12622.

<sup>14927</sup> Abu Keita, Transcript 22 January 2008, pp. 1953-1954; Transcript 23 January 2008, pp. 1970, 2000; Transcript 24 January 2008, pp. 2110, 2145.

<sup>14928</sup> Abu Keita, Transcript 23 January 2008, pp. 2045.

<sup>14929</sup> Abu Keita, Transcript 23 January 2008, pp. 2045-2048; Transcript 24 January 2008, p. 2139.

<sup>14930</sup> Abu Keita, Transcript 23 January 2008, pp. 2058.

<sup>14931</sup> Abu Keita, Transcript 23 January 2008, p. 2048.

<sup>14932</sup> Abu Keita, Transcript 23 January 2008, p. 2055.

<sup>14933</sup> Abu Keita, Transcript 23 January 2008, p. 2055

<sup>14934</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9390.

gather RUF forces and to attack LURD in Lofa County. Bockarie asked Issa Sesay and Morris Kallon to do the same in Kono.<sup>14935</sup>

6631. Following Bockarie's instructions, Kanneh brought a platoon of 62 men to Buedu where they met other troops. There the troops were divided into two groups and instructed to attack from two flanks. Sam Bockarie and Kanneh attacked LURD forces in Foya town while other troops attacked them in Vahun. The attack was successful, forcing the LURD forces to retreat to Kolahun and Voinjama. After conquering Voinjama, Kanneh testified that the RUF troops received an order from Benjamin Yeaten to pursue the LURD to Guinea. According to Yeaten's order, Kanneh and his men chased the LURD forces to Bayalo in Guinea. While there, Yeaten ordered Kanneh and his men to burn the entire town. After burning Bayalo, Kanneh and his men retreated to Foya. Liberians troops remained in Foya.<sup>14936</sup>

6632. Kanneh testified that he, Bockarie and Yeaten took a helicopter in Foya to Monrovia. While in Monrovia, Kanneh and Bockarie lodged at Yeaten's place, White Flower, where they spent approximately three days.<sup>14937</sup> While there, Bockarie told Kanneh that he was going to see Taylor with Yeaten. Kanneh did not go but when he came back, Bockarie told him that during the meeting Taylor promised them a "morale booster" and some ammunition. The day they left Monrovia, Kanneh saw AK rounds and some RPG rockets at Taylor's house. Kanneh also saw a bag of money that Taylor gave to Bockarie to thank RUF forces for helping him clear the LURD forces from Lofa County. Subsequently, Kanneh and Bockarie took the same helicopter back to Foya where they met Issa Sesay, Morris Kallon and other RUF officers.<sup>14938</sup> RUF officers decided to use the money to buy drugs for the wounded soldiers. The ammunition was to be brought back to the RUF zone along with a large cache of ammunition captured during the Voinjama attack to be used in the war and distributed to various RUF commanders, including Karmoh Kanneh.<sup>14939</sup>

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<sup>14935</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9458-9459.

<sup>14936</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9459-9461.

<sup>14937</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9461-9463; Transcript 13 May 2008, pp. 9641-9645

<sup>14938</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9463-9467.

<sup>14939</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9467-9469; Transcript 13 May 2008, pp. 9649-9655.

Prosecution Witness TF1-338

6633. Witness TF1-338, an RUF member,<sup>14940</sup> testified that in 1999, he was sent by Bockarie to meet Foday Sankoh, who was returning from the Lomé Peace accords to Monrovia. While in Monrovia, TF1-338 attended a meeting held at the sixth floor of the Executive Mansion, together with Taylor, Sankoh and Bockarie. During the meeting Taylor thanked Bockarie for “maintaining the RUF” while Foday Sankoh was away, and for securing Foya and Voinjama from the LURD rebels and he gave the RUF members \$USD15, 000.<sup>14941</sup>

Prosecution Witness Augustine Mallah

6634. Witness Augustine Mallah, an RUF security officer,<sup>14942</sup> testified that on an unspecified date between December 1998 and September 1999, he crossed over into Kolahun, Liberia with Bockarie where he fought with NPFL soldiers against ULIMO/LURD forces.<sup>14943</sup>

Prosecution Witness Mohamed Kabbah

6635. Witness Mohamed Kabbah, an RUF radio operator,<sup>14944</sup> testified that he went to Foya, Liberia, when the RUF troops went to fight the LURD in Kolahun following a LURD invasion of Liberia from Guinea. Once Kolahun had been captured by the AFL/RUF, Kabbah moved to Kolahun. While he was in Kolahun, the RUF recaptured Voinjama.<sup>14945</sup>

Prosecution Witness Alimamy Bobson Sesay

6636. Witness Alimamy Bobson Sesay, an AFRC officer,<sup>14946</sup> testified that after the international media announced that Mosquito Spray’s squad had invaded Liberia from Guinea to oust Taylor’s government, he attended a meeting in Monrovia, together with

<sup>14940</sup> TF1-338, Transcript 1 September 2008, pp. 15085-15086.

<sup>14941</sup> TF1-338, Transcript 1 September 2008, pp. 15100-15101, 15117-15118.

<sup>14942</sup> Augustine Mallah, Transcript 5 12 November 2008, pp. 20092-200923, 20102-20103; Transcript 13 November 2008, pp. 20209-20210.

<sup>14943</sup> Augustine Mallah, Transcript 17 November 2008, p. 20440; Transcript 18 November 2008 pp. 20506-20507.

<sup>14944</sup> Mohamed Kabbah, Transcript 12 September 2008, p. 16100.

<sup>14945</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16301-16302.

<sup>14946</sup> Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7865-7866.



Johnny Paul Koroma, Taylor and other SLAs, during which Taylor told them that he had ordered Bockarie to come to Voinjama to repel Mosquito Spray's forces from Liberia.<sup>14947</sup>

Prosecution Witness TF1-539

6637. Witness TF1-539 testified that after the Lomé Accord, Issa Sesay left Kono for around two weeks when Mosquito Spray, the head of LURD (former ULIMO), attacked Foya in Lofa County, Liberia. TF1-539 stated that when the attack occurred, Sam Bockarie sent a message asking all the fighters that the RUF had in Kono to go to Liberia to repel ULIMO from Foya. TF1-539 testified that this was an order from President Charles Taylor but that the RUF had an interest in helping him since it received everything from Liberia and that Mosquito Spray's attack had cut the supply route.<sup>14948</sup>

Prosecution Witness TF1-516

6638. Witness TF1-516, an RUF radio operator,<sup>14949</sup> testified that just before he left for Liberia in June/July 1999, he read in the RUF message logbook that "Bockarie's chief" Charles Taylor, instructed Bockarie to send RUF soldiers to Liberia to assist the AFL in repelling a rebel Liberian named Mosquito Spray, who had captured Voinjama. This operation named "Operation Vulture" was commanded by an RUF Commander named Colonel Olso. The operation was a success although LURD forces retreated to Guinea and continued to attack Voinjama from there. TF1-516 testified that during the operation, the RUF captured two vehicles belonging to NGOs in which they found radios.<sup>14950</sup>

Prosecution Witness Varmuyan Sherif

6639. Witness Varmuyan Sherif, a former ULIMO-K fighter who became an officer in the SSS,<sup>14951</sup> testified that LURD invaded Liberia in late 1998, early 1999. Sherif received information that LURD, led by Jamani Kamara and Sekou Damate Conneh, used Guinea to enter Lofa County through Foya in Liberia. Sherif testified that at this time, the Liberian

<sup>14947</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8509-8510, 8515-8516.

<sup>14948</sup> TF1-539, Transcript 11 June 2008, p. 11541.

<sup>14949</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>14950</sup> TF1-516, Transcript 8 April 2008, pp. 6872-6874, 6916; Transcript 9 April 2008, pp. 7047-7049

<sup>14951</sup> Varmuyan Sherif, Transcript, 9 January 2008, pp. 806, 820, 834, 836; Transcript 10 January 2008, pp. 940, 986-987.





army had been disarmed by ECOMOG and was therefore lacking arms and ammunition to defend itself against the LURD's invasion.<sup>14952</sup>

6640. Varmuyan Sherif further testified that RUF forces assisted the Liberian Government by fighting the LURD in Foya, Kolahun and Voinjama. RUF troops reported directly to Benjamin Yeaten,<sup>14953</sup> who reported to Taylor.<sup>14954</sup> Abu Keita was one of the RUF commanders sent to assist the Liberian government to fight LURD.<sup>14955</sup> Sherif further stated that at that time, during a meeting at White Flower, Taylor provided arms and ammunition to Benjamin Yeaten, who distributed them among the groups that fought in Lofa County.<sup>14956</sup>

#### Prosecution Witness TF1-371

6641. Witness TF1-371, a member of the RUF,<sup>14957</sup> testified that in late December 1998, Christopher Varmoh and Dopoe Menkarzon came to Buedu to talk to Bockarie about organising a fighting force to give support to the ATU and AFL, who were under attack from LURD rebels in Lofa.<sup>14958</sup>

6642. TF1-371 further testified that, while he was in Buedu and while the Freetown fighting was going on, there was serious fighting between Taylor's security forces and Mosquito Spray's LURD. Taylor and Yeaten requested Bockarie to instruct the RUF contingent based in Foya, at the border between Liberia and Sierra Leone, to support the Liberian forces against the LURD. Bockarie agreed and instructed the RUF Commanders in Foya, including Morris Kallon, to help the Liberian forces in repelling Mosquito Spray's troops. TF1-371 testified that more than 200 RUF soldiers based in Foya at this time participated in the operation.<sup>14959</sup>

<sup>14952</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 1006-1007.

<sup>14953</sup> Varmuyan Sherif, Transcript 10 January 2008, p. 898 ("RUF at that time, when they came into Liberian territory to help the government they were reporting to Benjamin Yeaten directly").

<sup>14954</sup> Varmuyan Sherif, Transcript 10 January 2008, p. 897 ("All the militias were being supervised by him, Yeaten Q. And in this capacity who did Benjamin Yeaten report to? A. Benjamin Yeaten reported to Mr Taylor").

<sup>14955</sup> Varmuyan Sherif, Transcript 10 January 2008, p. 898; Transcript 14 January 2008, p. 1151.

<sup>14956</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 899, 906-908

<sup>14957</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>14958</sup> TF1-371, Transcript 28 January 2008, pp. 2425-2426 (CS).

<sup>14959</sup> TF1-371, Transcript 28 January 2008, pp. 2433-2434, 2464-2465 (CS); Transcript 29 January 2008, p. 2513 (CS); Transcript 31 January 2008, pp. 2700 2703 (CS). *See also* TF1-371, Transcript 30 January 2008, p. 2672

6643. TF1-371 further testified that around March 1999, while the fighting against LURD intensified, Bockarie travelled to Monrovia and came back to Foya with a shipment of materiel.<sup>14960</sup>

Prosecution Witness Isaac Mongor

6644. Witness Isaac Mongor, a senior RUF commander,<sup>14961</sup> testified that in 1999, after the Freetown invasion and before the Lomé Accord, the RUF participated in an operation in Liberia to fight “Mosquito Spray”, which was fighting to remove Charles Taylor from power. Isaac Mongor did not participate himself in this operation but Bockarie told him that the order to fight there came from Taylor, who told Bockarie to send RUF troops in the Lofa area in Liberia.<sup>14962</sup>

Prosecution Witness Albert Saidu

6645. Witness Albert Saidu, an RUF adjutant,<sup>14963</sup> testified that while he was based in Komende in 1999, he heard that the LURD rebels invaded Lofa County in Liberia, trying to cut the supply line between the RUF and Liberian government. Sam Bockarie sent RUF troops to help the Liberian government forces fight the LURD forces, alongside the Liberian Government soldiers, to free up the supply route that would have been blocked if the rebels had been allowed to settle there. Saidu testified that RUF soldiers were killed during the operation, including Mohamed GMG and Commander Komba Gbundema.<sup>14964</sup>

Prosecution Witness Perry Kamara

6646. Perry Kamara, an RUF radio operator,<sup>14965</sup> testified that after the retreat from Freetown in 1999, ULIMO, which has changed its name to LURD, started attacking

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(CS) (The rebel group was initially called Mosquito Spray before becoming LURD in 1999).

<sup>14960</sup> TF1-371, Transcript 31 January 2008, p. 2751 (CS); See Arms and Ammunition: Allegations of Direct Supply by the Accused, During Sam Bockarie’s Leadership (February 1998-December 1999).

<sup>14961</sup> See for example: Isaac Mongor, Transcript 11 March 2008, pp. 5749-5750, 5760-5764; Transcript 31 March 2008, pp. 6204-6206, 6224-6225; Transcript 3 April 2008, pp. 6512-6513, 6551-6556, 6613-6615.

<sup>14962</sup> Isaac Mongor, Transcript 31 March 2008, pp. 6163-6164.

<sup>14963</sup> Albert Saidu, Transcript 3 June 2008, p. 10887; Transcript 4 June 2008, p. 10895.

<sup>14964</sup> Albert Saidu, Transcript 5 June 2008, pp. 11099-11102.

<sup>14965</sup> Perry Kamara, Transcript 4 February 2008, p. 3039.



Taylor's position from the Guinea border. Sam Bockarie sent troops to Liberia to fight them at Taylor's request.<sup>14966</sup>

Prosecution Witness Dauda Aruna Fornie

6647. Witness Dauda Aruna Fornie, an RUF radio operator,<sup>14967</sup> testified that while he was operating in Buedu from early 1998 until April 1999, there was a radio communication between Yeaten and Bockarie, in which Yeaten requested Bockarie to send reinforcements to the Voinjama, Kolahun area of Liberia to fight Mosquito Spray's troops.<sup>14968</sup>

Prosecution Witness Dennis Koker

6648. Witness Dennis Koker, an AFRC fighter,<sup>14969</sup> testified that while he was in Buedu in 1999, Bockarie gave him a car belonging to the NGO, "Action contre la faim", captured in Kolahun, in Lofa County, in order to paint the vehicle in camouflage colours. Koker testified that the RUF was in Kolahun to repel Mosquito Spray, who had attacked Lofa County.<sup>14970</sup>

Prosecution Witness Witness TF1-567

6649. Witness TF1-567, an RUF member,<sup>14971</sup> testified that, in 2000, he was in Monrovia when Mosquito Spray's LURD forces entered Liberia from Guinea in an attempt to overthrow Taylor's government before being expelled.<sup>14972</sup>

Prosecution Witness Corinne Dufka

6650. Corinne Dufka, a witness who gave evidence on the human rights situation in Sierra Leone and Liberia,<sup>14973</sup> testified that the RUF factions based in Kailahun District were involved in responding to the April 1999 fighting in Lofa County, commonly known as

<sup>14966</sup> Perry Kamara, Transcript 6 February 2008, pp. 3273-3274.

<sup>14967</sup> Dauda Aruna Fornie, Transcript 1 December 2008, p. 21395; Transcript 2 December 2008, p. 21418.

<sup>14968</sup> Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21488-21490 ("Even though there was a sat phone communication, by the time that we had our communication in Buedu those communications used to go on, because I can even recall some time when during the Mosquito Spray operation when it initially started I remember there was a communication between Benjamin Yeaten and Mosquito for Mosquito to send reinforcement across to Liberia in Kolahun, Voinjama area, to go and fight against Mosquito Spray – Mosquito Spray's fighters").

<sup>14969</sup> Dennis Koker, Transcript 15 January 2008, p. 1236.

<sup>14970</sup> Dennis Koker, Transcript, 15 January 2008, pp. 1278-1279.

<sup>14971</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS).

<sup>14972</sup> TF1-567, Transcript 7 July 2008, pp. 13106-13107.

“Mosquito Spray operation” but was not able to ascertain who was in command of the operation.<sup>14974</sup>

### The Accused

6651. The Accused testified that there was an attack on Voinjama on 21 April 1999 and another in August 1999 by Mosquito Spray’s LURD.<sup>14975</sup> Taylor denied instructing the RUF to assist his forces in repelling the Mosquito Spray’s LURD invasion. He said he did not ask Bockarie for help and stated that if he had needed help, he would have contacted the President of Sierra Leone, Tejan Kabbah.<sup>14976</sup>

6652. The Accused testified that the LURD was mainly composed of former ULIMO fighters.<sup>14977</sup> However, the situation in 1999 was different to the one in 1991, and he did not need the help of the RUF to fight a common enemy.<sup>14978</sup>

6653. The Accused stated that to his knowledge, the RUF did not help him fight in Lofa County. If the RUF were fighting under Benjamin Yeaten in Lofa County he would have known.<sup>14979</sup> Moreover, it was impossible that 200 soldiers could come into Liberia without his knowledge.<sup>14980</sup>

### Defence Witness Issa Sesay

6654. Issa Sesay, an RUF commander who became leader of the RUF between 2000 and 2002,<sup>14981</sup> testified that Mosquito Spray’s LURD attacked Lofa County in Liberia from

<sup>14973</sup> Corinne Dufka, Transcript 21 January 2008, pp. 1749-1757.

<sup>14974</sup> Corinne Dufka, Transcript 22 January 2008, p. 1847.

<sup>14975</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32578-32579.

<sup>14976</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28958-28960; Transcript 22 September 2009, pp. 29422-29426; Transcript 26 November 2009, pp. 32577-32579; Transcript 18 February 2010, pp. 35400-35402.

<sup>14977</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28958-28959; Transcript 26 November 2009, p. 32581.

<sup>14978</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32579-32581.

<sup>14979</sup> Charles Ghankay Taylor, Transcript 26 November 2009, p. 32581.

<sup>14980</sup> Charles Ghankay Taylor, Transcript 24 September 2009, pp. 29598-29602.

<sup>14981</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589.

Guinea around September/October 1999.<sup>14982</sup> Sesay understood that the LURD was a rebel force, composed of ex-combatants from Sierra Leone, attacking from Guinea.<sup>14983</sup>

6655. Sesay testified that the RUF did not take part in attacking LURD rebels in Kolahun or Voinjama.<sup>14984</sup> He denied the allegation from Prosecution witnesses that he fought with Abu Keita and Morris Kallon against Mosquito Spray and LURD rebels in Liberia in August 1999.<sup>14985</sup> Sesay stated that Abu Keita was in Buedu in August 1999 and Morris Kallon in Magburaka in August 1999. Kallon left Buedu in December 1998 and never returned to Buedu until December 1999 at the time Bockarie left Buedu. Kallon was the commander in Magburaka in August 1999.<sup>14986</sup>

6656. Sesay testified that Bockarie never reported that the RUF was fighting LURD in Liberia in 1999, or that he had been thanked by Taylor for helping him in fighting LURD.<sup>14987</sup>

#### Prosecution Exhibit P-152A

6657. Exhibit P-152A is a confidential photo.<sup>14988</sup>

#### Prosecution Exhibit P-389

6658. Exhibit P-389 is an excerpt of a weekly round up of the African Studies Centre of University of Pennsylvania, covering the period from 7 to 13 August 1999. Page one reads as follows:

LIBERIA: Dissidents strike in the northwest

Armed men this week seized five localities in northwest Liberia, kidnapped aid workers, commandeered UNHCR vehicles and battled with government soldiers reinforced by extra troops rushed to the area, according to various sources.

Liberia's Deputy Information Minister Milton Teahjay told IRIN that the dissidents, on whose identity he preferred not to speculate, had taken five localities in Lofa County by Wednesday. Armed men also commandeered five UNHCR vehicles, a source told IRIN. The government launched a counter-offensive on Thursday, according to Teahjay, who said

<sup>14982</sup> Issa Sesay, Transcript 4 August 2010, pp. 45437-45439; Transcript 19 August 2010, pp. 46695-46697.

<sup>14983</sup> Issa Sesay, Transcript 27 July 2010, p. 446768.

<sup>14984</sup> Issa Sesay, Transcript 6 August 2010, p. 45607.


<sup>14985</sup> Issa Sesay, Transcript 5 August 2010, p. 45538.

<sup>14986</sup> Issa Sesay, Transcript 6 August 2010, p. 45606; Transcript 25 August 2010, pp. 47097-47099.

<sup>14987</sup> Issa Sesay, Transcript 2 August 2010, pp. 45190-45191.

<sup>14988</sup> Exhibit P-152A (confidential), ERN 775; TF1-567, Transcript 7 July 2008, pp. 13024-13025 (PS).





on Friday that "the dissidents are retreating and at least two towns have been retaken". He denied reports by news organisations and humanitarian sources that former combatants had been signing up for active duty in Monrovia to help fight the rebels who, the government said, came in from Guinea.

A state of emergency declared earlier in the week by President Charles Taylor and limited to the affected area was still in effect on Friday. Teahjay said it was helping the security forces bring the situation under control. Liberia's Defence Minister said on Friday that there were an estimated 500 to 800 dissidents, but the rebels claimed that they numbered about 3000. A rebel spokesman who gave his name as 'Mosquito Spray' confirmed to the BBC on Friday that dissidents were holding some 100 persons - around 50 aid workers and their families - whom they intercepted as they were trying to cross over into Guinea. 'Mosquito Spray' said they were being held in "protective custody". Their abduction had been reported in an update on the situation in north-western Liberia that had been sent to IRIN on Friday by UNHCR in Abidjan. Responsibility for the act was claimed by a group called the Joint Forces of Liberation for Liberia (JFFL), which demanded assistance, such as fuel, in exchange for the freedom of the 100 captives, the update said.<sup>14989</sup>

Defence Exhibit D-357

6659. Exhibit D-357 is an outgoing code cable, dated 27 April 1999, from Downes Thomas, a UNOL Employee to UN Headquarters in New York. Attached to this cable is a preliminary and partial report on the events on 21 and 22 April 1999 in Voinjama, drafted by Mr Camara, a representative of UNHCR in Liberia, and dated 26 April 1999. In his report, Mr Camara described the meeting he had with three armed men who told him that they were fighting to bring down Charles Taylor's government.<sup>14990</sup> The report also addressed the looting of UN and NGOs properties by Liberian security forces on 22 April 1999.<sup>14991</sup>

Deliberations

6660. At the outset, the Trial Chamber notes that this evidence falls outside the geographic scope of the indictment and the jurisdiction of the court. The Trial Chamber will consider this evidence only for contextual purpose or as evidence of a consistent pattern of conduct.<sup>14992</sup>

6661. An analysis of the evidence on record shows that on 21 April 1999, Liberian dissidents in Guinea, mainly former members of ULIMO, led by a person known as

<sup>14989</sup> Exhibit P-389, "IRIN-WA Weekly Round-Up 32-1999 [19990814], University of Pennsylvania – African Studies Centre (page1), Office of the Coordinator of Humanitarian Affairs Integrated Regional Information Network for West Africa", p. 1.

<sup>14990</sup> Exhibit D-357, "Outgoing Code Cable to PRENDERGAST/MIYETNIERA DE MELLO, UN, New York, From Downs-Thomas, RSG, UNOL, Monrovia, the Voinajama Incidents, 27 April 1999", pp. 5, 7-8.

<sup>14991</sup> Exhibit D-357pp. 7-9.

<sup>14992</sup> Preliminary issues: Evidence Outside of the Scope of the Indictment and/or Jurisdiction of the Court.

'Mosquito Spray' launched an attack on Voinjama, Liberia.<sup>14993</sup> A second attack occurred on 10 August 1999 and a third on 8 July 2000.<sup>14994</sup> Responsibility for the attacks was claimed by a group called Liberians United for Reconciliation and Democracy (LURD),<sup>14995</sup> which had the objective of removing the Accused from power as President of Liberia.<sup>14996</sup>

6662. In this context, the Prosecution alleges that following the first attack, Bockarie obeyed Taylor's instruction to send AFRC/RUF fighters to Liberia to reinforce Taylor's forces in repelling these attacks.<sup>14997</sup>

6663. Numerous witnesses, both from the RUF and AFRC, testified that they went to Liberia at Bockarie's request to fight alongside the Liberian army against Mosquito Spray's LURD. TF1-375 testified that he was among the RUF/AFRC troops sent by Bockarie to Foya to assist AFL soldiers in fighting LURD.<sup>14998</sup> Abu Keita testified that he was sent by Sam Bockarie to join the AFL, the Liberian police and the ATU, Taylor's palace guard, in

<sup>14993</sup> TF1-516, Transcript 9 April 2008, pp. 7008; Isaac Mongor, Transcript 31 March 2008, pp. 6163-6164; Abu Keita, Transcript 23 January 2008, pp. 2045-2048; Transcript 24 January 2008, p. 2139; Albert Saidu, Transcript 5 June 2008, pp. 11099; Alimamy Bobson Sesay, Transcript 24 April 2008, p. 8516 ("This was over the international media. They said a squad that had come from Guinea had come to oust President Taylor's government. The leader was called Mosquito Spray. The squad came from the Guinea end. They used the Voinjama route"); Exhibit D-356A, Letter from the Mission of the Republic of Liberia, to United Nations Secretary General HE Koffi Annan, 23 April 1999; Exhibit D-356B, Letter from the Ministry of Foreign Affairs, Monrovia, Liberia, to the Ministry of Foreign Affairs of Republic of Guinea, 22 April 1999; Exhibit D-356C, Note Verbale, from the United Nations Office of Resident Coordinator in Liberia, to the Ministry of Foreign Affairs, 22 April 1999; Exhibit D-356A, Letter from the Mission of the Republic of Liberia, to United Nations Secretary General HE Koffi Annan, 23 April 1999; See also Exhibit D-209, Outgoing Code Cable, from Prendergast, United Nations, New York, to Downes-Thomas (ONLY), RSG, UNOL, 7 May 1999; See also Karmoh Kanneh, Transcript 9 May 2008, pp. 9458-9459 (while Karmoh Kanneh places Mosquito Spray's attack in "April 1998", a careful reading of his testimony shows that he was referring to "April 1999").

<sup>14994</sup> TF1-516, Transcript 9 April 2008, pp. 7008, 7067; Isaac Mongor, Transcript 31 March 2008, pp. 6163-6164; Abu Keita, Transcript 23 January 2008, pp. 2045-2048; Transcript 24 January 2008, p. 2139; Exhibit D-212, Letter to the United Nations Secretary General, from the Ministry of Foreign Affairs, Monrovia, Liberia, 11 August 1999; Exhibit D-211, Outgoing Code Cable, Situation in Lofa County, from Prendergast, United Nations, New York, to Downes-Thomas, RSG, UNOL, 16 August 1999; Exhibit D-214, ECOWAS Final Communiqué Ad Hoc Committee Meeting of Ministers of Foreign Affairs on the Dissident Armed Attack on Liberia, 26 August 1999.

<sup>14995</sup> TF1-516, Transcript 9 April 2008 p. 7008 ("when finally those insurgents declared themselves as LAURD [sic], that means Liberians United For Reconciliation and Democracy");

<sup>14996</sup> Alimamy Bobson Sesay, Transcript 24 April 2008 p. 8516 ("This was over the international media. They said a squad that had come from Guinea had come to oust President Taylor's government. The leader was called Mosquito Spray. The squad came from the Guinea end. They used the Voinjama route"); TF1-567, Transcript 7 July 2008, p. 13107 ("They were trying to fight and remove Charles Taylor from power"); Exhibit P-032, Report of the Panel of Experts Pursuant to Council Resolution 1343 (2001).

<sup>14997</sup> Prosecution Final Trial Brief, paras 31, 385-387; See also para. 320

<sup>14998</sup> TF1-375, Transcript 24 June 2008, pp. 12617-12623; Transcript 22 August 2008, p. 14324; Transcript 27 August 2008, p. 14742.

attacking LURD's forces invading Liberia.<sup>14999</sup> Kanneh testified that he was instructed by Bockarie to gather RUF forces and to attack LURD in Lofa County.<sup>15000</sup> Mallah also testified that he crossed over into Kolahun, Liberia with Bockarie where he fought with NPFL soldiers against ULIMO/LURD forces.<sup>15001</sup> Mohamed Kabbah testified that he went to Foya, Liberia, to fight with RUF/AFRC troops against LURD forces.<sup>15002</sup> TF1-539 monitored a message from Bockarie asking all the RUF fighters in Kono to go to Liberia and repel ULIMO from Foya.<sup>15003</sup> In the Trial Chamber's view, this substantial evidence unequivocally demonstrates that following LURD's attack, Bockarie gave the order to RUF and AFRC troops to move to Lofa County in Liberia in order to support the Liberian government forces against Mosquito Spray's forces.

6664. Issa Sesay denied that the RUF took part in attacking LURD rebels in Kolahun or Voinjama.<sup>15004</sup> The Accused denied instructing the RUF to assist his forces in repelling Mosquito Spray's LURD invasion.<sup>15005</sup> However, the Trial Chamber notes that he admitted that it was impossible that 200 soldiers could enter Liberia without his knowledge,<sup>15006</sup> and he testified that if RUF forces were fighting under Benjamin Yeaten in Lofa County, he would have known.<sup>15007</sup> The Trial Chamber notes the evidence from numerous witnesses indicating not only that the Accused knew of their presence in Lofa County but testifying that Bockarie informed them that he was sending troops at Taylor's request,<sup>15008</sup> or at Yeaten's request.<sup>15009</sup> TF1-516 further testified that he read in the RUF message logbook

<sup>14999</sup> Abu Keita, Transcript 23 January 2008, pp. 2045-2048.

<sup>15000</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9458-9459.

<sup>15001</sup> Augustine Mallah, Transcript 17 November 2008, p. 20440; Transcript 18 November 2008 pp. 20506-20507.

<sup>15002</sup> Mohamed Kabbah, Transcript 16 September 2008, pp. 16301-16302.

<sup>15003</sup> TF1-539, Transcript 11 June 2008, p. 11541.

<sup>15004</sup> Issa Sesay, Transcript 6 August 2010, p. 45607.

<sup>15005</sup> Charles Ghankay Taylor, Transcript 15 September 2009, pp. 28958-28960; Transcript 26 November 2009, pp. 32577-32579; 18 February 2010, pp. 35400-35402.

<sup>15006</sup> Charles Ghankay Taylor, Transcript 24 September 2009, pp. 29598-29602.

<sup>15007</sup> Charles Ghankay Taylor, Transcript 26 November 2009, p. 32581.

<sup>15008</sup> Witness TF1-539, Transcript 11 June 2008, p. 11541 (TF1-539 testified that this was an order from President Charles Taylor but that the RUF had an interest in helping him since it received everything from Liberia and that Mosquito Spray's attack had cut the supply route); TF1-371, Transcript 28 January 2008, pp. 2433-2434, 2464-2465 (CS); Transcript 29 January 2008, p. 2513 (CS); Transcript 31 January 2008, pp. 2700, 2703 (CS) (Taylor and Yeaten requested Bockarie to instruct the RUF contingent based in Foya, at the border between Liberia and Sierra Leone, to support the Liberian forces against the LURD); Isaac Mongor, Transcript 31 March 2008, pp. 6163-6164 (Bockarie told Mongor that the order to fight LURD in Liberia came from Taylor); Perry Kamara, Transcript 6 February 2008, pp. 3273-3274 (Kamara testified that Sam Bockarie sent troops in Liberia to fight LURD at Taylor's request).

<sup>15009</sup> TF1-375, Transcript 24 June 2008, pp. 12617-12620 (Yeaten explained that the AFL and the RUF/AFRC





that the instruction to send RUF soldiers to Liberia came from Taylor.<sup>15010</sup> Alimamy Bobson Sesay testified that he attended a meeting in Monrovia, together with Johnny Paul Koroma, Taylor and other SLAs, during which Taylor told them that he had ordered Bockarie to come to Voinjama to repel Mosquito Spray’s forces from Liberia.<sup>15011</sup> In light of this evidence, the Trial Chamber finds the denials of the Accused and Issa Sesay to be lacking in credibility.

6665. TF1-338 testified that he attended a meeting during which Taylor thanked Bockarie for securing Foya and Voinjama from the LURD rebels and gave him \$USD 15,000.<sup>15012</sup> TF1-338’s evidence is corroborated by Kanneh, who testified that after the fighting against Mosquito Spray’s forces, he travelled with Bockarie and Yeaten to Monrovia and that while there in Monrovia, Kanneh and Bockarie lodged at “White Flower” where they spent approximately three days. Bockarie told him that he saw the Accused during that period and that Taylor gave him money and ammunitions.<sup>15013</sup> The Trial Chamber has considered the discrepancies between Kanneh’s testimony and a prior statement on which he was cross-examined relating to his trips to Liberia and accepts Kanneh’s frank and consistent testimony that he made some mistakes which he did not correct.<sup>15014</sup> The Trial Chamber notes that his general evidence regarding this event corroborates TF1-338’s first hand account. The account of these witnesses is also partially corroborated by Abu Keita, who testified that after the attack, Yeaten, Bockarie and Defence Minister Daniel Chea were flown by helicopter from Foya to Monrovia.<sup>15015</sup> The Trial Chamber also recalls its finding that the Accused supplied arms and ammunition to the RUF in 1999, some of which was used in fighting LURD in Liberia.<sup>15016</sup>

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should fight together to repel Mosquito Spray’s forces since they were “all fighting for the same goal”); Abu Keita, Transcript 23 January 2008, pp. 2045-2048 (Yeaten instructed Sam Bockarie to join the AFL, the Liberian police and the ATU, Taylor’s palace guard, in attacking LURD’s forces invading Liberia); TF1-371, Transcript 28 January 2008, pp. 2433-2434, 2464-2465 (CS); Transcript 29 January 2008, p. 2513 (CS); Transcript 31 January 2008 (CS), pp. 2700, 2703 (Taylor and Yeaten requested Bockarie to instruct the RUF contingent based in Foya, at the border between Liberia and Sierra Leone, to support the Liberian forces against the LURD); Dauda Aruna Fornie, Transcript 2 December 2008, pp. 21488-21490 (Dauda Aruna Fornie testified that Yeaten requested Bockarie to send reinforcement to the Voinjama, Kolahun area of Liberia to fight Mosquito Spray’s troops).

<sup>15010</sup> TF1-516, Transcript 8 April 2008, pp. 6872-6874, 6916; Transcript 9 April 2008 pp. 7047-7049.

<sup>15011</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8509-8510, 8515-8516.

<sup>15012</sup> TF1-338, Transcript 1 September 2008, pp. 15100-15101, 15117-15118.

<sup>15013</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9461-9467.

<sup>15014</sup> Karmoh Kanneh, Transcript 13 May 2008, pp. 9641-9655 (Defence’s cross examination addressing some discrepancies between Kanneh’s testimony and his prior statement)

<sup>15015</sup> Abu Keita, Transcript 23 January 2008, p. 2055.

<sup>15016</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused.

6666. In light of this compelling evidence, the Trial Chamber finds that the Accused instructed Bockarie to send RUF/ AFRC forces to assist the AFL in fighting Mosquito Spray's LURD forces in Liberia and Guinea.

6667. Finally, turning to the question of command during the operation, three RUF soldiers who participated in the operations in Liberia testified that the AFRC/RUF forces in Liberia were operating under the command of AFL commanders. TF1-375 testified that while in Liberia, Christopher Varmoh, an AFL Commander, was the overall commander of the operation against Mosquito Spray.<sup>15017</sup> Keita stated that the overall commander of the operation on the field was Benjamin Yeaten,<sup>15018</sup> who provided the ammunition for the RUF's operations against the LURD in Liberia and Guinea.<sup>15019</sup> Kanneh testified that, after conquering the LURD in Liberia, RUF troops received an order from Benjamin Yeaten to pursue them to Guinea. While there, Yeaten ordered Kanneh and his men to burn the entire town of Bayolo.<sup>15020</sup> In light of this evidence, the Trial Chamber is satisfied beyond reasonable doubt that during the operation against Mosquito Spray's forces, the RUF/AFRC forces were operating under the overall command of the Accused's Liberian subordinates.

### Findings

6668. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in 1999, the Accused ordered Bockarie to send AFRC/RUF forces to assist him in his fight against Mosquito Spray and the LURD forces that had attacked his forces, and that during the fighting, the AFRC/RUF forces operated under the overall command of the Accused's Liberian subordinates.

#### (ii) Operations in Liberia and Guinea during Issa Sesay's leadership

### Submissions of the Parties

6669. The Prosecution alleges that, throughout Sesay's reign as leader of the RUF, in obedience to Taylor's instruction, Sesay provided significant RUF manpower to fight for the Accused in Liberia and in Guinea under the command of the Accused's subordinates. The

<sup>15017</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9459-9461.

<sup>15018</sup> Abu Keita, Transcript 23 January 2008, p. 2048.

<sup>15019</sup> Abu Keita, Transcript 23 January 2008, p. 2055.

<sup>15020</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9459-9461.



Prosecution submits that assistance to the Accused was one of the reasons why the RUF was slow to disarm.<sup>15021</sup> The Prosecution further alleges that the Accused provided arms and ammunition for these operations.<sup>15022</sup>

6670. The Defence challenges the Prosecution evidence submitting that it relies largely on hearsay and that it has been disowned by the persons to whom it is attributed. Thus, the Prosecution's evidence fails to establish beyond reasonable doubt that Issa Sesay ordered the RUF to attack Guinea at the behest of the Accused. The Defence submits that if the RUF and the Armed Forces of Liberia worked together on the Guinean operation it was only in order to fight a common enemy, the alliance between LURD and Kamajors.<sup>15023</sup>

### Evidence

#### Prosecution Witness TF1-338

6671. Witness TF1-338, an RUF member,<sup>15024</sup> testified that in early 2001 Issa Sesay sent a group of RUF fighters led by Superman to Liberia to fight alongside Liberian forces against the LURD forces. Sierra Leonean commanders Karmoh (a.k.a. Colonel Eagle), and CO Harrie also participated in the attack. Witness TF1-338 testified that Benjamin Yeaten was the overall commander of both the RUF and Liberian militias and that the arms and ammunition used by both forces during the attack against the LURD came from Liberia.<sup>15025</sup>

6672. Later in 2001, Issa Sesay travelled to Monrovia upon Benjamin Yeaten's invitation. There, Sesay met Yeaten. During this meeting Yeaten told Sesay that Taylor wanted Sesay to use the materials that he had supplied to the RUF to attack Guinea because Guinea had been allowing the LURD rebels to use their ground to penetrate Liberia. Issa Sesay agreed and, immediately after the meeting, called Superman, who was in Liberia fighting alongside Yeaten in Voinjama, and told him to come back to Sierra Leone to prepare the attack on Guinea. Sesay told Superman to attack Guinea through Kissigoudou while Morris Kallon would attack through Pamelap. TF1-338 testified that Sesay replaced Superman in Voinjama

<sup>15021</sup> Prosecution Final Trial Brief, para. 389-392.

<sup>15022</sup> Prosecution Final Trial Brief, para. 393.

<sup>15023</sup> Defence Final Trial Brief, paras. 1325-1330.

<sup>15024</sup> TF1-338, Transcript 1 September 2008, pp. 15085-15086.

<sup>15025</sup> TF1-338, Transcript 2 September 2008, pp. 15186-15188.





with Matthew Barbue, a Liberian RUF Vanguard, who was promoted to Major General by a common decision of Sesay and Yeaten.<sup>15026</sup>

6673. TF1-338 testified that at the end of 2001, in accordance with Yeaten's request and Issa Sesay's plan, RUF forces together with Liberian militias led by Superman and Kallon attacked Guinea through Pamelap and Kissigoudou. The RUF captured Pamelap and Kissigoudou for almost a month before being repelled by Guinean forces and retreating to Sierra Leone. The materials for these operations also came from Taylor.<sup>15027</sup>

6674. TF1-338 further testified that another attack against Guinea planned by Benjamin Yeaten took place around this period. RUF fighters led by Matthew Barbue, and Liberian militias led by General Fassu (a.k.a. Equalizer), attacked Gueckedou in Guinea from Foya in Liberia. Witness TF1-338 stated that RUF troops and Liberian militias entered Gueckedou, controlling half of the town for a short time before being repelled by Guinean forces. During the Guinean attack, numerous RUF fighters and Liberian militia lost their lives. Witness TF1-338 testified that the arms and ammunition used during the attack of Gueckedou came from Monrovia.<sup>15028</sup>

#### Prosecution Witness Abu Keita

6675. Witness Abu Keita, a former deputy chief of staff and commander of ULIMO-K, who later became commander of the Scorpion Unit,<sup>15029</sup> testified that he participated in several RUF operations outside of Sierra Leone.<sup>15030</sup> In 2000, at the time that African peacekeepers were being held hostage by the RUF in Makeni, Abu Keita and other RUF soldiers led by Short Bai Bureh participated in an operation in Guinea. Keita testified that the RUF forces managed to capture a car and two millimetre weapons and that they killed the Guinean commander Kanigba Bangura. However, facing numerous casualties from the bombing of Guinean helicopters and jets, the RUF retreated to Sierra Leone. Keita testified that Issa Sesay told him that Charles Taylor had ordered this operation to take territory in

<sup>15026</sup> TF1-338, Transcript 2 September 2008, pp. 15177-15179, 15217-15220

<sup>15027</sup> TF1-338, Transcript 2 September 2008, pp. 15179-15780, 15785, 15218.

<sup>15028</sup> TF1-338, Transcript 2 September 2008, pp. 15180-15181.

<sup>15029</sup> Abu Keita, Transcript 22 January 2008, pp. 1953-1954; Transcript 23 January 2008, pp. 1970, 2000; Transcript 24 January 2008, pp. 2110, 2145.

<sup>15030</sup> Abu Keita, Transcript 23 January 2008, pp. 2045-2048. Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Operations Outside Sierra Leone.

Guinea so that weapons held in Sierra Leone that were subject to disarmament under the peace process could be moved to Guinea.<sup>15031</sup>

6676. Abu Keita testified that the next operation he fought in was the attack led by Denis Mingo (a.k.a. Superman) against the Guinean government troops in the area between Kissidou and Gueckedou in Guinea. The RUF fought in the area for a month before retreating to Sierra Leone.<sup>15032</sup>

6677. Abu Keita further stated that, on another occasion, Issa Sesay led troops to Foya in Liberia. There the RUF troops met Benjamin Yeaten, who instructed them to take part in an operation to take Gueckedou, Guinea. On this occasion, the RUF, the AFL and ATU forces moved into Guinea from Liberia. Yeaten was the overall commander of the operation, and the field commander was Denis Mingo (a.k.a. Superman). Several RUF commanders were operating under Superman's command, including Matthew Barbue and Mark Gwon. The operation was planned by Issa Sesay.<sup>15033</sup> Following this operation Issa Sesay and Benjamin Yeaten boarded a helicopter in Foya and flew to Monrovia. When they returned they said they had seen Charles Taylor.<sup>15034</sup> Keita stated that the ammunition for the RUF operations in Liberia and Guinea was provided by Benjamin Yeaten.<sup>15035</sup> Keita testified that during every operation outside Sierra Leone the RUF used SBUs, boys under the age of 15, except during an operation in Guinea.<sup>15036</sup>

#### Prosecution Witness TF1-516

6678. Witness TF1-516, an RUF radio operator<sup>15037</sup> working under Yeaten's command at this time,<sup>15038</sup> testified that between 1999 and 2000, Voinjama had changed hands four times between AFL forces and LURD forces.<sup>15039</sup> During the rainy season of 2000, Voinjama fell again into the hands of the LURD. TF1-516 transmitted a message from Benjamin Yeaten requesting Issa Sesay's assistance in fighting the LURD forces and asking him to send

<sup>15031</sup> Abu Keita, Transcript 23 January 2008, pp. 2048-2050; Transcript 24 January 2008, p. 2139.

<sup>15032</sup> Abu Keita, Transcript 23 January 2008, pp. 2050-2051.

<sup>15033</sup> Abu Keita, Transcript 23 January 2008, p. 2052; *See also* Prosecution Exhibit P-28.

<sup>15034</sup> Abu Keita, Transcript 23 January 2008, p. 2055.

<sup>15035</sup> Abu Keita, Transcript 23 January 2008, p. 2055.

<sup>15036</sup> Abu Keita, Transcript 23 January 2008, pp. 2056-2058.

<sup>15037</sup> TF1-516, Transcript 8 April 2008, p. 6845.

<sup>15038</sup> TF1-516, Transcript 9 April 2008, pp. 7008-7009.

<sup>15039</sup> TF1-516, Transcript 9 April 2008, pp. 7008, 7067.

Superman for that purpose. Shortly after, Issa Sesay commissioned Superman to depart for Liberia.<sup>15040</sup>

6679. TF1-516 travelled with Benjamin Yeaten to Foya to greet Superman, who arrived with several fighters and some artillery pieces. TF1-516 testified that during their stay in Foya, Yeaten and Superman stayed in a house belonging to Taylor. During the operation, TF1-516 was assigned by Benjamin Yeaten to assist Superman in maintaining radio contact with Issa Sesay. TF1-516, Superman and the RUF fighters fought in Kolahun and Voinjama.<sup>15041</sup> After the Voinjama battle, Superman returned to Sierra Leone with bodyguards but left some of his fighters to continue working with Benjamin Yeaten.<sup>15042</sup>

6680. TF1-516 testified that after Superman's return to Sierra Leone, Voinjama again fell to the LURD. Despite approximately ten AFL attacks on Voinjama, the AFL was not able to recapture the town.<sup>15043</sup> Therefore, Benjamin Yeaten again contacted Issa Sesay for assistance. Sesay sent an RUF fighter named Harris, who participated in a number of unsuccessful operations against the LURD's forces in Voinjama and then returned to Sierra Leone. Sesay then sent Col. Eagle who, together with RUF fighters, was able to capture Voinjama.<sup>15044</sup>

6681. TF1-516 testified that in January 2001, while Voinjama had been re-conquered by the Liberian forces, he flew to Foya with Benjamin Yeaten.<sup>15045</sup> While in Foya, Yeaten informed TF1-516 that there was going to be a mission to attack Guinea.<sup>15046</sup> According to Yeaten, the LURD were attacking Liberia from Guinea, and Yeaten wanted to pursue them on their own territory.<sup>15047</sup> Issa Sesay arrived, together with several fighters armed with artillery, to participate in the operation in Guinea.<sup>15048</sup> The RUF, AFL and SOD all participated in the attack against Gueckedou in Guinea, although Sesay himself remained with Yeaten at the Liberian/Guinean border.<sup>15049</sup> The commander of this mission was RUF

<sup>15040</sup> TF1-516, Transcript 9 April 2008, pp. 7056-7057.

<sup>15041</sup> TF1-516, Transcript 9 April 2008, pp. 7058-7061.

<sup>15042</sup> TF1-516, Transcript 9 April 2008, p. 7062.

<sup>15043</sup> TF1-516, Transcript 9 April 2008, p. 7063.

<sup>15044</sup> TF1-516, Transcript 9 April 2008, p. 7064.

<sup>15045</sup> TF1-516, Transcript 9 April 2008, p. 7066.

<sup>15046</sup> TF1-516, Transcript 9 April 2008, p. 7066.

<sup>15047</sup> TF1-516, Transcript 9 April 2008, p. 7067.

<sup>15048</sup> TF1-516, Transcript 9 April 2008, pp. 7068-7070.

<sup>15049</sup> TF1-516, Transcript 9 April 2008, pp. 7071, 7075.

General Matthew Barbue. Other Sierra Leoneans, including Abu Keita, participated in the attack under Issa Sesay's command.<sup>15050</sup>

6682. Although TF1-516 did not participate himself in the attack, he testified that the AFL-RUF forces were able to capture Gueckedou before being eventually pushed back by the Guinean forces. Witness TF1-516 further stated that, at the same time, there was a separate attack on Guinea from Kono and Makeni in Sierra Leone by RUF forces led by Superman. After the Guinean attack, the Liberian forces retreated to Liberia, while many of the Sierra Leonean forces retreated to Sierra Leone.<sup>15051</sup>

6683. Following this retreat, Benjamin Yeaten instructed Superman to return to Liberia with RUF armed fighters, to join forces with Matthew Barbue. AFL and RUF forces led by Superman launched another operation against Nongorwa Town in Guinea, but this attack failed too. Witness TF1-516 testified that although he was not present during these operations, he was given a comprehensive report of what happened during the attacks.<sup>15052</sup>

6684. TF1-516 further testified that, in 2001, LURD forces attacked Foya another time but that RUF forces stationed there were able to repel the attack. Following this attack, Superman advised Benjamin Yeaten to canton the RUF forces from Saadu in Foya to secure the location. However, one or two months later LURD forces launched another assault on Foya, and RUF forces were unable to repel the attack. Consequently, Liberian and RUF forces retreated to Koindu and then to Buedu in Sierra Leone.<sup>15053</sup> Superman was wounded during the attack and transported to Monrovia for treatment.<sup>15054</sup>

6685. TF1-516 testified that during the rainy season of 2001, Yeaten called and asked the witness to join him in Vahun. Superman, who had just been released from the hospital in Monrovia, and Issa Sesay joined them in Vahun too. While there, Yeaten ordered the RUF commanders to attack a town called Popalahun but Superman refused. Superman indicated that he was not in a position to execute the order as there was no vehicle to mount the artillery arms that Superman would want to use for such an attack. Moreover, Superman was dissatisfied with Yeaten's failure to organise a meeting for him with the Accused. TF1-156

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<sup>15050</sup> TF1-516, Transcript 9 April 2008, p. 7071.

<sup>15051</sup> TF1-516, Transcript 9 April 2008, p. 7072.

<sup>15052</sup> TF1-516, Transcript 9 April 2008, pp. 7073-7074.

<sup>15053</sup> TF1-516, Transcript 9 April 2008, pp. 7081-7084.



testified that subsequently, he attended a meeting between Yeaten and Dopoe Menkazon during which Yeaten expressed his displeasure with Superman's refusal to follow his orders, blaming Superman for the RUF infighting in Sierra Leone and suggesting that Superman was engaged in traitorous activities.<sup>15055</sup>

Prosecution Witness TF1-371

6686. Witness TF1-371, a member of the RUF,<sup>15056</sup> testified that Benjamin Yeaten provided the RUF with ammunition to attack the government of President Lansana Conte in Guinea. The RUF also received food from Foya and condiments for the fighters.<sup>15057</sup>

Prosecution Witness Mustapha M. Mansaray

6687. Mustapha M. Mansaray, an RUF member and secretary of RUF Operational Commander Komba Gbundema, in charge of recording the arms and ammunitions and the number of fighters of the RUF,<sup>15058</sup> attended a muster parade held by Komba Gbundema during which Issa Sesay and Morris Kallon addressed RUF forces and told them that Charles Taylor had given them the mission to launch an attack on Lansana Conte's forces in Guinea. During this muster parade, two Guineans named Amadu Toure and Ibrahim Sidiebay introduced themselves and also addressed the RUF soldiers. Mustapha Mansaray testified that Taylor provided the arms and ammunition used during the attack on Guinea.<sup>15059</sup>

6688. After the muster parade, Mustapha Mansaray and other RUF soldiers put some of the materials into a vehicle and brought them to Kambia district headquarters. There they held a new meeting in the presence of Abubakar Jalloh (a.k.a. Tall Bai Bureh). After the meeting, the RUF troops, including Andrew Swaray (a.k.a. Short Bai Bureh) and Osho, led by Komba Gbundema, attacked Guinea.<sup>15060</sup>

Prosecution Witness TF1-367

<sup>15054</sup> Witness TF1-516, Transcript 9 April 2008, pp. 7084-7085.

<sup>15055</sup> Witness TF1-516, Transcript 9 April 2008, pp. 7089-7094.

<sup>15056</sup> Witness TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>15057</sup> Witness TF1-371, Transcript 29 January 2008, pp. 2457-2458 (CS).

<sup>15058</sup> Mustapha M. Mansaray, Transcript 5 March 2008, p. 5336

<sup>15059</sup> Mustapha M. Mansaray, Transcript 5 March 2008, pp. 5336-5339.

<sup>15060</sup> Mustapha M. Mansaray, Transcript 5 March 2008, pp. 5339-5340.




6689. TF1-367, an RUF soldier,<sup>15061</sup> testified that at the end of the dry season in 2000, Issa Sesay, the RUF commander, and Morris Kallon ordered TF1-367 to participate in an attack on Guinea. TF1-367 participated in the attack as an advisor, while RUF commanders Morris Kallon, Bai Bureh, and Gbundemba led the operation.<sup>15062</sup>

6690. TF1-367 testified that this operation was done in coordination with the NPFL, as well as with the Guinean rebel leader Mohamed Turay, son of the late Guinean leader, Sheku Turay, who wanted to bring the war to Guinea but did not have the manpower to do it. TF1-367 further explained that these forces had an interest in attacking Guinea since the President of Guinea, Lansana Conteh, was supporting the Sierra Leonean Army, the Kamajors, as well as the Liberian rebels attacking the Liberian government in Lofa County from Guinea. As such, the Guinean Government was an enemy of both the RUF and the NPFL. However, the RUF soldiers felt that this was not their war and that they were fighting because “Turay brought dollars to Liberia”.<sup>15063</sup>

6691. Witness TF1-367 testified that the RUF forces suffered casualties and that Lu and Mohamed GMG were killed during the attack. TF1-367 himself was injured. These casualties, as well as the feeling that this was not “the RUF’s war”, undermined the RUF soldiers’ morale, forcing them to retreat to Sierra Leone.<sup>15064</sup>

Prosecution Witness TF1-567

6692. Witness TF1-567, an RUF member,<sup>15065</sup> testified that when LURD and Guinean factions attacked Liberia in order to overthrow Taylor’s government, Benjamin Yeaten sent messages on behalf of Charles Taylor, asking Sesay to provide RUF manpower in support of the Liberian troops.<sup>15066</sup> In late 2000, TF1-567 participated in the RUF attack from Lofa County, Liberia against Guinea under the command of Benjamin Yeaten. TF1-567 testified that during the operations, RUF members and Benjamin Yeaten communicated through Yeaten’s radio operator.<sup>15067</sup>

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<sup>15061</sup> TF1-367, Transcript 21 August 2008, p. 14256.  
<sup>15062</sup> TF1-367, Transcript 21 August 2008, pp. 14254-14256.  
<sup>15063</sup> TF1-367, Transcript 21 August 2008, pp. 14254-14256, 14258-14259, 14261-14262.  
<sup>15064</sup> TF1-367, Transcript 21 August 2008, pp. 14257-14259, 14260-14261.  
<sup>15065</sup> TF1-567, Transcript 2 July 2008, p. 12833 (PS).  
<sup>15066</sup> TF1-567, Transcript 7 July 2008, pp. 13025, 13106-13108.  
<sup>15067</sup> TF1-567, Transcript 7 July 2008, pp. 13041-13043.

6693. TF1-567 further testified that during this period, when LURD was in control of Lofa Country, Yeaten coordinated the supply of arms and ammunition. Taylor sent helicopters to Foya, and the supplies were trucked to the RUF bases in Sierra Leone.<sup>15068</sup>

Prosecution Witness Varmuyan Sherif

6694. Witness Varmuyan Sherif, a former ULIMO-K fighter who became an officer in the SSS,<sup>15069</sup> testified that after LURD attacked Liberia, he took Abu Keita to Benjamin Yeaten's house. While there, Sherif overheard Yeaten saying to Sam Bockarie that he should send RUF soldiers to attack Guinea. Sherif testified that later, Abu Keita, who was one of the RUF commanders during the attack in Guinea, told him that RUF forces attacked Guinea from both Sierra Leone and Liberia upon Yeaten's instruction.<sup>15070</sup>

Prosecution Witness TF1-375

6695. Witness TF1-375, an RUF fighter,<sup>15071</sup> testified that in 2001 Superman crossed over to Liberia to help fight against the LURD under the command of Benjamin Yeaten. The joint forces under Yeaten's control included the Liberian "militia forces" as well as ATU, SSS and militia forces – including the Navy division, Marine division, Army division, the Jungle Fire, and later the Strike Force division. Most of the fighters that fell into the divisions were from the AFL. Each division had their individual chief of staff. Benjamin Yeaten was the joint chief of staff. The deputy joint chief of staff was Gbenga Y Kona.<sup>15072</sup>

Prosecution Witness Karmoh Kanneh

6696. Karmoh Kanneh, an RUF commander,<sup>15073</sup> testified that in May/June 2000, he participated in the operation against Sekou Damate Conneh, the leader of the LURD who was attacking Taylor's forces in Voinjama. Kanneh stated that he received instruction from Issa Sesay to gather men and join Benjamin Yeaten at Kolahun. Kanneh travelled with his men to Foya where they boarded a helicopter which flew them to Kolahun. While there,

<sup>15068</sup> TF1-567, Transcript 7 July 2008, pp. 13108-13109; Arms and Ammunition: Allegations of Direct Supply by the Accused, During Issa Sesay's leadership (December 1999-January 2002).

<sup>15069</sup> Varmuyan Sherif, Transcript, 9 January 2008, pp. 806, 820, 834, 836; Transcript 10 January 2008, pp. 940, 986-987.

<sup>15070</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 916-918.

<sup>15071</sup> TF1-375, Transcript 23 June 2008, p. 12485.

<sup>15072</sup> TF1-375, Transcript 24 June 2008, pp. 12664-12667.

<sup>15073</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9390.



Kanneh and his men were supplied with ammunition before leaving for Voinjama. Kanneh testified that Liberian troops coming from Monrovia also participated in the attack against LURD. RUF and Liberian troops captured Voinjama, forcing LURD forces to retreat to Guinea. After the attack Kanneh reported by radio the success of the operation to Benjamin Yeaten, who had remained in Voinjama.<sup>15074</sup> Kanneh's radio operator during the operation was named Mortiga.<sup>15075</sup>

6697. Karmoh Kanneh further testified that around August or September 2000, Issa Sesay told him that President Taylor gave the RUF a mission to invade Guinea on two flanks. Issa Sesay told Kanneh to inform the other commanders and to prepare the men for the attack. Accordingly, Kanneh invited the officers, including Sankoh's bodyguard Moriba Koroma, to a meeting during which he explained to them the purpose of the mission. According to Kanneh, none of the RUF officers were happy about this mission because it would affect their reputation in the eyes of the international community. The attack on Guinea took place in 2001, but Kanneh did not participate in it.<sup>15076</sup>

#### The Accused

6698. The Accused denied ordering and arming the RUF to overthrow Lansana Conte for him.<sup>15077</sup> He confirmed that he invited Issa Sesay to Liberia in July 2000 but asserted that it was only to talk about peace.<sup>15078</sup> Taylor conceded that it would have been in his interest to counter Conte's support for LURD but said he did not do so. Moreover, if he had done so, he would not have used the RUF when he had a stronger force available, composed of thousands of Liberians.<sup>15079</sup> The Accused testified that he heard the name Komba Gbundema for the first time in the SCSL court room, that he had not heard it in 2000.<sup>15080</sup>

<sup>15074</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9473-9477.

<sup>15075</sup> Karmoh Kanneh, Transcript 9 May 2008, pp. 9477-9478.

<sup>15076</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9507-9515.

<sup>15077</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29303-29310, 29428-29436; Transcript 24 September 2009, pp. 29644-29646; 23 November 2009, pp. 32288-32290.

<sup>15078</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29303-29308; Transcript 2 November 2009, pp. 30878-30881.

<sup>15079</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29303-29308; Transcript 28 October 2009, pp. 30619-30621.

<sup>15080</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29308-29309.





6699. The Accused denied Keita's allegation that Yeaten, Bockarie and Chea flew to Voinjama and then to Monrovia.<sup>15081</sup> He testified that prior to Bockarie moving to Monrovia, he had never heard any complaint from the Sierra Leone government or the international community that Bockarie and other Sierra Leoneans were destabilizing the situation in Foya. However, he started to hear complaints after Bockarie moved to Monrovia.<sup>15082</sup>

Defence Witness Issa Sesay

6700. Witness Issa Sesay, an RUF commander who became leader of the RUF between 2000 and 2002,<sup>15083</sup> testified that all his discussions with Taylor in 2000 were about peace in Sierra Leone.<sup>15084</sup> Sesay denied that the RUF attacked Gueckedou and Kissidou in Guinea or that Abu Keita, Superman or any other RUF member attacked Guinea alongside Liberian forces. Sesay testified that whilst the RUF was disarming, some RUF vanguards refusing the RUF disarmament, including CO Gorgie, Kailondo, Lion, CO Vincent, Ibrahim Dugba, and Johannes Roberts crossed over into Liberia with their bodyguards, defying Sesay's orders. It was only when he heard from Sam Kolleh that Lion had died in Kolahun, Liberia, in an attack against LURD rebels, that Sesay understood that RUF members were fighting alongside the Liberian troops.<sup>15085</sup>

6701. Sesay also denied being involved in the planning of the attack on Gueckedou as testified by Abu Keita. Superman left the RUF in February 2001 and went to Liberia. Sesay had no control over Superman at this point and only knew that Superman was with the AFL troops in Liberia fighting against the LURD.<sup>15086</sup> He asserted that Keita's testimony that Sesay and Yeaten co-signed an operation plan document to attack Gueckedou was a lie.<sup>15087</sup> He said at this time, he had no relationship with Yeaten, "they just knew each other".<sup>15088</sup> Moreover, as leader of the RUF, Sesay never signed operational orders. Sesay accused Abu

<sup>15081</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29426-29428.

<sup>15082</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29427-29428.

<sup>15083</sup> Issa Sesay, Transcript 5 July 2010, pp. 43588-43589.

<sup>15084</sup> Issa Sesay, Transcript 6 August 2010, p. 45614-45615

<sup>15085</sup> Issa Sesay, Transcript 6 August 2010, p. 45616-45620.

<sup>15086</sup> Issa Sesay, Transcript 6 August 2010, p. 45621

<sup>15087</sup> Issa Sesay, Transcript 6 August 2010, p. 45623

<sup>15088</sup> Issa Sesay, Transcript 6 August 2010, p. 45622

Keita of having forged Prosecution Exhibit P-28 himself in exchange for money and protection for Keita's family by the Office of the Prosecutor.<sup>15089</sup>

6702. Sesay denied flying from Foya with Yeaten to meet Taylor and testified that he never received any arms or ammunition from Liberia or anywhere from the commencement until the conclusion of disarmament.<sup>15090</sup> Issa Sesay testified that in July 2000, the RUF and government troops were intensely fighting between Lunsar and Gberi Junction because Johnny Paul Koroma had declared his support for President Kabbah. The RUF was therefore trying to repel the AFRC, Kamajors and the SLA, which had combined their forces to fight the RUF.<sup>15091</sup> Sesay testified that from 6 August 2001, the attacks into Guinea were only counter-attacks against the Guineans without any other plan or intention<sup>15092</sup>

#### Defence Witness John Vincent

6703. Witness John Vincent, a Liberian Vanguard commander,<sup>15093</sup> testified that around May 2000, he was sent by Issa Sesay to Koindu under the command of Matthew Barbue to protect the border against LURD and the Kamajors, who had joined to overthrow the Taylor Government.<sup>15094</sup> LURD forces were fighting to invade Liberia while the Kamajors wanted to get rid of the RUF in Sierra Leone. The RUF feared that the Kamajors would launch an offensive into Sierra Leone since they were at the border of Guinea, in the towns of Gueckedou and Nongowa.<sup>15095</sup>

6704. Vincent testified that in December 2000, the RUF found itself at the border with AFL forces serving the NPP government under Commander Joe Kwame. They almost fought one another by accident but some soldiers of the AFL recognized some RUF vanguards. CO Matthew Barbue was a Liberian like CO Joe Kwame and they decided the RUF and the AFL should work together to defend the border between Liberia, Sierra Leone and Guinea.<sup>15096</sup> The two commanders sat together and made operational plans to defend

<sup>15089</sup> Issa Sesay, Transcript 6 August 2010, pp. 45623-45629

<sup>15090</sup> Issa Sesay, Transcript 6 August 2010, pp. 45630-45631, 45637, 45641.

<sup>15091</sup> Issa Sesay, Transcript 6 August 2010, pp. 45638-45640.

<sup>15092</sup> Issa Sesay, Transcript 10 August 2010, pp. 45885-45886.

<sup>15093</sup> John Vincent, Transcript 26 March 2010, pp. 38107, 38114-38116, 38118, 38137, 38145; Transcript 30 March 2010, pp. 38226, 38239; Transcript 31 March 2010, p. 38390, 38408, 38460, 38461.

<sup>15094</sup> John Vincent, Transcript 26 March 2010, pp. 38149-38151.

<sup>15095</sup> John Vincent, Transcript 26 March 2010, pp. 38152-38154.

<sup>15096</sup> John Vincent, Transcript 26 March 2010, pp. 38155-38158.

themselves from their common enemy.<sup>15097</sup> However, according to Vincent, the RUF did not receive any orders from AFL commander Joe Kwame, but only from RUF commander Matthew Barbue, who had received the order from Issa Sesay to collaborate with the AFL.<sup>15098</sup>

6705. Vincent testified that the border between Sierra Leone and Liberia was unclear and that it was hard to know whether you were in Liberia or Sierra Leone. Issa Sesay had never told the troops that they would encounter AFL soldiers at the border, but they expected that the Liberian border would be fortified with AFL forces because Liberia had already experienced LURD's invasion in December 2000, before they retreated to Guinea.<sup>15099</sup> Vincent testified that, as Sesay expected, the Kamajors and LURD launched a common attack on Liberia, but RUF and AFL forces pushed them back to Guinea.<sup>15100</sup> After this operation, the AFL forces retreated to Foya, while the RUF forces retreated to Koindu. Vincent retreated to Koindu, but afraid that Issa Sesay would kill him, he decided to retreat to Vahun, Liberia.<sup>15101</sup> Vincent did not know if more operations took place after his departure.<sup>15102</sup>

#### Defence Witness Charles Ngebeh

6706. Witness Charles Ngebeh, a senior armourer in the RUF,<sup>15103</sup> testified that when Issa Sesay took over as the RUF interim commander, the RUF and AFRC conducted an operation in the area of Pamelap in Guinea. Charles Ngebeh remained in Makeni but sent his armourer Morisson Vandi there, alongside the commander of the operation, Tall Bai Bureh.<sup>15104</sup> Ngebeh heard that both Komba Gbundema and Short Bai Bureh were also involved in the Pamelap operation. Ngebeh also heard that the Guinean forces used heavy artillery during the attack and that a lot of civilians, as well as RUF and AFRC forces, were killed. However, it was the Guinean forces that were targeted by the RUF, not civilians.<sup>15105</sup>

<sup>15097</sup> John Vincent, Transcript 26 March 2010, p. 38158.

<sup>15098</sup> John Vincent, Transcript 26 March 2010, pp. 38161-38163.

<sup>15099</sup> John Vincent, Transcript 26 March 2010, pp. 38159-38162.

<sup>15100</sup> John Vincent, Transcript 26 March 2010, p. 38161.

<sup>15101</sup> John Vincent, Transcript 26 March 2010, pp. 38148-38149; 38163-38164.

<sup>15102</sup> John Vincent, Transcript 26 March 2010, pp. 38171-38172.

<sup>15103</sup> Charles Ngebeh, Transcript 23 March 2010, p. 37847.

<sup>15104</sup> Charles Ngebeh, Transcript 12 April 2010, p. 38758.

<sup>15105</sup> Charles Ngebeh, Transcript 12 April 2010, pp. 38759-38760.

Prosecution Exhibit P-028

6707. Prosecution Exhibit P-028 is a one-page document entitled “Operation Order”, dated 20 January 2001.<sup>15106</sup> The document assigns various RUF or Armed Forces of Liberia (“AFL”) commanders to combat units in preparation for an operation coded “No Taking Side”, and it purports to bear the signatures of “Gen. Essa [sic] Sesay” and “General Benjamin Yeaten”. The document is a heavily worn original, tattered along its edges, fibre-bare where folded, and held together by scotch tape in several places. The purported signatures of Sesay and Yeaten have been made with the same blue ink, along with their respective titles, although the full name “Benjeman [sic] D. Yeaten” appears below in a distinctly different ink and handwriting.

Authenticity of Exhibit P-28

6708. The Trial Chamber has considered the authenticity of Prosecution Exhibit P-028. The Trial Chamber recalls that Exhibit P-028 was tendered by the Prosecution through witness Varmuyan Sherif,<sup>15107</sup> who, as the Assistant Director for Operations within the Accused’s Special Security Service (“SSS”) and later as the Deputy Chief of Staff for the Army, claimed to have maintained daily contact with Benjamin Yeaten from 1997 to 2003.<sup>15108</sup> When presented with Exhibit P-028, Sherif recognised the “last” of the document’s two signatures as Yeaten’s.<sup>15109</sup> Sherif went on to describe the roles and ranks of Mark Gwon and Abu Keita, whose names appear in the exhibit,<sup>15110</sup> and to attest that Abu Keita “was one of our commanders that crossed from Foya to attack Guinea upon Benjamin Yeaten's instruction”.<sup>15111</sup>

6709. Abu Keita subsequently confirmed his participation in a “joint operation” composed of RUF, AFL and ATU elements, led by Benjamin Yeaten and directed against LURD forces in Gueckedou, Guinea.<sup>15112</sup> Keita further testified, “I think the operation was planned

<sup>15106</sup> Exhibit P-028, “Operation Order, 20 January 2001”.

<sup>15107</sup> *Prosecutor v. Charles Ghankay Taylor*, SCSL-03-01-T, Transcript 14 January 2008, p. 1207.

<sup>15108</sup> Varmuyan Sherif, Transcript 9 January 2008, pp. 812-813, 815.

<sup>15109</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 862. *See also* Exhibit D-104B, “DP-212 B: Photocopy of the official ID card of Yanks Smythe, back side”; Yanks Smythe, Transcript 1 March 2010, pp. 36321-36323 (testifying that Exhibit D-104B was signed by Benjamin Yeaten, though declining to say whether Exhibit P-028 bore the same signature).

<sup>15110</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 862.

<sup>15111</sup> Varmuyan Sherif, Transcript 10 January 2008, p. 917.

<sup>15112</sup> Abu Keita, Transcript 23 January 2008, pp. 2051-2052, 2055.

and signed by Issa Sesay and Benjamin Yeaten and then I think I gave a copy of that to the Prosecution".<sup>15113</sup> Keita averred that, although he cannot read, Exhibit P-028 was indeed that document.<sup>15114</sup>

6710. In addition to this direct evidence as to the document's provenance, three witnesses testified that Exhibit P-028 bears the signature of Issa Sesay: Prosecution witness TF1-371,<sup>15115</sup> and Defence witnesses DCT-292<sup>15116</sup> and John Vincent.<sup>15117</sup> Vincent furthermore agreed that when he "went on the operation to attack Gueckedou, the RUF was fighting together with the AFL", and that Issa Sesay had instructed Matthew Barbue to work under AFL commander Joe Kwame;<sup>15118</sup> both assertions corroborate the content of Exhibit P-028.

6711. The foregoing evidence leaves little room for Issa Sesay's challenges to Exhibit P-028.<sup>15119</sup> Sesay's broadest challenge to the exhibit is that, because the RUF never worked with AFL fighters against targets in Guinea, the document is necessarily spurious.<sup>15120</sup> Several witnesses claimed to have directly participated in such operations, however, and the Trial Chamber finds that this disproves the premise on which Sesay's contention rests.<sup>15121</sup> Likewise, the Trial Chamber finds that the evidentiary record outweighs Sesay's other factual attacks on P-028, such as his claims that there was no "Scorpion Unit",<sup>15122</sup> or that Matthew Barbue was never promoted to Major General.<sup>15123</sup>

<sup>15113</sup> Abu Keita, Transcript 23 January 2008, p. 2052.

<sup>15114</sup> Abu Keita, Transcript 23 January 2008, p. 2053.

<sup>15115</sup> TF1-371, Transcript 29 January 2008, pp. 2475-2476.

<sup>15116</sup> DCT-292, Transcript 3 June 2010, p. 42036.

<sup>15117</sup> John Vincent, Transcript 31 March 2010, p. 38437.

<sup>15118</sup> John Vincent, Transcript 31 March 2010, p. 38437.




<sup>15119</sup> Sesay testified that "I've never come across a document like this [...] documents like this are just to lie, to link the RUF operating with the Liberians", and further claimed that Exhibit P-028 was "prepared by Abu Keita himself". Issa Sesay, Transcript 27 July 2010, p. 44677; Transcript 6 August 2010, pp. 45623-45624. Sesay did not assert any personal knowledge of this matter, and the Trial Chamber has given no weight to this kind of speculation.

<sup>15120</sup> Issa Sesay, Transcript 27 July 2010, p. 44678; Transcript 25 August 2010, p. 47085.

<sup>15121</sup> See Abu Keita, Transcript 23 January 2008, pp. 2051-2055; Mustapha M. Mansaray, Transcript 5 March 2008, p. 5337; Joseph Marzah, Transcript 12 March 2008, p. 5951; TF1-516, Transcript 9 April 2008, pp. 7066-7076; TF1-375, Transcript 24 June 2008, p. 12623; TF1-338, Transcript 2 September 2008, pp. 15177-15181; John Vincent, Transcript 26 March 2010, p. 38176.

<sup>15122</sup> Issa Sesay, Transcript 5 August 2010, p. 45532 (testifying that "There was no Scorpion unit within the RUF"); compare with Varmuyan Sherif, Transcript 9 January 2008, p. 862; Dennis Koker, Transcript 15 January 2008, p. 1294; Abu Keita, Transcript 23 January 2008, pp. 1970, 1999, 2000, 2054; TF1-371, Transcript 28 January 2008 p. 2414 (CS).

<sup>15123</sup> Issa Sesay, Transcript 4 August 2010, pp. 45344-45345; Transcript 25 August 2010, p. 47103; compare

6712. Nor is the Trial Chamber swayed by Sesay's testimony that his purported signature is a forgery,<sup>15124</sup> as he adopted this very signature as his own when presented with it outside the context of Exhibit P-028.<sup>15125</sup> Although this does not by itself establish the authenticity of the signature, it does demonstrate Sesay's inability to consistently discern the signatures he considers genuine from those he considers forged, and consequently, the Trial Chamber has accorded little weight to his perfunctory accusations of forgery. The testimonies of Witnesses TF1-371, DCT-292, and John Vincent establish that the signature is consistent with Sesay's.<sup>15126</sup>

6713. The Trial Chamber accepts that Issa Sesay did not spell his name "Essa" as found in P-028,<sup>15127</sup> but finds that the misspelling does not by itself indicate that the document is not authentic. The Trial Chamber is satisfied that both signatures on the exhibit are genuine, and the possibility that a third person, unaware of the correct spelling of "Issa Sesay", later wrote in the names and titles of Sesay and Yeaten does not diminish the value of the document.

6714. Finally, the Trial Chamber disregards Sesay's claim that the RUF leadership never issued written orders to attack specific targets.<sup>15128</sup> While uncontradicted, this claim does not control the authenticity of Exhibit P-028 for the simple reason that it does not apply. Exhibit P-028 merely assigns commanders to units and limits the size of their security routines within the framework of a joint RUF-AFL operation, it does not designate targets for attack.<sup>15129</sup>

6715. On the basis of this evidence, the Trial Chamber finds that Issa Sesay signed the Operation Order admitted as Exhibit P-028 and that document is what it purports to be. The principal relevance of the document lies in its very existence, which is evidence of collaboration between the RUF and AFL, and in this sense the evidence falls outside the realm of hearsay.

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with TF1-338, Transcript 2 September 2008, p. 15176

<sup>15124</sup> Issa Sesay, Transcript 6 August 2010, p. 45623.

<sup>15125</sup> Issa Sesay, Transcript 25 August 2010, pp. 47061-47062, 47086; Exhibit P-582, "Page indicating fifteen different signatures with marks indicating those signatures that do not belong to Issa Sesay - as indicated by DCT-172".

<sup>15126</sup> TF1-371, Transcript 29 January 2008, pp. 2475-2476; DCT-292, Transcript 3 June 2010, p. 42036; John Vincent, Transcript 31 March 2010, p. 38437.

<sup>15127</sup> Issa Sesay, Transcript 6 August 2010, p. 45623.

<sup>15128</sup> Issa Sesay, Transcript 6 August 2010, pp. 45627-45629.

<sup>15129</sup> Exhibit P-028, "Operation Order 20 January 2001".

Prosecution Exhibits P-099A and P-099B

6716. Prosecution Exhibit P-099A is a redacted version of a composition book of handwritten radio communication between Benjamin Yeaten and Issa Sesay. Exhibit P-099B is a redacted copy of Exhibit P-099A. It records a message from “Gen 50 (SSS Director, Lib)” to Issa Sesay on 30 September 2001. In the message, Gen 50 informs Sesay that pursuant to a telephone conversation the day before, he has despatched:

6717. 10 boxes of AK rounds, 10 boxes of RPG rockets (All with TNTs) for smooth operation. Colonel Gbovay is en route together with one of your men (Major Takpor) assigned at Foya Airfield.<sup>15130</sup>

6718. On the next page, the Exhibit records a message from General “Issah” Sesay from “Gen 50” dated 22 October 2001 stating:

Be info that your men headed by Col [illegible] have retreated from Guinea leaving no security at the border. This man appear not to be under control. I have learnt that there has been a serious fighting going on in Foya Airfield between Col [illegible] and some AFL commanders.<sup>15131</sup>

Authenticity of Exhibit P-099 A and P-099B

6719. Exhibit P-099A was adduced through radio operator TF1-516, who testified that his task from mid-1999 was to receive messages from, and transmit messages to, RUF leaders in Sierra Leone, specifically Sam Bockarie and Issa Sesay, on behalf of Benjamin Yeaten (a.k.a. 50).<sup>15132</sup> He affirmed that the Exhibit belonged to him.<sup>15133</sup> TF1-516 testified that the messages dated 30 September 2001 and 22 October 2001 was received from Base 1, and was to be relayed to Issa Sesay’s radio station in Buedu.<sup>15134</sup> He explained that this was the period when “we were in Buedu and the forces, Amphibian Father and others, fought hard to retake Foya, so they were still in Foya together with the RUF fighters who were there”. He

<sup>15130</sup> Exhibit P-099A, (confidential); see Exhibit P-099B, “Composition Book of Handwritten Radio Communication Between Benjamin Yeaten and Issa Sesay - 00019148 - 00019193 - Redacted Version – Public”, ERN 19181.

<sup>15131</sup> Exhibit P-099A, (confidential); see Exhibit P-099B, “Composition Book of Handwritten Radio Communication Between Benjamin Yeaten and Issa Sesay - 00019148 - 00019193 - Redacted Version – Public”, ERN 19182.

<sup>15132</sup> TF1-516, Transcript 8 April 2008, p. 6862.

<sup>15133</sup> TF1-516, Transcript 8 April 2008, pp. 6864-6865.

<sup>15134</sup> TF1-516, Transcript 9 April 2008, pp. 7109-7111.



testified that the message was received in code, transcribed and remained in the book until handed over to the OTP.<sup>15135</sup>

6720. The Defence challenged the reliability of the Exhibit at Trial, noting that although labelled as a 96-page exercise book, it contained only 44 pages.<sup>15136</sup> The witness explained that the two radio messages recorded had long been written on two pages in an older composition book. He then tore out of that book a number of pages. The book was then reproduced into a new composition book, what is now Exhibits P-99A and P-99B, by Rebecca, a girl staying with the witness who wanted to be trained in signal communication, in 2001.<sup>15137</sup> The witness himself added some notes to the new notebook.<sup>15138</sup>

6721. The Trial Chamber has also had regard to Exhibit P-099A, documenting a radio message from Benjamin Yeaten to Issa Sesay in September 2001 stating that he had despatched ammunition, via Colonel Gbovay and one of Sesay's men.<sup>15139</sup> The radio messages indicate that Sesay's forces were at this time cooperating with Yeaten in relation to operations in Liberia and Guinea.<sup>15140</sup> This was confirmed by numerous witnesses during the course of the Trial.<sup>15141</sup> These witnesses indicated having fought alongside Liberian troops, under the command of Benjamin Yeaten, aka "Gen 50", the SSS Director.<sup>15142</sup>

6722. Noting that TF1-516 affirmed that the Exhibit belonged to him<sup>15143</sup> and that it was received from Base 1, and was to be relayed to Issa Sesay's radio station in Buedu,<sup>15144</sup> the

<sup>15135</sup> TF1-516, Transcript 9 April 2008, pp. 7112-7113.

<sup>15136</sup> TF1-516, Transcript 10 April 2008, p. 7218.

<sup>15137</sup> TF1-516, Transcript 10 April 2008, pp. 7218-7221.

<sup>15138</sup> TF1-516, Transcript 10 April 2008, pp. 7261-7262.

<sup>15139</sup> Exhibit P-099A, (confidential); see Exhibit P-099B, "Composition Book of Handwritten Radio Communication Between Benjamin Yeaten and Issa Sesay - 00019148 - 00019193 - Redacted Version - Public", ERN 19181.

<sup>15140</sup> Exhibit P-099A, (confidential); see Exhibit P-099B, "Composition Book of Handwritten Radio Communication Between Benjamin Yeaten and Issa Sesay - 00019148 - 00019193 - Redacted Version - Public", ERN 19182.

<sup>15141</sup> Abu Keita, Transcript 23 January 2008, pp. 2045-2051; TF1-338, Transcript 2 September 2008, pp. 15179-15781, 15785-15788, 15218; TF1-516, Transcript 9 April 2008, pp. 7058-7061, 7064, 7071-7075, 7084-7085; Mustapha M. Mansaray, Transcript 5 March 2008 pp. 5339-5340; TF1-367, Transcript 21 August 2008, pp. 14254-14256; Karmoh Kanneh, Transcript 9 May 2008, pp. 9473-9477; Transcript 12 May 2008, pp. 9507-9515; John Vincent, Transcript 26 March 2010 pp. 38152-38154.

<sup>15142</sup> TF1-338, Transcript 2 September 2008, pp. 15186-15188; Abu Keita, Transcript 23 January 2008, p. 2052; TF1-567, Transcript 7 July 2008, pp. 13041-13043; Karmoh Kanneh, Transcript 9 May 2008, pp. 9473-9477 *but see* John Vincent, Transcript 26 March 2010, pp. 38161-38163.

<sup>15143</sup> TF1-516, Transcript 8 April 2008, pp. 6864-6865.

<sup>15144</sup> TF1-516, Transcript 9 April 2008, pp. 7109-7111.

Trial Chamber considers this documentary evidence to be particularly valuable corroboration of the oral evidence concerning continued delivery of materiel during Sesay's administration as leader.<sup>15145</sup>

6723. The Defence challenged the reliability of the Exhibit at Trial, noting the discrepancy concerning the number of pages and the reproduction of an older version of the book by a third party.<sup>15146</sup> The Defence also noted that the witness did not mention this third party's role in copying the notebook during his first interviews. The witness explained he did not mention it until he was asked about the handwriting in the notebook.<sup>15147</sup> The Trial Chamber does not consider these matters to undermine the probative value of the Exhibit, noting that the witness provided plausible explanations for the discrepancies. In light of the foregoing and considering the compelling evidence corroborating the content of Exhibits P-099 A and P-099B, the Trial Chamber finds it to be an authentic document.

#### Prosecution Exhibit P-167

6724. Prosecution Exhibit P-167 is a map of Guinea, Sierra Leone and part of Liberia marked by Prosecution Witness TF1-338. Mark 1 indicates the location of Pamalap; Mark 2 indicates the location of Kissidougou, while mark 3 indicates the location of Gueckedou.<sup>15148</sup>

#### Prosecution Exhibit P-152A

6725. Exhibit P-152A is a confidential photo.<sup>15149</sup>

#### Prosecution Exhibit P-585

6726. Exhibit P-585 is an excerpt of an article published on the BBC website on Thursday 7 December 2000. This article reads as follows:

Aid workers in Guinea say hundreds of people have been killed in a rebel raid on a town near the border with Sierra Leone and Liberia. But government officials put the death toll at

<sup>15145</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused, During Issa Sesay's Leadership (December 1999-January 2002).

<sup>15146</sup> TF1-516, Transcript 16 April 2008, p. 7844

<sup>15147</sup> TF1-516, Transcript 11 April, pp. 7313-7316.

<sup>15148</sup> Exhibit P-167, "Map of Guinea, marked by TF1-338". See also TF1-338, Transcript 2 September 2008, pp. 15181-15187.

<sup>15149</sup> Exhibit P-152A (confidential), ERN 775; TF1-567, Transcript 7 July 2008, pp. 13024-13025 (PS).

48 people - 36 civilians and 12 rebels – during the raid on Gueckedou town. A Red Cross official in the town told the BBC that rebels attacked in force early on Wednesday and were only driven out by Guinean troops after almost 24 hours. The official, Umar Issa Damagaram, also said more than 1000 people were wounded and many homes burned. Reports say rebels had on Tuesday threatened to attack the town, forcing people to flee.

The Guinea government accuses Liberia and Sierra Leonean rebels of being behind a series of recent cross-border attacks into Guinea. The UN refugee agency (UNHCR) says one of its key regional centres was destroyed in the fighting in Gueckedou. The attack was the first time rebels had entered a major town after three months of attacks on villages in the south and east of the country. A military source told BBC correspondent Al Hassan Cillah in Guinea that it was the biggest battle the army had fought with insurgents since September.

Military and humanitarian sources confirmed government troops regained control of the town after it had been occupied for several hours. But during that time the rebels had burnt public buildings, business premises, vehicles and cut down telephone lines. Humanitarian sources, quoting witnesses in the town, said bodies littered the streets. Thousands of civilians have fled into the bush. Gueckedou town is strategically located between the capital Conakry and the forest region, source of most of the country's agricultural products. The UNHCR chief, Sadako Ogata, says the region is on the verge of a humanitarian catastrophe.<sup>15150</sup>

#### Defence Exhibit D-270

6727. Exhibit D-270 is an outgoing code cable, dated 12 September 2000, from Downes Thomas, an UNOL officer to UNAMSIL and UNHCR offices regarding the Liberia-Guinea relations. Paragraphs 1 to 7 of the code cable read as follow:

1. Thank you for your Code Cable number 3530 dated 8 September on the subject above. I attach, for your information, copies of articles carried in today's newspapers on the matter. It is to be noted that, in the wake of the most recent developments in Guinea, six of yesterday's newspapers (11 September) carried lead headlines on Liberia-Guinea relations, while five of them devoted their editorials to the same topic.
2. The most recent manifestation of the unease which now typifies the relations between both governments is to be found in the widely reported harassment, threats to and detention of Liberian (and Sierra Leonean) nationals, especially refugees, in Guinea. The Liberian perspective on the matter is unanimous in its outrage and in its appeal to the Guinean authorities to demonstrate restraint. In this respect, the threat by the Guinean Prime Minister "to go on the offensive" against Liberia is particularly worrisome.
3. The current strained relationship between Guinea and Liberia has serious implications not only for the two countries but also for all members of the Mano River Union. The deterioration in relations had its genesis in the first armed attack on Voinjama, the capital of Lofa County, on 21 April 1999, which the Government of Liberia (GOL) blamed on Guinea. The second attack, launched less than four months later (10 August 1999), and the latest on 8 July 2000, have confirmed the worst fears of even those who had given Guinea the benefit of the doubt. While the GOL was able to repel the first two incursions within a matter of weeks, the latest fighting has been raging for the past two months with no immediate signs for a quick resolution.

<sup>15150</sup> Prosecution Exhibit P-585, article published on the BBC website on Thursday 7 December 2000 titled "Hundreds killed' in Guinea attack".

4. All three attacks exhibited a number of common features : they all involved an attack on the city of Voinjama; they were executed by dissidents allegedly affiliated to former faction leader Alhaji Kromah; and all were concentrated in Lofa County despite the fact that two other counties, Bong and Nimba, also share the border with Guinea. Repeated denials by Guinea of its involvement in these attacks were dismissed by the GOL as disingenuous, leading to a war of words between the two neighbors. It is not inconceivable that the dissidents may indeed have training bases in Guinea -- as alleged by Liberia -- but without the knowledge of the Government of Guinea -- as alluded to by the Guinean ambassador to Liberia. The Guinean envoy has conceded in the past that among Liberian refugees in Guinea were some former factional elements who felt insecure staying in Liberia after the 1997 elections. He however emphasized that "if these people are returning home and rearming themselves for whatever reason against their own Government, we have no input and no knowledge about such actions".

5. Despite public protestations to the contrary by the Guinean Government, Liberia insists that it has evidence that dissidents opposed to the Liberian Government were being trained at an agricultural institute outside Macenta, Guinea, not far from the Liberian border. President Taylor has complained about the international community's silence whenever there was an incursion into Lofa from Guinea. His Government had been telling the world about the untoward activities of Liberians abroad especially Messrs. Vamba Kanneh and Alhaji Kromah and their supporters in Guinea against Liberia. and not unpredictably felt that the international community had turned a deaf ear to its concerns.

6. It is worth noting that the difference between the previous attacks and the current one is in the latter's magnitude and its propensity to engulf the whole sub region in the absence of timely interventions particularly by the ECOWAS leadership and the UN. Unlike in the past when dissident activities were confined within Liberian borders, Guinea has become the latest victim of cross border attacks allegedly from the Liberian and Sierra Leonean sides of the border. As with most conflicts, it is ordinary civilians, particularly those in border towns, who are caught in the crossfire. An immediate cause for alarm is the growing xenophobic round up of Liberians and Sierra Leoneans residing in Conakry on the orders of President Lansana Conteh. The Guinean Government has accused Liberian and Sierra Leonean refugees and ordinary civilians of being used by dissidents opposed to President Conteh's Government to undermine it. Since yesterday, the GOL has used local radio stations to appeal to Liberian citizens not to engage in revenge attacks on Guineans resident in Liberia. The appeal has so far been successful.

7. At present, relations between Liberia and Guinea have reached a critical juncture. On the surface, the current tension between the two countries would seem to suggest the two sides' determination to resolve the conflict militarily, notwithstanding recent reconciliatory statements by the GOL. A military option would have obvious adverse effects on the general state of affairs in both countries, particularly on their economy and on the wellbeing of their citizens. If the experience in Lofa over the past 18 months where there had been three military incursions - is anything to go by, then it goes without saying that Liberia has genuine and legitimate security concerns regarding its porous borders. Nevertheless, UNOL continues with its efforts to ensure that the GOL does not consider the military option as a solution to the current crisis.<sup>15151</sup>

## Deliberations

<sup>15151</sup> Exhibit D-270, "Outgoing Code Cable dated 12 September 2000 from UNOL regarding the Liberia-Guinea relations".





6728. It is undisputed that from 1999 to 2001, confronted by an army of Liberian dissidents attacking Lofa County in Liberia, from Guinea, the Accused sent troops to oppose the incursion, which created a “push-back situation”, with the hostile sides engaged in fluctuating battle.<sup>15152</sup>

6729. In this context, the Prosecution alleges that in obedience to Taylor’s instruction, Sesay provided significant RUF manpower to fight for the Accused in Liberia and in Guinea under the command of the Accused’s subordinates, providing them with arms and ammunition for these operations.<sup>15153</sup>

6730. The Accused denied being aware of the RUF’s presence in Foya County, Liberia.<sup>15154</sup> He also denied ordering and arming the RUF to fight in Guinea for him.<sup>15155</sup> Issa Sesay denied that the RUF attacked Gueckedou and Kissidou in Guinea or that Abu Keita, Superman or any other RUF member attacked Guinea alongside Liberian forces. Sesay denied flying from Foya with Yeaten to meet Taylor and testified that he never received any arms or ammunition from Liberia or anywhere from the commencement until the conclusion of disarmament.<sup>15156</sup>

6731. Numerous RUF witnesses, both from the Prosecution and the Defence, testified that in 2000 and 2001, they participated in military operations in Liberia and Guinea against LURD forces and their allies.<sup>15157</sup> These witnesses further testified that while they were fighting LURD and Guinean forces in Liberia and Guinea, they were fighting alongside Liberian troops, under the command of Benjamin Yeaten.<sup>15158</sup> The testimony of these witnesses is corroborated by Exhibit P-028, an “Operation Order” dated 20 January 2001, assigning various RUF and AFL commanders to combat units in preparation for an attack on

<sup>15152</sup> See Prosecution Final Trial Brief, paras 383, 390; Defence Final Trial Brief, paras 679, 682.

<sup>15153</sup> Prosecution Final Trial Brief, paras 389-393.

<sup>15154</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29427-29428.

<sup>15155</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29303-29310, 29428-29436; Transcript 24 September 2009, pp. 29644-29646; Transcript 23 November 2009, pp. 32288-32290.

<sup>15156</sup> Issa Sesay, Transcript 6 August 2010, pp. 45621, 45630-45631, 45637, 45641.

<sup>15157</sup> Abu Keita, Transcript 23 January 2008, pp. 2045-2051; TF1-338, Transcript 2 September 2008, pp. 15179-15781, 15785-15788, 15218; TF1-516, Transcript 9 April 2008, pp. 7058-7061, 7064, 7071-7075, 7084-7085; Mustapha M. Mansaray, Transcript 5 March 2008 pp. 5339-5340; TF1-367, Transcript 21 August 2008, pp. 14254-14256; Karmoh Kanneh, Transcript 9 May 2008, pp. 9473-9477; Transcript 12 May 2008, pp. 9507-9515; John Vincent, Transcript 26 March 2010, pp. 38152-38154.

<sup>15158</sup> TF1-338, Transcript 2 September 2008, pp. 15186-15188; Abu Keita, Transcript 23 January 2008, p. 2052; TF1-567, Transcript 7 July 2008, pp. 13041-13043; Karmoh Kanneh, Transcript 9 May 2008, pp. 9473-9477 *but see* John Vincent, Transcript 26 March 2010, pp. 38161-38163.

Guinea.<sup>15159</sup> The Trial Chamber has found this document to be authentic, and it carries Sesay's signature as well as Yeaten's.<sup>15160</sup> Moreover, the Trial Chamber has found that Taylor provided arms and ammunition for these operations.<sup>15161</sup>

6732. In light of the evidence, the Trial Chamber considers it impossible that RUF troops would have fought in Liberia, under Yeaten's command, without Taylor's knowledge and approval. For this reason the Trial Chamber rejects the testimony of the Accused, as well as Issa Sesay, with regard to this allegation.

6733. Turning to the nature of Taylor's request for RUF support, the Trial Chamber has considered the allegation of the Prosecution, relying on Abu Keita's testimony, that Issa Sesay was obeying an order of the Accused when he sent troops to Guinea.<sup>15162</sup> Several other witnesses testified that Taylor requested Sesay's assistance but none of them mentioned a specific order.<sup>15163</sup> The Trial Chamber has rejected the evidence of Issa Sesay and the Accused, denying any involvement, as lacking in credibility. The Trial Chamber notes that TF1-516 referred in his testimony to several orders issued to the RUF by Benjamin Yeaten. In light of the role that Yeaten played in these operations and his relationship to the Accused, as well as its finding that the Accused instructed Bockarie to send RUF troops to Liberia to repel the earlier attack by Mosquito Spray, the Trial Chamber is convinced that the Accused instructed Sesay to send troops to fight for him in Liberia and Guinea.

### Findings

6734. The Trial Chamber finds that the Prosecution has proved beyond reasonable doubt that in 2000 and 2001 the Accused instructed Issa Sesay to send RUF forces, and that the RUF forces sent in response to these requests fought alongside AFL forces in Liberia and Guinea under the command of the Accused's subordinates.

<sup>15159</sup> Prosecution Exhibit P-028, "Operation Order" dated 20 January 2001.

<sup>15160</sup> See discussion above regarding the authenticity of Exhibit P-028.

<sup>15161</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused, During Issa Sesay's Leadership (December 1999-January 2002).

<sup>15162</sup> Prosecution Final Trial Brief, para. 389 ("In obedience to Taylor's instruction, Sesay provided manpower to fight for Taylor in Liberia and in Guinea, under the overall command of Taylor's senior Liberian commanders"); Abu Keita, Transcript 23 January 2008, p. 2050

<sup>15163</sup> TF1-338, Transcript 2 September 2008, p. 15177.





(iii) Taylor instructed Bockarie and his subordinates to fight for Taylor's allies in Côte d'Ivoire

Submissions of the Parties

6735. The Prosecution alleges that having failed to kill Bockarie outside Liberia, Taylor used Bockarie and his subordinates to fight for Taylor's allies in Cote d'Ivoire. While in Cote d'Ivoire, Bockarie communicated with Taylor and Yeaten.<sup>15164</sup>

6736. The Defence contends that a policy of disengagement was adopted by the Liberian government on 12 January 2001 because there was a great deal of misunderstanding about the Liberian government's contact with both the RUF and other parties to the Sierra Leonean conflict, which contacts were open and publicly maintained under the mandate of ECOWAS and for the sole objective of promoting regional peace and stability. In compliance with Liberia's policy of disengagement, Sam Bockarie, and all RUF individuals, had departed Liberia by February 2001. There was no reason to expel those that had been inducted into the ATU who remained Liberian citizens. Sam Bockarie left to go to Cote d'Ivoire and Taylor had no further contact with him.<sup>15165</sup>

Evidence

Prosecution Witness Jabaty Jaward

6737. Prosecution witness Jabaty Jaward, a member of the ATU,<sup>15166</sup> testified that around December 2002, on the instructions of Benjamin Yeaten,<sup>15167</sup> he and 21 other men, including Joe Tuah, flew from Roberts International Airport in Liberia into Ouagadougou, Burkina Faso.<sup>15168</sup> Onboard the aircraft, Joe Tuah informed him that Sam Bockarie and others had crossed into Côte d'Ivoire. Having arrived in Ouagadougou, the group was taken in a bus to Korhogo, a place near to the Mali-Burkina-Ivorian border. Shortly after, the group crossed the Ivorian border and joined Bockarie in Seguela, Côte d'Ivoire. While in Côte d'Ivoire, Sam Bockarie told Jaward that he had come there on the instructions of Taylor in order to

<sup>15164</sup> Prosecution Final Trial Brief, para. 396; *See also* paras 36, 63.

<sup>15165</sup> Defence Final Trial Brief, paras 703-705, 714.

<sup>15166</sup> Jabaty Jaward Transcript 10 July 2008, pp. 13455-13457.

<sup>15167</sup> The witness explained, however, that instructions like that could not come from Yeaten on his own initiative and should have been approved by the Accused. Jabaty Jaward, Transcript 11 July 2008, p. 13500.

<sup>15168</sup> Jabaty Jaward Transcript 11 July 2008, p. 13500.

assist the Ivorian rebels in their fight. Jabaty Jaward testified that at the time he was in Côte d'Ivoire, instructions were coming from Benjamin Yeaten in Liberia.<sup>15169</sup>

Prosecution Witness TF1-585

6738. Witness TF1-585, an RUF radio operator,<sup>15170</sup> testified that Sam Bockarie left Liberia in 2001. In 2002, Witness TF1-585 learned from Bockarie's wife that Bockarie was fighting in Côte d'Ivoire and that, before Côte d'Ivoire, he had been in Libya. In 2002, TF1-585 joined Bockarie in Côte d'Ivoire for a military operation against the Ivorian Government. Bockarie and his men fought in Côte d'Ivoire for about 6 or 7 months, after which the entire group, composed of 500 RUF members, ATU and civilians, retreated from Côte d'Ivoire to Liberia under the attack of the Ivorian military.<sup>15171</sup>

6739. TF1-585 further testified that Jungle told her that he had heard from Yeaten that Taylor deployed the Liberian military on the border with Côte d'Ivoire in order to prevent Bockarie's group from crossing into Liberia, as it might entail Ivorian military chasing the group on to Liberian soil. Taylor also wanted Bockarie to stay in Côte d'Ivoire to defend Ivorian ground.<sup>15172</sup> However, Jungle and the Liberian soldiers who were part of Bockarie's group were allowed to cross into Liberia. The others, including Witness TF1-585, were blocked in a village on the border with Côte d'Ivoire while Bockarie was collected and taken by Benjamin Yeaten and Joe Tuah to Monrovia.<sup>15173</sup> Subsequently, Benjamin Yeaten and Joe Tuah came back to the village and relayed an order from Taylor to the effect that those who had crossed from Côte d'Ivoire in order to proceed to Monrovia would have to fight the LURD out of Ganta before coming back to Liberia.<sup>15174</sup>

Prosecution Witness TF1-375

6740. Witness TF1-375, an RUF fighter,<sup>15175</sup> testified that in early 2002, while he was at Taylor's farm, he had a conversation by satellite phone with Sam Bockarie, who was in

<sup>15169</sup> Jabaty Jaward Transcript 11 July 2008, pp. 13498-13523.

<sup>15170</sup> TF1-590, Transcript 5 September 2008, pp. 15582-15584, 15589-15592 (PS).

<sup>15171</sup> TF1-585, Transcript 8 September 2008, p. 15758.

<sup>15172</sup> TF1-585, Transcript 8 September 2008, p. 15754. However, when asked on whose behalf Bockarie was fighting in Côte d'Ivoire, answered that she didn't know

<sup>15173</sup> TF1-585, T. 8 September 2008, pp. 15749-15756.

<sup>15174</sup> TF1-585, T. 8 September 2008, p. 15758.

<sup>15175</sup> TF1-375, Transcript 23 June 2008, p. 12485.



Côte d'Ivoire regarding a machine to create ID cards that Bockarie had looted during an attack in Côte d'Ivoire. TF1-375 testified that Bockarie refused to hand over the machine he had looted to the Liberian Government, saying that he refused to take "any orders from the Liberian government any more". In his conversation with TF1-375, Bockarie also explained that he had been told by Taylor to turn over "the amount of diamonds he crossed over with" to Taylor, which he did, but he did not receive any support from Taylor in exchange.<sup>15176</sup>

Prosecution Witness TF1-579

6741. Witness TF1-579, a member of the SSS,<sup>15177</sup> testified that in 2000 Bockarie went on various missions outside Liberia.<sup>15178</sup> Bockarie travelled to Danané, where he met Taylor's Chief of Protocol, Musa Cissé.<sup>15179</sup> While in Côte d'Ivoire, Musa Cissé introduced Bockarie to Jonas Savimbi's ambassador. Savimbi's ambassador and Bockarie travelled together to Lusaka, Zambia in order to see Savimbi.<sup>15180</sup> However, the arrangement to meet with Savimbi fell apart. Bockarie was upset and tried to call Yeaten and Sampson, but neither of them answered.<sup>15181</sup> Bockarie then decided to travel to Ghana.<sup>15182</sup>

6742. TF1-579 learned that there was a plan to have Bockarie killed during his mission abroad, while he was in Angola.<sup>15183</sup> While in Liberia, TF1-579 heard that Yeaten said it was a good thing that he had not travelled with Bockarie because he would have executed both of them. TF1-579 did not tell Bockarie what he had been told by Sampson.<sup>15184</sup>

6743. TF1-579 further testified that in mid-2002, Sam Bockarie moved from Ghana to Burkina Faso. Joe Tuah, a member of the Special Forces, was in charge of organising men for the Côte d'Ivoire war. Yeaten asked TF1-579 to follow Bockarie in Côte d'Ivoire and to report to him. While he was at the Ivorian border, TF1-579 met Sampson Weah, who

<sup>15176</sup> TF1-375, T. 24 June 2008, pp. 12645-12649.

<sup>15177</sup> TF1-579, Transcript 5 November 2008, pp. 19822-19823.

<sup>15178</sup> TF1-579, Transcript 5 November 2008, pp. 19870-19873 (PS).

<sup>15179</sup> TF1-579, Transcript 5 November 2008, p. 19873 (PS).

<sup>15180</sup> TF1-579, Transcript 5 November 2008, pp. 19874-19882 (PS).

<sup>15181</sup> TF1-579, Transcript 5 November 2008, pp. 19881-19882 (PS).

<sup>15182</sup> TF1-579, Transcript 5 November 2008, pp. 19882-19883 (PS).

<sup>15183</sup> TF1-579, Transcript 5 November 2008, pp. 19885-19886 (PS).

<sup>15184</sup> TF1-579, Transcript 5 November 2008, pp. 19886-19889 (PS).

brought him to see Sam Bockarie in Danané.<sup>15185</sup> TF1-579 testified that while he was in Côte d'Ivoire, Bockarie had about 2,000 or 3,000 men under his command.<sup>15186</sup>

6744. TF1-579 testified that while he was in Côte d'Ivoire, he heard Bockarie having phone conversations with Yeaten and Taylor. During these conversations Bockarie called Taylor "Chief". According to TF1-579 Taylor was the only person Bockarie called "Chief".<sup>15187</sup>

6745. TF1-579 stated that Sam Bockarie was fighting with the Ivorian rebel leader Philip Doh [sic] (a.k.a. Andre) against the Ivorian government troops. However, at a certain point, Doh accused Bockarie of trying to overthrow him. Andre also complained to Yeaten that Bockarie's men were misbehaving. TF1-579 testified that Taylor told Yeaten to send Joe Tuah to the Côte d'Ivoire to settle problems between Andre and Bockarie. However, when Joe Tuah arrived in Côte d'Ivoire, Bockarie told him that he would not take any instruction from anyone but Charles Taylor. TF1-579 testified that eventually, everyone calmed down and an agreement was found.<sup>15188</sup>

#### Prosecution Witness Karmoh Kanneh

6746. Witness Karmoh Kanneh, a senior commander in the RUF,<sup>15189</sup> testified that around May 2000, during a meeting with Sam Bockarie, Yeaten's security officers including Varney and Bockarie's signal man in Monrovia,<sup>15190</sup> Bockarie explained that he was discouraged by Taylor who had asked him to go to the police station where he was detained for three to four days. Bockarie explained that he was also worried for his life since Taylor told him that he was under pressure to hand him over to the international community but that he was afraid that Bockarie would explain to the Special Court for Sierra Leone all the deals between the RUF and Taylor. Therefore, Bockarie worried for his life. Bockarie further explained that Taylor had given him a mission but did not explain what it was.<sup>15191</sup> Kanneh

<sup>15185</sup> TF1-579, Transcript 6 November 2008, pp. 19964-19966.

<sup>15186</sup> TF1-579, Transcript 6 November 2008, pp. 19966-19968.

<sup>15187</sup> TF1-579, Transcript 6 November 2008, pp. 19968-19969.

<sup>15188</sup> TF1-579, Transcript 6 November 2008, pp. 19972-19975.

<sup>15189</sup> Karmoh Kanneh, Transcript 8 May 2008, p. 9390.

<sup>15190</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9489-9490.

<sup>15191</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9492-9493.

testified that later when he returned to Sierra Leone, he heard on BBC World Focus that Sam Bockarie had killed Phillip Doe in Côte d'Ivoire.<sup>15192</sup>

The Accused

6747. The Accused testified that in early February 2001, Sam Bockarie was asked to leave Liberia because his presence was bringing negative attention to the Liberian Government. There were many questions about his presence in Liberia, even though he came with the approval of ECOWAS.<sup>15193</sup> The Liberian Government also requested the departure of all RUF members from Monrovia and the closure of the RUF contact office in Monrovia. Bockarie left Liberia for Cote d'Ivoire and Taylor had no further contact with him.<sup>15194</sup>

6748. The Accused denied ordering Sam Bockarie and ATU to fight in Côte d'Ivoire in order to destabilize the country.<sup>15195</sup> To the contrary, when a conflict broke out in Côte d'Ivoire between Guei Robert and Laurent Gbagbo, he intervened and met with Gbagbo to remedy the situation because Liberia needed a stable Côte d'Ivoire.<sup>15196</sup>

6749. The Accused testified that in May 2003, he received reports that Sam Bockarie and his men were advancing toward the Liberian border with Côte d'Ivoire. Taylor decided to protect the Liberian border from armed soldiers who returned from fighting in Côte d'Ivoire, and Moses Blah was sent there to apprehend Bockarie and his armed men. However, Bockarie and his men resisted and Bockarie was killed.<sup>15197</sup>

Defence Exhibit D-299

6750. Exhibit D-299 is a press statement from the Liberian Ministry of Foreign Affairs dated 26 October 2000, in which the Liberian authorities denied the presence of any Liberian military personnel in Côte d'Ivoire.<sup>15198</sup>

Deliberations

<sup>15192</sup> Karmoh Kanneh, Transcript 12 May 2008, pp. 9493-9495.

<sup>15193</sup> Charles Ghankay Taylor, Transcript 26 October 2009, p. 30203.

<sup>15194</sup> Charles Ghankay Taylor, Transcript 27 August 2009, pp. 27915-27917; Transcript 26 October 2009, pp. 30205-30208.

<sup>15195</sup> Charles Ghankay Taylor, Transcript 26 October 2009, pp. 30212-30213.

<sup>15196</sup> Charles Ghankay Taylor, Transcript 26 October 2009, pp. 30213-30214.

<sup>15197</sup> Charles Ghankay Taylor, Transcript 26 October 2009, pp. 30210-30212.

<sup>15198</sup> Exhibit D-299, "Press statement from the Liberian Ministry of Foreign Affairs, 26 October 2000".

6751. It is undisputed that in 2001, Sam Bockarie left Liberia for Côte d'Ivoire.<sup>15199</sup> The Prosecution submits that Bockarie relocated to Côte d'Ivoire so that he could fight in the rebellion against the Ivorian government.<sup>15200</sup> The Defence, however, submits that Bockarie was permitted to leave Liberia because of the Liberian government's policy of disengagement with the Sierra Leone peace process, and that after his departure the Accused had no further contact with Bockarie.<sup>15201</sup> In May 2003 Bockarie was advancing towards the Liberian border from Côte d'Ivoire, when he was shot and killed by Liberian forces.<sup>15202</sup>

6752. The Trial Chamber notes that Jabaty Jaward is the only witness who testified that Bockarie told him that he was sent to Côte d'Ivoire in order to assist the Ivorian rebels in their fight.<sup>15203</sup> Although the Trial Chamber recalls its finding that Jaward is a generally credible witness,<sup>15204</sup> his hearsay evidence is uncorroborated. Karmoh Kanneh testified that Bockarie told him the Accused had given him a mission, but he did not say what it was. Kanneh also testified that Bockarie had been detained by Taylor for a few days and was afraid for his life. The evidence indicates that, at the time of Bockarie's departure, relations between the Accused and Bockarie were difficult. TF1-375 testified that Bockarie was unhappy with the Accused and said he would no longer take orders from the Liberian Government. In the Trial Chamber's view, in these circumstances it is doubtful that Bockarie would have fought in Côte d'Ivoire on Taylor's order.

### Findings

6753. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the Accused instructed Bockarie and his subordinates to fight for his allies in Côte d'Ivoire.

<sup>15199</sup> TF1-579, Transcript, 26 November 2008, pp. 21161-21164 (PS); TF1-585, Transcript 8 September 2008, pp. 15749-15751; Jabaty Jeward, Transcript 11 July 2008, pp. 13510-13514.

<sup>15200</sup> Prosecution Final Trial Brief, paras 36, 396; TF1-388, Transcript 11 July 2010, p. 13510; TF1-585, Transcript 8 September 2008, p. 15749; TF1-579, Transcript 6 November 2008, pp. 19972-19975.

<sup>15201</sup> Defence Final Trial Brief, 9 March 2011, paras 703-705.

<sup>15202</sup> Exhibit D-046, "Autopsy Report, The Central Laboratory Services Division of Histopathology and Morbid Anatomy/Forensic Pathology, Connought Hospital, 4 June 2003"; Moses Blah, Transcript 15 May 2008, 9989-9999; TF1-585, Transcript 9 September 2008, pp. 15768-15872; TF1-338, Transcript 16 July 2008, pp. 13862-13865; DCT-102, Transcript 5 November 2010, pp. 48892-48894.

<sup>15203</sup> Jabaty Jaward, Transcript 11 July 2008, pp. 13498-13523.

<sup>15204</sup> Credibility Assessment, Jabaty Jaward, The Role of Intermediaries, para. 2708.

## 2. Analysis of the RUF/AFRC Alliance

6754. In this section, the Trial Chamber assesses the evolution of the relationship between the RUF and the AFRC during the Indictment period. The findings made by the Trial Chamber in this section are based on an analysis of the record as a whole.

6755. The Armed Forces Revolutionary Council (AFRC) was founded by members of the Sierra Leone Army (SLA), who seized power from the elected government of Sierra Leone via a coup d'etat on 25 May 1997.<sup>15205</sup> Within days of the coup, Johnny Paul Koroma became the leader and chairman of the AFRC.<sup>15206</sup> Soon after the coup, Koroma contacted Foday Sankoh and invited the RUF to join the AFRC in Government.<sup>15207</sup> Sankoh agreed and ordered the RUF to join the AFRC in governing Sierra Leone.<sup>15208</sup> As the founders of the AFRC belonged to the Sierra Leone Army and therefore had been fighting the RUF since 1991, the coalition between the two factions following the 1997 coup was not based on longstanding common interests. Both factions officially declared that they were joining forces to bring peace and political stability to Sierra Leone.<sup>15209</sup>

6756. The executive body of the Junta Government was the Supreme Council, in which Johnny Paul Koroma and Foday Sankoh were appointed Chairman and Vice-Chairman, respectively. As Sankoh was in custody in Nigeria, Lieutenant Colonel Solomon Anthony

<sup>15205</sup> *Prosecutor v Taylor*, SCSL-03-1-T-370, Admitted Facts and Law, 26 April 2007, Agreed Fact 17; Judicially Noticed Fact D; Final Trial Brief, para. 433 (“on 25 May 1997, a group of enlisted SLA soldiers overthrew the elected government of President Tejan Kabbah, installing the military government that they called the Armed Forces Revolutionary Council”; Defence Final Trial Brief, para. 580 (“The AFRC coup took place on 25 May 1997 as non-commissioned officers of the SLA seized State House, forcing President Kabbah and his government to leave the country”).

<sup>15206</sup> *Prosecutor v Taylor*, SCSL-03-1-T-370, Admitted Facts and Law, 26 April 2007, Agreed Fact 18; Prosecution Final Trial Brief, para. 433 (“Major Johnny Paul Koroma was named head of the AFRC government”); Defence Final Trial Brief (“the AFRC government was headed by JP Koroma”).

<sup>15207</sup> Prosecution Final Trial Brief, para. 437 (“soon after the coup, JPK contacted Foday Sankoh, who agreed to join the AFRC”; Defence Final Trial Brief, para. 581 (“within a week or so of the coup, JP Koroma called Sankoh and invited the RUF to join the AFRC in government”); Samuel Kargbo, Transcript 21 May 2008, pp. 10440-10441; Issa Sesay, Transcript 18 August 2010, pp. 46540-46541.

<sup>15208</sup> Prosecution Final Trial Brief, para. 437 (“soon after the coup, JPK contacted Foday Sankoh, who agreed to join the AFRC”; Defence Final Trial Brief, para. 581 (“within a week or so of the coup, JP Koroma called Sankoh and invited the RUF to join the AFRC in government. Sankoh.... Agreed, and sent Massaquoi to Freetown”); Samuel Kargbo, Transcript 21 May 2008, pp. 10440-10441; Issa Sesay, Transcript 18 August 2010, pp. 46540-46541; Alimamy Bobson Sesay, Transcript 17 April 2008 pp. 7872-7873; Jabaty Jaward, Transcript 9 July 2008 pp. 13338-13339; Perry Kamara, Transcript 5 February 2008 pp. 3086-3087; Foday Lansana, Transcript 21 February 2008 pp. 4491-4492; Exhibit P-277 (confidential), pp. 52-53; Exhibit P-067, “RUF People’s Army– Situation Report to Foday Sankoh from the Black Guard Commander”, ERN 9672.; *Prosecutor v Taylor*, SCSL-03-1-T-370, Admitted Facts and Law, 26 April 2007, Agreed Fact 30.

<sup>15209</sup> *Prosecutor v Taylor*, SCSL-03-1-T-370, Decision on Judicial Notice, 23 March 2009, Annex A, Fact 1.

Joseph Musa (“SAJ Musa”) served as Acting Vice-Chairman in Sankoh’s absence.<sup>15210</sup> Although the AFRC and the RUF had an integrated organisational structure for the government, they did not integrate their military command structures at this point,<sup>15211</sup> and the command structure of the RUF remained similar to the way it was prior to them allying with the AFRC.<sup>15212</sup>

6757. The parties dispute the strength of the relationship between the RUF and the AFRC during the Junta reign. While the Prosecution submits that the alliance between the AFRC and the RUF functioned effectively and was cordial,<sup>15213</sup> the Defence highlights evidence indicating that the alliance was sour and disagreements between the AFRC and RUF were frequent, resulting in Bockarie, the acting leader of the RUF in the absence of Foday Sankoh, departing from Freetown in July 1997 due to his dissatisfaction with Johnny Paul Koroma’s management of the government.<sup>15214</sup> The Trial Chamber recalls its finding there

<sup>15210</sup> Prosecution Final Trial Brief, para. 442 (“the AFRC and RUF interacted within the Supreme Council... The first vice chair was Sankoh (during whose absence Bockarie was treated as interim leader for the RUF though he was the field commander) and the second vice chair was SAJ Musa”); Defence Final Trial Brief, para. 583 (“the Junta government ruled through the Supreme Council, which was dominated by the AFRC. JP Koroma appointed himself as chairman, with SAJ Musa as chief secretary of state and acting vice-chairman”); Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7875-7878.

<sup>15211</sup> Prosecution Final Trial Brief, paras 443-444 (“the AFRC and the RUF did not have a combined military structure at that point. The focal point of interaction was between the high command of the Junta (JPK and SAJ Musa) and the high command of the RUF (Bockarie and his immediate deputies, Issa Sesay and Morris Kallon”); Defence Final Trial Brief, paras 585-586 (“the AFRC and the RUF may have been united in government... JP Koroma rejected Bockarie’s requested [sic] for integration between the AFRC and the RUF, and the groups remained separate”); TF1-371, Transcript 28 January 2008, p. 2327-2329 (CS); Perry Kamara, Transcript 5 February 2008, p. 3090; Issa Sesay, Transcript 7 July 2010, pp. 43848-43849; Exhibit P-059, “AFRC/RUF Junta Command Structure Circa May 25 1997 – February 1998, as indicated by TF1-371”; Exhibit P-060, “AFRC/RUF Junta Military Command Structure Circa May 25 1997 – February 1998, as indicated by TF1-371”; Exhibit P-360, “Proposal for the Tentative Integration of the People’s Army into the National Army and the Political Circle”.

<sup>15212</sup> TF1-371, Transcript 28 January 2008, p. 2327 (CS); Exhibit P-060, “AFRC/RUF Junta Military Command Structure Circa May 25 1997 – February 1998, as indicated by TF1-371”.

<sup>15213</sup> Prosecution Final Trial Brief, paras 440 (“during the Junta period, the alliance between the RUF and the AFRC functioned effectively”), 445 (“the relationship between the AFRC and the RUF was cordial”).

<sup>15214</sup> Defence Final Trial Brief, paras 585-558 (“there were... serious tensions between individuals within the groups, and between the groups themselves... there were serious problems between Bockarie and the AFRC... the RUF was marginalized in military matters... Bockarie considered the AFRC did not respect the RUF... JP Koroma did not trust Bockarie, and asked Bockarie to leave”); Defence Response to Prosecution Final Trial Brief, paras 107-111; Karmoh Kanneh, Transcript 8 May 2008, pp. 9360-9363; Dauda Aruna Fornie, Transcript 2 December 2008, p. 21421; Issa Sesay, Transcript 7 July 2010, p. 43846; Samuel Kargbo, Transcript 22 May 2008, p. 10614; Exhibit D-009, “RUF Defence Headquarters, Salute Report to the Leader of the Revolution from Major General Sam Bockarie”, p. 2 ERN 9659 (“thus began the marriage of uneven and unequal partners between the AFRC and the RUF”); TF1-567, Transcript 8 July 2008, p. 13170; Jabaty Jaward Transcript 9 July 2008, p. 13339; Exhibit P-131, “AFRC – Secret Minutes of the First Meeting of the AFRC Held at the Conference Hall, Defence Headquarters on Saturday 19 July 1997”; Exhibit P-067, “RUF People’s Army–Situation Report to Foday Sankoh from the Black Guard Commander”, ERN 9673 (“when we join [sic] the brothers, some of our senior officers and elders were given ministerial positions in the AFRC Government. All the [sic] some things were not working well with the RUF members in which the High Command even decided

was no superior-subordinate relationship between the RUF and the Accused,<sup>15215</sup> and its finding that no common plan existed between the RUF and the Accused.<sup>15216</sup> The Trial Chamber need not therefore make a finding as to the strength of the relationship between the RUF and the AFRC during the Junta period, as it not necessary for the purpose of assessing the role of the Accused.

6758. Following the ECOMOG Intervention on 14 February 1998, the RUF and AFRC forces retreated from Freetown<sup>15217</sup> to Fogbo, Masiaka and onto Makeni. In Makeni, combined AFRC/RUF forces re-organised to attack Koidu Town, the primary town in Kono District. The first attack was unsuccessful, but in a second attack, the AFRC/RUF forces managed to recapture Koidu Town.<sup>15218</sup>

6759. Bockarie, who at the time of the Intervention was stationed in Kenema, retreated to Kailahun Town, and from there proceeded to Buedu where he set up a headquarters.<sup>15219</sup> While in Buedu, Bockarie was promoted by Johnny Paul Koroma to Defence Chief of Staff, which gave him the overall authority over the AFRC and RUF forces.<sup>15220</sup> At this point, the alliance was restructured, and the command structure became unified; each group led by an RUF commander was to have an AFRC deputy, and each group commanded by an AFRC commander was to have an RUF deputy. This resulted in the RUF assumption of command over the AFRC/RUF forces.<sup>15221</sup>

6760. When Johnny Paul Koroma departed for Kailahun District in 1998, he was given to believe that he would be welcome there by the RUF. However, when he arrived in Kailahun he encountered a hostile RUF leadership. He was arrested by Sam Bockarie, Issa Sesay and other RUF fighters. His diamonds were taken from him and his wife was sexually assaulted.

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to leave the city Freetown and decided to base in the provinces. Things were not put in a proper shape as the so called Honourables were just doing things as they like”).

<sup>15215</sup> Leadership and Command Structure: Conclusion.

<sup>15216</sup> Pre-Indictment Period (1988-1996): Conclusion.

<sup>15217</sup> Decision on Judicial Notice, 23 March 2009, Annex A, Fact 5; Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, Annex A, Fact , AD.

<sup>15218</sup> Military Operations: Operation in Kono (Early 1998).

<sup>15219</sup> Prosecution Final Trial Brief, para. the AFRC/RUF control centre was no based in Buedu”); Defence Final Trial Brief, para. 601 (“Bockarie st up his headquarters in Kailahun, and was based in Buedu”); Exhibit D-009, “RUF Defence Headquarters, Salute Report to the Leader of the Revolution from Major General Sam Bockarie”, p. 5 ERN 9662 (“I immediately set about a Defence Headquarters in Kailahun”).

<sup>15220</sup> Prosecution Final Trial Brief, para. 450; Defence Final Trial Brief, para. 602; Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Sam Bockarie.

<sup>15221</sup> Prosecution Final Trial Brief, paras 454-455, 460; Defence Final Trial Brief, para. 603.

Bockarie placed Koroma under house arrest in Kangama village near Buedu where he remained until mid 1999.<sup>15222</sup>

6761. Prior to Koroma's arrival in Buedu, SAJ Musa was furious when he learned about Koroma's decision - that the AFRC soldiers should be subordinate to RUF command, as he would not accept the notion that untrained RUF fighters could be in charge of former soldiers. Musa insisted that the purpose of his group was to reinstate the army and that the RUF could not lead such a mission. In addition, before the operation to recapture Kono took place, a dispute erupted over command and control issues resulting in hostilities between the two factions and the deaths of several fighters. As a result, SAJ Musa, and a significant number of AFRC troops loyal to him, opted not to participate in or support the operation.<sup>15223</sup> Later on, Gullit joined SAJ Musa. Witnesses differed as to whether Gullit joined Musa on account of his diamonds being confiscated by Bockarie and his refusal to accept Bockarie's command, or whether Gullit went to join SAJ Musa in order to convince Musa to come to Buedu to talk.<sup>15224</sup> Regardless of whether Gullit's departure was acrimonious, Gullit maintained contact with Bockarie, and would update Bockarie and Bockarie's commanders on operational matters.<sup>15225</sup>

6762. When Gullit joined SAJ Musa, Musa instructed him in June/July 1998 to find a base in the north in order to prepare a route to advance towards Freetown.<sup>15226</sup> After Gullit advanced to the north, and following the failed Fitti-Fatta attack on Koidu Town in mid-June 1998 led by Superman,<sup>15227</sup> Superman joined SAJ Musa in Koinadugu. In October 1998, Superman and SAJ Musa fought over the killing of a recruit which resulted in an armed clash between Superman and SAJ Musa, causing Musa to leave Koinadugu for Rosos.<sup>15228</sup>

<sup>15222</sup> Decision on Judicial Notice, 23 March 2009, Annex a, Fact 7 Prosecution Final Trial Brief, para. 249 ("shortly after Johnny Paul Koroma arrived in Buedu, some 1800 pieces of diamonds were taken from him"); Defence Final Trial Brief, para. 604 ("While in Buedu, JP Koroma... was arrested by the RUF on Bockarie's order, as Bockarie suspected him of hiding diamonds.... Bockarie was present at the time the diamonds were seized. Following the seizure of his diamonds, JP Koroma was taken to Kangama").

<sup>15223</sup> Decision on Judicial Notice, 23 March 2009, Annex a, Fact 6.

<sup>15224</sup> Military Operations: The Freetown Invasion, The Implementation of the Plan.

<sup>15225</sup> Military Operations: The Freetown Invasion, The Implementation of the Plan.

<sup>15226</sup> Military Operations: The Freetown Invasion, The Plan.

<sup>15227</sup> Military Operations: Operation Fitti-Fatta.

<sup>15228</sup> Prosecution Final Trial Brief, para. 470 ("Superman and SAJ Musa fell out in early October 1998 over the killing of a recruit. Superman's group headed to Pumpkin Ground while SAJ Musa and his group went to Rosos"); Defence Final Trial Brief, paras 612-613 ("Senegalese killed a recruit, which led to Musa and Superman falling out: leading to a gun-fight between Musa's group and Superman's group. This was in about October 1998. Following this Musa left Koinadugu, for Camp Rosos..."); *Prosecutor v Taylor*, SCSL-03-1-T-



Subsequently, upon Bockarie's instructions, Superman joined the forces acting under the command of Bockarie in the attack on Makeni in December 1998.<sup>15229</sup>

6763. The parties dispute whether Superman had joined SAJ Musa upon Bockarie's orders as part of a larger plan to advance towards Freetown, as claimed by the Prosecution,<sup>15230</sup> or whether Bockarie sent Superman to kill SAJ Musa but Superman disobeyed Bockarie's orders and joined Musa instead.<sup>15231</sup> Both parties agree that after Superman had joined SAJ Musa, he and Bockarie had a falling out, which included exchange of insults over the radio over Superman's girlfriend, but the parties dispute whether this infighting resulted in Superman breaking away from the RUF.<sup>15232</sup> Given that the Trial Chamber has found that Bockarie did not have a grand plan to advance towards Freetown prior to Superman joining

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370, Decision on Judicial Notice, 23 March 2009, Annex A, Fact 10 ("in October 1998, following an armed clash with Denis Mingo, SAJ Musa left Koinadugu District to join the advance team and prepare for an attack on Freetown. SAJ Musa did not follow the same route taken by the advance teams in his journey to the west").

<sup>15229</sup> Prosecution Final Trial Brief, para. 472 ("...on Bockarie's instruction, Superman and the subordinates under his command took part in the AFRC/RUF attack on Makeni in December 1998"); Defence Final Trial Brief, paras 613 ("following SAJ Musa's departure, Superman's group fought ECOMOG, captured ammunition and then burnt Koinadugu Town, including killing people, and moved on to Makeni in about December 1998"), 626 ("Bockarie coordinated for forces under Sesay, Rambo, Kallon and Superman to join together to fight in Makeni. The RUF attacked and captured Makeni on or around 24 December 1998").

<sup>15230</sup> Prosecution Final Trial Brief, paras 467-468 ("after the attack on Mongo Bendugu, a forum was held with SAJ Musa, Superman, General Bropleh, Brigadier Mani, Colonel T and others where Superman told SAJ Musa that Bockarie had told him (Superman) to join forces with SAJ Musa to try and get Kabala and then Freetown"); Perry Kamara, Transcript 5 February 2008, pp. 3155-3156, 3167-31769 (describing a meeting in Buedu in which Bockarie orders Superman to go to Koinadugu because SAJ Musa, in Koinadugu, was unskilled in jungle operations); TF1-375, Transcript 24 June 2008, pp. 12556-12557 (testifying that when Superman arrived in Kurubonla and told SAJ Musa that Sam Bockarie had told him to go and work with SAJ Musa).

<sup>15231</sup> Defence Final Trial Brief ("following the [Fitti-Fatta] operation, Superman went with a force to Koinadugu. This was in about August 1998... He may have gone on Bockarie's instruction, or of his own accord. Bockarie wanted Superman to attack SAJ Musa's AFRC force. However, Superman disobeyed the order and joined SAJ Musa, perhaps because he feared being arrested by Bockarie following the failure to capture Koidu Town); Foday Lansana, Transcript 22 February 2008, 4524-4525; Alice Pyne, Transcript 19 June 2008, pp. 12248-12249 (Before June 1998, Superman left for Yomandu having received a message from Sam Bockarie to launch an attack on SAJ Musa's men at Kurubonla); Issa Sesay, Transcript 8 July 2010, pp. 44054-44055 (describing a meeting occurring in July 1998 in which Superman defied Bockarie and went to Koinadugu after the Fitti-Fatta mission). See also Defence Response to Prosecution Final Trial Brief, paras 119-121.

<sup>15232</sup> Prosecution Final Trial Brief, para. 472 ("at around the same time as the Superman SAJ Musa fallout [early October 1998], Superman and Bockarie quarrelled because Bockarie called Superman's 'wife' an idiot over the radio. However... after the failed Fitti-Fatta mission, Superman met with Bockarie in Buedu and thereafter took AFRC/RUF fighters to the north to join SAJ Musa. According to Superman, where there were AFRC there should be RUF... Also, after Bockarie's trip to Burkina Faso to get arms, on Bockarie's instruction, Superman and the subordinates under his command took part in the AFRC/RUF attack on Makeni in December 1998"); Defence Final Trial Brief, para. 609 ("... perhaps in September, Bockarie called a meeting in Buedu and ordered Superman to report. However, Superman refused. This led to Bockarie and Superman exchanging insults over the radio. This involved Bockarie insulting Superman's girlfriend"); Defence Response to Prosecution Final Trial Brief, paras 122-123 ("...it is quite clear from the evidence taken as a whole that when Superman went to join Musa in the North, he broke rank with the RUF, and started to operate on his own").

SAJ Musa,<sup>15233</sup> and that Bockarie only presented a plan he had made with the Accused to advance towards Freetown in late November/early December 1998,<sup>15234</sup> which resulted in Superman acting upon the orders of Bockarie and attacking Makeni, the Trial Chamber need not make findings with regard to the reasons Superman joined SAJ Musa, and whether after Superman fought with Bockarie he broke away from the RUF. In the Trial Chamber's view this issue does not affect its assessment of the role of the Accused.

6764. After SAJ Musa arrived in Colonel Eddie Town in November 1998, he ordered his troops to stop all communications with Bockarie, and those forces remained under the command of SAJ Musa, outside of Bockarie's control, until SAJ Musa's death<sup>15235</sup> on 23 December 1998.<sup>15236</sup> Some witnesses suggested in their testimony that Bockarie and Gullit conspired to kill SAJ Musa.<sup>15237</sup> In the Trial Chamber's view, the significant consequence of Musa's death, whatever its cause, was the resumption of communications between Gullit and Bockarie.<sup>15238</sup> Following his first conversation with Gullit after the death of SAJ Musa, Bockarie and Gullit coordinated in their efforts to capture Freetown,<sup>15239</sup> resulting in Bockarie exercising effective command and control over Gullit in early 1999.<sup>15240</sup> The attack on Freetown, and the force's retreat and subsequent re-attacks, were conducted under the command and control of Bockarie.<sup>15241</sup> While some divisions erupted between the RUF and the AFRC after Gullit's retreat from Freetown, the AFRC and the RUF still coordinated and made collaborative efforts to re-attack Freetown.<sup>15242</sup>

6765. After the retreat from Freetown Gullit left Newton for Makeni to meet Superman, while Bazy, an AFRC member, remained in Newton.<sup>15243</sup> In approximately May 1999,

<sup>15233</sup> Military Operations: Operation Fitti-Fatta.

<sup>15234</sup> Military Operations: The Freetown Invasion, The Plan.

<sup>15235</sup> Prosecution Final Trial Brief, para. 470 ("In Rosos, SAJ Musa and his group remained outside of Bockarie's control; this continued until SAJ Musa's death at Benguema"); *Prosecutor v Taylor*, SCSL-03-1-T-370, Decision on Judicial Notice, 23 March 2009, Annex A, Fact 11 ("upon his arrival in 'Colonel Eddie Town' in November 1998, SAJ Musa assumed command. He emphasised his disenchantment with the RUF and stressed that it was vital that his troops arrive in Freetown before the RUF").

<sup>15236</sup> *Prosecutor v Taylor*, SCSL-03-1-T-370, Decision on Judicial Notice, 23 March 2009, Annex A, Fact 13.

<sup>15237</sup> Military Operations: The Freetown Invasion, Plan.

<sup>15238</sup> Military Operations: The Freetown Invasion, The Implementation of the Plan.

<sup>15239</sup> Military Operations: The Freetown Invasion, The Implementation of the Plan.

<sup>15240</sup> Military Operations: The Freetown Invasion, The Implementation of the Plan.

<sup>15241</sup> Military Operations: The Freetown Invasion, The Implementation of the Plan.

<sup>15242</sup> Military Operations: The Freetown Invasion, The Implementation of the Plan.

<sup>15243</sup> Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8444-8446 (10 STF members and 10 former NPFL fighters remained in Newton with Bazy's force at the West Side).

Bazzy formed the West Side Boys and became their leader. The West Side Boys included a mixed group of AFRC, RUF and former NPFL fighters.<sup>15244</sup> Bockarie and Bazzy continued to cooperate during military operations.<sup>15245</sup>

6766. In the meantime, Superman and Gibril Massquoi engaged in infighting with with Bockarie and Issa Sesay, which resulted in the death of Boston Flomo (a.k.a. RUF Rambo) Superman's forces taking over Makeni, at around late March/early April 1999.<sup>15246</sup>

<sup>15244</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8410-8411; Transcript 24 April 2008, pp. 8447-8460; Transcript 28 April 2008, pp. 8653-8658.

<sup>15245</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8414-8415 (at around April/May 1999, Bazzy communicated with Bockarie and requested ammunition. Subsequently, ammunition sent by Bockarie was sent to Bazzy in order to prevent ECOMOG from crossing over to Masiaka), 8456-8460, 8470-8471, 8475-8477 (Bazzy would contact Bockarie and inform him of military operations. Bazzy informed Bockarie of the operation in Port Loko in June 1999 in which Bazzy's forces captured two Malian troops. Bockarie then conveyed on the international media that if Malian troops do not withdraw from Sierra Leone, his forces would execute the two captured commanders. Bazzy also informed Bockarie on attacks his forces carried out in June/July 1999 on Gberi Junction, Makolo and Mile 38. Bazzy would also communicate via the radio with Issa Sesay and Morris Kallon). On Bazzy refusing to take commands from the RUF see TF1-371, Transcript 4 February 2008, p. 2969 (the witness agreed that Bazzy would not take commands from Foday Sankoh) and Issa Sesay, Transcript 14 July 2010, pp. 44418-44419 (Bazzy said in a message to Sankoh that he would not take commands from anyone other than Johnny Paul Koroma).

<sup>15246</sup> Issa Sesay, Transcript 12 July 2010, pp. 14200-14205, 14217-14219; TF1-371, Transcript 1 February 2008, pp. 2872-2878 (The witness agreed that Superman attacked Issa Sesay and Rambo in Makeni and in the process Rambo was killed. He also agreed that this was "serious dissension within the RUF", stating that Superman and Massaquoi were challenging Bockarie. This happened after the second retreat from Freetown in 1999. Superman and Gibril were not taking commands from Bockarie until at least 26 September 1999. At some point in time, Bockarie took control over it); Transcript 4 February 2008, p. 2974; Exhibit D-009, "RUF Defence Headquarters, Salute report to the Leader of the Revolution, RUF/SL, from Major General Sam Bockarie", pp. 8-10, ERN 9665-9667 ("Superman failed to move to Gberi Bridge and instead attacked Makeni late at night with the aim of killing Brigadier Issa and Rambo. The home of Rambo was attacked by Superman. The attack caught Rambo off guard as he was fast asleep. He was captured, shot many times and it was reported that he was even stabbed to ensure that he did not survive the attack... After killing Rambo, they attacked the home of Brigadier Issa... Brigadier Issa was able to escape through a door from his bedroom... After Makeni had been captured and raised by Superman and his troops he called a meeting at the town hall and confidently told the people that he was acting in compliance with instructions received from the leader and that he had taken effective command of the RUF and that I, Major General Sam Bockarie, was no longer high command of the RUF, and that he, Brigadier Superman, was taking over from Brigadier Issa in Makeni... Till this day Superman and Gibril are contrary to my command and continued to flaunt the direct command of the Leader. They still do not submit all reports to me for my necessary information"); Exhibit D-084, "Sierra Leone, Defence Headquarters, Salute Report, from Brigadier Issa H. Sesay Battlefield Commander RUF/SL to the Leader of the Revolution, 27 September 1999", pp. 11-13, ERN 7766-7768 ("...I was attacked again by Gibril... Superman took the opportunity of calling a meeting at the Town Hall where he... informed the meeting that he had received instructions from the Leader to take full command of the RUF and to arrest and execute both General Mosquito and I, Brig. Issa... He incited SLA soldiers to go against RUF command and, together with Gibril, sought to sabotage the progress of the movement thus delaying the release of the leader. Superman killed Rambo in cold blood and made several attempts on my life in a bid to eliminate the RUF high command left on the ground by the leader"); Exhibit P-067, "RUF People's Army-- Situation Report to Foday Sankoh from the Black Guard Commander", ERN 9680-9681 ("... Superman and his men put on stiff resistance and even opened fire and launched some RPG bombs, therefore scatter the whole group and kill some men and went to the extent of advancing to Makeni and attacked the residence of the battlefield commander and vandalized the whole compound and took everything in the compound including the materials for operations and enough foreign currency and diamonds. He even extended in raising the compound of some other senior officers... After some





6767. Subsequently, matters relating to the Lomé peace accord brought to tension between the AFRC and the RUF. While the RUF signed the Lomé peace Accord,<sup>15247</sup> in August 1999, members of the West Side Boys kidnapped UN peacekeepers due to the perception by the AFRC that they had been sidelined and excluded from the Lomé process and that their combatants would not be reintegrated into the Sierra Leonean army.<sup>15248</sup> On 28 September 1999, Koroma and Sankoh participated in two days of peace talks in Monrovia that were mediated by the Accused. As a result of the negotiations, the AFRC was included within the power-sharing government, with Koroma appointed as the Chairman of the Commission for the Consolidation of Peace (“CCP”).<sup>15249</sup>

6768. Either prior to or following the signing of the Lomé peace accord, Bazzy of the West Side Boys also arrested RUF commanders Superman and Mike Lamin, who formed part of a squad who came from Makeni to the Freetown area.<sup>15250</sup>

6769. At around October 1999 fighting again broke out in Makeni, involving Issa Sesay, Superman and Brigadier Mani from the AFRC. This resulted in Sesay taking over command of Makeni. During this infighting, RUF fighter Senegalese was killed.<sup>15251</sup>

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days, he came for the second time and attack Makeni and killed Colonel Rambo, arrested some security personnels [sic], fire some people but they missed to kill the battle field commander and chase him all the way to Makali and missed him for the second time... According to Superman, he has vowed to not ever take command from the high command... In conclusion, Sir, we are hereby suggesting that the issue of Superman should immediately be put under control before he tried to mislead some our struggle brothers”); Exhibit D-085, “RUF-Sierra Leone (People’s Army of Sierra Leone) OPS. Segbwema, Brief Comprehensive Report on All Salient Activities that Took Place in the Absence of the Leader from the 24<sup>th</sup> Maeach, 1996 to the 31<sup>st</sup> August 1999, From Major Francis M. Nusa Distrcit I.D.U. Commander Kailahun, to Cpl. Foday Saybana Sankoh RUF/SL, 31 August 1999”, ERN 9767 (“...This problem escalated to a point that Brigadier Superman either all by himself or through ‘someone’ killed Colonel Boston Flomo by shooting him”).

<sup>15247</sup> Agreed Fact and Law, Fact 32.

<sup>15248</sup> Peace Process: Release of UN Peacekeepers and Others (1999). See also Alimamy Bobson Sesay, Transcript 24 April 2008, pp. 8477-8480, 8481-8485; Transcript 25 April 2008, pp. 8559, 8633-8634; Samuel Kargbo, Transcript 22 May 2008 p. 10567; Transcript 3 June 2008 pp. 10822-10823; Issa Sesay, Transcript 13 July 2010, pp. 44391-44392; Transcript 14 July 2010, pp. 44396-44397; Isaac Mongor, T. 31 March 2008, pp. 6178-6180 (the West Side Boys were loyal to Johnny Paul Koroma and had become antagonistic to the RUF at the time that the peace accord was signed since they believed that nothing in the Peace Accord concerned them and because they wanted to be reinstated into the army but this was not included in the peace accord).

<sup>15249</sup> Context, Civil War in Sierra Leone (1999-2002).

<sup>15250</sup> Alimamy Bobson Sesay, Transcript 25 April 2008, pp. 8615-8620; Transcript 28 April 2008, pp. 8652-8653, 8659-8660; TF1-371, Transcript 29 January 2008, pp. 2455-2456; Transcript 31 January 2008, pp. 2792-2794.

<sup>15251</sup> Issa Sesay, Transcript 14 July 2010, pp. 44432, 44435-44436 (Sankoh ordered Sesay through Bockarie to move from Buedu to Makeni in October 1999. The day Sesay arrived in Makeni, Superman, Isaac Mongor, and Gibril Massaquoi came from Lunsar to attack the AFRC in Makeni, and then returned to Lunsar. Sesay then took over command of Makeni in October 1999); TF1-174, Transcript 27 January 2009, p. 23659; Transcript 28 January 2009, p. 23730; DCT-062, Transcript 26 April 2010, pp. 39878-39879.

6770. Bockarie left Sierra Leone in December 1999,<sup>15252</sup> and a reconciliation meeting was convened on 7 April 2000, in which RUF commander Mike Lamin “regrettably confessed to the gathering that General Mosquito [Bockarie] was responsible for most of the frictions that took place between the RUF and the SLA”.<sup>15253</sup> SYB Rogers said at the meeting that Johnny Paul Koroma and SAJ Musa did not work as a team, and that senior military officers had betrayed the cause. He suggested that senior commanders be informed of this meeting and be included in a committee that would iron out their differences “for the benefit of the people of Sierra Leone in general and the accomplishment of the mission we had assigned ourselves when we took up arms”.<sup>15254</sup> In his closing remarks at the meeting, the Chairman for the meeting, Idrissa Kamara (a.k.a. Leatherboot), informed the attendees that “resolutions will be prepared from the minutes for onward transmission to the two leaders who will close this ugly chapter after holding talks with senior commanders and other key players in the whole reconciliation process”.<sup>15255</sup> Despite these attempts at reconciliation, members of the AFRC and the RUF kept struggling, as exemplified by the arrest of Isaac Mongor by members of the AFRC working for Kabbah’s government in May 2000.<sup>15256</sup>

6771. In conclusion, the picture that emerges shows that during the Junta period, the AFRC and the RUF, while having separate command structures, were united in government, in the executive body of the state, with Johnny Paul Koroma as head of state. After the Intervention, Bockarie took charge of the combined AFRC/RUF forces, except for troops in the north headed by SAJ Musa. While communications may have continued between the forces in the north and the forces under Bockarie’s command, they did not coordinate military operations until the death of SAJ Musa during his advance towards Freetown in late December 1998. Following Musa’s death, Bockarie assumed command over Gullit. His command over Gullit continued throughout the attack on Freetown in early January 1999.

<sup>15252</sup> Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Sam Bockarie.

<sup>15253</sup> Exhibit P-134A, “Minutes of the Family Reunion Aimed at Reconciling Chairman Foday Saybana Sankoh and Chairman Johnny Paul Koroma Held at the Office of the Deputy Minister of Labour, Social Security and Industrial Relations – New England on 7 April 2000”, p. 6, ERN 8212.

<sup>15254</sup> Exhibit P-134A, “Minutes of the Family Reunion Aimed at Reconciling Chairman Foday Saybana Sankoh and Chairman Johnny Paul Koroma Held at the Office of the Deputy Minister of Labour, Social Security and Industrial Relations – New England on 7 April 2000”, p. 12, ERN 8218.

<sup>15255</sup> Exhibit P-134A, “Minutes of the Family Reunion Aimed at Reconciling Chairman Foday Saybana Sankoh and Chairman Johnny Paul Koroma Held at the Office of the Deputy Minister of Labour, Social Security and Industrial Relations – New England on 7 April 2000”, p. 12, ERN 8218.

<sup>15256</sup> Isaac Mongor, Transcript 31 March 2008, pp. 6180-6182, 6241-6242.

6772. Fracture erupted with the start of the Lomé peace negotiations, due to the AFRC feeling marginalized. This led to the kidnapping of UN peacekeepers by the West Side Boys, and to the involvement of the Accused in mediating between the two factions. Infighting continued, and after Bockarie's departure from Sierra Leone attempts at reconciliation resumed, although they were unsuccessful.

#### Summary of Findings

6773. The Trial Chamber has found that -

- (i) The Prosecution has proved beyond reasonable doubt that before he left Sierra Leone on a political tour, and following his arrest in Nigeria in March 1997, Sankoh instructed Bockarie to take orders from the Accused.
- (ii) The Prosecution has proved beyond reasonable doubt that the Accused accepted and supported the Junta government, and told the AFRC/RUF that he would encourage ECOWAS members to do so as well. He also encouraged the AFRC and RUF to work together
- (iii) The Prosecution failed to prove beyond reasonable doubt that in about March 1998 the Accused promoted Sam Bockarie to the post of Chief of Defence Staff for the AFRC/RUF alliance with the rank of Brigadier General.
- (iv) The Prosecution failed to prove beyond reasonable doubt that Taylor promoted Sam Bockarie to the post of two-star general after the Freetown Intervention.
- (v) The Prosecution failed to prove beyond reasonable doubt that the instruction given by the Accused to Sam Bockarie to leave Sierra Leone for Liberia in December 1999 was a 'diplomatic deceit' to cover clandestine actions.
- (vi) The Prosecution failed to prove beyond reasonable doubt that at a meeting that took place in the Executive Mansion in Monrovia on 26 July 2000 with ECOWAS Heads of State present, the Accused proposed that Sam



Bockarie take over as Interim Leader of the RUF and Issa Sesay rejected this proposal.

- (vii) The Prosecution failed to prove beyond reasonable doubt that when Issa Sesay was appointed Interim Leader of the RUF, it was with the direction from Sankoh that he should take instruction from the Accused.
- (viii) The Prosecution has proved beyond reasonable doubt that in 1999, the Accused ordered Bockarie to send AFRC/RUF forces to assist him in his fight against Mosquito Spray and the LURD forces that had attacked his forces, and that during the fighting, the AFRC/RUF forces operated under the overall command of the Accused’s Liberian subordinates.
- (ix) The Prosecution has proved beyond reasonable doubt that in 2000 and 2001 the Accused instructed Issa Sesay to send RUF forces, and that the RUF forces sent in response to these requests fought alongside AFL forces in Liberia and Guinea under the command of the Accused’s subordinates.
- (x) The Prosecution failed to prove beyond reasonable doubt that the Accused instructed Bockarie and his subordinates to fight for his allies in Cote d’Ivoire.

Conclusion

6774. At the outset, the Trial Chamber recalls that evidence in the record shows that Taylor was referred as “Pa”,<sup>15257</sup> the “father”,<sup>15258</sup> “Papay”,<sup>15259</sup> “godfather”,<sup>15260</sup> or “Chief”,<sup>15261</sup> by

<sup>15257</sup> Isaac Mongor, Transcript 11 March 2008, p. 5720 (“The big Pa was Mr Taylor and he was the big one”); Transcript 31 March 2008, p. 6226 (“the Pa, that is Mr Taylor”); Mohamed Kabbah, Transcript 15 September 2008, p. 16175 (RUF members used to call Taylor “Father” or “Pa”); Transcript 16 September 2008, p. 16328 (referring to Taylor as “Dad” or the “Papay” or “Father” or “the Old Man” or “the President”); Karmoh Kanneh, Transcript 8 May 2008, p. 9395 (Taylor was called “President Taylor” or “Pa Taylor”); Transcript 9 May 2008, p. 9432 (referring to the Accused as “Pa Taylor”); Augustine Mallah, Transcript 12 November 2008, p. 20119 (referring to the Accused as “the Pa”); TF1-567, Transcript 7 July 2008, p. 13039 (“Pa Charles Taylor”); TF1-367, Transcript 21 August 2008, p. 14300 (“at the time we used to call Charles Taylor Father or Chief [...] In Monrovia, Liberia, we hadn’t anybody whom we called “Chief” or “Pa” apart from Charles Taylor. He was the only person who was our Papa and out everything”).

<sup>15258</sup> Varmuyan Sherif, Transcript 9 January 2008, p. 866 (“the journalists were asking him, ‘Who is your father that you are referring to?’ and he said, ‘Charles Taylor’”); Transcript 10 January 2008, pp. 925-926 (“Mr Taylor is the father and Benjamin Yeaten is the son”); Mohamed Kabbah, Transcript 15 September 2008, p. 16175 (referring to Taylor as “The father”); Transcript 16 September 2008, p. 16328 (referring to Taylor as “Dad” or the “Papay” or “Father” or “the Old Man” or “the President”) ; Perry Kamara, Transcript 7 February 2008, p. 3317 (“Mr Taylor we knew him as Father”); Albert Saidu, Transcript 5 June 2008, p. 11072 (“we called Charles

*Handwritten signatures and initials:* A large handwritten mark resembling a stylized 'h' or 'n' is at the bottom center. To its right is a signature that looks like 'ru'. Further right is another signature that looks like 'J'. At the far right is a large, bold handwritten mark that looks like a stylized 'B' or 'D'.

RUF members. These references are clearly indicative of the respect that RUF members had for the Accused. However this deference *per se* is insufficient to establish that Taylor had *de facto* authority over the RUF. The Trial Chamber recalls that these nicknames were commonly used in Africa to qualify leaders. On several occasions, witnesses used similar appellations to mention other leaders.<sup>15262</sup>

Taylor the Father. That was how we used to call him by code, the Father”), p. 11083 (we used to call Charles Taylor the Father”); Isaac Mongor, Transcript 31 March 2008, p. 6227 (“Mosquito used to say that Charles Taylor was his father”); TF1-371, Transcript, 29 January 2008, p. 2457 (CS) (“so they took him as a father”), pp. 2510-2513 (CS) (“The relationship with Sam Bockarie and Taylor was that of a father and son relationship and Sam Bockarie took Mr Taylor as a father”); TF1-567, Transcript 7 July 2008, pp. 19039-13040 (“Issa Sesay he told me Charles Taylor was our big revolutionary father”); TF1-367, Transcript 21 August 2008, p. 14300 (“Sam Bockarie said – at the time we used to call Charles Taylor Father or Chief).

<sup>15259</sup> Dauda Aruna Fornie, Transcript 2 December 2008, p. 21433 (“the Papay, that is Mr Taylor”), p. 21435 (referring to the Accused as “Papay Taylor”), p. 21512 (“he told me it was the Papay who gave it to him and by that he was referring to Charles Taylor”); Transcript 3 December 2008, p. 21543 (witness said that when he said “the Papay” he referred to “CIC Taylor”); Jabaty Jaward, Transcript 9 July 2008, p. 13357 (“we used to refer to Foday Sankoh and Charles Taylor as Papay, or the old man”); Transcript 10 July 2008, p. 13391 (“at that time when he said ‘Papay in Liberia’ he was referring to Charles Ghankay Taylor”), p. 13418 (referring to Charles Taylor as “the Papay”); TF1-567, Transcript 2 July 2008, p. 12898 (“the Papay, that is Charles Taylor”) p. 12906 (“that is was the Papay, Charles Taylor”); Mohamed Kabbah, Transcript 16 September 2008, p. 16328 (“They all knew that Sam Bockarie meant Charles Taylor when he used the terms like Dad or the Papay”).

<sup>15260</sup> Varmuyan Sherif, Transcript 10 January 2008, pp. 925-926 (“Taylor was referred to as father or “the godfather”); Samuel Kargbo, Transcript 21 May 2008, p. 10452 (“Charles Taylor was the Godfather for RUF”; Transcript 22 May 2008, pp. 10512-10513 “Charles Taylor, who was their godfather”; *See also* Exhibit P-277 (confidential), ERN 18113 (“the fact is that President Taylor has been the Godfather”).

<sup>15261</sup> TF1-367, Transcript 21 August 2008, p. 14300 (“we used to call Charles Taylor “Chief” [...] In Monrovia, Liberia we hadn’t anybody whom we called Chief or Pa apart from Charles Taylor”); Dauda Aruna Fornie, Transcript 11 December 2008, p. 22258 (“Taylor was “the commander in chief” of the RUF”); TF1-516, Transcript 8 April 2008, p. 6883 (“that was common with the senior officers of the RUF referring to Charles Taylor as the chief”); *See also* Exhibit P-065 (“CIC Charles Ghankay Taylor”).

<sup>15262</sup> *See for example* Isaac Mongor, Transcript 11 March 2008, p. 5720 (“I referred to Johnny Paul as ‘Pa’ [...] when I said “big Pa”, I was referring to Mr Taylor”); Perry Kamara, Transcript 5 February 2008 p. 3161 (Perry Kamara calls SYB Rogers “Pa Rogers”); DCT-008, Transcript 30 August 2010 p. 47482-47483 (DCT-008 calls SYB Rogers “Pa Rogers”); Dennis Koker, Transcript 15 January 2008, p. 1228 (Koker refers to the top commanders “Pa Kosia” and EBS Bangura as “Pa Bangura”); Abu Keita, Transcript 23 January 2008, p. 1966 (Keita refers to a police officer called “Pa Morrie”); Transcript 24 January 2008, p. 2135 (Keita refers to Benjamin Yeaten as “the Chief”); Witness TF1-371, Transcript 1 February 2008, p. 2941 (CS) (the witness refers to Musa Cissé as “Pa Musa”), p. 2944 (CS) (the witness refers to “Pa Rogers”); Perry Kamara, Transcript 5 February 2008, p. 3112 (Kamara refers to “Pa Kallon”); Suwandi Camara, Transcript 11 February 2008, p. 3518 (the witness refers to “General Pa Jean”); Witness TF1-101, Transcript 14 February 2008, p. 3909 (the witness refers to “Pa Kabbah”), pp. 3915-3916 (the witness refers to “Pa Bobodin”); Witness TF1-130, Transcript 20 February 2008, p. 4300 (witness refers to Sellu Ensah as “Chief Sellu”); Witness TF1-362, Transcript 27 February 2008, p. 4809 (CS) (the witness refers to an eight year old girl as “Zero Zero Pa Morlai”), p. 4842 (CS) (the witness refers to Foday Saybana Sankoh as “Pa Sankoh”); Mustapha Mansaray, Transcript 5 March 2008, p. 5354 (Mansaray refers to “Pa Kosia”); Isaac Mongor, Transcript 10 March 2008, p. 5661 (Mongor refers to Foday Sankoh as “Pa Morlai”); Transcript 31 March 2008, p. 6204 (Mongor refers to a child who is almost ten years as “Old Pa Harris”); Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8346 (Bobson Sesay refers to “Pa Kabbah”); Issa Sesay, Transcript 29 July 2010, p. 44965 (PS) (Sesay refers to “Chief Buduka”); Transcript 26 August 2010, p. 47233 (Sesay refers to “the late Paramount Chief Bai Yerosh and the honourable Paramount Chief Bai Kurr”); Witness DCT-008, Transcript 24 August 2010, p. 47036 (witness testified that “in, Liberia, every high-ranking officer was referred to as ‘chief’ by his subordinates”); *See also*







6775. The Trial Chamber has considered the leadership and command structure of the RUF, and the role of the Accused, if any, in relation to that structure. An analysis of the evidence on record in its entirety demonstrates that the nature of the relationship between the Accused and the RUF, and later the AFRC/RUF, evolved over time. The Trial Chamber has found that Foday Sankoh and the Accused met in the late 1980s in Libya, where a number of West African revolutionaries were trained.<sup>15263</sup> Sankoh and the Accused pursued parallel goals and aspirations, but not in a chain of command.

6776. Following the training in Libya, the Accused supported the creation of the RUF, providing a training camp and other forms of support in the early 1990s.<sup>15264</sup> NPFL forces also played a significant role in the invasion of Sierra Leone in March 1991, with RUF troops working under the command of NPFL officers.<sup>15265</sup> In June 1991, the Accused met with Foday Sankoh and officially endorsed NPFL participation in the Sierra Leonean conflict. At that point, support for the RUF was enhanced. The Accused and the RUF had a common enemy in ULIMO and the Sierra Leonean Government, and it was in their mutual interest to fight them together.<sup>15266</sup>

6777. While the evidence shows that RUF troops were integrated in the NPFL command structure for military operations during the invasion of Sierra Leone,<sup>15267</sup> it fails to demonstrate that NPFL and RUF forces were treated as one single body under the command of the Accused.<sup>15268</sup> To the contrary, the evidence clearly shows that during their training in Camp Naama, RUF and NPFL troops were separated in two different areas.<sup>15269</sup> Moreover, by mid-1992, the relationship between NPFL and RUF forces deteriorated. Following Operation Top Final in 1992 and the withdrawal of NPFL troops from Sierra Leone, contacts and cooperation between the Accused and Sankoh continued, but to a lesser extent.<sup>15270</sup>

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Exhibit D-008 where there is reference to “Pa Musa” and “Big Brother”).

<sup>15263</sup> Pre-Indictment Period (1988-1996): Alleged Meeting in Libya around 1989.

<sup>15264</sup> Pre-Indictment Period (1988-1996): Camp Naama.

<sup>15265</sup> Pre-Indictment Period (1988-1996): The Invasion of Sierra Leone.

<sup>15266</sup> Pre-Indictment Period (1988-1996): The Invasion of Sierra Leone.

<sup>15267</sup> Pre-Indictment Period (1988-1996): The Invasion of Sierra Leone.

<sup>15268</sup> Pre-Indictment Period (1988-1996): The Invasion of Sierra Leone.

<sup>15269</sup> Pre-Indictment Period (1988-1996): Camp Naama.

<sup>15270</sup> Pre-Indictment Period (1988-1996): The Invasion of Sierra Leone.

6778. With regard to the RUF command structure, the evidence demonstrates that Sankoh was, as early as August 1990, the leader and commander in chief of the RUF.<sup>15271</sup> During his leadership Sankoh gave orders which were followed,<sup>15272</sup> had the power to punish<sup>15273</sup> and the power to promote<sup>15274</sup> RUF members. Sankoh also represented the RUF in external relations and peace talks.<sup>15275</sup>

6779. Following Operation Top Final in 1992 and the withdrawal of NPFL troops from Sierra Leone, contacts and cooperation between the Accused and Sankoh continued, but to a lesser extent. The Accused continued to provide low-level support to the RUF as it continued fighting in Sierra Leone, while he was himself fighting in Liberia.<sup>15276</sup> In 1993, the Accused asked Sankoh to send troops to help him fight ULIMO.<sup>15277</sup> He advised Sankoh prior to and following the RUF attack on Sierra Rutile, and he advised Sankoh to send an External Delegation to Côte d'Ivoire.<sup>15278</sup>

6780. On 24 March 1996, Foday Sankoh travelled to Côte d'Ivoire for peace talks with the Sierra Leonean Government, which then continued in Abidjan. After six months of negotiations, the Abidjan Peace Accord was signed on 30 November 1996.<sup>15279</sup> In March

<sup>15271</sup> Pre-Indictment Period (1988-1996): Camp Naama.

<sup>15272</sup> Orders from Sankoh which were followed: Pre-Indictment Period (1988-1996): The Invasion of Sierra Leone; Pre-Indictment Period (1988-1996): Alleged RUF Assistance to Fight ULIMO in Liberia; Pre-Indictment Period (1988-1996): Sierra Rutile; Pre-Indictment Period (1988-1996): Operation Stop Election (1996); Peace Process: External Delegation in Côte d'Ivoire; Leadership and Command Structure: Accused Relationship with the RUF, Foday Sankoh.; See also TF1-371, Transcript 25 January 2008, pp. 2251-2252 (In 1995 Sankoh ordered TF1-371 to go to Camp Lion training base); Exhibit P-277, p. 24 (RUF Structure Command - powers of the Leader)

<sup>15273</sup> See for example TF1-168, Transcript 21 January 2009, pp. 23216-23222 (TF1-168 testified that in October 1992, Sankoh ordered his arrest and his detention); TF1-168, Transcript 21 January 2009, pp. 23225-23226 (After three weeks of detention, Sankoh ordered TF1-168's release and assigned him to Jojoima in Kailahun District); Exhibit P-277, p. 24 (RUF Structure Command - powers of the Leader).

<sup>15274</sup> See for example TF1-168, Transcript 21 January 2009, pp. 23228-23230 (In February 1993, Sankoh promoted TF1-168 and assigned him to be a training commander); Isaac Mongor, Transcript 10 March 2008, pp. 5689-5690; Transcript 2 April 2008, pp. 6429-6436, 6438-6440. (In 1995, during a meeting in Vogoda Mongor was promoted to Major by Sankoh; Mike Lamin, Mohamed Tarawalli, Superman, Sam Bockarie aka Mosquito, Peter Vandi, Emmanuel Williams aka Rocky CO were also promoted by Sankoh during this meeting); Fayia Musa, Transcript 13 April 2010, pp. 38863-38864 (Fayia Musa was made Agri-Officer by Foday Sankoh); Karmoh Kanneh, Transcript 8 May 2008, pp. 9353-9359 (After the Abidjan Peace Accord, Sankoh promoted Kanneh to Captain and Bockarie to Colonel); Exhibit P-277 (confidential), p. 24 (RUF Structure Command - powers of the Leader)

<sup>15275</sup> See Peace Process: External Delegation in Côte d'Ivoire; Peace Process: Abidjan; Peace Process: Lomé.

<sup>15276</sup> Pre-Indictment Period (1988-1996): Attack on Kono (November 1992-January 1993).

<sup>15277</sup> Pre-Indictment Period (1988-1996): Alleged RUF Assistance to Fight ULIMO in Liberia.

<sup>15278</sup> Pre-Indictment Period (1988-1996): Sierra Rutile; Peace Process: External Delegation in Côte d'Ivoire; Peace Process: Abidjan.

<sup>15279</sup> Context ; Peace Process: Abidjan.

1997, returning to Sierra Leone from Côte d'Ivoire, Sankoh was detained by Nigerian authorities for possession of arms and ammunition and kept under house arrest.<sup>15280</sup> Following his arrest, he instructed Sam Bockarie to take orders from the Accused. The evidence shows, however, that even after his arrest, Sankoh remained the recognised leader of the RUF.<sup>15281</sup> While in detention, Sankoh used the NPFL communications network, as well as his own, to continue to communicate with the RUF.<sup>15282</sup>

6781. While much evidence was adduced relating to the trade of arms and diamonds between Bockarie and the Accused, the evidence does not establish that Bockarie took orders from the Accused. The instructions given to Bockarie by the Accused were given with the inherent authority the Accused had by virtue of his position. Bockarie was deferential to the Accused and generally followed his instruction. However, the Trial Chamber considers that the role Sankoh envisioned for the Accused while he was in detention was that the Accused would guide Bockarie, and that Bockarie should look to his guidance, not that the Accused should take over Sankoh's role as the leader of the RUF with effective control over its actions.

6782. Following the coup in Sierra Leone on 25 May 1997, AFRC forces led by Johnny Paul Koroma<sup>15283</sup> invited the RUF into a governing alliance.<sup>15284</sup> Foday Sankoh responded positively to this invitation<sup>15285</sup> and instructed his RUF forces to join and work with the

<sup>15280</sup> Context; Exhibit P-078, "Sierra Leone 1998, A Year of Atrocities Against Civilians, Amnesty International Report", p. 2; Fayia Musa, Transcript 15 April 2010, p. 39098; Issa Sesay, Transcript 6 July 2010, p. 43737.

<sup>15281</sup> Exhibit P-057, Transcript of the RUF Speech to the Nation Delivered on SLBS on 18 June 1997 - 00009769 - 00009771; Exhibit P-085B, Unofficial Transcript - Audio CD - Radio Broadcast of Sam Bockarie on the BBC World Service's Focus on Africa (referring to Sankoh as Leader of the RUF).

<sup>15282</sup> Operational Support: Communications, Sankoh's Communication While Detained.

<sup>15283</sup> Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Junta Period; Context; Admitted Facts and Law, Agreed Facts 17-18; Decision on Judicial Notice, Annex A, Fact D; *Prosecutor v Taylor*, SCSL-03-1-T-765, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the AFRC Trial Judgement pursuant to Rule 94(B), 23 March 2009 [Decision on Judicial Notice of AFRC Adjudicated Facts], Annex A, Fact 1.

<sup>15284</sup> Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Junta Period; Context; Samuel Kargbo, Transcript 21 May 2008, pp. 10440-10441; Issa Sesay, Transcript 18 August 2010, pp. 46540-46541.

<sup>15285</sup> Admitted Facts and Law, Agreed Fact 30; Exhibit P-131, "AFRC - Secret Minutes of the First Meeting of the AFRC Held at the Conference Hall, Defence Headquarters, 19 July 1997"; Exhibit D-009, "RUF Defence Headquarters, Salute Report to the Leader of the Revolution, from Major General Sam Bockarie; Isaac Mongor, Transcript 10 March 2010", pp. 5699-5703; Issa Sesay, Transcript 6 July 2010, pp. 43818-43829, Transcript 18 August 2010, pp. 46541-46542.

Junta.<sup>15286</sup> The Accused accepted and supported the Junta government, and he encouraged the AFRC and RUF to work together.

6783. Sometime around March 1998, Sam Bockarie was promoted. The Prosecution alleged that this promotion was made by the Accused directly, or through a joint decision between himself and Johnny Paul Koroma. Bockarie had just returned from Monrovia. The Trial Chamber has found that the Accused may well have been consulted by Koroma, or talked directly with Bockarie about the promotion while he was in Monrovia, but not that Bockarie was promoted by the Accused. Like Sankoh, Koroma turned to the Accused for advice and support, and the Trial Chamber accepts that he would have consulted the Accused. Nevertheless, the Accused was not part of the command structure.

6784. In the Trial Chamber's view, such influence is insufficient to establish that the Accused had effective control over the AFRC/RUF. The evidence indicates that the relationship between the Accused and the AFRC/RUF was mainly based on common economic, political and military interests. In drawing this conclusion, the Trial Chamber notes that the advice and instruction of the Accused to the AFRC/RUF mainly focused on directing their attention to the diamondiferous area of Kono in order to ensure the continuation of trade, diamonds in exchange for arms and ammunition.<sup>15287</sup>

6785. The evidence shows that the nature of the relationship between the Accused and the RUF/AFRC continued to evolve after the attack on Freetown in January 1999. Tensions between AFRC and RUF leaders increased after the Freetown attack.<sup>15288</sup> The evidence also indicates that, at this time, divisions within the RUF itself appeared over political and military strategy. The RUF leadership was divided between those who wanted to continue the armed struggle and those in favour of a political solution to the conflict. On 7 January 1999, with the attack on Freetown ongoing, President Kabbah and Foday Sankoh agreed to a ceasefire which was announced over the radio, but was disregarded by the AFRC and RUF fighters. Further peace talks were facilitated by the Accused and the other members of the

<sup>15286</sup> Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Junta Period; Samuel Kargbo, Transcript 21 May 2008 pp. 10441-10442; Alimamy Bobson Sesay, Transcript 17 April 2008, pp. 7872-7873; Jabaty Jaward, Transcript 9 July 2008, pp. 13338-13339; Perry Kamara, Transcript 5 February 2008, pp. 3086-3087; Foday Lansana, Transcript 21 February 2008, pp. 4491-4492; Issa Sesay, Transcript 18 August 2010, pp. 46540-4654; *See also* Defence Final Trial Brief, para. 581.

<sup>15287</sup> Military Operations.

<sup>15288</sup> Leadership and Command Structure: Analysis of the AFRC/RUF Alliance.





Committee of Five and, on 18 May 1999, another ceasefire agreement was signed in Lomé.<sup>15289</sup> This ceasefire agreement, however, failed to bring about the end of hostilities.<sup>15290</sup>

6786. On 7 July 1999, the Lomé Peace Accord was signed by President Kabbah and Foday Sankoh.<sup>15291</sup> The Government of Sierra Leone and the RUF agreed to the immediate release of Sankoh, the transformation of the RUF into a political party that would become part of the Government of Sierra Leone and amnesty for all warring factions, including RUF members.<sup>15292</sup> Sankoh received a formal position within the Sierra Leonean Government as Chairman of the Commission for the Management of Strategic Resources, National Reconstruction and Development, a position with the status of Vice-President of Sierra Leone.<sup>15293</sup>

6787. During this period, the Accused used his influence with both Johnny Paul Koroma and Foday Sankoh to bring the AFRC and RUF leaders together to reduce tension between the RUF and the AFRC following the Lomé Peace Accord, and he helped to facilitate the release of the UN peacekeepers and others kidnapped by the West Side Boys, who were discontent with the apparent exclusion of the AFRC from the peace process.<sup>15294</sup> However, the Trial Chamber has found that at the same time he was involved in the peace negotiations in Lomé, the Accused was also engaged in arms transactions with the RUF.<sup>15295</sup>

6788. Despite the Lomé accords, due in part to the division between RUF and AFRC leaders and within the RUF, the disarmament process in Sierra Leone took time to

<sup>15289</sup> Peace Process: Lomé; Context; See also Exhibit D-199, "Special ECOWAS Report on Successful Peace Talks in Lomé, 1999", pp. 3, 9, 11.

<sup>15290</sup> Peace Process: Lomé; Context; Exhibit P-264, "Radio Log-Book 0008636-0008726", pp. 8653, 8656, 8658, 8660, 8662, 8665, 8668A, 8672; Exhibit D-022, "Sierra Leone News Archives, September 1999, Sierra Leone Web, 30 September 1999"; Exhibit D-206, "Outgoing Code Cable, Urgent Issues, President Taylor's Request for Teleconference with the Secretary General, to Riza for Secretary General, United Nations, New York, from Downes-Thomas, RSG, UNOL, Monrovia, 6 August 1999;" Charles Ghankay Taylor, Transcript 12 August 2009, pp. 26668-26669; Issa Sesay, Transcript 12 July 2010, pp. 44201-44203; Corinne Dufka, Transcript 22 January 2008, p. 1930; Isaac Mongor, Transcript 31 March 2008, pp. 6178-6180.

<sup>15291</sup> Peace Process: Lomé; Context; Exhibit D-224, "Letter to the President of Sierra Leone, Dr Alhaji Ahmad Tejan Kabbah, from Foday Saybana Sankoh, 29 October 1999", para. 3; Stephen Ellis, Transcript 17 January 2008, pp. 1482-1483.

<sup>15292</sup> Peace Process: Lomé; Context; Exhibit D-199, "Special ECOWAS Report on Successful Peace Talks in Lomé, 1999", pp. 35-36.

<sup>15293</sup> Peace Process: Lomé; Context; Exhibit D-199, "Special ECOWAS Report on Successful Peace Talks in Lomé, 1999", pp. 35-36.

<sup>15294</sup> Peace Process: Release of UN Peacekeepers and Others (1999).

<sup>15295</sup> Arms and Ammunition; Peace Process: Lomé Peace Accords.





eventuate.<sup>15296</sup> Bockarie defied orders from Sankoh to disarm and, on 14 December 1999, resigned from the RUF and went to Liberia, amidst violent clashes between RUF fighters loyal to Foday Sankoh and RUF fighters loyal to him. He was told to leave Sierra Leone by the Accused, but the Trial Chamber has found that in summoning Bockarie to Liberia, the Accused relied on the authority of ECOWAS and sought the help of President Obasanjo, organizing a meeting at Roberts International Airport between Foday Sankoh, Sam Bockarie, President Obasanjo and himself, as a result of which a decision was made that Bockarie would not return to Sierra Leone until the disarmament process had been completed.

6789. In May 2000, the RUF captured between 400 and 500 UNAMSIL peacekeepers in the area between Lunsar and Makeni in Sierra Leone.<sup>15297</sup> The UNAMSIL peacekeepers were taken to Liberia and released after having been held hostage for approximately three weeks.<sup>15298</sup> While the Accused had significant influence over the RUF decision to release the peacekeepers, the evidence does not establish that he ordered their release. Rather the Accused in his meeting with Sesay promised him assistance, and although the evidence was insufficient to establish that arms and ammunition were provided in exchange for an agreement to release the UNAMSIL peacekeepers, the Trial Chamber has found that in May 2000 Sesay made a trip to Liberia in which he did obtain arms and ammunition from the Accused. This evidence further indicates a continuing trade relationship between the RUF

<sup>15296</sup> See also TF1-371, Transcript 29 January 2008, pp. 2448-2450 (CS); Stephen Ellis, Transcript 18 January 2008 p. 1595-1596; Charles Ghankay Taylor, Transcript 10 September 2009, pp. 28556-28557; Transcript 26 November 2009, pp. 32562-32566; Exhibit D-077, "Letter to Charles Ghankay Taylor from President Alhaji Dr Ahmad Tejan Kabbah, 27 October 1999"; Exhibit D-441B, "Witness Statement of Oluyemi Adeniji (Issa Sesay), Freetown/Nairobi (Telephone), 2 March 2008"; Exhibit D-441E, "Witness Statement of Ahmad Tejan Kabbah (Issa Sesay), Juba Hill, 12 May 2008".

<sup>15297</sup> Peace Process: Release of UNAMSIL Peacekeepers (2000); Context; Admitted Facts and Law, Agreed Fact 36; see also Transcript 14 July 2010, pp. 44505-44513; Abu Keita, Transcript 23 January 2008, pp. 2030-2032.

<sup>15298</sup> Peace Process: Release of UNAMSIL Peacekeepers (2000); Context; Issa Sesay, Transcript 14 July 2010, pp. 44515, 44538-44539; Perry Kamara, Transcript 6 February 2008, pp. 3269-3270; Exhibit D-245, "Press Release, Secretary General Acknowledges Liberian President's Role in Peacekeepers Release, SG/SM7396, Secretary General, Department of Public Information, New York, 15 May 2000"; Exhibit D-246, "Press release by the President of Liberia, Ministry of State for Presidential Affairs, Liberia, 16 May 2000"; Exhibit D-244, "Press release by the President of Liberia, Ministry of State for Presidential Affairs, Liberia, 13 May 2000"; Exhibit D-247, "Press release by the President of Liberia, Ministry of State for Presidential Affairs, Liberia, 22 May 2000"; Exhibit D-250, "Fax-Letter, from the President of Sierra Leone, Ahmad Tejan Kabbah, to the Special Representative of the United Nations Secretary General, Oluyemi Adeniji, Government Statement, 23 May 2000"; Exhibit D-253, "Letter from President of Liberia, Dankpannah Dr Charles Ghankay Taylor to President of Sierra Leone, Alhaji Dr Ahmad Tejan Kabbah, 5 June 2000"; Stephen Ellis, Transcript 17 January 2008, p. 1482; Exhibit D-243, "Letter from General Issa Sesay, RUF Field Commander, to the President of Liberia, Dankpannah Dr Charles Ghankay Taylor, 11 May 2000".

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and the Accused, diamonds for arms and ammunition, rather than the existence of a superior/subordinate relationship.<sup>15299</sup>

6790. Following Sankoh’s arrest by the Government of Sierra Leone in May 2000,<sup>15300</sup> his detention created a power vacuum within the RUF and threatened to stall the peace negotiations. At a meeting on 26 July 2000 at the Executive Mansion in Monrovia between the ECOWAS heads of state, including the Accused, and an RUF delegation led by Issa Sesay, the suggestion was made that Issa Sesay should become the Interim Leader of the RUF. Sesay would not accept the appointment without it first being approved by the RUF and Foday Sankoh. A meeting of RUF commanders was held, and a letter was also delivered to Foday Sankoh by President Obasanjo seeking Sankoh’s consent to the appointment. At a follow up meeting in August 2000, Sesay was confirmed as the RUF Interim Leader. Presidents Obasanjo and Konaré both met with Sankoh in Freetown, without the Accused present, indicating that this process was undertaken by ECOWAS heads of state collectively, rather than the Accused unilaterally. Moreover, Sesay’s refusal to accept the role of Interim Leader without consulting Sankoh indicates Sankoh’s continuing authority and effective control over the RUF, even while in detention.

6791. While participating in ECOWAS efforts to promote peace in Sierra Leone, the Accused privately advised Issa Sesay upon his appointment as RUF Interim Leader to say that he would disarm but “not do it in reality”. The Accused had called on the AFRC/RUF to assist him in fighting outside Sierra Leone, ordering Bockarie in 1999 to send AFRC/RUF forces to assist him in his fight against Mosquito Spray and the LURD forces that had attacked his forces. In 2000 and 2001 the Accused instructed Issa Sesay to send RUF forces.

6792. The RUF forces sent in response to these requests fought alongside AFL forces in Liberia and Guinea under the command of the Accused’s subordinates. However, in the Trial Chamber’s view, this evidence is not inconsistent with its view that the Accused wielded significant influence over the RUF forces without having command and control over them. In their combined operations outside Sierra Leone in 1999-2001 the RUF had an interest in fighting and repelling a common enemy that was cutting the supply line between

<sup>15299</sup> Peace Process: Release of UNAMSIL Peacekeepers (2000).

<sup>15300</sup> Peace Process: Release of UNAMSIL Peacekeepers (2000); Context; Issa Sesay, Transcript 14 July 2010, pp. 44504-44505; Perry Kamara, Transcript 6 February 2008, p. 3269; Charles Ghankay Taylor, Transcript 16 November 2009, p. 31656; TF1-338, Transcript 1 September 2008, p. 15106.

Liberia and Sierra Leone. The combined operations in Liberia and Guinea were facilitated by a coordinated command structure specific to these military operations, which all took place outside of Sierra Leone.<sup>15301</sup> This was never the case for military operations conducted in the Sierra Leonean territory during the Indictment period.

6793. In conclusion, the Trial Chamber finds that the RUF and later the AFRC/RUF's interests were intrinsically linked to the interests of the Accused, and their relationship was defined by a synergy and complementarity of these interests. The Accused provided ongoing advice and guidance to the RUF leadership and had significant influence over the RUF and AFRC, but he did not have effective control over them, and the relationship cannot be defined within the framework of a superior-subordinate command structure.

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<sup>15301</sup> Leadership and Command Structure: Accused Relationship with the RUF/AFRC, Operations Outside Sierra Leone.





**J. The War Strategy of the RUF/AFRC**

6794. At the outset, the Trial Chamber recalls that war is not *per se* a crime under the Special Court Statute. The Trial Chamber finds however, that over time the RUF’s war strategy evolved from a traditional military strategy, to a strategy of guerrilla tactics based on a campaign of terror against the civilian population.

6795. The evidence shows that from the very beginning of their struggle, Sankoh’s forces abducted civilians, including children, in order to find new recruits to increase their forces.<sup>15302</sup> However, the record also indicates that Sankoh’s initial goal was not to terrorise the civilian population but to fight the Sierra Leonean Government he considered corrupt.<sup>15303</sup> While in Camp Naama, the evidence indicates that RUF soldiers were taught basic Geneva Convention regulations on the treatment of civilians.<sup>15304</sup> Moreover, Sankoh and the RUF troops strongly reacted to the crimes committed during the invasion of Sierra Leone by Liberian forces.<sup>15305</sup>

<sup>15302</sup> Pre-Indictment Period (1988-1996): Camp Naama; Pre-Indictment Period (1988-1996): The Invasion of Sierra Leone.

<sup>15303</sup> Pre-Indictment Period (1988-1996): Alleged Meeting in Libya around 1989; Pre-Indictment Period (1988-1996): Camp Naama.

<sup>15304</sup> Pre-Indictment Period (1988-1996): Camp Naama; *citing* TF1-371, Transcript 24 January 2008, pp. 2203-2204 (Sankoh asked Mike Lamin to teach ideology and provided him with brochures on basic Geneva Convention regulations on how to treat civilians and respect them during the conflict); TF1-168, Transcript 21 January 2009 p. 23181-23182 (During the invasion of Sierra Leone civilians were “not treated fine. They were not treated nicely, as opposed to our basic ideology that we were taught at the base. In fact, it was surprising to me to see things happening that way”); TF1-168, Transcript 23 January 2009, pp. 23395-23396 (TF1-168 received instruction to give good treatment to civilians in order to make them support the revolution); Martin George, Transcript 21 April 2010, pp. 39612-39614 (George testified that Mike Lamin, a Sierra Leonean instructor, taught all the recruits how to take care of civilians during missions). John Vincent, Transcript 25 March 2010, pp. 37998-37999 (the ideology class taught the trainees to take good care of civilians and to attack only military installations); DCT-292, Transcript 1 June 2010, pp. 41708-41709, 41714 (The ideology training in Camp Naama included: ensuring that a person who surrenders is unharmed and handed them over to the nearest senior officer for screening; a prohibition against raping; the correct treatment of captured civilians - soldiers needed to gather the civilians in one place and guard them. Another element of the ideology was that whenever a town is captured, any material captured, including arms, ammunition, clothing, and food had to be kept under the supervision of the commander. These materials then had to be shared among the civilians and the fighters); Sam Kolleh, Transcript 1 November 2010, pp. 48374 (Ideology training included advice on how to treat civilians and prisoners but not on how to terrorize them. According to Kolleh, terrorism was not the ideology of the RUF); DCT-025, Transcript 12 March 2010 pp. 37248-37250 (ideological training included care of civilians, women and children); *See also* TF1-371, Transcript 30 January 2008, pp. 2633-2634 (TF1-371 never heard any direct order to indiscriminately kill civilians, or a direct order to amputate or mutilate civilians. It was not the policy at the formation of the RUF in 1991 to terrorise civilians); *But see in contrast* Issa Sesay, Transcript 5 July 2010, p. 43601 (Sesay testified that while at Camp Naama, Sankoh criticized Isaac Mongor for teaching the trainees that once they captured a town they should divide the civilians into two groups and kill one of them in order to obtain the loyalty of the other group).

<sup>15305</sup> Pre-Indictment Period (1988-1996): The Invasion of Sierra Leone.

6796. However, following military and political defeats,<sup>15306</sup> surviving in difficult conditions in the Jungles of Sierra Leone,<sup>15307</sup> the military and political strategy of the RUF changed. As of 1994, Sankoh and RUF officers decided that it was time to leave the jungle and make contact with the international community.<sup>15308</sup> In that context, and in order to obtain the international community’s attention, in late 1994, early 1995, Sankoh ordered his Deputy Commander CO Mohamed Tarawalli to attack the international mining company Sierra Rutile in Bonthe District during which western expatriates workers were captured.<sup>15309</sup> In 1996, disgruntled by the decision of the National Forum to hold elections before peace, Sankoh ordered his RUF troops to conduct “Operation Stop Election” by terrorising civilians.<sup>15310</sup> During the operation, RUF troops attacked and burnt polling stations in all major towns and killed or amputated the hands or fingers of any civilian perceived to participate in the elections. The Trial Chamber notes that the attack was named “Operation Stop Election”.<sup>15311</sup> In the Trial Chamber’s view this operation marked a clear change in the RUF’s strategy. After Operation Stop Election, and during the remainder of the civil war in Sierra Leone, the RUF and later the AFRC/RUF continued to deliberately use terror against the Sierra Leonean population as a primary *modus operandi* of their political and military strategy.

6797. In the Trial Chamber’s view, the names chosen by the AFRC/RUF for their main operations are clearly indicative of a *modus operandi* based on a campaign of terror against civilians. During “Operation Pay Yourself”, around February 1998, AFRC/RUF troops systematically looted and killed civilians.<sup>15312</sup> “Operation Spare No Soul” was described by one witness as an operation during which “humans, ants, goats, all should be killed”.<sup>15313</sup> Finally, the name “Operation No Living Thing”, was used on several occasions by the AFRC/RUF soldiers to describe their missions during which they systematically committed

<sup>15306</sup> Pre-Indictment Period (1988-1996).

<sup>15307</sup> Context.

<sup>15308</sup> Peace Process : External Delegation in Côte d’Ivoire; Pre-Indictment Period (1988-1996): Sierra Rutile.

<sup>15309</sup> Pre-Indictment Period (1988-1996): Sierra Rutile; TF1-567, Transcript 2 July 2008, p. 12876; Perry Kamara, Transcript 4 February 2008, pp. 3053-3054; Charles Ngebeh, Transcript 12 April 2010, p. 38653; Martin George, Transcript 22 April 2010, pp. 39712-39716; Issa Sesay, Transcript 6 July 2010, p. 43747.

<sup>15310</sup> Pre-Indictment Period (1988-1996): Operation Stop Election (1996); Context.

<sup>15311</sup> Issa Sesay, Transcript 6 July 2010, p. 43746; Transcript 17 August 2010, p. 46494; Isaac Mongor, Transcript 10 March 2008, pp. 5697-5698; Samuel Kargbo, Transcript 21 May 2008, pp. 10422-10423; Augustine Mallah, Transcript 12 November 2008, pp. 20107-20108; TF1-375, Transcript 23 June 2010, p. 12483.

<sup>15312</sup> Factual and Legal Findings on Alleged Crimes, Count 11 (Pillage).

<sup>15313</sup> TF1-143, Transcript 5 May 2008, pp. 9013-9018.

widespread atrocities against civilians<sup>15314</sup> in Sierra Leone including murders, rape, sexual slavery, looting, abductions, forced labour, conscription and use of child soldiers, amputations and other forms of physical violence and acts of terror.

6798. Moreover, evidence on the record indicates that during the attack of Freetown in early 1999, as Gullit was facing increasing pressure from ECOMOG, Bockarie ordered the AFRC/RUF to make the area “fearful”.<sup>15315</sup>

6799. In the Trial Chamber’s view, the crimes committed by the AFRC/RUF were inextricably linked to how the RUF and AFRC achieved their political and military objectives. In particular, under the leadership of Sam Bockarie, the RUF and AFRC pursued a policy of committing crimes in order to achieve military gains at any civilian cost, and also politically in order to attract the attention of the international community and to heighten their negotiating stance with the Sierra Leonean Government.<sup>15316</sup> That their operations were given titles such as “Operation No Living Thing” and “Operation Spare No Soul” made explicit the intent of the RUF and AFRC to wage a campaign of terror against civilians as part of their war strategy.

<sup>15314</sup> Exhibit P-081, “Amnesty International Report, 24 July 1998, p. 1, ERN 91 (“A deliberate and systematic campaign of killing, rape and mutilation - called by the AFRC and RUF “*Operation no living thing*” – has emerged since April 1998”)

<sup>15315</sup> Military Operations: The Freetown Invasion, The Implementation of the Plan, *citing* Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8328-8329 (Bockarie ordered to start burning strategic positions in Freetown and to capture civilians); Perry Kamara, Transcript 6 February 2008, pp. 3234-3235 (Bockarie ordered to “make Freetown more fearful than before”); Perry Kamara, Transcript 6 February 2008, pp. 3241-3242 (Bockarie ordered again to “make the area fearful”); Dauda Aruna Fornie, Transcript 3 December 2008, p. 21590 (“Mosquito was giving direct instructions to to cause a lot of mayhem in the city. [...] Mosquito said if it is possible to chop off anybody’s arm, [...] He said Gullit and others should raise alarm to the level of the international community so that they can come in”); Isaac Mongor, Transcript 11 March 2008, p. 5825 (Bockarie ordered the AFRC/RUF to start a campaign of destruction)

<sup>15316</sup> See Military Operations: The Freetown Invasion, The Plan; Pre-Indictment Period: Operation Stop Election (1996).

## K. Knowledge of the Accused

### Submissions of the Parties

6800. The Prosecution submits that Taylor was well aware of the notorious reputation of the RUF and their violent tactics against civilians which included the commission of all the crimes charged in the Indictment.<sup>15317</sup> Indeed, Taylor was a well-informed leader who kept abreast of the media, and who, as President of Liberia, involved in the political and diplomatic negotiations between ECOWAS and the RUF, received information from the UN and its agencies.<sup>15318</sup> The Prosecution further contends that Taylor had direct communications with RUF and was thus privy to the situation in Sierra Leone, that his subordinates in Sierra Leone informed him of the RUF's activities and crimes.<sup>15319</sup>

6801. The Defence does not dispute that some of the Prosecution's evidence shows that Taylor was on notice generally of some of the crimes that the RUF had already committed, including the campaign waged against civilians in Sierra Leone after the intervention.<sup>15320</sup> However this evidence does not establish that Taylor was aware of every crime charged in the Indictment. There was no organised structure with reporting and monitoring mechanisms which would have kept Taylor informed of all the RUF's activities. Moreover, as Head of State of Liberia, Taylor was geographically removed from the theatre of crimes.<sup>15321</sup>

### Evidence

#### Prosecution Witness Stephen Smith

6802. Witness Stephen Smith, a journalist covering the war in Liberia,<sup>15322</sup> testified that Charles Taylor followed media reports on Liberia and neighbouring countries very closely. Smith knows this from discussions between himself and Taylor about certain reports

<sup>15317</sup> Prosecution Final Trial Brief, paras 22-23, 421-424.

<sup>15318</sup> Prosecution Final Trial Brief, paras 23, 425, 427, 429-432.

<sup>15319</sup> Prosecution Final Trial Brief, paras 426-428, 431.

<sup>15320</sup> Defence Final Trial Brief, paras 503, 1257, 1333.

<sup>15321</sup> Defence Final Trial Brief, paras 566, 1152, 1257, 1333, 1349-1350.

<sup>15322</sup> Stephen Smith, Transcript 22 September 2008, pp. 16772-16773, 16781.





between 1990 and 1993 or 1994. Smith testified that this awareness continued in the years thereafter.<sup>15323</sup> Moreover, the brutality of the AFRC/RUF regime was widely reported.<sup>15324</sup>

Prosecution Witness TF1-371

6803. Witness TF1-371, a senior member of the RUF,<sup>15325</sup> testified that during the Junta and also in 1998 and 1999, information about RUF actions was conveyed to Charles Taylor in three main ways. Firstly, by satellite telephone; secondly, by VHF radio; and finally, by runners.<sup>15326</sup>

Prosecution Witness TF1-150

6804. Witness TF1-150, a Human Rights officer in Sierra Leone in 1998,<sup>15327</sup> testified that when he arrived in Sierra Leone in May 1998, he received multiple reports of attacks by rebel elements on civilians and was also able to trace patterns of attacks during the preceding months. According to Witness TF1-150 the pattern of the rebels' attacks was the instilling of terror, either for its own sake, or to ensure that the community fled and were displaced. In describing the pattern, Witness TF1-150 referred to an arc of violence which appeared to have spread rapidly through the early months of 1998 from the East through the North and down the West of Sierra Leone. During these attacks rebels committed terrorisation, mutilations, looting, killing, sexual abuse and abduction.<sup>15328</sup>

Prosecution Witness Moses Blah

6805. Witness Moses Blah, Inspector General of the NPFL from 1990 to 1997,<sup>15329</sup> Liberian Ambassador of Libya and Tunisia following Taylor's election to 2000,<sup>15330</sup> and Vice-President of Liberia from 2000 to 2003,<sup>15331</sup> testified that he read in newspapers and

<sup>15323</sup> Stephen Smith, Transcript 23 September 2008, pp. 16967-16968.

<sup>15324</sup> Stephen Smith, Transcript 23 September 2008, pp. 16971-16972.

<sup>15325</sup> TF1-371, Transcript 29 January 2008, pp. 2555-2556 (CS).

<sup>15326</sup> TF1-371, Transcript 29 January 2008, p. 2452 (CS).

<sup>15327</sup> Witness TF1-150, Transcript 18 February 2008, p. 4006.

<sup>15328</sup> Witness TF1-150, Transcript 18 February 2008, pp. 4019-4022.

<sup>15329</sup> Moses Blah, Transcript 15 May 2008, pp. 9943-9945.

<sup>15330</sup> Moses Blah, Transcript 14 May 2008, pp. 9882-9884.

<sup>15331</sup> Moses Blah, Transcript 14 May 2008, pp. 9882-9884; Blah became President of Liberia for 60 days from 11 August to 11 October 2003: Moses Blah, Transcript 16 May 2008, p. 10065.

heard on the radio that crimes committed by the retreating junta after the ECOMOG intervention in 1998. However, it did not mean that this information was true.<sup>15332</sup>

6806. Blah was unaware of a military operation called “Spare No Soul” or “No Living Thing”.<sup>15333</sup> He knew nothing about Liberian involvement in the Freetown invasion in 1999 and never discussed with Taylor about it.<sup>15334</sup> Blah never heard Charles Taylor giving instructions to Foday Sankoh or to senior RUF commanders as to what to do in Sierra Leone.<sup>15335</sup> Blah never discussed with Taylor the invasion of Freetown,<sup>15336</sup> nor did he participate in any meeting to discuss secret operations by the Government of Liberia between 1997 and 2000.<sup>15337</sup>

### The Accused

6807. The Accused testified that, before 1997 he had limited information and was not in a position to know precisely the crimes taking place in Sierra Leone as he was not elected President of Liberia yet. Therefore, he was not aware that, during the “Operation Stop Election”, RUF troops committed atrocities including amputations of civilians.<sup>15338</sup>

6808. Upon becoming President, the Accused received a daily briefing from his national security advisor which would include press and intelligence reports.<sup>15339</sup> Furthermore, the Accused would read principal newspapers,<sup>15340</sup> watched regularly CNN and more rarely would listen to BBC broadcast.<sup>15341</sup>

6809. The Accused testified that in 1997, there were news reports of “problems” in Sierra Leone.<sup>15342</sup> After being elected, the Accused was concerned about peace and stability in

<sup>15332</sup> Moses Blah, Transcript 21 May 2008, pp. 10382-10384.

<sup>15333</sup> Moses Blah, Transcript 19 May 2008, pp. 10231-10231.

<sup>15334</sup> Moses Blah, Transcript 19 May 2008, p. 10231.

<sup>15335</sup> Moses Blah, Transcript 19 May 2008, p. 10232.

<sup>15336</sup> Moses Blah, Transcript 20 May 2008, p. 10368.

<sup>15337</sup> Moses Blah, Transcript 14 May 2008, pp. 9962-9967.

<sup>15338</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32375-32379.

<sup>15339</sup> Charles Ghankay Taylor, Transcript 14 July 2009, p. 24333; Transcript 8 September 2009, pp. 28265-28268; Transcript 16 November 2009, p. 31713; Transcript 14 January 2010, p. 33382; Transcript 18 January 2010, p. 33441; Transcript 26 January 2010, pp. 34130-34133.

<sup>15340</sup> Charles Ghankay Taylor, Transcript 8 September 2009, pp. 28268-28270; Transcript 26 January 2010, pp. 34130-34131.

<sup>15341</sup> Charles Ghankay Taylor, Transcript 8 September 2009, pp. 28265-28267; Transcript 3 November 2009, p. 31053; Transcript 14 January 2010, pp. 33382-33384; 33429.

<sup>15342</sup> Charles Ghankay Taylor, Transcript 25 November 2009, p. 32378.

Sierra Leone and therefore kept abreast of the situation there.<sup>15343</sup> However, the Accused did not try to find precisely who was committing these atrocities, as he was not running Sierra Leone.<sup>15344</sup>

6810. The Accused stated that, following the Intervention, there were reports of atrocities “all over the place” being committed by “all sides”.<sup>15345</sup> The Accused read reports of these atrocities prepared by ECOMOG.<sup>15346</sup>

6811. The Accused testified that by April 1998 if “someone was providing support to the AFRC/RUF [...] they would be supporting a group engaged in a campaign of atrocities against the civilian population of Sierra Leone”.<sup>15347</sup> Indeed, in May 1998 there were news reports of a “horrific campaign being waged against the civilian population in Sierra Leone”.<sup>15348</sup>

6812. Despite issuing a joint communiqué dated July 1998 with President Kabbah in which the Accused “strongly condemned the continuing rebel activities in Sierra Leone, as well as the horrendous atrocities that had been committed there”,<sup>15349</sup> and despite the fact that by August 1998, “RUF’s crimes were notorious”,<sup>15350</sup> the Accused denied that he had sufficient knowledge of the specifics crimes committed by RUF.<sup>15351</sup> Thus, the Accused knew that crimes were committed in Sierra Leone while Sam Bockarie was in charge of the rebels<sup>15352</sup> including looting in February 1998<sup>15353</sup> or terrorism of the Sierra Leonean population in May 1998,<sup>15354</sup> but he was unaware that the RUF used child soldiers and abducted women as sex slaves. The UN only reported on these matters following the January 1999 Freetown

<sup>15343</sup> Charles Ghankay Taylor, Transcript 18 January 2010, pp. 33406-33407.

<sup>15344</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32378-32379, pp. 32385-32387; Transcript 26 November 2009, pp. 32576-32577; Transcript 14 January 2010, pp. 33386-33388

<sup>15345</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32379-32380.

<sup>15346</sup> Charles Ghankay Taylor, Transcript 25 November 2009, p. 32388.

<sup>15347</sup> Charles Ghankay Taylor, Transcript 25 November 2009, p. 32395.

<sup>15348</sup> Charles Ghankay Taylor, Transcript 8 September 2009, p. 28274; Transcript 18 January 2010, p. 33403.

<sup>15349</sup> Charles Ghankay Taylor, Transcript 25 November 2009, p. 32439.

<sup>15350</sup> Charles Ghankay Taylor, Transcript 25 November 2009, p. 32439.

<sup>15351</sup> Charles Ghankay Taylor, Transcript 11 August 2009, pp. 26467-26471; Transcript 25 November 2009, p. 32472; Transcript 18 January 2010, pp. 33405-33406, 32316, 33468, 33480.

<sup>15352</sup> Charles Ghankay Taylor, Transcript 26 November 2009, p. 32573; Transcript 18 January 2010, pp. 33403-33404.

<sup>15353</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32388-32389.

<sup>15354</sup> Charles Ghankay Taylor, Transcript 18 January 2010, pp. 33409-33410.

invasion.<sup>15355</sup> The Accused never concluded that the RUF constituted a terrorist organisation.<sup>15356</sup>

6813. Regarding Operation Fitti-Fatta, the Accused did not know what this term meant as he first heard about the “Fitti-Fatta Operation” when Prosecution witnesses testified about it before SCSL.<sup>15357</sup>

6814. The Accused testified that he was not aware of Sam Bockarie’s statements in September and November 1998, in which Bockarie stated that he would order his troops to kill “every living thing” if anything happened to Foday Sankoh,<sup>15358</sup> or that he would launch an attack on Freetown around New Year if Sankoh was not released.<sup>15359</sup> The Accused was also unaware of Bockarie’s statement that the RUF would bombard Freetown unless President Kabbah resigned.<sup>15360</sup>

6815. The Accused did not receive reports of a major RUF/AFRC offensive in Sierra Leone shortly after Sam Bockarie returned to Sierra Leone through Liberia from Burkina Faso.<sup>15361</sup> He was briefed in December 1998 by ECOMOG and UN reports that atrocities, including burning civilians, were being committed in Sierra Leone, but these reports referred to the Junta not RUF and did not specify in which areas these crimes were committed.<sup>15362</sup> Thus, the Accused was not aware of the capture of 11 Nigerian ECOMOG peacekeepers after the Christmas 1998 Kono attack.<sup>15363</sup>

6816. The Accused was also not aware of Bockarie’s public statement dated December 1998, in which the RUF leader announced that RUF troops captured Waterloo and

<sup>15355</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32389-32390; Transcript 26 November 2009, p. 32574; Transcript 26 January 2010, pp. 34122-34125.

<sup>15356</sup> Charles Ghankay Taylor, Transcript 25 November 2009, p. 32380.

<sup>15357</sup> Charles Ghankay Taylor, Transcript 3 August 2009, pp. 25819-25820; Transcript 6 August 2009, p. 26209; Transcript 14 September 2009, p. 28733; Transcript 15 September 2009, p. 28870; Transcript 16 September 2008, p. 29029; Transcript 25 November 2009, p. 32485.

<sup>15358</sup> Charles Ghankay Taylor, Transcript 25 November 2009, p. 32473; Transcript 18 January 2010, p. 33430; Transcript 16 February 2010, p. 35136.

<sup>15359</sup> Charles Ghankay Taylor, Transcript 6 August 2009, p. 26231; Transcript 17 September 2009, p. 29277; Transcript 25 November 2009, pp. 32472-32473; Transcript 18 January 2010, pp. 33430-33438.

<sup>15360</sup> Charles Ghankay Taylor, Transcript 18 January 2010, pp. 33444, 33452-33454.

<sup>15361</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32506-32507.

<sup>15362</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32413-32416; Transcript 18 January 2010, pp. 33463-33466.

<sup>15363</sup> Charles Ghankay Taylor, Transcript 22 September 2009, pp. 29410-29411.



Benguema and were no longer seeking dialogue.<sup>15364</sup> Similarly, at that time, the Accused did not know that RUF troops captured Makeni and killed 60 ECOMOG fighters, dragging their bodies through the streets as an example.<sup>15365</sup> The Accused was also not aware of the UN Secretary-General's extreme concern about the latest news of rebel armed activity in Sierra Leone.<sup>15366</sup> If the Accused moved troops to the Sierra Leonean border in December 1998 it was to prevent spill-over.<sup>15367</sup>

6817. The Accused was surprised by the attack on Freetown.<sup>15368</sup> On 6 January 1999 at 10.00 am, his national security advisor informed him about the Freetown invasion.<sup>15369</sup> One of his security personnel also told him that he heard on BBC radio that it were Sam Bockarie's boys who attacked Freetown.<sup>15370</sup> The Accused relied on news briefing not international media and does not recall hearing the BBC Focus on Africa report in which Issa Sesay reported that the RUF/AFRC had taken over Freetown.<sup>15371</sup> The Accused was also not aware that AFRC Commander Gullit led troops in the invasion.<sup>15372</sup>

6818. The Accused testified that it was only after the January 1999 Freetown invasion that it dawned on him that atrocities were occurring in Sierra Leone and that he and his colleagues intensified their efforts.<sup>15373</sup> Moreover, as the point President, who "led the whole Sierra Leonean situation" it was important for the Accused to know what the RUF were doing.<sup>15374</sup> He got his information from ECOMOG reports, UN reports and received briefings on reports in Liberian and international media. The Accused did not read other reports done by the international human rights community.<sup>15375</sup>

<sup>15364</sup> Charles Ghankay Taylor, Transcript 18 January 2010, pp. 33449-33452, 33470-33472.

<sup>15365</sup> Charles Ghankay Taylor, 25 November 2009, pp. 32507-32508; Transcript 18 January 2010, p. 33444.

<sup>15366</sup> Charles Ghankay Taylor, Transcript 18 January 2010, pp. 33458-33461.

<sup>15367</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32613-32614.

<sup>15368</sup> Charles Ghankay Taylor, Transcript 6 August 2009, p. 26203; Transcript 30 September 2009, p. 29931; Transcript 18 January 2010, p. 33455, 33457, 33461-33462

<sup>15369</sup> Charles Ghankay Taylor, Transcript 14 July 2009, p. 24333; Transcript 6 August 2009, pp. 26225-26227; Transcript 17 September 2009, p. 29269; Transcript 26 November 2009, pp. 32614-32615; Transcript 18 January 2010, pp. 33476-33477.

<sup>15370</sup> Charles Ghankay Taylor, Transcript 6 August 2009, pp. 26225-26227.

<sup>15371</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32614-32615.

<sup>15372</sup> Charles Ghankay Taylor, Transcript 17 September 2009, p. 29266.

<sup>15373</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32387-32388.

<sup>15374</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32388, 32390.

<sup>15375</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32389, 32393.

6819. In July 1999, the Accused was aware of atrocities being committed by rebels in Sierra Leone, based on ECOMOG reports; however he was unaware of the specifics of these crimes and was not briefed on a BBC broadcast giving news from Sierra Leonean refugees in Guinea.<sup>15376</sup> The Accused was aware of UN Security Council condemnation of the upsurge of attacks by rebels in Sierra Leone but was unaware of the BBC Focus on Africa programme which reported this condemnation.<sup>15377</sup> The Accused did not know if the RUF continued to control diamond fields, deploy child soldiers and capture women as sex slaves from August 2000 to the end of 2001. All he knew was that the RUF was part of the Government of Sierra Leone.<sup>15378</sup>

Defence Witness John Vincent

6820. Witness John Vincent, a Liberian Vanguard commander,<sup>15379</sup> testified that the RUF did not participate in the Freetown Invasion and there was no communication between the RUF in Makeni and SAJ Musa during the invasion.<sup>15380</sup> Vincent did hear that the RUF reached Masiaka in January 1999 but he was not part of that operation. The witness heard of an attack on Waterloo on the BBC. Vincent first heard that the RUF went to Hastings in Court.<sup>15381</sup>

Contemporary documentary evidence

6821. The Trial Chamber notes that a considerable amount of contemporary documentary evidence regarding to the coverage of the crimes committed in Sierra Leone by International Organisations, Non Governmental Organisations or media as been tendered into evidence by both the Prosecution and the Defence. For purpose of clarity this contemporary evidence as been summarised below by chronological order.

<sup>15376</sup> Charles Ghankay Taylor, Transcript 18 January 2010, pp. 33467-33468.

<sup>15377</sup> Charles Ghankay Taylor, Transcript 18 January 2010, pp. 33499-33500.

<sup>15378</sup> Charles Ghankay Taylor, Transcript 26 November 2009, pp. 32332567-32568.

<sup>15379</sup> John Vincent, Transcript 26 March 2010, pp. 38107, 38114-38116, 38118, 38137, 38145; Transcript 30 March 2010, pp. 38226, 38239; Transcript 31 March 2010, p. 38390, 38408, 38460, 38461.

<sup>15380</sup> John Vincent, Transcript 26 March 2010, pp. 38131-38134.

<sup>15381</sup> John Vincent, Transcript 31 March 2010, pp. 38431-38434.





Prosecution Exhibit P-297

6822. Exhibit P-297 is an article of Relief Web quoting a report of the UN Department of Humanitarian Affairs dated 4 to 5 June 1997. The UN report details the humanitarian situation in Sierra Leone at the time, which included concerns about security (killings of civilians, amputations as well as looting) and shortage of basic amenities.<sup>15382</sup>

Prosecution Exhibit P-057

6823. Exhibit P-057 is a transcript of the RUF speech to the nation, dated 18 June 1997. In their speech RUF members apologised for the crimes they have committed in Sierra Leone. It states as follow:

“For the past six years or so we have been living in an environment of hatred and divisiveness. We looked at our brothers and killed them in cold blood, we removed our sisters from their hiding places to undo their femininity, we slaughtered our mothers and butchered our fathers [...] But the atrocities [...] were the result of the rottenness of a system which could not be uprooted except by brutal means”.<sup>15383</sup>

Prosecution Exhibit P-298

6824. Exhibit P-298 is a letter dated 27 June 1997 from the Permanent representative of Nigeria, Chairman of the ECOWAS, to the United Nations addressed to the President of the Security Council, forwarding the final communiqué issued at the end of the Foreign Ministers of ECOWAS on the situation in Sierra Leone. In their communiqué the ECOWAS foreign Ministers deplored the bloodletting and other human losses that occurred during the coup d’état of 25 May 1997 and warned the illegal regime against all acts of atrocities against Sierra Leonean citizens.<sup>15384</sup>

Prosecution Exhibit P-299

6825. Exhibit P-299 is a Statement by the President of the Security Council dated 11 July 1997. The communiqué indicates that the Security Council remained deeply concerned by

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<sup>15382</sup> Exhibit P-297, “Sierra Leone Humanitarian Situation Report 04-05 June 1997, UN Department of Humanitarian Affairs, Paragraphs 1, 2, 5 - 00004088 - 00004089 (CMS PGS 21395 - 21396)”.

<sup>15383</sup> Exhibit P-057, “Transcript of the RUF Speech to the Nation Delivered on SLBS on 18 June 1997 - 00009769 – 00009771”.

<sup>15384</sup> Exhibit P-298, “Letter dated 27 June 1997 from the permanent representative of Nigeria to the United Nations addressed to the President of Security Council” pp. 1-4 (ERN 21400-21403).

the atrocities committed against Sierra Leone’s citizens, foreign nationals and personnel of the ECOWAS monitoring group.<sup>15385</sup>

Prosecution Exhibit P-300

6826. Exhibit P-300 is an article of Relief Web quoting a report of the UN Department of Humanitarian Affairs dated 8 to 14 July 1997. The document reports that on in a radio broadcast to Sierra Leone dated 8 July 1997, President Kabbah urged the AFRC to step down to spare the people of Sierra Leone further pain and suffering and ordered soldiers and the RUF to report the nearest ECOMOG base and declare their loyalty.<sup>15386</sup>

Prosecution Exhibit P-301

6827. Exhibit P-301 is a Statement by the President of the Security Council dated 6 August 1997. The communiqué indicates that the Security Council The Security Council remains deeply concerned about the deteriorating humanitarian situation in Sierra Leone, and at the continued looting and commandeering of relief supplies of international agencies. It c alls upon the military junta to cease all interference with the delivery of humanitarian assistance to the people of Sierra Leone. The Council condemns the continuing violence and threats of violence by the junta towards the civilian population, foreign nationals and personnel of the ECOWAS monitoring group, and c alls for an end to such acts of violence.<sup>15387</sup>

Defence Exhibit D-340

6828. Exhibit D-340 is the official journal of ECOWAS, dated August 1997. The journal documents the decision to extend the scope of activity and mandate of ECOMOG to cover Sierra Leone due to concerns about the worsening crisis there and to reinstate the legitimate government. The journal also documents sanctions taken against the illegal regime in Sierra Leone as well as the arms and military equipments embargo on Sierra Leone.<sup>15388</sup>

<sup>15385</sup> Exhibit P-299, “Statement by the President of the Security Council” 11 July 1997, pp. 1-4 (CMS 21405-21406)

<sup>15386</sup> Exhibit P-300, “Sierra Leone Humanitarian Situation Report 08-14 July 1997, UN Department of Humanitarian Affairs, Paragraph 7 - 00004093 (CMS PGS 21409)”.

<sup>15387</sup> Exhibit P-301, “Statement by the President of the Security Council” 6 August 1997, pp. 1-4 (CMS 21405-21406)

<sup>15388</sup> Exhibit D-340, “Official Journal of the Economic Community of West African States (ECOWAS), Vol. 33, August 1997 – DCT 279”.

Defence Exhibit D-135

6829. Exhibit D-135 is an ECOWAS report of the Committee of Four on the situation in Sierra Leone, dated 26 August 1997. The report describes the actions taken by the Committee of Four following the coup against the government of President Kabbah on 25 May 1997 by sections of the Sierra Leonean military and the RUF, after which general mayhem ensued, and “massive looting of property, murder and rape became the order of the day”. The report states that “This situation posed a special threat to peace in Liberia” for which the ECOWAS sub-region “had laboured for several years”. Finally, the reports recalls that, on 11 May 1997 the Security Council expressed deep concern about the continuing crisis in Sierra Leone.<sup>15389</sup>

Defence Exhibit D-136

6830. Exhibit D-136 is the final report of the sixteenth meeting of ECOWAS Chiefs of State in Abuja, Nigeria, dated 26 to 27 August 1997 in which the Liberian representative participated. The report describes the events in Sierra Leone involving the overthrow of the Kabbah Government as a serious security threat to sub-regional peace and warns that this might reverse the gains that have been made in Liberia. The coup was very bloody and was followed by massive looting and vandalism of public and private properties and the opening of the prisons by the junta. The report further states that “The putschists invited the elements of the RUF into the city of Freetown, thereby disrupting the peace and tranquillity of that city”, which have “since then, assumed and taken over the role of the national army”. ECOWAS is called on restoring the Kabbah Government and to put an end to the crisis in Sierra Leone. Sanctions are proposed to be used against the illegitimate government in Sierra Leone.<sup>15390</sup>

Prosecution Exhibit P-069

6831. Exhibit P-069 is UN Security Council resolution 1132, dated 8 October 1997. The Security Council condemned the situation in Sierra Leone as a threat to the peace and states

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<sup>15389</sup> Exhibit D-135, “ECOWAS, Report of the Committee of Four on the Situation in Sierra Leone, 26 August 1997 – DCT 32”.

<sup>15390</sup> Exhibit D-136, “ECOWAS, Final Report, Sixteenth Meeting of ECOWAS Chiefs of State, Abuja, Nigeria, 26–27 August 1997 – DCT 76 (27 pages)”.

it was “gravely concerned at the continued violence and loss of life in Sierra Leone” and “the consequences for neighbouring countries”.

6832. Article 5 of the UN Security Council Resolution reads as follow:

“Decides that all States shall prevent the sale or supply to Sierra Leone, by their nationals or from their territories, or using their flag vessels or aircraft, of petroleum and petroleum products and arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, whether or not originating in their territory”;<sup>15391</sup>

#### Defence Exhibit D-140

6833. Exhibit D-140 is a communiqué of the fifth meeting of the Ministers of Foreign Affairs of the Committee of Five on Sierra Leone, in Abuja on 10 to 11 October 1997. The communiqué describes how the illegal regime in Sierra Leone continues to attack and harass ECOMOG troops and notes its concern about the deteriorating humanitarian situation in Sierra Leone and the gross violations of human rights by the regime.<sup>15392</sup>

#### Prosecution Exhibit P-078

6834. Exhibit P-078 is an Amnesty International Report on atrocities against civilians in Sierra Leone in 1998. The report acknowledges the dominant role played by, inter alia, ECOWAS and ECOMOG, in resolving the political crisis in Sierra Leone. The report also documents the human rights violations committed by the AFRC and RUF after the military coup, including killings, arbitrary arrests and detentions, torture and extra-judicial executions, mutilations, rapes.<sup>15393</sup>

6835. Page 1 of the report reads as follow:

“During 1998 the scale of atrocities against civilians in Sierra Leone has reached unprecedented levels. Several thousand unarmed civilians, including many women and children, have been deliberately and arbitrarily killed and mutilated by forces of the Armed Forces Revolutionary Council (AFRC) and the armed opposition Revolutionary Front (RUF) since February 1998. These atrocities are continuing [...]

“Although security has since returned to the capital, Freetown, and much of the south of the country, the scale of human rights abuses committed by AFRC and RUF forces in the north and east of the country has escalated and taken on grotesque forms. From April 1998 reports emerged of civilians suffering mutilations such as crude amputations of their feet, hands, arms, lips or ears. Women and girls have been systematically raped.

<sup>15391</sup> Exhibit P-069, “United Nations Security Council Resolution 1132, 8 October 1997”, p. 2.

<sup>15392</sup> Exhibit D-140, “ECOWAS, Communiqué, Fifth Meeting of the Ministers of Foreign Affairs of the Committee of Five on Sierra Leone, 10–11 October 1997 – DCT 39 (5 pages)”.

<sup>15393</sup> Exhibit P-078, “Sierra Leone 1998 – A year of atrocities against civilians, Amnesty International Report”, pp. 1-31.

Hundreds of civilians, in particular children and young men and women, have been abducted by rebel forces. The violence has resulted in hundreds of thousands of Sierra Leoneans fleeing to neighboring Guinea and Liberia or becoming internally displaced within Sierra Leone. AFRC and RUF forces must respect international humanitarian law and immediately end the gross human rights abuses which they are perpetrating against unarmed civilians”.

#### Prosecution Exhibit P-303

6836. Exhibit P-303 is a humanitarian situation report by the African Studies Centre of the University of Pennsylvania on Sierra Leone, for the period 21 January 1998 to 12 February 1998. The report expresses concern for the humanitarian situation of civilians in Freetown. It states that “AFRC casualties are known to be high and many civilians have been killed and injured”.<sup>15394</sup>

#### Prosecution Exhibit P-385

6837. Exhibit P-385 is a an excerpt of an article published in the Liberian newspaper “The Daily Times”, published on 20 February 1998 reporting that 52 people were burned alive as the Junta went on rampage.<sup>15395</sup>

#### Defence Exhibit D-155

6838. Exhibit D-155 is the UN Security Council’s fourth report of the Secretary-General on the situation in Sierra Leone, dated 18 March 1998. The report describes the intervention by ECOMOG in Freetown on 13 February 1998 and the widespread looting and some reprisal killings which accompanied the junta’s expulsion. The security situation in Sierra Leone is still a source of concern and the humanitarian situation remains serious.<sup>15396</sup>

<sup>15394</sup> Exhibit P-303, “Sierra Leone: Humanitarian Situation Report, 98.02.17., 21 January - 12 February 1998, Paragraphs 1 (part), 3, 9, 16 (A) - CSM PGS - 21422 – 21424”.

<sup>15395</sup> Exhibit P-385, “52 people burned alive as Junta goes on rampage”, Daily News, dated 20 February 1998 – CMS 22658-22659

<sup>15396</sup> Exhibit D-155, “UN Security Council, Fourth Report of the Secretary General on the Situation in Sierra Leone, S/1998/2449, 18 March 1998 – DCT 189 (11 pages)”.

Prosecution Exhibit P-036

6839. Exhibit P-036 is an ECOWAS six-month peace plan for Sierra Leone, dated 23 October 1997 to 22 April 1998. The plan consists of seven points to return constitutional governance to Sierra Leone.<sup>15397</sup>

Prosecution Exhibit P-304

6840. Exhibit P-304 is a humanitarian situation report for Sierra Leone prepared by the United Nations Humanitarian Coordinator for Sierra Leone, for the period 16 April 1998 to 30 April 1998. The report documents that the fighting between ECOMOG and the RUF/Junta is creating a severe humanitarian situation. It includes summary reports on victims of the violence, including widespread mutilations and looting.<sup>15398</sup>

Prosecution Exhibit P-332

6841. Exhibit P-332 is a report by Medecins sans Frontiers, dated 1 May 1998. The report states there has been an alarming increase in the number of mutilations. The report also documents instances of rapes and killings, including by being burned alive.<sup>15399</sup>

Prosecution Exhibit P-079

6842. Exhibit P-079 is a press release from Doctors without Borders / Medecins sans Frontieres, dated 5 May 1998. The press release states that the number of patients suffering from mutilations has increased significantly within the past few weeks. Other crimes committed by various armed groups have included executions, rapes and kidnappings.<sup>15400</sup>

<sup>15397</sup> Exhibit P-036, "ECOWAS six month-peace plan for Sierra Leone 23 October 1997 – 22 April 1998".

<sup>15398</sup> Exhibit P-304, "Sierra Leone Humanitarian Situation Report, 16-30 April 1998, Paragraphs 1, 5 (Part), 6 - CSM PGS 21428 – 21429".

<sup>15399</sup> Exhibit P-332, "Medecins sans Frontiers 1998 Report: Atrocities Against Civilians in Sierra Leone, 1 May 1998, pages 1 to 4 - CMS PGS 23204 – 23207".

<sup>15400</sup> Exhibit P-079, "Doctors without Borders/Medecins sans Frontieres (MSF) Press Release - Mutilation of Civilians on the increase in Sierra Leone, 5 May 1998".



Prosecution Exhibit P-070

6843. Exhibit P-070 is UN Security Council resolution 1171 (1998), dated 5 June 1998. The Security Council reiterates its condemnation of the situation in Sierra Leone and stresses the “urgency for all rebels to put an end to the atrocities”.<sup>15401</sup>

Prosecution Exhibit P-130

6844. Exhibit P-130 is the Fifth Report of the Secretary-General on the Situation in Sierra Leone, dated 9 June 1998. The report condemns the actions of the Junta in Sierra Leone and states that they have been attacking towns and villages, terrorising local populations and extorting food from them. There have also been incidents of looting, property destruction, mutilations, rape, extrajudicial killings, arbitrary detentions (including for purposes of sexual abuse), torture and forced labour.<sup>15402</sup>

Prosecution Exhibit P-125

6845. Exhibit P-125 is the first page of the Liberian newspaper “Daily Times” dated 24 July 1998. An article titled “Guns, rice traded for diamonds” discuss the disclosure by RUF/AFRC members that they received guns and rice from Liberia in exchange of diamonds. The article mentions that gruesome atrocities have been perpetrated by RUF/AFRC soldiers”.<sup>15403</sup>

Prosecution Exhibit P-081

6846. Exhibit P-081 is a document published by Amnesty International on 24 July 1998 preparing the United Nations Special Conference on Sierra Leone held in New York on 30 July 1998. Page 1 of the report reads as follow:

AFRC and RUF force s in the east and north of Sierra Leone are deliberately and arbitrarily killing and torturing unarmed civilians. A deliberate and systematic campaign of killing, rape and mutilation - called by the AFRC and RUF “*Operation no living thing*” – has emerged since April 1998.

Although the exact number of those killed in recent months is unknown, it is likely to be several thousand, many of them women and children. More than 200 people were killed during an attack on one village alone - Yifm, in Koinadugu District in Northern Province - in late April 1998. Many hundreds of men, women and

<sup>15401</sup> Exhibit P-070, “United Nations Security Council Resolution 1171, 5 June 1998”.

<sup>15402</sup> Exhibit P-130, “United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998 - 00004201 – 00004217”, P. 15, para. 81, ERN 00004215.

<sup>15403</sup> Exhibit P-125 , Daily News, 24 July 1998, “Guns, rice traded for diamonds”.





children of all ages have suffered mutilation and crude amputations of their arms, legs, lips or ears, lacerations and gunshot wounds. Women and girls have been raped or suffered other forms of sexual assault. Survivors of attacks who manage to reach safety and medical assistance recount that many others from their villages were killed or fled into the bush, their fate unknown.<sup>15404</sup>

6847. Page 3 of the report addresses the specific issues of “children caught in the violence”. It reads as follow:

Children have been particular victims of the violence and brutality in Sierra Leone. As well as being deliberately and arbitrarily killed, mutilated and maimed, thousands of children have been and continue to be abducted by AFRC and RUF forces and forced to fight. Girls and women have been systematically raped and forced into sexual slavery.

Among the more than 350,000 Sierra Leoneans who have either become refugees in neighbouring countries or internally displaced since February 1998 are hundreds of unaccompanied children separated from their families as a result of the violence. Children are the most vulnerable to the acute hardship, disease and malnutrition faced by Sierra Leonean refugees and displaced people. During May and June 1998, 750 people, including children, were reported to have died of disease and malnutrition at Masingbi, in Tonkolili District, Northern Province, where some 15,000 displaced people have sought safety.

The Special Representative of the UN Secretary-General for Children and Armed Conflict, Olara Otunnu, following a visit to Sierra Leone in May 1998, challenged the international community to respond in a more vigorous and concerted way to the needs of children affected by the conflict in Sierra Leone. In June 1998 the UN Security Council, condemning the abduction, sexual abuse and recruitment and use in hostilities of children, said that it would pay serious attention to the situation of children affected by armed conflict. The needs of children in Sierra Leone are critical. Amnesty International welcomes the work of the Special Representative and endorses his call for Sierra Leone to be made one of the pilot projects for a more effective response in the context of post-conflict peace-building.<sup>15405</sup>

#### Prosecution Exhibit P-080

6848. Exhibit P-080 is the First Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, dated 12 August 1998. The report condemns the actions of the rebels in Sierra Leone. Such actions have included the destruction of property, the use of human-shields, rapes, executions, mutilations and the taking of civilian captives.<sup>15406</sup>

#### Prosecution Exhibit P-306/Defence Exhibit D-169

6849. Prosecution Exhibit P-306 and Defence Exhibit D-169 are the same document. It is the UN Security Council’s second progress report of the Secretary-General on the UN

<sup>15404</sup> Exhibit P-081, “Amnesty International Report, 24 July 1998, p. 1, ERN000091

<sup>15405</sup> Exhibit P-081, “Amnesty International Report, 24 July 1998, p. 3, ERN000091

<sup>15406</sup> Exhibit P-080, “UN Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998 – 00012386 – 00012400”, ERN 00012386.

Observer Mission in Sierra Leone, dated 16 October 1998. The report documents that following the arrest of Foday Sankoh, the RUF announced, on 17 August 1998, a terror campaign against the civilian population, CDF and ECOMOG if the Government failed to release Sankoh within seven days. The report indicates that President Kabbah and President Taylor are in regular contact by telephone and documents instances of attacks and human rights abuses by the rebels. The alarming humanitarian situation is noted.<sup>15407</sup>

#### Defence Exhibit D-175

6850. Exhibit D-175 is the UN Security Council's third progress report of the Secretary-General on the UN Observer Mission in Sierra Leone, dated 16 December 1998. The report states that President Kabbah had agreed with President Taylor's request for cooperation on joint border patrols and that a Catholic priest, Father Mario Guerra, was kidnapped near Makeni on 17 November 1998 by elements of the AFRC. The report documents that rebel attacks in the north have persisted and intensified and that in December 1998 there were attacks on several locations. It states that there have been widespread rebel attacks on civilian populations, involving amputations, decapitations, rape, burning, destruction of homes, abduction and looting.<sup>15408</sup>

#### Defence Exhibit D-177

6851. Exhibit D-177 is a compilation of news/press releases of ECOMOG, dated September to December 1998. The compilation includes news on ECOMOG's attempts to block the flow of arms from Liberia to Sierra Leone.<sup>15409</sup>

#### Defence Exhibit D-141

6852. Exhibit D-141 is a collection of Charles Taylor's Presidential papers, policies, speeches, statements and record of activities, dated 2 August 1997 to 31 December 1998. The collection includes a joint communiqué issued by Taylor, the Chairman of ECOWAS and the President of Sierra Leone on 2 July 1998 in which the Heads of State of Liberia and

<sup>15407</sup> Prosecution Exhibit P-306 and Defence Exhibit D-169, "UN Security Council, Second Progress Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1998/960, 16 October 1998 – DCT 170".

<sup>15408</sup> Exhibit D-175, "UN Security Council, Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/1176, 16 December 1998 – DCT 102".

<sup>15409</sup> Exhibit D-177, "Media Communiqué, A Compilation of News/Press Releases of ECOMOG, Vol. 1, No. 1,

Sierra Leone “strongly condemned the continuous rebel activities in Sierra Leone as well as the horrendous atrocities that had been committed there”.<sup>15410</sup>

Prosecution Exhibits P-341A and P-341B

6853. Exhibits 341A and 341B are an audio clip and its accompanying transcript, respectively, of a BBC “Focus on Africa” interview that took place on 22 December 1998 between the Kwabena Mensah, a BBC reporter and Abubakar Sesay, a forest guard for the Waterloo district.<sup>15411</sup> In the interview Mensah reported that an ECOMOG commander had confirmed that the RUF had attacked Waterloo in the early hours of the morning. Abubakar Sesay stated that during the two-hour attack the rebels killed civilians, burnt houses and looted goods.<sup>15412</sup>

Prosecution Exhibit P-279B

6854. Exhibit P-279B is a transcript of a BBC Focus on Africa clip, dated 5 and 6 January 1999. The transcript states that rebels have entered Freetown. The rebels have broken into the prison.<sup>15413</sup>

Prosecution Exhibit P-111

6855. Exhibit P-111 is a BBC news article on the ‘Battle for Sierra Leone,’ dated 6 January 1999. The article documents the invasion of Freetown during which the rebels stormed the main prison and burned down several buildings.<sup>15414</sup>

Prosecution Exhibit P-308/Defence Exhibit D-178

6856. Prosecution Exhibit P-308 and Defence Exhibit D-178 are a UN Security Council, Special Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone (UNOMSIL) S/1999/20, dated 7 January 1999. It reported that on 22 December 1998,

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Sept–Dec 1998, Freetown, December 1998 – DCT 23”.

<sup>15410</sup> Exhibit D-141, “Presidential Papers, Policies, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997– December 31 1998 – DCT 256 (398 pages)”, p. 298, para. 3.

<sup>15411</sup> Exhibit P-341A, “BBC Focus on Africa Clip, 22 December 1998”; Exhibit P-341B, “BBC Focus on Africa Transcript, 22 December 1998”.

<sup>15412</sup> Exhibit P-341A, “BBC Focus on Africa Clip, 22 December 1998;” Exhibit P-342B, “BBC Focus on Africa Transcript, 22 December 1998”, p. 23590.

<sup>15413</sup> Exhibit P-279B, “Transcript - Track Two, BBC Focus on Africa, 6 January 1999 (Audio File) - D0000517”.

<sup>15414</sup> Exhibit P-111, “BBC News Article, World: Africa Battle for Sierra Leone, January 6, 1999”.

rebels in the Western area attacked Waterloo, resulting in heavy casualties among the civilian population,<sup>15415</sup> and the looting and burning of property, and the displacement of around 12,000 persons that fled from Waterloo to Freetown.<sup>15416</sup>

Prosecution Exhibit P-352B

6857. Exhibit P-352B is a transcript of a BBC Focus on Africa clip, dated 11 January 1999. The transcript states that rebels in Freetown have set fire to many buildings and are using civilians as humans-shields.<sup>15417</sup>

Prosecution Exhibit P-351B

6858. Exhibit P-351B is a transcript of a BBC Focus on Africa clip, dated 11 January 1999. The transcript states that the RUF in Freetown have set fire to many houses and are using civilians as humans-shields.<sup>15418</sup>

Prosecution Exhibit P-354B

6859. Exhibit P-354B is a transcript of a BBC Focus on Africa clip, dated 18 January 1999. The transcript states that the RUF in Freetown have caused widespread destruction, looting and have executed civilians.<sup>15419</sup>

Prosecution Exhibit P-356B

6860. Exhibit P-356B, is a transcript of a BBC Focus on Africa clip, dated 22 January 1999. It includes a report by BBC correspondent Winston Ojukutu-Macaulay, who travelled with ECOMOG to Kissy. In his report, Mr Ojukutu-Macaulay stated that the “rebels have

<sup>15415</sup> Exhibit P-308, “UN Security Council, Special Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 7 January 1999”, p. 21473.

<sup>15416</sup> Exhibit P-308, “UN Security Council, Special Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 7 January 1999”, p. 21477.

<sup>15417</sup> Exhibit P-352B, “Transcript - BBC Focus on Africa Clip from track 2 - D0000515, 11 January 1999 - CMS PG 23619”.

<sup>15418</sup> Exhibit P-351B, “Transcript - BBC Focus on Africa Clip from track 1 - D0000515, 11 January 1999 - CMS PGS 23616-23618”.

<sup>15419</sup> Exhibit P-354B, “Transcript - BBC Focus on Africa Clip from track 2 - D0000542, 18 January 1999 - CMS PGS 23623-23624”.

reverted to their terror campaign of amputating civilians". Thus, he stated that on their way back to Freetown from Kissy, ECOMOG transported five civilians who were amputated.<sup>15420</sup>

Prosecution Exhibit P-357B

6861. Exhibit P-357B is a transcript of a BBC Focus on Africa clip, dated 23 January 1999. The transcript states that the RUF/AFRC rebels are leaving a trail of destruction as they are being chased out of Freetown, including by burning houses and taking hostages and one Roman Catholic nun has been killed.<sup>15421</sup>

Prosecution Exhibit P-123

6862. Exhibit P-123 is BBC news article, dated 27 January 1999. The article states that the rebels in Freetown have been following a 'scorched-earth policy' and have burned buildings and attacked and killed civilians.<sup>15422</sup>

Prosecution Exhibit P-309

6863. Exhibit P-309 is a 'Report on Atrocities Committed Against the Sierra Leone Population' prepared by the UNHCR, dated 28 January 1999.<sup>15423</sup> The report documents atrocities committed by Junta forces retreating from Freetown against the local population.

Defence Exhibit D-191

6864. Exhibit D-191 is the fifth report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, dated 4 March 1999. The report documents the rebel attacks on Freetown on 6 January 1999 which resulted in between 3,000 to 5,000 deaths. ECOMOG forces managed to expel the rebels but the security situation in Freetown remains volatile. In response to allegations that they were supporting the Sierra Leonean rebels, the Liberian government issued a statement that they recognised the Kabbah Government as the legitimate government and that they did not, and would not, support any attempt to

<sup>15420</sup> Exhibit P-356B, "Transcript – BBC Focus on Africa, Clip from Track 2 – D000507, 22 January 1999", p. 23628.

<sup>15421</sup> Exhibit P-357B, "Transcript - BBC Focus on Africa Clip from track 1 - D0000508, 23 January 1999 - CMS PGS 23629-23630".

<sup>15422</sup> Exhibit P-123, "BBC News Article, Freetown Bears the Scars, 27 January 1999".

<sup>15423</sup> Exhibit P-309, "Report On Atrocities Committed Against the Sierra Leone Population, UNHCR Branch Office Conakry, 28 January 1999, Unnumbered Paras 1-3, Case # 1, 2, 4, 6, 7, 9, 10, 15, 16 - 0004550 - 00004557, 00004561 - 00004563, 00004557 – 00004577".

destabilise Sierra Leone or any other country. The Liberian Government also requested the Security Council to approve the deployment of United Nations monitors along with ECOMOG troops at the Liberian/Sierra Leonean border in light of repeated allegations of illegal shipments of arms to the rebels.<sup>15424</sup>

Prosecution Exhibit P-035

6865. Exhibit P-035 is an IRIN update on events in West Africa, dated 8 April 1999. The update documents the ECOMOG commander in Sierra Leone, Major General Felix Mujakperuo, warning the Presidents of Liberia and Burkina Faso that ECOMOG has confirmed the activities of the two countries and their leaders involved in the shipment and delivery of arms to the RUF through the government of a neighbouring country.<sup>15425</sup>

Prosecution Exhibit P-037

6866. Exhibit P-037 is an agreement on a ceasefire in Sierra Leone, dated 17 April 1999 and signed 18 May 1999. The agreement is signed by Sierra Leonean President Tejan Kabbah and RUF leader Foday Sankoh.<sup>15426</sup>

Defence Exhibit D-019

6867. Exhibit D-019 is a BBC news article, dated 18 April 1999. The article states that the RUF rebels have committed widespread atrocities and mutilated civilians in Freetown.<sup>15427</sup>

Prosecution Exhibit P-312

6868. Exhibit P-312 is a humanitarian situation report on Sierra Leone prepared by UN Office for the Coordination of Humanitarian Affairs, dated 1 May 1999 to 17 May 1999. The reports documents humanitarian concerns for the Sierra Leonean civilian population.<sup>15428</sup>

<sup>15424</sup> Exhibit D-191, "UN Security Council, Fifth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1999/237, 4 March 1999 – CMS pgs. 21594–21607 – DCT 142", pp. 1-2, 5, ERN 4266-4267, 4270.

<sup>15425</sup> Exhibit P-035, "IRIN update 438 of events in West Africa, 8 April 1999", ERN 00021259.

<sup>15426</sup> Exhibit P-037, "Agreement on ceasefire in Sierra Leone – 17 April 1999, signed 18 May 1999".

<sup>15427</sup> Exhibit D-019, "BBC News Article, 18 April 1999, World: Africa Rebel Leader Freed for Talks, 18 April 1999".

<sup>15428</sup> Exhibit P-312, "Sierra Leone Humanitarian Situation Report 1-17 May 1999, UN Office For the





Prosecution Exhibit P-313

6869. Exhibit P-313 is the sixth report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, dated 4 June 1999. The report documents a resurgence of rebel atrocities against civilians, including summary executions, mutilations, amputations, abductions, sexual abuse and the large-scale destruction of property.<sup>15429</sup>

Prosecution Exhibit P-438

6870. Exhibit P-438 is an excerpt of a letter from the Charge d'Affaires A.I. of the Permanent Mission of Sierra Leone to the United Nations addressed to the Secretary General, dated 25 January 1999. In the letter, the President of Sierra Leone states that he knows for certain of five camps in Liberia in which rebels are trained to commit atrocities in Sierra Leone.<sup>15430</sup>

Prosecution Exhibit P-314

6871. Exhibit P-314 is a humanitarian situation report on Sierra Leone prepared by UN Office for the Coordination of Humanitarian Affairs, dated 18 May 1999 to 11 June 1999. The report documents that the security situation in Sierra Leone has substantially improved following the beginning of the ceasefire on 24 May 1999, however there were still incidents across the country and the humanitarian situation is still a cause for concern.<sup>15431</sup>

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Coordination Of Humanitarian Affairs, Unnumbered Paragraphs 2 and 3 On Page 1, Unnumbered Paragraph 3 and 4 On Page 4, Unnumbered Paragraph 3 and 4 On Page 5”.

<sup>15429</sup> Exhibit P-313, “UN Security Council, Sixth Report Of the Secretary-General On the United Nations Observer Mission in Sierra Leone, S/1999/645, 4 June 1999, Paragraphs 5-7, 9, 19-20, 28-33, 40 (Part), 48 B (Part), 63, 64 (Part), 69 - 00012323, 00012326 – 00012332”, pp. 6-9, ERN 12327-12330.

<sup>15430</sup> Exhibit P-438, “Excerpts from: United Nations Security Council, Letter dated 19 January 1999 from the Charge d'Affaires A.I. of the Permanent Mission of Sierra Leone to the United Nations addressed to the Secretary General, S/1999/73, 25 January 1999”, p. 2.

<sup>15431</sup> Exhibit P-314, “Sierra Leone Humanitarian Situation Report, 18 May - 11 June 1999, UN Office for the Coordination Of Humanitarian Affairs, first bullet point in unnumberes paragraph 4 on page 2, third bullet point in unnumbered paragraph 1”.



Defence Exhibit D-347

6872. Exhibit D-347 is the Official Journal of the Economic Community of West African States (ECOWAS), dated August 1999. The journal includes a decision on the new ECOMOG mandate in Sierra Leone.<sup>15432</sup>

Prosecution Exhibit P-315

6873. Exhibit P-315 is a humanitarian situation report on Sierra Leone prepared by UN Office for the Coordination of Humanitarian Affairs, dated 3 October 1999 to 9 October 1999. The report states that the security situation in Sierra Leone has seen no further improvement and documents what is being done to improve the humanitarian situation.<sup>15433</sup>

Defence Exhibit D-400

6874. Exhibit D-400 is a summary of the meeting between Presidential Special Envoy Jesse Jackson and Charles Taylor, dated 19 May 2000. At the meeting Taylor said the UN hostages release must not be conditioned on Foday Sankoh's fate or on changes to the Lomé Agreement and that Taylor does not control the RUF, nor is the Liberian Government involved in diamond smuggling or arms trafficking.<sup>15434</sup>

Defence Exhibit D-248

6875. Exhibit D-248 is a final communiqué of the Summit of ECOWAS Heads of State Members of the Committee on Sierra Leone on the Lomé Agreement in Abuja, dated 9 May 2000. In the communiqué the Heads of State express their deep concern about the latest developments in Sierra Leone, in particular condemning the RUF who have taken hostage soldiers of the UN mission to Sierra Leone (UNAMSIL).<sup>15435</sup>

<sup>15432</sup> Exhibit D-347, "Official Journal of the Economic Community of West African States (ECOWAS), Vol. 36, August 1999 – DCT 281 (4 pp.)".

<sup>15433</sup> Exhibit P-315, "Sierra Leone Humanitarian Situation Report: 03-09 October 1999 UN Office For the Coordination Of Humanitarian Affairs, paras 1, 5 and 6 on p.1, part of unnumbered paragraph one on p. 2, paragraph on "child protection" on p. 4 - 00004165 – 00004166".

<sup>15434</sup> Exhibit D-400, "Unclassified: Unclassified Release in full, 19 May 2000 – ERN 0005828 to 0005842 – DCT 267 (15 pages) SE Jackson's May 19 meeting with Charles Taylor", pp. 2, 4, ERN R0005823, R0005830

<sup>15435</sup> Exhibit D-248, "Final Communiqué, Summit of ECOWAS Heads of State Members of the Committee on Sierra Leone on the Lomé Peace Agreement, Abuja, 9 May 2000 – DCT 96", p. 2.

Defence Exhibit D-252

6876. Exhibit D-252 is a final communiqué of the twenty-third summit of the Authority of Heads of State and Government in Abuja, dated 28 to 29 May 2000. In the communiqué the Heads of State and Government strongly condemned the taking of UNAMSIL soldiers hostage by the RUF, and expressed their gratitude to Charles Taylor for securing the release of a large number of the hostages.<sup>15436</sup>

Prosecution Exhibit P-331

6877. Exhibit P-331 is an Amnesty International report on rape and sexual violence in Sierra Leone, dated 29 June 2000. The report documents various cases of rape in Sierra Leone and its effects on the victims. Many girls were raped by the AFRC and RUF during the invasion of Freetown and many were abducted.<sup>15437</sup>

Prosecution Exhibit P-334

6878. Exhibit P-334 is an Amnesty International report, dated 31 August 2000. The report states that more than 5,000 children have fought as combatants in Sierra Leone's internal armed conflict. Most of the children have been abducted by both the armed opposition and forces fighting in support of the government. The children have been forced to kill and mutilate others. A further 5,000 children have been associated with rebel forces although not directly deployed in combat, and many of the girls have been raped and forced into sexual slavery. The figures are provided by the United Nations Children's Fund. Since 2000 the RUF have continued to abduct and forcibly recruit child combatants.<sup>15438</sup>

Prosecution Exhibit P-322

6879. Exhibit P-322 is a report of the Security Council mission to Sierra Leone, dated 16 October 2000. The report documents that most of the mission's interlocutors, and President Obasanjo, have no doubt that President Taylor exercised strong influence, even direct control, over the RUF. They further felt that the cause of many of Sierra Leone's problems

<sup>15436</sup> Exhibit D-252, "ECOWAS Silver Jubilee Anniversary, Final Communiqué of the Twenty-Third Summit of the Authority of the authority of Heads of State and Government, Abuja, 28-29 May 2000 – DCT 264", p. 7.

<sup>15437</sup> Exhibit P-331, "Amnesty International Report, Sierra Leone - Rape and Other Forms of Sexual Violence Against Girls and Women, 29 June 2000 (parts marked) - CMS PGS 23194 – 23197".

<sup>15438</sup> Exhibit P-334, "Amnesty International Report, Sierra Leone: Childhood - A Casualty of Conflict, 31 August

lay in the support provided to the RUF by President Taylor. Taylor denied these activities.<sup>15439</sup>

#### Prosecution Exhibit P-023

6880. Exhibit P-023 is a copy of a letter from Charles Taylor to the UN Secretary-General, dated 24 January 2001. In the letter, Taylor responds to allegations of the Liberian Government's involvement in the sale of illicit diamonds from Sierra Leone, in exchange for supplying war materiel to the RUF. Taylor denies all such allegations. Taylor requests that the Security Council establish a panel to investigate any large personal funds of Taylor's which could be attributable to diamond sales. If such funds are found, Taylor will resign as President of Liberia.<sup>15440</sup>

#### Prosecution Exhibit P-024

6881. Exhibit P-024 is a copy of a letter from the Liberian Minister of Foreign Affairs, Monie Captan, to the Chairman of the Security Council Committee, dated 23 April 2001.<sup>15441</sup> The letter includes a list of individuals subject to Security Council resolution 1343 (2001) who were not in Liberia at the time of the adoption of the resolution or subsequent.

#### Prosecution Exhibit P-077

6882. Exhibit P-077 documents crimes in Sierra Leone which included mutilations, amputations, destruction of houses and killings.<sup>15442</sup>

#### Deliberations

6883. The Accused testified that prior to becoming President, he was not following whether crimes were committed by the RUF in Sierra Leone and did not hear about murders and amputations committed during "Operation Stop Election" in 1996.<sup>15443</sup> The Accused

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2000, pages 1 and 15 - CMS PGS 23342 – 23356".

<sup>15439</sup> Exhibit P-322, "UN Security Council, Report of the Security Council to Sierra Leone, S/2000/992, 16 October 2000 - CMS PGS 21726, 21742 - 21743, 21747", pp. 5-7, ERN 00102114-00102116.

<sup>15440</sup> Exhibit P-023, "Letter to the Security Council dated 24 January 2001 from the Permanent Representative of Liberia to The United Nations addressed to The Secretary General", ERN 00100018.

<sup>15441</sup> Exhibit P-024, "Letter from the Charge d'Affaires a.i. of the Permanent Mission to the UN addressed to the President of the Security Council, dated 18 May 2001", ERN 00100001.

<sup>15442</sup> Exhibit P-077 (confidential).

<sup>15443</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32375-32379.

further testified that, upon becoming President, he was aware of “problems” in Sierra Leone,<sup>15444</sup> but that he did not seek to know precisely who was committing these crimes, as he was not running Sierra Leone.<sup>15445</sup>

6884. The Trial Chamber recalls its findings that the relationship of the Accused with the RUF from 1989 until he became President was much closer than he admitted.<sup>15446</sup> The Accused knew that during the early war of Sierra Leone, RUF soldiers, under the command of NPFL officers, abducted civilians including children, forcing them to fight within the NPFL/RUF forces against the Sierra Leonean forces and ULIMO.<sup>15447</sup> The Trial Chamber has found that while the relationship between the Accused and the RUF significantly waned after June 1992, contacts and cooperation between the Accused and Sankoh nonetheless continued after 1992.<sup>15448</sup> Thus, the Trial Chamber, relying on Kamara’s testimony, found that the Accused was aware that the RUF captured civilians and looted money during the attack of Sierra Rutile, and he advised Sankoh on the use of the hostages and the money.<sup>15449</sup>

6885. The Trial Chamber finds that contrary to the statement of the Accused that he did not know precisely who was committing the crimes, by late August 1997, when he had been inaugurated President of Liberia, he was undoubtedly informed of the crimes committed by the RUF during the past years of the Sierra Leonean civil war<sup>15450</sup> and of the ongoing crimes committed by the Junta Government. Indeed, the Accused testified that, upon becoming President, he received daily briefings from his national security advisor, which would include press and intelligence reports regarding the situation in Sierra Leone.<sup>15451</sup> It is undisputed that following his election, the Accused joined the ECOWAS Committee of Four, making it the Committee of Five, and he would therefore have received and read ECOWAS reports.<sup>15452</sup>

<sup>15444</sup> Charles Ghankay Taylor, Transcript 25 November 2009, p. 32378.

<sup>15445</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32378-32379, pp. 32385-32387; Transcript 26 November 2009, pp. 32576-32577; Transcript 14 January 2010, pp. 33386-33388

<sup>15446</sup> Pre-Indictment Period (1988-1996).

<sup>15447</sup> Pre-Indictment Period (1988-1996): The Invasion of Sierra Leone.

<sup>15448</sup> Pre-Indictment Period (1988-1996): Conclusion.

<sup>15449</sup> Pre-Indictment Period (1988-1996): Sierra Rutile.

<sup>15450</sup> Especially the atrocities committed during Operation Stop Election.

<sup>15451</sup> Charles Ghankay Taylor, Transcript 14 July 2009, p. 24333; Transcript 8 September 2009, pp. 28265-28268; Transcript 16 November 2009, p. 31713; Transcript 14 January 2010, p. 33382; Transcript 18 January 2010, p. 33441; Transcript 26 January 2010, pp. 34130-34133.

<sup>15452</sup> Defence Final Trial Brief, paras 364, 486, 854; Charles Ghankay Taylor, Transcript 27 July 2009, pp.

6886. The Trial Chamber notes that the numerous reports prepared in 1997 by ECOWAS and the United Nations agencies, establish that, as early as May 1997, the crimes committed by the Junta were significantly reported by international organisations. A report dated 4 to 5 June 1997, the United Nations Department of Humanitarian Affairs cited killings of civilians, amputations and looting in Sierra Leone. The report also mentioned the hostage taking and the release of the Sierra Leonean Ambassador by RUF commander, Sam Bockarie, “who masterminded the operation”.<sup>15453</sup> An ECOWAS report of the Committee of Four on the situation in Sierra Leone dated 26 August 1997 described the “massive looting of property, murder and rapes” following the coup by the RUF and sections of the SLA against Kabbah’s government on 25 May 1997.<sup>15454</sup> The final report of the sixteenth meeting of ECOWAS Chiefs of State in Abuja, Nigeria, dated 26 to 27 August 1997, a meeting in which the Liberian representative participated, also describes “a very bloody coup, followed by massive looting and vandalisation of public and private properties and the opening of the prisons by the junta”.<sup>15455</sup> In a speech to the Nation on 18 June 1997, the RUF forces themselves apologised for the atrocities they have committed in Sierra Leone, including killings and rapes.<sup>15456</sup>

6887. Following the coup, on 29 August 1997, ECOWAS decided to place a total embargo on all supplies of petroleum products, arms and military equipment to Sierra Leone.<sup>15457</sup> Similarly, on 8 October 1997, the United Nations Security Council decided to impose an embargo on arms and ammunitions to Sierra Leone.<sup>15458</sup> These embargos clearly indicate that already by August 1997, the Junta was perceived by the international community as a threat to peace, and it was recognized that any military support could facilitate the commission of the crimes described above.

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25308-25309; Transcript 28 July 2009, pp. 25416-25417, 25437.

<sup>15453</sup> Exhibit P-297, “Sierra Leone Humanitarian Situation Report 04-05 June 1997, UN Department of Humanitarian Affairs, Paragraphs 1, 2, 5 - 00004088 - 00004089 (CMS PGS 21395 - 21396)”.

<sup>15454</sup> Exhibit D-135, “ECOWAS, Report of the Committee of Four on the Situation in Sierra Leone, 26 August 1997 – DCT 32”.

<sup>15455</sup> Exhibit D-136, “ECOWAS, Final Report, Sixteenth Meeting of ECOWAS Chiefs of State, Abuja, Nigeria, 26–27 August 1997 – DCT 76 (27 pages)”.

<sup>15456</sup> Exhibit P-057, “Transcript of the RUF Speech to the Nation Delivered on SLBS on 18 June 1997 - 00009769 – 00009771”.

<sup>15457</sup> Exhibit D-340, “Official Journal of the Economic Community of West African States (ECOWAS), Vol. 33, 29 August 1997, Article 2 (Article 2: Member States hereby place a general and total embargo on all supplies of petroleum products, arms and military equipment to Sierra Leone . They shall also abstain from transacting any business of a commercial nature with that country); *See also Prosecutor v. Taylor*, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007, p. 10 (Fact AC).

6888. The Accused was evasive in his testimony as to what and when he knew about the crimes being committed in Sierra Leone. In light of these contemporary reports, considering the fact that the situation in Sierra Leone had a direct impact on the Liberian situation,<sup>15459</sup> considering the embargos on arms and military equipments to Sierra Leone, and considering the fact that the Accused received daily briefings from his national security advisor about the international situation,<sup>15460</sup> and was a member of the ECOWAS Committee of Five, the Trial Chamber finds the Accused's assertion that he did not know precisely who was committing the crimes in Sierra Leone<sup>15461</sup> to be unbelievable. The sole reasonable inference that can be drawn from this evidence is that as early as August 1997, the Accused, as President of Liberia and a member of the ECOWAS Committee of Five, was informed in detail of the crimes committed by the AFRC/RUF members during the Junta period, including murder, abduction of civilians including children, rape, amputation and looting. He would therefore have been aware of the likelihood that the AFRC/RUF would commit similar crimes in the future.

6889. The evidence on record unequivocally demonstrates that after 1997, the media coverage of the AFRC/RUF's crimes and terror campaign against the Sierra Leonean civilian population increased. Many reports and articles by international organisations, non-governmental organisations and newspapers admitted into evidence describe the atrocities committed by the AFRC/RUF troops after the ECOMOG Intervention and the end of the Junta Government.<sup>15462</sup> These reports demonstrate that at that time, it was public knowledge

<sup>15458</sup> Exhibit P-069, "United Nations Security Council Resolution 1132, 8 October 1997", p. 2.

<sup>15459</sup> See for example Exhibit D-135, "ECOWAS, Report of the Committee of Four on the Situation in Sierra Leone, 26 August 1997, p. 1 ("This situation also posed a special threat to peace in Liberia"); Exhibit D-136 "ECOWAS, Final Report, Sixteenth Meeting of ECOWAS Chiefs of State, Abuja, Nigeria, 26-27 August 1997", p. 6 ("Delivering a statement, His Excellency, Mr Joe Bleil, the Sierra Leone High Comm'lssioner to Nigeria, representing the legitimate Government of Sierra Leone headed by Ahmad Tejan Kabbah [...] reiterated his country's support for ECOWAS objectives in Sierra Leone and reminded the meeting that without peace in Sierra Leone, the recently-won peace in Liberia would continue to be threatened").

<sup>15460</sup> Charles Ghankay Taylor, Transcript 14 July 2009, p. 24333; Transcript 8 September 2009, pp. 28265-28270; Transcript 3 November 2009, p. 31053, Transcript 16 November 2009, p. 31713; Transcript 14 January 2010, p. 33382-33384, 33429; Transcript 18 January 2010, pp. 33406-33407, 33441; Transcript 26 January 2010, pp. 34130-34133.

<sup>15461</sup> Charles Ghankay Taylor, Transcript 25 November 2009, pp. 32378-32379, 32385-32387; Transcript 26 November 2009, pp. 32576-32577; Transcript 14 January 2010, pp. 33386-33388.

<sup>15462</sup> See for example Exhibit P-078, "Sierra Leone 1998 - A year of atrocities against civilians, Amnesty International Report", p. 1 ("During 1998 the scale of atrocities against civilians in Sierra Leone has reached unprecedented levels. Several thousand unarmed civilians, including many women and children, have been deliberately and arbitrarily killed and mutilated by forces of the Armed Forces Revolutionary Council (AFRC) and the armed opposition Revolutionary Front (RUF) since February 1998"); Exhibit P-385, "Daily News, 20 February 1998" (reporting that "52 people burned alive as Junta goes on rampage"); Exhibit D-155, "UN

that AFRC/RUF forces committed the crimes of unlawful killings,<sup>15463</sup> sexual violence,<sup>15464</sup> physical violence,<sup>15465</sup> conscription and use of child soldiers,<sup>15466</sup> abduction and forced labour,<sup>15467</sup> looting,<sup>15468</sup> and terrorism.<sup>15469</sup>

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Security Council, Fourth Report of the Secretary General on the Situation in Sierra Leone, 18 March 1998” (mentioning widespread looting and reprisal killings which accompanied the junta’s expulsion); Exhibit P-304, “Sierra Leone Humanitarian Situation Report, 16-30 April 1998” (mentioning widespread mutilations and looting); Exhibit P-332, “Medecins sans Frontiers 1998 Report: Atrocities Against Civilians in Sierra Leone, 1 May 1998 (The report also documents instances of rapes and killings, including by being burned alive); Exhibit P-079, “Doctors without Borders/Medecins sans Frontieres (MSF) Press Release - Mutilation of Civilians on the increase in Sierra Leone, 5 May 1998” (executions, rapes and kidnappings); Exhibit P-130, “United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998” (The report condemns the actions of the Junta in Sierra Leone and states that they have been attacking towns and villages, terrorising local populations and extorting food from them. There have also been incidents of looting, property destruction, mutilations, rape, extrajudicial killings, arbitrary detentions (including for purposes of sexual abuse), torture and forced labour); Exhibit P-081, “Amnesty International Report, 24 July 1998,” p. 1, ERN 91 (“A deliberate and systematic campaign of killing, rape and mutilation - called by the AFRC and RUF “Operation no living thing” – has emerged since April 1998”), p. 3 (“Children have been particular victims of the violence and brutality in Sierra Leone. As well as being deliberately and arbitrarily killed, mutilated and maimed, thousands of children have been and continue to be abducted by AFRC and RUF forces and forced to fight. Girls and women have been systematically raped and forced into sexual slavery); Exhibit P-080, “UN Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998” (The report condemns the actions of the rebels in Sierra Leone. Such actions have included the destruction of property, the use of human-shields, rapes, executions, mutilations and the taking of civilian captives); Exhibit D-169, “UN Security Council, Second Progress Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1998/960, 16 October 1998” (The report documents that following the arrest of Foday Sankoh, the RUF announced, on 17 August 1998, a terror campaign against the civilian population, CDF and ECOMOG if the Government failed to release Sankoh within seven days).

<sup>15463</sup> Counts 2 and 3 of the Indictment: Exhibit P-297, “Sierra Leone Humanitarian Situation Report 04-05 June 1997, UN Department of Humanitarian Affairs, Paragraphs 1, 2, 5 - 00004088 – 00004089” (reporting killings of civilians); Exhibit P-057, “Transcript of the RUF Speech to the Nation Delivered on SLBS on 18 June 1997 - 00009769 – 00009771” (“We looked at our brothers and killed them in cold blood [...] we slaughtered our mothers and butchered our fathers”); Exhibit D-135, “ECOWAS, Report of the Committee of Four on the Situation in Sierra Leone, 26 August 1997 – DCT 32” (describing murders committed by AFRC/RUF’s forces); Exhibit P-069, “United Nations Security Council Resolution 1132, 8 October 1997”, p. 2 (“gravely concerned at the continued violence and loss of life in Sierra Leone”); (“reporting AFRC and RUF’s crimes , including killings [...] and extra-judicial executions”); Exhibit P-078, “Sierra Leone 1998 – A year of atrocities against civilians, Amnesty International Report”, pp. 1-31 (The report documents the human rights violations committed by the AFRC and RUF after the military coup, including killings, extra-judicial executions); Exhibit P-303, “Sierra Leone: Humanitarian Situation Report, 98.02.17., 21 January - 12 February 1998, Paragraphs 1 (part), 3, 9, 16 (A) - CSM PGS - 21422 – 21424” (“AFRC casualties are known to be high and many civilians have been killed and injured”); Exhibit P-385, “52 people burned alive as Junta goes on rampage, Daily News, dated 20 February 1998 – ERN 22658-22659”; Exhibit D-155, “UN Security Council, Fourth Report of the Secretary General on the Situation in Sierra Leone, S/1998/2449, 18 March 1998 – DCT 189 (11 pages)” (The report describes the intervention by ECOMOG in Freetown on 13 February 1998 and the reprisal killings which accompanied the junta’s expulsion); Exhibit P-332, “Medecins sans Frontiers 1998 Report: Atrocities Against Civilians in Sierra Leone, 1 May 1998, pages 1 to 4 - CMS PGS 23204 – 23207” (The report documents instances of killings, including by being burned alive); Exhibit P-130, “United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998 - 00004201 – 00004217”, p. 15, para. 81, ERN 4215 (Reporting the commission of extra judicial killings); Exhibit P-081, “Amnesty International Report, 24 July 1998, p. 1, ERN 91 (describing “a deliberate and systematic campaign of killing called by the AFRC and RUF” [...] “Although the exact number of those killed in recent months is unknown, it is likely to be several thousand, many of them women and children. More than 200 people were killed during an attack on one village alone”); Exhibit P-080, “UN Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998 – 00012386 – 00012400”,

ERN 12386 (reporting executions of civilians); Exhibit P-341A, "BBC Focus on Africa Clip, 22 December 1998;" Exhibit P-342B, "BBC Focus on Africa Transcript, 22 December 1998", p. 23590 (Explaining on BBC that during their attack on 22 December 1998 the RUF rebels killed civilians).

<sup>15464</sup> Counts 4, 5 and 6 of the Indictment: Exhibit P-057, "Transcript of the RUF Speech to the Nation Delivered on SLBS on 18 June 1997 - 00009769 - 00009771" ("we removed our sisters from their hiding places to undo their femininity"); Exhibit D-135, "ECOWAS, Report of the Committee of Four on the Situation in Sierra Leone, 26 August 1997 - DCT 32" ("following the coup against the government of President Kabbah on 25 May 1997 by sections of the Sierra Leonean military and the RUF [...] rape became the order of the day"); Exhibit P-078, "Sierra Leone 1998 - A year of atrocities against civilians, Amnesty International Report", pp. 1-31 ("Women and girls have been systematically raped"); Exhibit P-332, "Medecins sans Frontiers 1998 Report: Atrocities Against Civilians in Sierra Leone, 1 May 1998, pages 1 to 4 - CMS PGS 23204 - 23207" (The report also documents instances of rapes); Exhibit P-332, "Medecins sans Frontiers 1998 Report: Atrocities Against Civilians in Sierra Leone, 1 May 1998, pages 1 to 4 - CMS PGS 23204 - 23207" (reporting rapes); Exhibit P-130, "United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998 - 00004201 - 00004217", p. 15, para. 81, ERN 4215 (reporting rapes); Exhibit P-081, "Amnesty International Report, 24 July 1998, p. 1, ERN 91 (describing a deliberate and systematic campaign of rape by the AFRC and RUF since April 1998)"[...] "Women and girls have been raped or suffered other forms of sexual assault") Exhibit P-081, "Amnesty International Report, 24 July 1998, p. 3, ERN 91 ("Girls and women have been systematically raped and forced into sexual slavery"); Exhibit P-081, "UN Special Conference on Sierra Leone: Protection of Human Rights Must be a Priority for the International Community, Amnesty International, 24 July 1998" (reporting that children have been abducted by RUF/AFRC rebels and forced to fight or forced into sexual slavery"); Exhibit P-080, "UN Security Council - First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998 - 00012386 - 00012400", ERN 12386 (The report condemns the rapes committed by the rebels in Sierra Leone).

<sup>15465</sup> Counts 7 and 8 of the Indictment: *See footnote on Unlawful killings*; See also Exhibit P-297, "Sierra Leone Humanitarian Situation Report 04-05 June 1997, UN Department of Humanitarian Affairs, Paragraphs 1, 2, 5 - 00004088 - 00004089" (CMS PGS 21395 - 21396) (reporting amputations); Exhibit P-300, "Sierra Leone Humanitarian Situation Report 08-14 July 1997, UN Department of Humanitarian Affairs, Paragraph 7 - 00004093 (CMS PGS 21409)" ("President Kabbah urged the AFRC to step down to spare the people of Sierra Leone further pain and suffering"); Exhibit P-301, "Statement by the President of the Security Council" 6 August 1997, pp. 1-4 (CMS 21405-21406) ("The United Nations Security Council condemned the continuing violence and threats of violence by the junta towards the civilian population, foreign nationals and personnel of the ECOWAS monitoring group, and calls for an end to such acts of violence"); Exhibit P-069, "United Nations Security Council Resolution 1132, 8 October 1997", p. 2 ("The Security Council condemned the situation in Sierra Leone as a threat to the peace and states it is gravely concerned at the continued violence and loss of life in Sierra Leone"); Exhibit P-078, "Sierra Leone 1998 - A year of atrocities against civilians, Amnesty International Report", pp. 1-31 ("The report documents the human rights violations committed by the AFRC and RUF after the military coup, including killings and torture" [...] "From April 1998 reports emerged of civilians suffering mutilations such as crude amputations of their feet, hands, arms, lips or ears"); Exhibit P-303, "Sierra Leone: Humanitarian Situation Report, 98.02.17., 21 January - 12 February 1998, Paragraphs 1 (part), 3, 9, 16 (A) - CSM PGS - 21422 - 21424" ("AFRC casualties are known to be high and many civilians have been killed and injured"); Exhibit P-304, "Sierra Leone Humanitarian Situation Report, 16-30 April 1998, Paragraphs 1, 5 (Part), 6 - CSM PGS 21428 - 21429" ("The report documents that the fighting between ECOMOG and the RUF/Junta is creating a severe humanitarian situation. It includes summary reports on victims of the violence, including widespread mutilations"); Exhibit P-332, "Medecins sans Frontiers 1998 Report: Atrocities Against Civilians in Sierra Leone, 1 May 1998, pages 1 to 4 - CMS PGS 23204 - 23207 (The report states there has been an alarming increase in the number of mutilations); Exhibit D-175, "UN Security Council, Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/1176, 16 December 1998 - DCT 102" (The report documents the widespread rebel attacks on civilian populations, involving decapitations and amputations); Exhibit P-356B, "Transcript - BBC Focus on Africa, Clip from Track 2 - D000507, 22 January 1999", p. 23628 (The journalist reported widespread amputations).

<sup>15466</sup> Count 9 of the Indictment: Exhibit P-078, "Sierra Leone 1998 - A year of atrocities against civilians, Amnesty International Report", pp. 1-31 ("Hundreds of civilians, in particular children and young men and women, have been abducted by rebel forces"); Exhibit P-081, "Amnesty International Report, 24 July 1998, p. 3, ERN 91 ("thousands of children have been and continue to be abducted by AFRC and RUF forces and forced to fight" [...] "In June 1998 the UN Security Council, condemning the abduction, sexual abuse and recruitment and use in hostilities of children, said that it would pay serious attention to the situation of children affected by



armed conflict"); Exhibit P-334, "Amnesty International Report, Sierra Leone: Childhood - A Casualty of Conflict, 31 August 2000, pages 1 and 15 - CMS PGS 23342 - 23356" (The report states that more than 5,000 children have fought as combatants in Sierra Leone's internal armed conflict. Most of the children have been abducted by both the armed opposition and forces fighting in support of the government. The children have been forced to kill and mutilate others. A further 5,000 children have been associated with rebel forces although not directly deployed in combat, and many of the girls have been raped and forced into sexual slavery. The figures are provided by the United Nations Children's Fund. Since 2000 the RUF have continued to abduct and forcibly recruit child combatants).

<sup>15467</sup> Count 10 of the Indictment: Exhibit P-080, "UN Security Council - First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998 - 00012386 - 00012400", ERN 12386 (The report condemns the actions of the rebels in Sierra Leone including the taking of civilian captives); Exhibit D-175, "UN Security Council, Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/1176, 16 December 1998 - DCT 102" (The report documents the widespread rebel attacks on civilian populations, involving abduction); Exhibit P-079, "Doctors without Borders/Medecins sans Frontieres (MSF) Press Release - Mutilation of Civilians on the increase in Sierra Leone, 5 May 1998" (reporting kidnappings); Exhibit P-130, "United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998 - 00004201 - 00004217", P. 15, para. 81, ERN 4215 (reporting forced labour); Exhibit D-175, "UN Security Council, Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/1176, 16 December 1998 - DCT 102" (reporting widespread abductions); Exhibit P-357B, "Transcript - BBC Focus on Africa Clip from track 1 - D0000508, 23 January 1999 - CMS PGS 23629-23630" (reporting abductions); Exhibit P-313, "UN Security Council, Sixth Report Of the Secretary-General On the United Nations Observer Mission in Sierra Leone, S/1999/645, 4 June 1999, Paragraphs 5-7, 9, 19-20, 28-33, 40 (Part), 48 B (Part), 63, 64 (Part), 69 - 00012323, 00012326 - 00012332", pp. 6-9, ERN 00012327-00012330 (reporting abductions).

<sup>15468</sup> Count 11 of the Indictment: Exhibit P-297, "Sierra Leone Humanitarian Situation Report 04-05 June 1997, UN Department of Humanitarian Affairs, Paragraphs 1, 2, 5 - 00004088 - 00004089 (CMS PGS 21395 - 21396)" (The UN report details the humanitarian situation in Sierra Leone at the time, which included concerns about looting and shortage of basic amenities); Exhibit D-135, "ECOWAS, Report of the Committee of Four on the Situation in Sierra Leone, 26 August 1997 - DCT 32" (After the coup, "massive looting of property [...] became the order of the day"); Exhibit D-136, "ECOWAS, Final Report, Sixteenth Meeting of ECOWAS Chiefs of State, Abuja, Nigeria, 26-27 August 1997 - DCT 76 (27 pages)" ("The coup was very bloody and was followed by massive looting and vandalism of public and private properties and the opening of the prisons by the junta"); Exhibit D-155, "UN Security Council, Fourth Report of the Secretary General on the Situation in Sierra Leone, S/1998/2449, 18 March 1998 - DCT 189" (The report describes the intervention by ECOMOG in Freetown on 13 February 1998 and the widespread looting and some reprisal killings which accompanied the junta's expulsion); Exhibit P-304, "Sierra Leone Humanitarian Situation Report, 16-30 April 1998, Paragraphs 1, 5 (Part), 6 - CSM PGS 21428 - 21429" (the exhibit includes summary reports on victims of the violence, including widespread mutilations and looting); Exhibit P-130, "United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998 - 00004201 - 00004217", P. 15, para. 81, ERN 4215 (The report condemns the actions of the Junta in Sierra Leone and states that they have been attacking towns and villages, terrorising local populations and extorting food from them. The report also mention other incidents of looting); Exhibit D-175, "UN Security Council, Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/1176, 16 December 1998 - DCT 102" (reporting widespread looting); Exhibit P-341A, "BBC Focus on Africa Clip, 22 December 1998;" Exhibit P-342B, "BBC Focus on Africa Transcript, 22 December 1998", p. 23590 (reporting looting); Exhibit P-308, "UN Security Council, Special Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 7 January 1999", p. 21477 (reporting the looting and burning of properties).

<sup>15469</sup> Count 1 of the Indictment: See above; See also Exhibit P-130, "United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998 - 00004201 - 00004217", P. 15, para. 81, ERN 4215 (The report condemns the actions of the Junta in Sierra Leone and states that they have been attacking towns and villages, terrorising local populations and extorting food from them); Prosecution Exhibit P-306 and Defence Exhibit D-169, "UN Security Council, Second Progress Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1998/960, 16 October 1998 - DCT 170" (The report documents that following the arrest of Foday Sankoh, the RUF announced, on 17 August 1998, a terror campaign against the civilian population, CDF and ECOMOG if the Government failed to release Sankoh within seven days); Exhibit P-356B, "Transcript - BBC Focus on Africa, Clip from Track 2 - D0000507, 22 January 1999", p. 23628 ("rebels have reverted to their terror campaign of amputating civilians").

6890. The Accused himself admitted that by April 1998 if someone was providing support to the AFRC/RUF, he “would be supporting a group engaged in a campaign of atrocities against the civilian population of Sierra Leone”.<sup>15470</sup> At that time, the Accused testified, there were news reports of a “horrific campaign being waged against the civilian population in Sierra Leone”.<sup>15471</sup> In a joint communiqué with President Kabbah, dated 1 July 1998, the Accused “strongly condemned the continuing rebel activities in Sierra Leone, as well as the horrendous atrocities that had been committed there”.<sup>15472</sup>

6891. In light of the foregoing, the Trial Chamber is convinced that the Accused knew of the AFRC/RUF’s operational strategy and intent to commit crimes from the clear and consistent information he received after his election.

### Findings

6892. The Trial Chamber finds beyond reasonable doubt that the Accused was aware of the crimes committed by the RUF/AFRC forces against civilians, including murder, abduction of civilians including children, rape, amputation and looting, as early as August 1997 when he became President of Liberia.

<sup>15470</sup> Charles Ghankay Taylor, Transcript 25 November 2009, p. 32394 (“Q. Sir, let me ask you this: At this point - let's even get a date so it will be clear to you. Let's say by April 1998, was it clear to you that anyone who continued to provide support to the RUF and the AFRC would be supporting a group engaged in a campaign against the civilian population of Sierra Leone? A. Well, I would say no because I was not aware that I was not aware of anyone that was giving - as you put the question, giving support to be aware that anyone that would continue. So I really don't know how to answer this question”). But see p. 32395 (“Let's go back to my question because I don't believe you've answered it. The question is not whether you were aware of people providing support. The question is: If someone was providing support to the RUF/AFRC as of April 1998, they would be supporting a group engaged in a campaign of atrocities against the civilian population of Sierra Leone. Do you agree? A. Well, to an extent you could say yes, anybody that would supply would be doing it against the civilians, yes”).

<sup>15471</sup> Charles Ghankay Taylor, Transcript 8 September 2009, p. 28274 (“Q. Now, first of all, the date, May, at that time, Mr Taylor, were you aware that there was this horrific campaign being waged against the civilian population in Sierra Leone? A. May of 1998, yes, there were news reports of that, yes”).; Transcript 18 January 2010, p. 33403 (“Q. You would agree that an horrific campaign was being waged against civilians in Sierra Leone after the intervention? You would agree with that, would you not? A. Oh, yes. Oh, yes”).

<sup>15472</sup> Exhibit D-141, “Presidential Papers, Policies, Speeches, Statements and Record of the Activities of the Chief Executive of Liberia, 2 August 1997– December 31 1998 – DCT 256 (398 pages)”, p. 298, para. 3. *See also* Charles Ghankay Taylor, Transcript 3 August 2009, pp. 25799-25804”; Transcript 18 January 2010, pp. 33405-33406.

## IX. LEGAL FINDINGS ON RESPONSIBILITY

### A. Article 6.1 of the Statute

#### 1. Joint Criminal Enterprise

6893. The Indictment charges the Accused with individual criminal responsibility pursuant to Article 6.1 for the crimes referred to in Articles 2, 3, and 4 of the Statute as alleged in the Indictment, which crimes amounted to or were involved within a common plan, design or purpose in which the Accused participated, or were a reasonably foreseeable consequence of such common plan, design or purpose.<sup>15473</sup>

6894. The Prosecution submits that the Accused participated in a common plan, common criminal purpose or design, also known as joint criminal enterprise (JCE), to forcibly control the population and territory of Sierra Leone and to pillage its resources, in particular diamonds, by the use of criminal means, specifically a campaign of terror encompassing the Indictment crimes, with members of the RUF, AFRC/RUF, Taylor's Special Security Services (SSS), Anti Terrorist Unit (ATU), Armed Forces of Liberia (AFL), Liberia National Police (LNP), Special Operations Division (SOD), and officials in his government during his Presidency.<sup>15474</sup> Members of these groups were either participants in the common plan or were used by the Accused and other leaders and commanders as tools to implement and achieve the agreed JCE.<sup>15475</sup> The Prosecution further alleges that the Accused and the other members of the JCE shared the intent to commit the Indictment Crimes, and the Accused intended to participate in the common plan through criminal means - the commission of the Indictment Crimes.<sup>15476</sup>

6895. The Prosecution submits that prior to the NPFL invasion of Liberia, the Accused, Foday Sankoh and Kukoi Samba Sanyang a.k.a Dr Manneh (a Gambian dissident), at various meetings in Libya, Ouagadougou, Burkina Faso and Voinjama in Liberia, "formed common cause" whereby Sankoh and Dr Manneh agreed to assist Taylor in waging war in Liberia, and the Accused in return agreed to assist Dr Manneh and Sankoh to wage war in their respective countries. Thereafter, Sankoh's group and Dr Manneh's group assisted the

<sup>15473</sup> Indictment, para. 33.

<sup>15474</sup> Prosecution Final Trial Brief, paras 574-587.

<sup>15475</sup> Prosecution Final Trial Brief, para. 580.

Accused's NPFL in waging war against Liberia.<sup>15477</sup> The Prosecution further submits that the 1991 invasion of Sierra Leone was the prelude to the achievement of the ultimate objectives of the JCE and that thereafter, the Accused and other members of the JCE worked in unison throughout the Sierra Leone conflict to put the JCE into effect.<sup>15478</sup> The Prosecution further submits that the Accused's participation in the JCE through the provision of vital instruction, direction, guidance, materiel, manpower, communications capability, strategic command and other support, contributed significantly to the commission of the Indictment crimes, the survival of the other JCE participants and prolonged the conflict.<sup>15479</sup> Lastly, the Prosecution submits that the Accused and the other members of the JCE intended to participate in the common plan through criminal means, namely, the commission of the Indictment crimes.<sup>15480</sup>

6896. The Defence submits that the evidence as whole, including all the surrounding circumstances, fails to establish a JCE, as charged or at all, and that the Accused had nothing to do with and was not even aware of the crimes he is charged with. In the alternative, the Defence submits that if there was any common plan between Taylor and Sankoh, the plan was certainly not criminal and did not involve a campaign of terror against the people of Sierra Leone. Alternatively, it is submitted that that JCE would have ended in 1992 after the so called Top Final operation, and if not at that point, the JCE would in any event have ended when the AFRC Junta came to power in May 1997.<sup>15481</sup>

6897. In order to find the Accused guilty of committing the crimes charged in Counts 1 to 11 of the Indictment through participation in a Joint Criminal Enterprise, the Trial Chamber must be satisfied beyond reasonable doubt that the Accused participated in a common plan, design or purpose with others, which amounts to or involves the commissions of the crimes charged. The Accused's participation in the common plan must have made at least a "significant" contribution to the common purpose.<sup>15482</sup> Furthermore, for liability under the first form of JCE the Trial Chamber must be satisfied beyond reasonable doubt that the Accused both intended the commission of the crime and intended to participate in a common

<sup>15476</sup> Prosecution Final Trial Brief, paras 588-594.

<sup>15477</sup> Prosecution Final Trial Brief, paras 51-53.

<sup>15478</sup> Prosecution Final Trial Brief, paras 574-579.

<sup>15479</sup> Prosecution Final Trial Brief, paras 581-587.

<sup>15480</sup> Prosecution Final Trial Brief, paras 588-594.

<sup>15481</sup> Defence Final Trial Brief, paras 733-735.





plan aimed at its commission. For liability under the third form of JCE the Trial Chamber must be satisfied beyond reasonable doubt that the Accused both intended to take part in and contribute to the common plan and had sufficient knowledge that the additional crime might be perpetrated by a member of the group, or a person used by a member of the group, and willingly took the risk by continuing to participate in the common plan.<sup>15483</sup>

6898. The Trial Chamber recalls its Decision that “[t]he Prosecution has adequately fulfilled the pleading requirements of the alleged Joint Criminal Enterprise in the Second Amended Indictment, and has provided sufficient detail to put the Accused on notice of the case against him”. The Trial Chamber identified the “common purpose” of the alleged Joint Criminal Enterprise (JCE), as “a campaign to terrorize the civilian population of the Republic of Sierra Leone, of which the crimes charged in Counts 2-11 of the Indictment were either an integral part, or a foreseeable consequence thereof”.<sup>15484</sup> This decision was upheld by the Appeals Chamber.<sup>15485</sup>

6899. The Trial Chamber notes, however, that the Prosecution’s theory of JCE has evolved and shifted over the course of the proceedings. In its Final Trial Brief, the Prosecution alleges that the use of criminal means, a campaign of terror, encompassed the Indictment Crimes, “in order to achieve the ultimate objective of the JCE, to forcibly control the population and territory of Sierra Leone and to pillage its resources, in particular diamonds”.<sup>15486</sup> The Prosecution further contends that thereafter the joint actions of the Accused and other participants of the JCE were geared toward those dual objectives.<sup>15487</sup>

6900. The Trial Chamber has found that the Prosecution failed to prove that prior to 1996 the Accused, Foday Sankoh and Kukoi Samba Sanyang (a.k.a Dr Manneh), participated in any common plan involving the commission of the crimes alleged in the Indictment, nor that the alleged meetings in Libya, Burkina Faso and Voinjama, where the common plan is

<sup>15482</sup> Applicable Law: Law on Individual Criminal Responsibility.

<sup>15483</sup> Applicable Law: Law on Individual Criminal Responsibility.

<sup>15484</sup> *Prosecutor v. Taylor*, SCSL-2003-01-T-752, Decision on Urgent Defence Motion regarding a Fatal defect in the Prosecution’s Second Amended Indictment Relating to the Pleading of JCE, 27 February 2009, paras 70-76.

<sup>15485</sup> *Prosecutor v. Taylor*, SCSL-2003-01-T, Appeals Chamber Decision on Defence Notice of Appeal and Submissions Regarding The Majority Decision Concerning the Pleading of JCE in the Second Amended Indictment”, 1 May 2009 (“Taylor Appeal Decision on JCE Pleading”)

<sup>15486</sup> Prosecution Final Trial Brief, para. 574

<sup>15487</sup> Prosecution Final Trial Brief para. 575





alleged to have been established, ever took place.<sup>15488</sup> Furthermore, while the Trial Chamber found that the Accused provided significant operational and military support to the RUF during its 1991 invasion of Sierra Leone, the evidence does not indicate that this support was provided pursuant to a common plan within the context of a joint criminal enterprise.

6901. Subsequently, the nature of the relationship between the Accused and the RUF, and later the RUF/AFRC, evolved over time. While the relationship was a mutually beneficial one, the Trial Chamber is of the view that it was the expression of converging and synergistic interests, rather than “a common plan to terrorize the civilian population of Sierra Leone”. As these interests evolved, the relationship evolved accordingly.

6902. The Trial Chamber has found that although the Accused supported the creation of the RUF, providing training camps and other forms of support in the early 1990s, and that Taylor’s NPFL forces participated in the invasion of Sierra Leone in March 1991,, the Prosecution failed to prove beyond reasonable doubt that Taylor’s support for the 1991 invasion of Sierra Leone was undertaken pursuant to “a common purpose to terrorize the civilian population of Sierra Leone”. The evidence instead shows that the Accused and the RUF had common enemies, namely, ULIMO, a Liberian insurgency group in Sierra Leone and the Sierra Leone Government forces which supported ULIMO, and it was in the interest of the Accused and the RUF both to join forces against their common enemies.<sup>15489</sup>

6903. The Trial Chamber has also found that the Prosecution failed to prove its allegation that during this period the NPFL trained the RUF recruits in terror tactics in accordance with the JCE.<sup>15490</sup> In fact, Prosecution witnesses testified to the contrary, that training included the Geneva Convention protections for civilians in armed conflict.<sup>15491</sup> Moreover, it is clear that the RUF strongly opposed some of the crimes committed by NPFL soldiers against the Sierra Leonean civilian population leading to Top 20 and Top 40.<sup>15492</sup> For this reason, the Trial Chamber considers that even if there were joint military operations between the NPFL

<sup>15488</sup> Pre-Indictment Period (1988-1996).

<sup>15489</sup> Pre-Indictment Period (1988-1996): The Invasion of Sierra Leone.

<sup>15490</sup> Pre-Indictment Period (1988-1996).

<sup>15491</sup> See for example TF1-371, Transcript 24 January 2008, pp. 2185-2206 (CS); TF1-168, Transcript 21 January 2009 p. 23182 (CS); Transcript 23 January 2009, pp. 23395-23396 (CS). See also Pre-Indictment Period (1998-1996): Camp Naama..

<sup>15492</sup> TF1-371, Transcript 25 January 2008, pp. 2238-2239 (CS); Moses Blah, Transcript 14 May 2008, pp. 9860-9861; TF1-168, Transcript 21 January 2009, pp. 23211-23213 (CS); Yanks Smythe, Transcript 22 February 2010, p. 35678; Fayia Musa, Transcript 13 April 2010, pp. 38905-38912; DCT-292, Transcript 2 June 2010, pp.





and RUF in the early 1990s, which the evidence indicates there was, the Prosecution failed to establish they were undertaken pursuant to a joint criminal enterprise. Cooperation between the NPFL and RUF was limited in its purpose and it was military, not criminal, in its nature. Moreover, it continued only until Top Final in 1992, at which point, because of the criminal activities of the NPFL troops towards the Sierra Leonean citizens, and due to intensified attacks from ULIMO and the SLA, the cooperation ended with the withdrawal of the NPFL troops from Sierra Leone by the Accused. The Trial Chamber has found that the relationship between Taylor and the RUF significantly waned after Top Final but that the Accused provided low-level support to the RUF as it continued fighting in Sierra Leone, while the Accused was himself fighting in Liberia.<sup>15493</sup>

6904. The Trial Chamber observes that the relationship between the RUF and the Accused resumed a higher level of activity following the election of the Accused as President of Liberia in 1997. At this point, the Accused was in a position to play a significantly expanded role in Sierra Leone, both in terms of political and military support to the RUF. However, in the Trial Chamber's view the Prosecution failed to prove that this support was provided pursuant to "a common plan to terrorize the civilian population of Sierra Leone". Rather, the evidence relating to the support provided indicates that there was a *quid pro quo* in the relations between the RUF and the Accused. The trading of diamonds for arms is the clearest example of this *quid pro quo*, and a number of statements attributed to the Accused indicate the interest he had in providing weapons or facilitating the provision of weapons to the RUF in exchange for diamonds.<sup>15494</sup>

6905. In the Trial Chamber's view, this evidence clearly shows that the Accused and the RUF were military allies and trading partners, but it is an insufficient basis to find beyond reasonable doubt that the Accused was part of any JCE.

6906. The Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the Accused participated in a common plan, design or purpose which amounted to or involved the commission of a crime within the jurisdiction of the Court. For this reason the Trial Chamber finds the Accused not criminally responsible pursuant to Article 6.1 of

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41882-41893. See also Pre-Indictment Period (1998-1996): The Invasion of Sierra Leone..

<sup>15493</sup> Pre-Indictment Period (1998-1996): Conclusion.

<sup>15494</sup> Military Operations.



JL



the Statute for the Indictment crimes by virtue of having participated in a Joint Criminal Enterprise.

## 2. Aiding and Abetting

6907. The Indictment charges that the Accused, by his acts or omissions, is individually criminally responsible pursuant to Article 6.1 of the Statute for aiding and abetting the planning, preparation or execution of the crimes referred to in Articles 2, 3 and 4 of the Statute as alleged in the Indictment.<sup>15495</sup>

6908. In particular, the Prosecution submits that the Accused gave practical assistance, encouragement and moral support which had a significant and substantial effect on the commission of the Indictment crimes,<sup>15496</sup> in particular by providing “strategic instruction, direction, guidance, maintaining an effective RUF, AFRC/RUF alliance, providing vital arms and ammunition, manpower, creating and maintaining a linked communications network, providing safe haven, other support, and exercise of strategic command over these forces, either individually or in concert with or through the on-the-ground leaders of his proxy forces in Sierra Leone”.<sup>15497</sup> The Prosecution further submits that the Accused had the requisite knowledge or awareness that his conduct would substantially assist the RUF and RUF/AFRC to commit the crimes charged in Counts 1 to 11 of the Indictment.<sup>15498</sup>

6909. The Defence denies that the Accused is responsible for aiding and abetting the commission of any of the crimes charged in the Indictment. The Defence denies that the Accused provided any form of assistance to the RUF and submits that the Prosecution presented “fabricated and generalized stories ... [which] offer nothing truly substantive upon which the Trial Chamber can rely beyond a reasonable doubt to support a conviction”.<sup>15499</sup>

6910. In order to find the Accused criminally responsible pursuant to Article 6.1 of the Statute for aiding and abetting the planning, preparation or execution of the crimes charged in Counts 1 to 11 of the Indictment, the Trial Chamber must be satisfied beyond reasonable doubt that the Accused provided practical assistance, encouragement, or moral support

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<sup>15495</sup> Indictment, para.33.

<sup>15496</sup> Prosecution Final Trial Brief, paras 595-601

<sup>15497</sup> Prosecution Final Trial Brief, para. 49.

<sup>15498</sup> Prosecution Final Trial Brief, paras 600-601.

<sup>15499</sup> Defence Final Trial Brief, para. 1197.



which had a substantial effect upon the commission of the crimes (*actus reus*).<sup>15500</sup> Furthermore, the Trial Chamber must be satisfied beyond reasonable doubt that the Accused knew that his acts or omissions would assist the commission of the crime, or that he was aware of the substantial likelihood that his acts would assist the commission of the crime, and that the Accused was aware of the “essential elements” of the crime committed by the principal offender, including the state of mind of the principal offender (*mens rea*).<sup>15501</sup>

6911. Before turning to the various forms of assistance provided by the Accused to the RUF/AFRC, the Trial Chamber recalls its findings regarding the RUF/AFRC’s war strategy. Throughout the Indictment period, the operational strategy of the RUF and AFRC was characterized by a campaign of crimes against the Sierra Leonean civilian population, including murders, rapes, sexual slavery, looting, abductions, forced labour, conscription of child soldiers, amputations and other forms of physical violence and acts of terror.<sup>15502</sup> These crimes were inextricably linked to the strategy and objectives of the military operations themselves.<sup>15503</sup> The RUF/AFRC pursued a policy and strategy of committing crimes against the civilian population in order to achieve military gains, and also politically in order to attract the attention of the international community and to heighten their negotiating stance with the Sierra Leonean Government. This strategy entailing a campaign of terror against the civilian population is explicitly demonstrated by the overt names of their military campaigns, such as “Operation Pay Yourself”, “Operation No Living Thing” and “Operation Spare No Soul”. The Trial Chamber therefore considers that any assistance towards these military operations of the RUF and RUF/AFRC constitutes direct assistance to the commission of crimes by these groups.

6912. The Trial Chamber will now consider the various forms of assistance provided by the Accused to the AFRC/RUF and whether his conduct satisfies the *actus reus* and *mens rea* of aiding and abetting the crimes charged in the Indictment.

(a) Findings on the Physical Elements of Aiding and Abetting

(i) Arms and Ammunition

<sup>15500</sup> Applicable Law: Law on Individual Criminal Responsibility.

<sup>15501</sup> Applicable Law: Law on Individual Criminal Responsibility.

<sup>15502</sup> The War Strategy of the RUF/AFRC.

<sup>15503</sup> The War Strategy of the RUF/AFRC.

6913. The Prosecution submits that the Accused, both personally and through his subordinates, directly supplied and facilitated the supply of essential “materiel” (arms and ammunition) which substantially contributed to the RUF’s attacks and control of territory throughout the Indictment Period.<sup>15504</sup> In particular, the Prosecution alleges that the Accused provided a “steady stream” of materiel critical to a successful initial invasion and the subsequent expansion into Sierra Leone. Throughout the remainder of the conflict the Accused provided the RUF and RUF/AFRC with a wide variety of arms and ammunition. After access to the border was severely restricted, this assistance was most directly provided during the period from 1997 through 2001.<sup>15505</sup> The Prosecution contends that “the materiel provided contributed significantly to the crimes committed in Sierra Leone by the RUF, AFRC/RUF and/or Taylor’s Liberian fighters, enabling these forces to carry out their campaign of terror as charged in Counts 1-11 of the Indictment, in order to pillage the Sierra Leone diamonds and to forcibly control the people and territory of Sierra Leone”.<sup>15506</sup>

6914. The Prosecution submits that the materiel provided included AK-47 rifles, AK rounds, GPMG and rounds, grenades, anti-tank mines, anti-personnel mines, RPGs and RPG rockets, mortars, M203 guns, GMG, G3, LAR, LMG, Beretta rifles, SMGs and associated ammunition, BZTs, anti-aircraft guns, land mines and weapons used to shoot down ECOMOG Alpha jets a.k.a. “chasers”.<sup>15507</sup>

6915. The Defence denies that the Accused was in any way involved in the supply of military equipment to the RUF and AFRC during the Indictment Period. The Defence further submits that any assistance provided by sources in Liberia made no substantial contribution to the commission of the crimes pleaded in the Indictment because the RUF and RUF/AFRC’s primary sources of military equipment were in fact weapons captured from ECOMOG, from government stores when the groups acted as the Junta government and from arms trading with Guinea and former ULIMO combatants.<sup>15508</sup>

6916. The Trial Chamber has found that during the Indictment period, the Accused directly or through intermediaries supplied or facilitated the supply of arms and ammunition to the

<sup>15504</sup> Prosecution Final Trial Brief, para. 2.

<sup>15505</sup> Prosecution Final Trial Brief, para. 206.

<sup>15506</sup> Prosecution Final Trial Brief, para. 206.

<sup>15507</sup> Prosecution Final Trial Brief, para. 208.

<sup>15508</sup> Defence Final Trial Brief, paras 1033-1034, 1131.

RUF/AFRC. The Accused sent small but regular supplies of arms and ammunition and other supplies to the RUF from late 1997 to 1998 via his subordinates, and substantial amounts of arms and ammunition to the AFRC/RUF from 1998 to 2001.<sup>15509</sup> The Accused facilitated much larger shipments of arms and ammunition from third party states to the AFRC/RUF, including the Magburaka shipment of October 1997 and the Burkina Faso shipment of November/December 1998.<sup>15510</sup>

6917. The Trial Chamber has found that the arms and ammunition provided by the Accused were used by the RUF, AFRC, AFRC/RUF Junta or alliance, and Liberian fighters during various military offensives in which crimes were committed, including the Junta mining operations at Tongo Fields prior to the ECOMOG Intervention, "Operation Pay Yourself" and subsequent offensives in Kono District in 1998, and in the Freetown invasion in January 1999, and attacks on the outskirts of Freetown and the Western Area in late January to early February 1999.<sup>15511</sup> The Trial Chamber has found that arms and ammunition provided by the Accused were used by SAJ Musa and Denis Mingo (a.k.a. Superman) in attacks on Mongor Bendugu and Kabala shortly after Operation Fitti-Fatta in mid-1998, as well as by the AFRC group led by Alex Tamba Brima (a.k.a. Gullit), Hassan Papa Bangura (a.k.a. Bomb Blast), and Ibrahim Kamara (a.k.a. Bazzy) in their activities in the Koinadugu and Bombali Districts from June to October 1998.<sup>15512</sup> These operations involved widespread or systematic attacks on the civilian population and the commission of crimes, specifically acts of terrorism (Count 1); murder (Counts 2 and 3); rape (Count 4); sexual slavery (Count 5); outrages upon personal dignity (Count 6); cruel treatment (Count 7), other inhumane acts (Count 8); conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities (Count 9); enslavement (Count 10); and pillage (Count 11).

6918. The Trial Chamber finds beyond reasonable doubt that the provision and facilitation of these arms and ammunition by the Accused constituted practical assistance to the commission of crimes by the RUF and RUF/AFRC during the Indictment period. The Trial Chamber will now consider whether this assistance had a substantial effect on the commission of the Indictment crimes.

<sup>15509</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused.

<sup>15510</sup> Arms and Ammunition: Conclusion.

6919. The Trial Chamber has considered the Defence submission that any assistance provided by sources in Liberia made no substantial contribution to the commission of the crimes pleaded in the Indictment because the RUF and RUF/AFRC's primary sources of military equipment were in fact weapons captured from ECOMOG, from government stores when the groups acted as the Junta government and from arms trading with Guinea and former ULIMO combatants. The Trial Chamber is also mindful that the applicable law for aiding and abetting does not require that the Accused be the only source of assistance in order for his contribution to be substantial.<sup>15513</sup> The Chamber has found that in addition to receiving arms and ammunition from the Accused, the RUF, AFRC/RUF also obtained supplies from the existing stockpiles of the Kabbah Government when they took over power in May 1997, by capturing them from ECOMOG and UN peacekeepers, and through trade with ULIMO, AFL and ECOMOG commanders. However, these sources of materiel were of minor importance in comparison to that supplied or facilitated by the Accused.<sup>15514</sup> The Trial Chamber has found that the additional sources of supply which the RUF/AFRC had could not provide sufficient quantities of materiel to sustain the existence and military operations of the rebels.<sup>15515</sup>

6920. The Trial Chamber has also found that the RUF/AFRC in fact heavily and frequently relied on the materiel supplied and facilitated by the Accused. The depletion of RUF arms and ammunition was a problem which often prompted Bockarie and Sesay to turn to the Accused, and the Magburaka shipment is but one example of this.<sup>15516</sup> The Trial Chamber further recalls its finding that the materiel supplied by or facilitated by the Accused often contributed to and was causally linked to the capture of more supplies by the RUF and AFRC.<sup>15517</sup> The Trial Chamber has found that although there were instances in which the materiel that the Accused gave to the RUF/AFRC was more limited in quantity,<sup>15518</sup> on a number of occasions the arms and ammunitions which he supplied or facilitated were in fact indispensable for the RUF/AFRC military offensives. The materiel provided or facilitated by

<sup>15511</sup> Arms and Ammunition: Use of Materiel Supplied or Facilitated by the Accused.

<sup>15512</sup> Arms and Ammunition: Use of Materiel Supplied or Facilitated by the Accused.

<sup>15513</sup> Applicable Law: Law on Individual Criminal Responsibility. See also *Perišić* Trial Judgement, para. 1601.

<sup>15514</sup> Arms and Ammunition: Use of Materiel supplied or facilitated by the Accused.

<sup>15515</sup> Arms and Ammunition: Other Sources of Materiel.

<sup>15516</sup> Arms and Ammunition: Other Sources of Materiel.

<sup>15517</sup> Arms and Ammunition: Other Sources of Materiel

<sup>15518</sup> Arms and Ammunition: Allegations of Direct Supply by the Accused.

the Accused was critical in enabling the operational strategy of the RUF and the AFRC during the Indictment period.<sup>15519</sup>

6921. Accordingly, the Trial Chamber finds that the provision and facilitation of the supply of arms and ammunition to the RUF/AFRC had a substantial effect on the commission of crimes charged in the Indictment.

(ii) Military Personnel

6922. The Prosecution alleges that the Accused provided military personnel or ‘manpower’ to the RUF in the early 1990s and to the AFRC/RUF during the Junta period and throughout the Indictment period, from the NPFL and other organized groups in Liberia; by forcibly repatriating Sierra Leonean refugees and civilians living in Liberia; and, after he became President, from the AFL, SSS, ATU and LNP.<sup>15520</sup> The Prosecution submits that the provision of these personnel substantially contributed to the commission of the crimes charged in the Indictment.<sup>15521</sup>

6923. The Defence denies that the Accused sent manpower to the RUF or to the AFRC/RUF during the Indictment period which substantially contributed to the commission of crimes.<sup>15522</sup>

6924. The Trial Chamber has found that the Accused sent a group of approximately 20 ex-NPFL fighters who had been integrated into the Armed Forces of Liberia (“AFL”) to Sierra Leone. These 20 fighters fought in Karina and Kamalo in Bombali District in August/September 1998 as part of a group of 200 AFRC/RUF fighters. The 20 fighters were later on incorporated into the Red Lion Battalion, which was comprised of 200 fighters. The Red Lion Battalion formed part of a group of 1,000 AFRC/RUF fighters who participated in the invasion of Freetown and committed crimes during the course of military operations in December 1998/January 1999.<sup>15523</sup>

6925. The Trial Chamber further found that the Accused sent Abu Keita and 150 fighters known as the Scorpion Unit, to serve as a standby force in Sierra Leone, ready to protect

<sup>15519</sup> Arms and Ammunition: Other Sources of Materiel.

<sup>15520</sup> Prosecution Final Trial Brief, para. 282.

<sup>15521</sup> Prosecution Final Trial Brief, para. 599.

<sup>15522</sup> Defence Response to Prosecution Final Trial Brief, para. 48.

Liberia from attacks coming from Guinea. Bockarie integrated the Scorpion Unit into the RUF, a decision approved by Daniel Tamba (a.k.a. Jungle) on behalf of the Accused,<sup>15524</sup> and the reinforcements subsequently participated in the attack on Kono and Freetown, including the attack on Kenema. During this attack, crimes charged in Count 1 to 11 of the Indictment took place.

6926. The Trial Chamber further found that the Accused reorganized, armed and sent former SLA fighters who had retreated to Liberia back to Sierra Leone to fight in the Kono and Freetown operations, and these men participated in the attack on Kono in December 1998.<sup>15525</sup> The Trial Chamber has found that Liberian authorities and RUF/AFRC members recruited and forced Sierra Leonean refugees residing in Liberia to return to Sierra Leone to fight. However, the evidence did not establish that these civilians participated in attacks in Sierra Leone.

6927. The Trial Chamber finds that the provision of military personnel by the Accused constitutes practical assistance to the commission of crimes by the RUF/AFRC during the Indictment period. The Trial Chamber will now consider whether this assistance was substantial.

6928. The Trial Chamber notes that Abu Keita was a former ULIMO general and therefore a person with high-level military expertise. He was sent by the Accused with approximately 150 fighters, who were tasked with the important mission of defending Liberia in case of an incursion from Guinea.<sup>15526</sup> The Trial Chamber therefore considers that this was a relatively experienced military force, and that its subsequent inclusion within the ranks of the RUF and its deployment in the December 1998 attack on Kenema substantially contributed to the commission of crimes during the Freetown invasion.

6929. The Trial Chamber notes, with regard to the 20 AFL fighters who fought in the Red Lion Battalion that evidence was given to the effect that the Red Lion Battalion was an extremely fierce unit, which boosted the morale of the other RUF soldiers who were glad to

<sup>15523</sup> Provision of Military Personnel: Allegations Related to to the Red Lion Battalion.

<sup>15524</sup> Provision of Military Personnel: Scorpion Unit.

<sup>15525</sup> Provision of Military Personnel: Repatriation of Sierra Leoneans.

<sup>15526</sup> Provision of Military Personnel: Scorpion Unit.

fight alongside these soldiers.<sup>15527</sup> A witness explained that their fierceness was because most of the soldiers who were in the Red Lion Battalion “had no relations in Freetown, not like us who had family members in Freetown, so they didn't care”.<sup>15528</sup>

6930. The Trial Chamber finds that taken cumulatively, and in addition to the arms and ammunition provided by the Accused, the military personnel provided by the Accused constituted practical assistance which had a substantial effect on the commission of crimes by the RUF and RUF/AFRC.

(iii) Operational Support

6931. The Prosecution alleges that the Accused provided different forms of operational support to the RUF and RUF/AFRC including: providing communications equipment and training,<sup>15529</sup> logistical support, safe haven,<sup>15530</sup> financial assistance,<sup>15531</sup> an RUF Guesthouse in Monrovia<sup>15532</sup> and medical support.<sup>15533</sup> The Accused also provided herbalists to bolster fighters' confidence before the 'Fitti-Fatta' Operation, and 'facilitators' who served as security escorts for arms, ammunition and diamonds, drivers, messengers and liaisons between the Accused and the AFRC/RUF.<sup>15534</sup> The Prosecution submits that these forms of assistance ensured the “continued existence of these groups”,<sup>15535</sup> and thus substantially contributed to the commission of the crimes charged in the Indictment.<sup>15536</sup>

6932. The Defence acknowledges that there were certain instances in which the Accused provided operational support to the RUF and RUF/AFRC but submits that he did so in order to facilitate negotiations during the peace process and as such this assistance lacks any connection to the RUF/AFRC commission of crimes.<sup>15537</sup> The Defence further submits that

<sup>15527</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8319-8321.

<sup>15528</sup> Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8321.

<sup>15529</sup> Prosecution Final Trial Brief, paras 7, 49, 93-94, 307.

<sup>15530</sup> Prosecution Final Trial Brief, para. 329.

<sup>15531</sup> Prosecution Final Trial Brief, para. 335.

<sup>15532</sup> Prosecution Final Trial Brief, para. 333.

<sup>15533</sup> Prosecution Final Trial Brief, para. 338.

<sup>15534</sup> Prosecution Final Trial Brief, paras 283-306.

<sup>15535</sup> Prosecution Final Trial Brief, para. 329.

<sup>15536</sup> Prosecution Final Trial Brief, para. 599.

<sup>15537</sup> The Defence concedes that the Accused provided both Bockarie and Sesay with satellite phones but only in order to facilitate communications for the purposes of the peace negotiations. *See* Defence Final Trial Brief, paras 73, 97, 531, 538, 574, 699, 702, 934, 961, 998-1006, 1520. The Defence also agrees that an RUF Guesthouse was set up in Monrovia in October 1998 to ensure that the Government of Liberia could contact the





this assistance could not have substantially contributed to the crimes charged in the Indictment.<sup>15538</sup>

6933. The Trial Chamber has found that during the pre-Indictment period, NPFL radio operators and equipment were sent to Sierra Leone, and RUF fighters were trained by the NPFL radio operators in radio communications, with the knowledge of the Accused. The RUF continued to benefit into the Indictment period from the enhanced communications capacity that resulted from this assistance. However, as the acts of the Accused took place prior to the Indictment period, the Trial Chamber has not taken them into account in determining criminal responsibility.

6934. The Trial Chamber has found that the Accused also provided operational support to the RUF/AFRC during the Indictment period. The Accused provided satellite phones to Sam Bockarie and Issa Sesay and thus enhanced their capacity to plan, facilitate or order RUF military operations during which crimes were committed. The Trial Chamber notes that the Accused and Sam Bockarie communicated by a satellite phone in furtherance of the Freetown Invasion and other RUF/AFRC military activities during which crimes were committed.<sup>15539</sup>

6935. The Trial Chamber has found that on different occasions RUF members, including Foday Sankoh, Eddie Kanneh, Memunatu Deen and Dauda Aruna Fornie, used Liberian radio communication equipment in Monrovia to communicate with the RUF in Sierra Leone regarding arms shipments, diamond transactions and military operations.<sup>15540</sup> In addition to the equipment at the RUF Guesthouse, there is evidence that Base 1, the radio station at Benjamin Yeaten's home, was used for communications with Bockarie and later Sesay.<sup>15541</sup> The Trial Chamber notes its findings that these communications happened with the knowledge and approval of the Accused.<sup>15542</sup>

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RUF through their personnel at the house, again for the purposes of facilitating the peace process. *See* Defence Final Trial Brief, paras 1011-1012. The Defence further concedes that that during a difficult period, the Accused would allow injured RUF members to receive treatment in Liberia but states that this is a humanitarian assistance and not a support of the military effort. *See* Defence Final Trial Brief, para. 1186.

<sup>15538</sup> Defence Final Trial Brief, paras 989, 998, 1027.

<sup>15539</sup> Operational Support: Communications, Satellite Phones.

<sup>15540</sup> Operational Support: Communications, Use of Liberian Communications by the RUF.

<sup>15541</sup> Operational Support: Communications, Use of Liberian Communications by the RUF.

<sup>15542</sup> Operational Support: Communications, Use of Liberian Communications by the RUF; Operational Support: Communications, RUF and NPFL Codes and Communications.



6936. The Trial Chamber has also found that “448 messages” were sent by subordinates of the Accused in Liberia, with his knowledge, to warn the RUF of impending ECOMOG jet attacks on AFRC/RUF forces in Sierra Leone.<sup>15543</sup>

6937. The Trial Chamber finds that the communications support provided by the Accused to the RUF/AFRC constitutes practical assistance to the RUF/AFRC for the crimes committed during the course of their military operations throughout the Indictment period.

6938. The Trial Chamber has found that the Accused provided financial support to the RUF/AFRC. In most instances, these funds were given to individual RUF members for unspecified or personal use. After February 1998, the Accused gave funds to Bockarie of \$10,000 to \$20,000 at a time, on multiple occasions for the purchase of arms from ULIMO.<sup>15544</sup> The Accused also kept diamonds and money in “safekeeping” for the RUF/AFRC.<sup>15545</sup>

6939. The Trial Chamber found that the Accused also provided a guesthouse to the RUF in Monrovia, which was used by the RUF to facilitate the transfer of arms and funds from the Accused to the RUF and the delivery of diamonds from the RUF to the Accused.<sup>15546</sup>

6940. The Trial Chamber also found that during the Indictment period, the Accused provided the RUF/AFRC with security escorts, facilitation of access through checkpoints, and much needed assistance with transport of arms and ammunition by road and by air. This facilitation of road and air transportation of materiel, as well as security escorts, played a vital role in the operations of the RUF/AFRC during a period when an international arms embargo was in force.<sup>15547</sup>

6941. The Trial Chamber further found that throughout the Indictment period the Accused provided the RUF and RUF/AFRC with other forms of assistance which supported the well-functioning and continued existence of these groups. The Accused provided safe haven for RUF fighters during their retreat from Zogoda<sup>15548</sup> and medical support in Liberia for

<sup>15543</sup> Operational Support: Communications, “448” Warnings.

<sup>15544</sup> Operational Support: Support and Training, Financial Support; Arms and Ammunition: Allegations that the Accused Facilitated Supplies, Supplies from ULIMO.

<sup>15545</sup> Diamonds; Operational Support: Support and Training, Financial Support.

<sup>15546</sup> Operational Support: Provision of RUF Guesthouse in Monrovia.

<sup>15547</sup> Operational Support: Logistical Support.

<sup>15548</sup> Operational Support: Alleged Provision of Safe Havens.

treatment of wounded RUF fighters,<sup>15549</sup> as well as provision of goods such as food, clothing, cigarettes, alcohol and other supplies to the RUF. The Accused also sent “herbalists” who marked fighters in Buedu and Kono to “protect” them against bullets and bolster their confidence.<sup>15550</sup> Liberian forces also assisted the RUF/AFRC with the capture and return of deserters to Sierra Leone.<sup>15551</sup>

6942. The Trial Chamber notes that a common feature of all of the aforementioned forms of assistance is that they supported, sustained and enhanced the functioning of the RUF and its capacity to undertake military operations in the course of which crimes were committed. The Trial Chamber recalls its finding that the RUF and RUF/AFRC military campaign was inextricably linked to the commission of the crimes charged in the Indictment. Therefore, the Trial Chamber finds that these forms of operational support, including communications, logistics, and the RUF Guesthouse, which improved coordination and facilitated the trade for and vital flow of arms and ammunition to the RUF/AFRC, constitute practical assistance for the commission of crimes charged in Count 1 to 11 of the Indictment.

6943. Taken cumulatively, and having regard to the military support provided by the Accused to the AFRC/RUF, the Trial Chamber finds that the operational support provided by the Accused to the AFRC/RUF had a substantial effect on the commission of crimes charged in Count 1 to 11 of the Indictment.

(iv) Encouragement and Moral Support

6944. The Prosecution alleges that “throughout the conflict in Sierra Leone, Taylor continued to provide the leaders of the RUF, AFRC/RUF with strategic instruction, direction and guidance in relation to a range of political, military and other matters”.<sup>15552</sup> The Prosecution submits that through this action, the Accused substantially contributed to the commission of the crimes charged in the Indictment.<sup>15553</sup>

<sup>15549</sup> Operational Support: Support and Training, Alleged Medical and Other Support.

<sup>15550</sup> Operational Support: Support and Training, Alleged Provision of Herbalists.

<sup>15551</sup> Provision of Military Personnel: Alleged Cooperation in Return of Deserters to Sierra Leone.

<sup>15552</sup> Prosecution Final Trial Brief, para. 119.

<sup>15553</sup> Prosecution Final Trial Brief, para. 599.




6945. The Defence argues that the Accused “neither gave the RUF nor the Junta any instructions to carry out atrocities”,<sup>15554</sup> and denies any such contact between the Accused and the RUF and RUF/AFRC.<sup>15555</sup> The Defence further generally submits that the Prosecution’s evidence does not support a conviction for aiding and abetting.<sup>15556</sup>

6946. The Trial Chamber has considered the ongoing communication and consultation between the Accused and the RUF/AFRC leadership, and the ongoing advice and encouragement that the Accused provided to the RUF/AFRC.

6947. The Trial Chamber has found that the Accused advised Sankoh to participate in the Abidjan peace talks in 1996 in order to obtain arms and ammunition for the RUF, and that the RUF did obtain arms and ammunition in Abidjan. While pre-Indictment, the Trial Chamber considers this incident to show a pattern of conduct by the Accused that continued into and during the Indictment period.

6948. The Trial Chamber also found that in February 1998 the Accused told Johnny Paul Koroma to capture Kono and, after RUF/AFRC forces carried out two consecutive attacks on Koidu Town, subsequently told Bockarie that the RUF should keep control over this area for the purpose of maintaining the trade of diamonds for arms and ammunition.<sup>15557</sup> The Trial Chamber further found that the Accused advised Bockarie to recapture Kono in mid-June 1998 in order to mine diamonds which would be used to purchase arms and ammunition, following which the RUF carried out Operation Fitti-Fatta.<sup>15558</sup>

6949. The Trial Chamber also found that after the Intervention in 1998, the Accused told Bockarie that the RUF should construct or re-prepare the airfield in Buedu, so that arms and ammunitions can be shipped to RUF/AFRC controlled territory.<sup>15559</sup> The Trial Chamber has also found that in 1998, the Accused advised Sam Bockarie to open an RUF training base in Bunumbu, Kailahun District, known as “Camp Lion”.<sup>15560</sup>

<sup>15554</sup> Defence Final Trial Brief, para. 850.

<sup>15555</sup> Defence Final Trial Brief, para. 851.

<sup>15556</sup> Defence Final Trial Brief, para. 1197.

<sup>15557</sup> Military Operations: Operations in Kono (Early 1998).

<sup>15558</sup> Military Operations: Operation Fitti-Fatta.

<sup>15559</sup> Operational Support: Support and Training, Alleged Order to Build an Airfield in Buedu.

<sup>15560</sup> Operational Support: Support and Training, Bunumbu Training Camp.





6950. The Trial Chamber finds that by giving advice and direction to the RUF and RUF/AFRC on matters concerning or directly affecting their military strategy, the Accused encouraged and morally supported the commission of the crimes charged in the Indictment.

6951. The Trial Chamber notes that the Accused held a position of authority as an elder statesman and as President of Liberia. As such, he was accorded deference by the RUF and RUF/AFRC and, as demonstrated by the evidence, his advice was generally heeded by them. The Trial Chamber is therefore convinced that the approval, support and encouragement which the RUF and RUF/AFRC troops received from the Accused greatly boosted their confidence and morale when conducting military operations.

6952. Taken cumulatively, and considering the other forms of practical assistance which the Accused provided, the Trial Chamber finds beyond reasonable doubt that the Accused substantially contributed to the commission of the crimes charged in Counts 1 to 11 of the Indictment by rendering encouragement and moral support to the RUF and RUF/AFRC.

(b) Findings on the Mental Elements of Aiding and Abetting

6953. The Trial Chamber recalls that as early as August 1997, the Accused knew of the atrocities being committed against civilians in Sierra Leone by the RUF and RUF/AFRC forces and of their propensity to commit crimes. The Accused acknowledged that when he became the President of Liberia, he started receiving daily briefings from his national security advisor which would include press and intelligence reports regarding the situation in Sierra Leone.<sup>15561</sup> In addition to this, as a member of ECOWAS, the Accused was also privy to numerous reports which described the “massive looting of property, murder and rapes”<sup>15562</sup> that were being committed on the territory of Sierra Leone.<sup>15563</sup>

6954. The Trial Chamber further recalls that the Accused testified that at that time there were news reports of a “horrific campaign being waged against the civilian population in Sierra Leone”.<sup>15564</sup> In a statement dated July 1998, Taylor “strongly condemned the

<sup>15561</sup> Charles Ghankay Taylor, Transcript 14 July 2009, p. 24333; Transcript 8 September 2009, pp. 28265-28268; Transcript 16 November 2009, p. 31713; Transcript 14 January 2010, p. 33382; Transcript 18 January 2010, p. 33441; Transcript 26 January 2010, pp. 34130-34133.

<sup>15562</sup> Exhibit D-135, “ECOWAS, Report of the Committee of Four on the Situation in Sierra Leone, 26 August 1997 – DCT 32”.

<sup>15563</sup> Knowledge of the Accused.

<sup>15564</sup> Charles Ghankay Taylor, Transcript 8 September 2009, p. 28274; Transcript 18 January 2010, p. 33403.

continuing rebel activities in Sierra Leone, as well as the horrendous atrocities that had been committed there”.<sup>15565</sup>

6955. In light of the above, the Trial Chamber finds beyond reasonable doubt that the Accused knew that his support to the RUF/AFRC would provide practical assistance, encouragement or moral support to them in the commission of crimes during the course of their military operations in Sierra Leone. Nevertheless, he provided these groups with practical assistance, encouragement and moral support.

6956. The Trial Chamber also finds that the Accused was aware of the “essential elements” of the crimes he was contributing to, including the state of mind of the perpetrators. The Trial Chamber recalls the numerous contemporary public reports which described in detail and over a large period of time each of the crimes charged in Counts 1 to 11 of the Indictment.<sup>15566</sup> The Trial Chamber also notes that after 1997 there was increased media coverage on the RUF/AFRC terror campaign in Sierra Leone.<sup>15567</sup> Such reports on the

<sup>15565</sup> Charles Ghankay Taylor, Transcript 25 November 2009, p. 32439.

<sup>15566</sup> Knowledge of the Accused.

<sup>15567</sup> See for example Exhibit P-078, “Sierra Leone 1998 – A year of atrocities against civilians, Amnesty International Report”, p. 1 (“During 1998 the scale of atrocities against civilians in Sierra Leone has reached unprecedented levels. Several thousand unarmed civilians, including many women and children, have been deliberately and arbitrarily killed and mutilated by forces of the Armed Forces Revolutionary Council (AFRC) and the armed opposition Revolutionary Front (RUF) since February 1998”); Exhibit P-385, “Daily News, 20 February 1998” (reporting that “52 people burned alive as Junta goes on rampage”); Exhibit D-155, “UN Security Council, Fourth Report of the Secretary General on the Situation in Sierra Leone, 18 March 1998” (mentioning widespread looting and reprisal killings which accompanied the junta’s expulsion); Exhibit P-304, “Sierra Leone Humanitarian Situation Report, 16-30 April 1998” (mentioning widespread mutilations and looting); Exhibit P-332, “Medecins sans Frontiers 1998 Report: Atrocities Against Civilians in Sierra Leone, 1 May 1998” (The report also documents instances of rapes and killings, including by being burned alive); Exhibit P-079, “Doctors without Borders/Medecins sans Frontieres (MSF) Press Release - Mutilation of Civilians on the increase in Sierra Leone, 5 May 1998” (executions, rapes and kidnappings); Exhibit P-130, “United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998” (The report condemns the actions of the Junta in Sierra Leone and states that they have been attacking towns and villages, terrorising local populations and extorting food from them. There have also been incidents of looting, property destruction, mutilations, rape, extrajudicial killings, arbitrary detentions (including for purposes of sexual abuse), torture and forced labour); Exhibit P-081, “Amnesty International Report, 24 July 1998”, p. 1, ERN 91 (“A deliberate and systematic campaign of killing, rape and mutilation - called by the AFRC and RUF “Operation no living thing” – has emerged since April 1998”), p. 3 (“Children have been particular victims of the violence and brutality in Sierra Leone. As well as being deliberately and arbitrarily killed, mutilated and maimed, thousands of children have been and continue to be abducted by AFRC and RUF forces and forced to fight. Girls and women have been systematically raped and forced into sexual slavery); Exhibit P-080, “UN Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998” (The report condemns the actions of the rebels in Sierra Leone. Such actions have included the destruction of property, the use of human-shields, rapes, executions, mutilations and the taking of civilian captives); Exhibit D-169, “UN Security Council, Second Progress Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1998/960, 16 October 1998” (The report documents that following the arrest of Foday Sankoh, the RUF announced, on 17 August 1998, a terror campaign against the civilian population, CDF and ECOMOG if the Government failed to release Sankoh within seven days).



crimes taking place in Sierra Leone were at the core of discussions during meetings of the ECOWAS Committee of Five (later Committee of Six), of which the Accused was a member.

6957. In light of the above, the Trial Chamber finds that the Accused was also aware of the “essential elements” of the crimes committed by RUF and RUF/AFRC troops, including the state of mind of the perpetrators.

6958. In conclusion, the Trial Chamber is satisfied beyond reasonable doubt that the Accused possessed the necessary *mens rea* for aiding and abetting in relation to the crimes charged in Counts 1 to 11 of the Indictment.

(c) Finding on the Accused’s Criminal Responsibility for Aiding and Abetting the Crimes Charged in the Indictment

6959. For the foregoing reasons, the Trial Chamber finds beyond reasonable doubt that the Accused is criminally responsible pursuant to Article 6(1) of the Statute for aiding and abetting the commission of crimes set forth in Counts 1 through 11 of the Indictment.

### 3. Planning

6960. The Accused is charged with individual criminal responsibility pursuant to Article 6(1) of the Statute for planning the crimes referred to in Articles 2, 3 and 4 of the Statutes, as alleged in the Indictment.<sup>15568</sup>

6961. The Prosecution submits that the Accused, acting jointly with RUF, AFRC and Liberian subordinates, designed or organized the commission of crimes, at both the preparatory and execution phases, by designing a strategy for the AFRC Junta, the RUF and AFRC forces, including selecting strategic areas to attack and control, such as Kono and the capital Freetown, and organizing the delivery of arms and ammunition needed to carry out the attacks. The Prosecution submits that in all of his planning for war in Sierra Leone, the Accused was aware of the substantial likelihood that his planning would result in the commission of the crimes charged in the Indictment.<sup>15569</sup>

<sup>15568</sup> Second Amended Indictment, para.33.

<sup>15569</sup> Prosecution Final Trial Brief, para. 613.

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6962. The Defence submits that the evidence presented by the Prosecution is insufficient to establish that the Accused planned the commission of crimes alleged in the Indictment, or was aware of the substantial likelihood that such crimes would be committed, as part of the invasion of Freetown in January 1999. The Defence further submits that it was the AFRC, not the RUF, who planned and executed this attack.<sup>15570</sup>

6963. In order to find the Accused guilty of planning the crimes charged in Counts 1 to 11 of the Indictment, the Trial Chamber must be satisfied beyond reasonable doubt that the Accused, alone or with others, intentionally planned the criminal conduct constituting the crimes charged. While it is not a requirement that the crimes charged would not have been perpetrated but for the Accused's plan, it is necessary to demonstrate that the plan was a factor which substantially contributed to the commission of these crimes or underlying offences.<sup>15571</sup> Furthermore, the Trial Chamber must be satisfied beyond reasonable doubt that the Accused intended that a crime or underlying offence be committed in the execution of that plan, or that he was aware of the substantial likelihood that a crime or underlying offence would be committed in the execution of that plan.<sup>15572</sup>

(a) Findings on the Physical Elements of Planning

6964. The Trial Chamber recalls its finding that in November 1998, Sam Bockarie met with the Accused in Monrovia, where the two of them designed a plan for the RUF/AFRC forces to carry out a two-pronged attack on Kono and Kenema with the ultimate objective of reaching Freetown, releasing Foday Sankoh from prison and regaining control.<sup>15573</sup> The Accused emphasised to Bockarie that this military operation should be "fearful" in order to pressure the Government into negotiations for the release of Foday Sankoh.<sup>15574</sup> Upon returning to Sierra Leone in December 1998, Bockarie convened a meeting at Waterworks, in Kailahun District, where he conveyed this plan to RUF and AFRC commanders. At the end of the meeting Bockarie contacted the Accused via satellite phone. During the conversation, the Accused told Bockarie to use "all means" to capture Freetown.<sup>15575</sup>

<sup>15570</sup> Defence Final Trial Brief, para. 1340.

<sup>15571</sup> Applicable Law: Law on Individual Criminal Responsibility,.

<sup>15572</sup> Applicable Law: Law on Individual Criminal Responsibility.

<sup>15573</sup> Military Operations: The Freetown Invasion, The Plan.

<sup>15574</sup> Military Operations: The Freetown Invasion, The Plan.

<sup>15575</sup> Military Operations: The Freetown Invasion, The Plan.

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6965. The Trial Chamber recalls its finding that Bockarie had the idea to attack Freetown even before meeting with the Accused in Monrovia in November 1998. This is evident from Bockarie's prior request to the Accused to assist him in obtaining a large amount of arms and ammunition from Burkina Faso.<sup>15576</sup> However, the Trial Chamber notes that the actual plan which established the various military targets and the *modus operandi* of the attack was designed during the November 1998 meeting between Bockarie and the Accused.<sup>15577</sup> The objective to capture Kono prior to moving to Freetown was integrated in the plan upon advice from the Accused and the aim to make the operation "fearful" was articulated.<sup>15578</sup> The Trial Chamber notes that the RUF and AFRC attacks which ensued on 17 December 1998 were directed towards the locations prescribed in the plan made by Bockarie and the Accused.<sup>15579</sup>

6966. The Trial Chamber further recalls that in December 1998 and January 1999, Bockarie was in frequent contact via radio or satellite phone with the Accused, either directly or through Yeaten, to update him on the execution of the plan and the progress of the Kono and Freetown operations.<sup>15580</sup>

6967. In light of the above, the Trial Chamber finds that in November 1998, the Accused, in concert with Bockarie, intentionally designed a plan for the RUF/AFRC Freetown Invasion. The Trial Chamber will now consider whether this plan substantially contributed to the crimes committed by RUF/AFRC fighters.

6968. The plan designed by Bockarie and the Accused led directly to the attacks on Kono and Makeni. In the course of the implementation of this plan, a small contingent of troops led by Idrissa Kamara (a.k.a. Rambo Red Goat) reached Freetown and Bockarie's forces got to the outskirts of Freetown, where they met up with the forces led by Gullit. During the course of the implementation of this plan, these forces committed crimes charged in the Indictment. These crimes resulted directly from the plan made by Bockarie and the Accused in Monrovia.

<sup>15576</sup> Military Operations: The Freetown Invasion, The Plan.

<sup>15577</sup> Military Operations: The Freetown Invasion, The Plan.

<sup>15578</sup> Military Operations: The Freetown Invasion, The Plan.

<sup>15579</sup> Military Operations: The Freetown Invasion, The Implementation of the Plan.

<sup>15580</sup> Military Operations: The Freetown Invasion, Allegation that the Accused Directed the Freetown Invasion.







6969. The Defence submits that the actual attack on Freetown in January 1999 was planned and executed by a group of AFRC soldiers who acted on their own and had no contact with the RUF.<sup>15581</sup> According to the Defence, this shows that the Accused was not involved in any way with the crimes that took place during this attack.

6970. The Trial Chamber recalls its finding that in June/July 1998, before the plan for the two-pronged attack leading to Freetown was made by Bockarie and the Accused, a group of disgruntled AFRC soldiers led by SAJ Musa, who refused to take orders from Bockarie, devised their own plan to attack Freetown in order to “restore the Sierra Leone Army”.<sup>15582</sup> In mid-December 1998, these AFRC fighters started the execution of that plan and, independently of the RUF, moved towards Freetown.

6971. The Trial Chamber found that following the Waterworks meeting Bockarie told SAJ Musa to attack Freetown but SAJ Musa refused and continued on his own advance, pursuant to his separate plan. The Trial Chamber found that following the death of SAJ Musa on 23 December 1998, during an attack in Benguema, Alex Tamba Brima (a.k.a. Gullit) took over the leadership of the troops at Benguema.<sup>15583</sup> Gullit then resumed contact with Bockarie and the two of them coordinated efforts to capture Freetown. The Trial Chamber recalls its finding that Bockarie then assumed effective control over Gullit’s actions and SAJ Musa’s plan was abandoned for the plan that had been made by Bockarie and the Accused in November 1998.<sup>15584</sup> The troops commanded by Gullit in Freetown were subordinated to and used by Bockarie in furtherance of this plan, and further execution of the plan was carried out with close coordination between Bockarie and Gullit, with Gullit in frequent communication with Bockarie and with Gullit taking orders from Bockarie. In these circumstances the Trial Chamber finds that the plan made by Bockarie and the Accused substantially contributed to the commission of crimes committed by Gullit’s forces while Gullit was operating under Bockarie’s command.

6972. The Accused, having drawn up the plan with Bockarie, and having followed its implementation closely via daily communication with Bockarie, either directly or through Yeaten, was aware of its continuing evolution.

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<sup>15581</sup> Defence Final Trial Brief, para. 1340.

<sup>15582</sup> Military Operations: The Freetown Invasion, The Plan.

<sup>15583</sup> Military Operations: The Freetown Invasion, The Implementation of the Plan.

<sup>15584</sup> Military Operations: The Freetown Invasion, The Implementation of the Plan.

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6973. The Trial Chamber notes that the RUF/AFRC military campaign to recapture Freetown was marked by extreme violence and involved the commission of crimes, specifically acts of terrorism (Count 1); murder (Counts 2 and 3); rape (Count 4); sexual slavery (Count 5); outrages upon personal dignity (Count 6); cruel treatment (Count 7); other inhumane acts (Count 8); conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities (Count 9); enslavement (Count 10); and pillage (Count 11).<sup>15585</sup>

6974. In light of the above, the Trial Chamber is satisfied that the plan, devised by Bockarie and the Accused in Monrovia in November 1998, substantially contributed to the RUF/AFRC military attacks leading to and involving the Freetown Invasion, during which these groups committed the crimes charged in Counts 1 to 11 of the Indictment.

(b) Findings on the Mental Elements of Planning

6975. The Trial Chamber recalls its finding that as President of Liberia and a member of the ECOWAS Committee of Five, the Accused was continuously receiving detailed reports of the atrocities committed by RUF/AFRC troops in Sierra Leone. The Accused was well aware of the crimes committed by the AFRC/RUF forces in the course of their military operations, and that their war strategy was explicitly based on a widespread or systematic campaign of crimes against civilians.<sup>15586</sup> The Accused admitted that by April 1998 he was aware that the RUF was “a group engaged in a campaign of atrocities against the civilian population of Sierra Leone”.<sup>15587</sup> The Accused also stated that there were news reports in May 1998 which made him aware that the RUF was engaged in a “horrific campaign [...] against the civilian population in Sierra Leone”.<sup>15588</sup> The Accused testified that he accepted the information in these reports and condemned the “gross atrocities”.<sup>15589</sup> Moreover, by his instruction to make the operation “fearful”, which was repeated many times by Bockarie during the course of the Freetown invasion, and by his instruction to use “all means”, the Accused demonstrated his awareness of the substantial likelihood that crimes would be committed during the execution of the plan.

<sup>15585</sup> The War Strategy of the RUF/AFRC.

<sup>15586</sup> Knowledge of the Accused.

<sup>15587</sup> Charles Ghankay Taylor, Transcript 25 November 2009, p. 32395.

<sup>15588</sup> Charles Ghankay Taylor, Transcript 8 September 2009, p. 28274.

<sup>15589</sup> Charles Ghankay Taylor, Transcript 8 September 2009, p. 28276.





6976. In light of the foregoing, the Trial Chamber is satisfied beyond reasonable doubt that the Accused intended that the crimes charged in Counts 1 to 11 of the Indictment be committed or was aware of the substantial likelihood that RUF/AFRC forces would commit such crimes as a result of executing the plan which he and Bockarie designed.

(c) Finding on the Accused's Criminal Responsibility for Planning the Crimes Charged in the Indictment

6977. For the foregoing reasons, the Trial Chamber finds beyond reasonable doubt that the Accused is criminally responsible pursuant to Article 6(1) of the Statute for planning the crimes charged in Counts 1 to 11 of the Indictment, committed by members of the RUF/AFRC and Liberian fighters in the attacks on Kono and Makeni, in the invasion of Freetown and during the retreat from Freetown, between December 1998 and February 1999.

4. Instigating

6978. The Trial Chamber, having already found that the Accused is criminally responsible for aiding and abetting the commission of the crimes in Counts 1-11 of the Indictment, does not find that the Accused also instigated those crimes.

5. Ordering

6979. The Trial Chamber has found that while the Accused held a position of authority amongst the RUF and RUF/AFRC, the instructions and guidance which he gave to the RUF and RUF/AFRC were generally of an advisory nature and at times were in fact not followed by the RUF/AFRC leadership. For these reasons, the Trial Chamber finds that the Accused cannot be held responsible for ordering the commission of crimes.

**B. Article 6.3 of the Statute**

1. Superior Responsibility

6980. The Indictment charges that the Accused is individually criminally responsible for the crimes referred to in Articles 2,3, and 4 of the Statute as alleged in the Indictment by virtue of holding positions of superior responsibility and exercising command and control over subordinate members of the RUF, AFRC, AFRC/RUF Junta or alliance, and/or

Liberian fighters. It is alleged that the Accused is responsible for the criminal acts of his subordinates in that he knew or had reason to know that the subordinate was about to commit such acts or had done so and the Accused failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof.

6981. The Prosecution submits that the evidence establishes beyond reasonable doubt that the Accused personalized his power over the RUF, and later the AFRC/RUF, exercising ultimate decision making authority over these forces, the *de facto* superior of the members of the RUF, AFRC/RUF who committed the charged crimes during the Indictment period.<sup>15590</sup>

6982. The Defence denies criminal responsibility based on a superior/subordinate relationship between the Accused and the perpetrators of the crimes. The Defence submits that the evidence does not establish beyond reasonable doubt that the Accused bears command responsibility for the crimes charged in the Indictment, as there is no evidence of an organized and disciplined structure with reporting and monitoring mechanisms which would have kept him informed of all the RUF's activities, having him possess the requisite knowledge of all the crimes charged in the Indictment in order to prevent their commission or punish the offenders, particularly given the Accused's position as a civilian leader of another country, geographically removed from the theatre of the crimes.<sup>15591</sup>

6983. Article 6(3) of the Statute provides for criminal responsibility if a superior knew or had reason to know that his or her subordinate was about to commit crimes prohibited by the Statute or had done so, and the superior failed to take the necessary and reasonable measures to prevent or punish the perpetrators of such crimes.<sup>15592</sup>

6984. The Trial Chamber notes that in order to establish criminal liability under Article 6(3) of the Statute the existence of a superior-subordinate relationship between the Accused as superior and the perpetrators of the crimes as his subordinates must be established. It must be demonstrated that the superior had "effective control" over his subordinates – i.e. the material ability to prevent or punish the commission of the offence.

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<sup>15590</sup> Prosecution Final Trial Brief, para. 622.

<sup>15591</sup> Defence Final Trial Brief, paras 1333-1334.

<sup>15592</sup> Applicable Law: Law on Individual Criminal Responsibility.

6985. The Trial Chamber has considered whether the Accused had “effective control” over the RUF and the AFRC. The Accused had substantial influence over the leadership of the RUF, and to a lesser extent that of the AFRC. However, the Trial Chamber notes that substantial influence over the conduct of others falls short of effective control. In considering whether the Accused exercised effective control over the RUF and the AFRC, it has examined his interactions with the leaders of these groups closely.

6986. The Trial Chamber first considered the relationship of the Accused and Sankoh in the pre-Indictment period. The evidence on record establishes that from 1990 to March 1997 Sankoh was the sole leader of the RUF and that he did not take orders from the Accused. When Foday Sankoh was arrested in March 1997 he instructed Bockarie to take direction from the Accused, but the evidence showed that Sankoh was not handing over his command to the Accused. Instead, the evidence indicated that Sankoh maintained control of the RUF leadership. Moreover, had the Accused been effectively in control of the RUF, such an order would not have come from Sankoh. On the basis of the evidence, the Trial Chamber found that Sankoh was not a subordinate to the Accused.

6987. With regard to the relationship between the Accused and Sam Bockarie, the Trial Chamber found that, in accordance with Sankoh’s instruction of March 1997, the Accused gave guidance, advice, instruction and direction to Bockarie. While the evidence demonstrates that Bockarie was deferential to the Accused and generally followed his advice and instruction, it did not establish that he was a subordinate of the Accused and that the Accused had effective control over the RUF during Bockarie’s tenure of RUF leadership, i.e. that the Accused was in a position to take the necessary and reasonable measures to prevent or punish Bockarie for the commission of crimes.

6988. With regard to Issa Sesay, who was appointed as Interim Leader of the RUF in 2000, the Trial Chamber notes that Sesay refused to accept the appointment from the Accused and others without the approval of the RUF and Sankoh, indicating that Sesay was not initially a subordinate of the Accused and that the Accused did not have effective control over the RUF during Sesay’s tenure as Interim Leader of the RUF.

6989. Similarly, the Trial Chamber notes that the Accused gave guidance, advice, instruction and direction to Johnny Paul Koroma when he was leader of the AFRC/RUF Junta, but the evidence does not establish that Koroma was a subordinate of the Accused,

nor that the Accused had effective control over the AFRC/RUF Junta, i.e. that the Accused was in a position to take the necessary and reasonable measures to prevent or punish Koroma for the commission of crimes.

6990. With regard to Liberian fighters who were found to have participated in the commission of crimes in Sierra Leone, the Trial Chamber notes that even if they were sent to Sierra Leone by the Accused, there is insufficient evidence to find beyond a reasonable doubt that they remained under the authority or effective control of the Accused once in Sierra Leone. Similarly, the Trial Chamber notes that the evidence is insufficient to establish that repatriated Sierra Leoneans who were sent by the Accused to Sierra Leone were under the authority or effective control of the Accused upon their return to Sierra Leone

6991. As the RUF and AFRC leaders were not subordinates of the Accused, and the RUF and AFRC/RUF Junta were not under the effective control of the Accused, the Trial Chamber need not consider the other elements of superior responsibility.

6992. In light of the foregoing, the Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the Accused is individually criminally responsible for the crimes referred to in Articles 2, 3 and 4 of the Statute, as alleged in the Indictment by virtue of holding positions of superior responsibility and exercising command and control over subordinate members of the RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters.

## X. CUMULATIVE AND CONCURRENT CONVICTIONS

### A. Cumulative Convictions

#### Applicable Law

6993. In certain circumstances, the Trial Chamber may find that essentially the same criminal conduct constitutes different crimes under the Statute.<sup>15593</sup> Convictions which arise under different statutory provisions, but are based on the same criminal conduct, have been commonly referred to as “cumulative convictions” and are permissible “only if each statutory provision involved has a materially distinct element not contained in the other. An element is materially distinct from another if it requires proof of a fact not required by the other”.<sup>15594</sup> If an additional element is only required for one of the provisions and not for the other, then the Trial Chamber can only enter a conviction for the more specific offence, as it necessarily entails the commission of the less specific offence.<sup>15595</sup>

#### 1. Cumulative Convictions for Crimes against Humanity and War Crimes

6994. The general requirements for crimes against humanity and war crimes, as set out in the General Requirements section above, are clearly distinct and establish different contextual elements.<sup>15596</sup> Crimes against humanity are predicated upon a widespread or systematic attack upon a civilian population.<sup>15597</sup> War crimes, on the other hand, require a nexus between the underlying act and an armed conflict.<sup>15598</sup> The Trial Chamber therefore holds that cumulative convictions may be entered for the same criminal conduct when it is

<sup>15593</sup> CDF Appeal Judgement, para. 220; AFRC Trial Judgement, para. 2099; *Prosecutor v. Đorđević*, IT-05-87/1-T, Judgement (TC), 23 February 2011, para. 2196.

<sup>15594</sup> CDF Appeal Judgement, para. 220; AFRC Trial Judgement, para. 2099; *Čelibići* Appeal Judgement, para. 412; *Nahimana et al.* Appeal Judgement, para. 1019; *Prosecutor v. Musema*, ICTR-96-13-A, Judgement (AC), 16 November 2001 [*Musema* Appeal Judgement], paras 361-363; *Naletilić and Martinović* Appeal Judgement, paras 584-585.

<sup>15595</sup> *Ntakirutimana* Appeal Judgement, para. 542, holding that convictions for the crimes against humanity of murder and extermination were impermissibly cumulative, as “each involves killing within the context of a widespread or systematic attack against the civilian population, and the only element that distinguishes these offences is the requirement of the offence of extermination that the killings occur on a mass scale”. See also *Kunarac et al.* Appeal Judgement, para. 170; *Galić* Appeal Judgement, para. 163; *Krstić* Appeal Judgement, para. 218; *Popović* Trial Judgement, para. 2111; *Semanza* Appeal Judgement, para. 315; *Kordić and Čerkez* Appeal Judgement, para. 1032.

<sup>15596</sup> *Galić* Appeal Judgement, para. 165; *Kordić and Čerkez* Appeal Judgement, para. 1036; *Jelišić* Appeal Judgement, para. 82; *Kunarac et al.* Appeal Judgement, para. 176, citing *Kupreškić et al.* Appeal Judgement, para. 388 and *Jelišić* Appeal Judgement, para. 82.

<sup>15597</sup> Law and Findings on the General Requirements.

defined as a crime against humanity and as a war crime. In light of the Indictment, convictions may therefore be entered for the same unlawful killings under Counts 2 and 3; sexual violence under Counts 4 and 6 and Counts 5 and 6; and physical violence under Counts 7 and 8.

(a) Cumulative Convictions for Crimes against Humanity

(i) Rape and Sexual Slavery

6995. The Trial Chamber considers that it is permissible to enter multiple convictions for the crime charged under Count 5 (sexual slavery) and the crime charged under Count 4 (rape). While both are forms of sexual violence, each offence contains a distinct element not required by the other. The offence of rape requires non-consensual sexual penetration.<sup>15599</sup> The definition of rape does not require that the perpetrator exercise ongoing control or ownership over the victim, as is required by the crime of sexual slavery.<sup>15600</sup> The Trial Chamber further notes that the requisite sexual act in the definition of sexual slavery can be committed by multiple means,<sup>15601</sup> and does not necessarily entail non-consensual sexual penetration. The Trial Chamber therefore finds that rape (Count 4) and sexual slavery (Count 5) contain materially distinct elements, and that it is legally permissible to enter convictions on both counts.<sup>15602</sup>

(b) Cumulative Convictions for War Crimes

(i) Acts of Terror and other war crimes charged

6996. The Trial Chamber finds that the crime of acts of terrorism contains a materially distinct element from the war crimes of violence to life, health and physical or mental well-being of persons, in particular murder (Count 3), outrages upon personal dignity (Count 6), violence to life, health and physical or mental well-being of persons, in particular cruel treatment (Count 7), and pillage (Count 11). An essential element of acts of terror is the

<sup>15598</sup> Law and Findings on the General Requirements.

<sup>15599</sup> Applicable Law, Specific Elements of the Crimes.

<sup>15600</sup> Applicable Law, Specific Elements of the Crimes.

<sup>15601</sup> i.e. *Kunarac et al.* Trial Judgement, paras 70, 86, 773.

<sup>15602</sup> The Trial Chamber notes that Trial Chamber I, in the RUF case, held that it was not legally permissible to enter cumulative convictions for rape and sexual slavery. See *RUF* Trial Judgement, para. 2305. However, the Trial Chamber is not bound to follow this finding.



intent to spread fear,<sup>15603</sup> which distinguishes the offence from the other charged war crimes, which do not have this requirement.<sup>15604</sup> Moreover, all of the other crimes contain elements that are not required by the crime of acts of terrorism: murder requires the death of the victim, outrages upon personal dignity requires humiliating or degrading treatment, cruel treatment requires the infliction of severe mental or physical pain or suffering, and pillage requires the unlawful appropriation of property.<sup>15605</sup> The Trial Chamber therefore holds that it is permissible to enter cumulative convictions for acts of terrorism (Count 1) as well as murder (Count 3), outrages upon personal dignity (Count 6), cruel treatment (Count 7) and pillage (Count 11).

### **B. Concurrent Convictions**

6997. The issue of “concurrent convictions” arises when simultaneous convictions are entered in relation to the same count, based on the same facts, under different modes of liability.<sup>15606</sup> It has been held as a general rule that an accused “can be convicted for a single crime on the basis of several modes of liability”.<sup>15607</sup> However, where the Prosecution alleges that the Accused is responsible under both Article 6(1) and 6(3) of the Statute for the same crime, and where the legal requirements pertaining to both of these heads of responsibility are met, a conviction should be entered on the basis of Article 6(1) only. In such cases, the Accused’s status as a superior may be considered an aggravating factor in sentencing.<sup>15608</sup>

<sup>15603</sup> Applicable Law, Specific Elements of the Crimes.

<sup>15604</sup> RUF Appeal Judgement, paras 1197-1198, where the Appeals Chamber held that “[i]n the *Fofana and Kondewa* Appeal Judgement the Appeals Chamber found that commulative convictions are permissible for collective punishment, in addition to murder, cruel treatment and pillage”. The same reasoning applies to acts of terrorism”. See *CDF* Appeal Judgement, para. 225.

<sup>15605</sup> Applicable Law, Specific Elements of the Crimes.

<sup>15606</sup> *Kordić and Čerkez* Appeal Judgement, paras. 35, 1033; *Blaškić* Appeal Judgement, paras. 89-93; *Prosecutor v. Milutinović et al.*, IT-05-87-T, Judgement (TC), 26 February 2009, para. 76.

<sup>15607</sup> *Ndindabahizi v Prosecutor*, ICTR-01-71-A, Judgement (AC), 16 January 2007, para. 122. See also *Nahimana, Barayagwiza and Ngeze v Prosecutor*, ICTR-99-52-A, Judgement (AC), 28 November 2007, para. 483; *Kamahunda v Prosecutor*, ICTR-99-54A-A, Judgement (AC), 19 September 2005, Separate and Partially Dissenting Opinion of Judge Mohamed Shahabuddeen, paras 405 and 411, where it was maintained that “[T]here is no reason why a single crime cannot be perpetrated by multiple methods” and that “there is no illogicality arising from [...] holding that the accused can both aid and abet another to commit a crime and can order that other to commit that crime”.

<sup>15608</sup> *AFRC* Appeal Judgement, paras 214-215; *RUF* Trial Judgement, para. 2311; *Blaškić* Appeal Judgement, para. 91; *Kordić and Čerkez* Appeal Judgement, paras 34-35; *Kajelijeli* Appeal Judgement, para. 81; *Prosecutor v. Miodrag Jokić*, IT-01-42/1-A, Judgement on Sentencing Appeal (AC), 30 August 2005 [*Jokić* Sentencing Appeal], para. 24.





6998. However, the Trial Chamber notes that concurrent convictions under Article 6(1) and Article 6(3) of the Statute in relation to the same count in the Indictment are not prohibited if they are based on a *different* set of facts.<sup>15609</sup> This is possible when multiple instances of an offence are charged within a single Count. The Appeals Chamber has held that “when the accused is charged for multiple instances of an offence under a single Count pursuant to both Articles 6(1) and 6(3), and one or more is proved beyond a reasonable doubt for each mode of responsibility, then a compound conviction should be entered against the accused”.<sup>15610</sup> Therefore, where a single set of facts within a single count substantiate an Accused’s individual responsibility and superior responsibility, a conviction may only be entered under Article 6(1); where multiple, independent sets of facts within a single count are used to prove an Accused’s individual and superior responsibility, concurrent convictions may be entered under both Article 6(1) and Article 6(3).

### Conclusion

6999. Cumulative and concurrent convictions serve to describe the full culpability of a particular accused or provide a more complete picture of his criminal conduct.<sup>15611</sup> However, in determining whether to enter cumulative and concurrent convictions, the Trial Chamber must be guided by considerations of justice for the accused.<sup>15612</sup>

<sup>15609</sup> *AFRC* Appeal Judgement, paras 214-215; *Jokić* Sentencing Appeal, para. 25. See also *RUF* Trial Judgement, para. 2312.

<sup>15610</sup> *AFRC* Appeal Judgement, para. 215. The Appeals Chamber goes even further to hold that in such cases, it constitutes a legal error for the Trial Chamber not to enter a compound sentence. See also *RUF* Trial Judgement, para. 2312.

<sup>15611</sup> *Kunarac et al.* Appeal Judgement, para. 169, citing the Partial Dissenting Opinion of Judge Shahabuddeen in *Prosecutor v. Jelisić*, IT-95-10-A, Judgement (AC), 5 July 2001 [*Jelisić* Appeal Judgement], para. 34; *Kordić and Čerkez* Appeal Judgement, para. 1033. See also *AFRC* Appeal Judgement, para. 215; *RUF* Trial Judgement, para. 2301.

<sup>15612</sup> *Čelebići* Appeal Judgement, para. 412; *Kunarac et al.* Appeal Judgement, para. 173. See also para. 174: “[T]he Chamber must take into account the entire situation so as to avoid a mechanical or blind application of its guiding principles”. See also *RUF* Trial Judgement, para. 2301.

## XI. DISPOSITION

7000. The Trial Chamber convicted Charles Ghankay Taylor for:

- (i) **Aiding and abetting** the commission of the following crimes pursuant to Article 6.1 of the Statute during the Indictment period:
- i. **Count 1:** Acts of terrorism, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(d) of the Statute in Kenema, Kono, and Kailahun Districts and in Freetown and the Western Area.
  - ii. **Count 2:** Murder, a crime against humanity pursuant to Article 2(a) of the Statute in Kenema, Kono and Kailahun Districts, and in Freetown and the Western Area.
  - iii. **Count 3:** Violence to life, health and physical or mental well-being of persons, in particular murder, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(a) of the Statute in Kenema, Kono and Kailahun Districts, and in Freetown and the Western Area.
  - iv. **Count 4:** Rape, a crime against humanity, punishable under Article 2(g) of the Statute in Kono District and in Freetown and the Western Area.
  - v. **Count 5:** Sexual slavery, a crime against humanity, punishable under Article 2(g) of the Statute in Kono and Kailahun Districts, and in Freetown and the Western Area.
  - vi. **Count 6:** Outrages upon personal dignity, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(e) of the Statute in Kono District and in Freetown and the Western Area.
  - vii. **Count 7:** Violence to life, health and physical or mental well-being of persons, in particular cruel treatment, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(a) of the Statute in Kono District and in Freetown and the Western Area.





viii. **Count 8:** Other inhumane acts, a crime against humanity pursuant to Article 2(i) of the Statute in Kono District and in Freetown and the Western Area.

ix. **Count 9:** Conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities, another serious violation of international humanitarian law pursuant to Article 4(c) of the Statute in Tonkolili, Kailahun, Kono, Bombali, Port Loko, Kenema and Koinadugu Districts and in Freetown and the Western Area.

x. **Count 10:** Enslavement, a crime against humanity pursuant to Article 2 (c) of the Statute in Kenema, Kono and Kailahun Districts, and in Freetown and the Western Area.

xi. **Count 11:** Pillage, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(f) of the Statute in Kono, Bombali, and Port Loko Districts and in Freetown and the Western Area.

(ii) **Planning** the commission of the following crimes pursuant to Article 6.1 of the Statute in the attacks on Kono and Makeni in December 1998, and in the invasion of and retreat from Freetown, between December 1998 and February 1999:

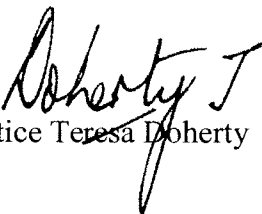
i. **Count 1:** Acts of terrorism, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(d) of the Statute in Kono District and in Freetown and the Western Area.


ii. **Count 2:** Murder, a crime against humanity pursuant to Article 2(a) of the Statute in Kono District and in Freetown and the Western Area.

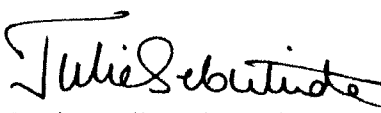
iii. **Count 3:** Violence to life, health and physical or mental well-being of persons, in particular murder, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(a) of the Statute in Kono District and in Freetown and the Western Area.

- iv. **Count 4:** Rape, a crime against humanity, punishable under Article 2(g) of the Statute in Kono District and in Freetown and the Western Area.
- v. **Count 5:** Sexual slavery, a crime against humanity, punishable under Article 2(g) of the Statute in Kono and Kailahun Districts, and in Freetown and the Western Area.
- vi. **Count 6:** Outrages upon personal dignity, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(e) of the Statute in Kono District and in Freetown and the Western Area.
- vii. **Count 7:** Violence to life, health and physical or mental well-being of persons, in particular cruel treatment, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(a) of the Statute in Kono District and in Freetown and the Western Area.
- viii. **Count 8:** Other inhumane acts, a crime against humanity pursuant to Article 2(i) of the Statute in Kono District and in Freetown and the Western Area.
- ix. **Count 9:** Conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities, another serious violation of international humanitarian law pursuant to Article 4(c) of the Statute in Kailahun, Kono, Bombali and Port Loko Districts, and in Freetown and the Western Area.
- x. **Count 10:** Enslavement, a crime against humanity pursuant to Article 2 (c) of the Statute in Kono and Kailahun Districts, and in Freetown and the Western Area.
- xi. **Count 11:** Pillage, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(f) of the Statute in Kono District and in Freetown and the Western Area.

Done this 18<sup>th</sup> Day of May 2012, in The Hague, The Netherlands.

  
Justice Teresa Doherty

  
Justice Richard Lussick  
Presiding Judge

  
Justice Julia Sebutinde

[Seal of the Special Court for Sierra Leone]



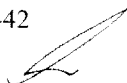
## XII. ANNEX A: LIST OF ABBREVIATIONS

2 I/C	second in command
AC	Appeals Chamber
Accused	Charles Ghankay Taylor
AFL	Armed Forces of Liberia
AFRC	Armed Forces Revolutionary Council
aka/a.k.a.	also known as
ATU	Anti Terrorist Unit
APC	All Peoples Congress
Art.	Article
BBC	British Broadcasting Corporation
BFC	Battle Field Commander
BFI	Battle Field Inspector
BGC	Battle Group Commander
CCP	Commission for the Consolidation of Peace
CDF	Civil Defence Forces
CDF case	Prosecutor v. Norman, Fofana and Kondewa (SCSL-04-14-T)
CDS	Chief Defence Staff
CIC	Commander in Chief
CID	Criminal Investigation Department
CO	Commanding Officer
Col	Colonel
Common Article 3	Article 3 common to the four Geneva Conventions of 1949
CS	Closed Session, reference to transcripts and testimony led in closed session for the purpose of witness protection.
DDR	Disarmament, Demobilisation and Reintegration
DCT	Defence Witness
Defence	Defence for the Accused
ECOMOG	ECOWAS Monitoring Group
ECOWAS	Economic Community of West African States
ERN	Evidence Record Numbers





Exhibit D	Defence Exhibit
Exhibit P	Prosecution Exhibit
EU	European Union
Fn.	footnote
HRW	Human Rights Watch
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994
ICTY	International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991
IDU	Internal Defence Unit
IECOM	Independent Elections Commission
IGNU	Interim Government of National Unity
Indictment	Second Amended Indictment, dated 29 May 2007
Inter-Am. C.H.R.	Inter-American Commission of Human Rights
INPFL	Independent National Patriotic Front of Liberia
IO	Intelligence Office
JCE	Joint Criminal Enterprise
JPK	Johnny Paul Koroma (Senior AFRC commander)
JSB	Joint Security Board
JSBI	Joint Security Board of Investigations
KENBATT	Kenyan Battalion of UNAMSIL peacekeepers
LDF	Lofa Defence Force
Le	Leones (currency of Sierra Leone)
LNTG	Liberian National Transitional Government
LUDF	Liberian United Defence Force
LURD	Liberians United for Reconciliation and Democracy
MILOB	Military Observers attached to UNAMSIL
MOJA	Movement for Justice in Africa







Mosquito	Nickname of Sam Bockarie
MP	Military Police
MRU	Movement for the Redemptions of Muslims
NCDDR	National Committee for Disarmament, Demobilisation and Reintegration
NGO	Non-governmental organisation
NPF	National Patriotic Front
NPFL	National Patriotic Front of Liberia
NPRAG	National Patriotic Reconstruction Assembly Government
NPRC	National Provisional Ruling Council
NPWJ	No Peace Without Justice, NGO
OAU	Organisation of African Unity
OTP	Office of the Prosecutor of the Special Court for Sierra Leone
p., pp.	Page, pages
para., paras	paragraph
PANAFU	Pan African Union
PPPL	Progressive Peoples Party of Liberia
PRC	People's Redemption Council
PTSD	Post-Traumatic Stress Disorder
RPG	Rocket-Propelled Grenade
ROE	Rules of Engagement
RUF	Revolutionary United Front
RUFP	Revolutionary United Front Party
Rules	Rules of Procedure and Evidence
SBU	Small Boys Unit
SGU	Small Girls Unit
SLA/ex-SLA	Sierra Leone Army
SLBS	Sierra Leone Broadcasting Station
SLPP	Sierra Leone Peoples Party
SOD	Special Operations Division
Special Court or SCSL	Special Court for Sierra Leone
ss.	Sections
SSS	Special Security Service
SSU	Special Security Unit

STL	Special Tribunal for Lebanon
Statute	Statute of the Special Court for Sierra Leone
SLP	Sierra Leone Police
STD	Sexually transmitted disease
STF	Special Task Force
TC	Trial Chamber
TF1	Prosecution Witness
TRC	Truth and Reconciliation Commission
ULIMO	United Liberation Movement of Liberia for Democracy
ULIMO-K	United Liberation Movement of Liberia for Democracy - Kromah
ULIMO-J	United Liberation Movement of Liberia for Democracy – Johnson
ULAA	Union of Liberian Associates in America
ULC	United Logging Company
US/USA	United States of America
USD	United States Dollar
USG	United States Government
UN	United Nations
UNAMSIL	United Nations Mission in Sierra Leone
UNOMIL	United Nations Observer Mission in Liberia
UNOMSIL	United Nations Observer Mission in Sierra Leone
WAC	Women’s Auxiliary Corps
WMU	Witness Management Unit (Prosecution)
WVS	Witness and Victims Section (Registry)





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### XIII. ANNEX B: PROCEDURAL HISTORY

#### A. Indictment, Arrest, and Initial Appearance

7001. On 7 March 2003, the Prosecutor requested the confirmation of a 17-count indictment alleging crimes against humanity, war crimes and other serious violations of international humanitarian law contrary to Articles 2, 3 and 4 of the Statute of the Special Court for Sierra Leone against the Accused, Charles Ghankay Taylor.<sup>15613</sup> Justice Bankole Thompson approved the Indictment on the same day and ordered its non-disclosure to the public.<sup>15614</sup> Also on the same day, Justice Thompson issued a Warrant of Arrest requesting all States to assist in the arrest and transfer of the Accused to the Special Court.<sup>15615</sup> On 4 June 2003, the then Chief Prosecutor, David Crane, disclosed the Indictment and Warrant of Arrest to the public at a press conference in Freetown.<sup>15616</sup> On 12 June 2003, the Indictment and Warrant of Arrest were formally unsealed at the request of the Prosecution by an order of Justice Boutet.<sup>15617</sup>

7002. On 6 March 2006, the Prosecution requested an amendment to the Indictment,<sup>15618</sup> which was granted by Justice Thompson on 16 March 2006.<sup>15619</sup> The Prosecution subsequently filed the Amended Indictment and Case Summary on 17 March 2006.<sup>15620</sup>

7003. The Accused was arrested in Nigeria on 29 March 2006. Shortly thereafter he was transferred into the custody of the Special Court in Freetown and was served with the

<sup>15613</sup> *Prosecutor v. Taylor*, SCSL-03-01-I-001, Prosecutor Memorandum to Accompany Indictment, filed 7 March 2003. In order to facilitate the confirmation process the Prosecution included an investigator statement.

<sup>15614</sup> *Prosecutor v. Taylor*, SCSL-03-01-I-003, Decision Approving the Indictment and Order for Non-Disclosure, 7 March 2003.

<sup>15615</sup> *Prosecutor v. Taylor*, SCSL-03-01-I-004, Warrant of Arrest and Order for Transfer and Detention, 7 March 2003.

<sup>15616</sup> Press Release, Statement of David M. Crane, Chief Prosecutor, Special Court for Sierra Leone, 5 June 2003.

<sup>15617</sup> *Prosecutor v. Taylor*, SCSL-03-01-I-006, Order for the Disclosure of the Indictment, the Warrant of Arrest and Order for Transfer and Detention and the Decision Approving the Indictment and Order for Non-Disclosure, 12 June 2003. *Prosecutor v. Taylor*, SCSL-03-01-I-078, Decision and Order for Disclosure, 30 March 2006.

<sup>15618</sup> *Prosecutor v. Taylor*, SCSL-03-01-I-072, Prosecution Motion for Leave to Amend the Indictment and for Approval and Non-Disclosure of the Amended Indictment, 6 March 2006.

<sup>15619</sup> *Prosecutor v. Taylor*, SCSL-03-01-I-074, Decision on Prosecution's Application to Amend Indictment and on Approval of Amended Indictment, 16 March 2006.

<sup>15620</sup> *Prosecutor v. Taylor*, SCSL-03-01-I-075, Amended Indictment and Case Summary accompanying the Amended Indictment, 17 March 2006.



Amended Indictment in accordance with Rule 52. The Amended Indictment was disclosed to the public the following day.<sup>15621</sup>

7004. The President assigned the proceedings to Trial Chamber II, composed of Justice Richard Lussick, Justice Teresa Doherty and Justice Julia Sebutinde.<sup>15622</sup> Justice El Hadji Malick Sow was later appointed as an alternate Judge on 18 May 2007.<sup>15623</sup>

7005. The Accused made his initial appearance and was formally arraigned before Presiding Judge Richard Lussick on 3 April 2006, pursuant to Rule 61. He was represented by the Principal Defender, Vincent Nmehielle, and pleaded not guilty to all counts of the Amended Indictment.<sup>15624</sup>

7006. On 29 May 2007, the Prosecution filed a Second Amended Indictment with minor changes to three of the eleven counts.<sup>15625</sup> The Accused was re-arraigned on 3 July 2007 and again pleaded not guilty to the amended charges.<sup>15626</sup> On 3 August 2007, the Prosecution filed an Amended Case Summary.<sup>15627</sup>

#### 1. Preliminary Objection Based on Lack of Jurisdiction

7007. Before the Accused's arrest and as an incumbent President of the Republic of Liberia, on 23 July 2003 the Accused pursuant to Rule 72 moved to quash his indictment and to set aside the outstanding arrest warrant on the grounds that, as incumbent Head of State of the sovereign Republic of Liberia, he was immune from any exercise of the Court's jurisdiction.<sup>15628</sup> The Appeals Chamber, composed of three Appeals Chamber Judges, dismissed the motion on 31 May 2004, holding that the Special Court for Sierra Leone was an international – not a national – court, and that “the principle seems now established that the sovereign equality of states does not prevent a Head of State from being prosecuted

<sup>15621</sup> *Prosecutor v. Taylor*, SCSL-03-01-I-078, Decision and Order for Disclosure, 30 March 2006.

<sup>15622</sup> *Prosecutor v. Taylor*, SCSL-03-01-I-079, Order Assigning a Case to a Trial Chamber, 31 March 2006.

<sup>15623</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-240, Order Designating Alternate Judge, 18 May 2007.

<sup>15624</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 3 April 2006, p. 14.

<sup>15625</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-263, Prosecution's Second Amended Indictment, 29 May 2007.

<sup>15626</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 3 July 2007, pp. 401-402

<sup>15627</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-327, Prosecution Notification of Filing of Amended Case Summary, 3 August 2007.

<sup>15628</sup> *Prosecutor v. Taylor*, SCSL-03-01-I-015, Applicant's Motion Made Under Protest and Without Waiving of Immunity Accorded to a Head of State President Charles Ghankay Taylor Requesting that the Trial Chamber Do Quash the Said Approved Indictment of 7<sup>th</sup> March 2003 of Judge Bankole Thompson, 23 July 2003.





before an international tribunal or court".<sup>15629</sup> The Appeals Chamber held that Article 6(2) of the Statute, which provides that the official position of any accused person, including as Head of State shall not relieve such a person of criminal responsibility, was not in conflict with any peremptory norm of international humanitarian law, and must be given effect by the court.<sup>15630</sup> It therefore held that the official position of the Accused as incumbent Head of State at the time that the proceedings were initiated against him is not a bar to his prosecution by the Special Court.<sup>15631</sup>

## 2. Pre-Trial Proceedings

### (a) Assignment of Counsel

7008. On 5 April 2006, Mr Karim Asad Ahmed Khan was assigned as provisional Counsel for a 90-day period.<sup>15632</sup> On 13 July 2006, he was reassigned as Assigned Counsel for a further 90-day period.<sup>15633</sup> He was permanently assigned as legal counsel for the Accused on 21 September 2006.

### (b) Change of Venue of Proceedings

7009. In light of security concerns, the President of the Special Court formally made a request under Rule 4 to the Government of The Netherlands and the President of the ICC to facilitate the conduct of the trial.<sup>15634</sup> The Government of The Netherlands, however, requested an authorisation from the United Nations Security Council before agreeing to the request of the President of the Special Court.<sup>15635</sup> The Security Council determined that the continued presence of the Accused in the subregion was a threat to the peace of Sierra Leone and Liberia, and to international peace and security in the region, and, acting under Chapter VII of the United Nations Charter, adopted UN Security Council Resolution 1688 (2006),

<sup>15629</sup> *Prosecutor v. Taylor*, SCSL-03-01-I-059, Decision on Immunity from Jurisdiction, 31 May 2004, para. 52.

<sup>15630</sup> *Ibid.*, para. 53.

<sup>15631</sup> *Ibid.*

<sup>15632</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-088, Principal Defender's Decision to Provisionally Assign Counsel to Charles Ghankay Taylor, 5 April 2006.

<sup>15633</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-111, Principal Defender's Decision to Reassign Counsel to Charles Ghankay Taylor, 13 July 2006.

<sup>15634</sup> UN Doc. S/2006/207, Letter dated 31 March 2006 from the Permanent Representative of the Netherlands to the United Nations addressed to the President of the Security Council (Annex I).

<sup>15635</sup> UN Doc. S/2006/207, Letter dated 31 March 2006 from the Permanent Representative of the Netherlands to the United Nations addressed to the President of the Security Council (Annex II).





which established the legal basis for the detention of the Accused on Dutch territory.<sup>15636</sup> Following the adoption of this resolution, the agreement of the ICC, an agreement with the Government of The Netherlands to host the Special Court proceedings in The Netherlands and the agreement of the United Kingdom to accept the Accused after the conclusion of the trial and appeal, on 19 June 2006, the President of the Special Court authorized that the pre-trial, trial and appeal proceedings be transferred to The Hague, and ordered that the Accused be transferred to The Netherlands.<sup>15637</sup> The Accused was transferred to The Hague on 20 June 2006.

7010. Prior to the transfer, the Defence challenged the change of venue before the Trial Chamber, which found the application to be one that raised objections based on lack of jurisdiction pursuant to Rule 72(B)(i) and an abuse of process pursuant to Rule 72(B)(v) and accordingly referred the matter to the Appeals Chamber pursuant to Rule 72(E).<sup>15638</sup> The Appeals Chamber, composed of three Judges, found the motion premature, inadmissible and inappropriately directed to the Trial and Appeals Chambers, rather than the President.<sup>15639</sup> On 12 March 2007, the President of the Special Court found that the Rules do not provide an avenue for reconsideration or review before the President.<sup>15640</sup> The Defence finally challenged the change of venue before the Council of Judges, composed of the President and the presiding Judges of the respective Trial Chambers. The Council of Judges held on 7 June 2007 that it did not have the authority or jurisdiction to reconsider or review an administrative decision made by the President of the Special Court.<sup>15641</sup>

(c) Pre-Trial Conferences, Trial Date, and Adequate Time for Preparation

7011. The Trial Chamber convened three status conferences prior to the commencement of the trial in order to narrow the issues in dispute, ensure the parties complied with their

<sup>15636</sup> UN SC Res. 1688, 16 June 2006.

<sup>15637</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-108, Order Changing Venue of Proceedings, 19 June 2006.

<sup>15638</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-098, Order Pursuant to Rules 72(E) and 72(F), 3 May 2006.

<sup>15639</sup> *Prosecutor v. Taylor*, SCSL-03-01-AR72-104, Decision on Urgent Defence Motion Against Change of Venue, 29 May 2006.

<sup>15640</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-202, Decision of the President on Defence Motion for Reconsideration of Order Changing Venue of Proceedings, 12 March 2007.

<sup>15641</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-283, Declaration by the Council of Judges, 7 June 2007.

disclosure obligations under Rules 66, 67, and 68, and set a trial date as early as practicable.<sup>15642</sup>

7012. An initial trial date of 2 April 2007 was set by Justice Sebutinde at the second status conference held on 22 September 2006. The Trial Chamber dismissed a Defence motion requesting better facilities, more time and an office in Monrovia on 23 January 2007,<sup>15643</sup> but granted its request to delay the start of the trial to 4 June 2007.<sup>15644</sup> On 25 April 2007, the Trial Chamber further adjourned the proceedings after the Prosecutor's opening statement on 4 June 2007 for 18 days, in order to compensate the Accused for time lost as a result of a delay in removing a video surveillance camera installed in the Accused's conference room.<sup>15645</sup>

7013. In preparation for the commencement of the trial, a Pre-Trial Conference was held on 7 May 2007.<sup>15646</sup> Prior to the Pre-Trial Conference, both parties filed Pre-Trial Briefs.<sup>15647</sup> The Prosecution also filed a list of expert witnesses and witnesses of fact. In the Defence's Pre-Trial Brief, filed on 26 April 2007, it claimed that three weeks was insufficient time to analyse and respond to the Prosecution's Pre-Trial Brief.<sup>15648</sup>

(d) Protective Measures

7014. On 5 May 2006, the Trial Chamber ordered protective measures for 46 Prosecution witnesses, allowing the Prosecution, *inter alia*, to withhold identifying information of

<sup>15642</sup> Status conferences prior to the commencement of the trial were held on 21 July 2006; 22 September 2006; and 26 January 2007. See *Prosecutor v. Taylor*, SCSL-03-01-PT-113, Scheduling Order for Status Conference in The Hague, 17 July 2006; *Prosecutor v. Taylor*, SCSL-03-01-PT-118, Scheduling Order for a Second Status Conference in The Hague, 4 August 2006; *Prosecutor v. Taylor*, SCSL-03-01-PT-131, Scheduling Order for a Third Status Conference in The Hague, 20 November 2006.

<sup>15643</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-164, Joint Decision on Defence Motions on Adequate Facilities and Adequate Time for the Preparation of Mr Taylor's Defence, 23 January 2007.

<sup>15644</sup> *Ibid.*

<sup>15645</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-226, Decision on Defence Motion Requesting Reconsideration of "Joint Decision on Defence Motions on Adequate Facilities and Adequate Time for the Preparation of Mr Taylor's Defence", Dated 23 January 2007, 25 April 2007.

<sup>15646</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-171, Scheduling Order for a Pre-Trial Conference Pursuant to Rule 73bis, 2 February 2007; *Prosecutor v. Taylor*, SCSL-03-01-PT-228, Agenda for Pre-Trial Conference, 26 April 2007.

<sup>15647</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-218, Rule 73bis Pre-Trial Conference Materials Pre-Trial Brief, 4 April 2007; *Prosecutor v. Taylor*, SCSL-03-01-PT-229, Rule 73bis Taylor Defence Pre-Trial Brief, 26 April 2007.

<sup>15648</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-229, Rule 73bis Taylor Defence Pre-Trial Brief, 26 April 2007, para. 3.



witnesses until 42 days before the witness was scheduled to testify at trial.<sup>15649</sup> These protective measures were later extended to 33 additional witnesses.<sup>15650</sup>

7015. On 15 November 2006, the Trial Chamber altered the protective measures by allowing the Prosecution and the Witnesses and Victims Section to provide identifying information to organisations and individuals facilitating the travel arrangements of protected witnesses to The Hague.<sup>15651</sup> On 21 March 2007, the Trial Chamber rescinded the protective measures in respect of witnesses TF1-387 and TF1-391.<sup>15652</sup>

(e) Charles Taylor's Request to Give an Unsworn Statement from the Dock

7016. The Defence requested that the Accused be allowed to give an unsworn statement from the dock immediately following the Prosecution's opening statement. In its denial of the motion on 29 May 2007, the Trial Chamber held that Rule 84 confined the Defence opening statement to the opening of the Defence's case.<sup>15653</sup> Leave to appeal the decision was later denied on 16 July 2007.<sup>15654</sup>

<sup>15649</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-099, Decision on Confidential Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure and Urgent Request for Interim Measures and on Confidential Prosecution Motion for Leave to Substitute a Corrected and Supplemented List as Annex A of the Confidential Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure and Urgent Request for Interim Measures, 5 May 2006.

<sup>15650</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-120, Decision on Urgent Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure, 15 September 2006; *Prosecutor v. Taylor*, SCSL-03-01-PT-125, Decision on Defence Motion to Set Aside and/or Reconsider Trial Chamber's "Decision on Urgent Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure" dated 15 September 2006, 5 October 2006; *Prosecutor v. Taylor*, SCSL-03-01-PT-163, Decision on Confidential Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure with Four Annexes, One of which Filed Ex Parte, 22 January 2007; *Prosecutor v. Taylor*, SCSL-03-01-PT-215, Decision on Confidential Urgent Prosecution Motion for Immediate Protective Measures of Witnesses and for Non-Public Disclosure and on Public Urgent Prosecution Motion for Leave to Substitute a Supplemented Witness list as Annex A(4) of the Confidential Urgent Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure Filed on 8 March 2007 and on Public Urgent Prosecution Request for Interim Measures, 26 March 2007.

<sup>15651</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-130, Decision on Confidential Prosecution Motion to Vary Protective Measures, 15 November 2006.

<sup>15652</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-209, Decision on Defence Motion to Lift the Redactions of Identifying Information of Fifteen Core Witnesses, 21 March 2007.

<sup>15653</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-264, Decision on Urgent and Public Defence Motion Requesting Leave for Charles Ghankay Taylor to Give an Unsworn Statement from the Dock, 29 May 2007.

<sup>15654</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-317, Decision on Defence Application for Leave to Appeal the 29 May 2007 "Decision on Urgent and Public Defence Motion Requesting Leave for Charles Ghankay Taylor to Give an Unsworn Statement from the Dock", 16 July 2007.

(f) Request to Suspend UN Security Council Resolutions 1521 and 1532

7017. Concerned that UN Security Council Resolutions 1521 and 1532, which relate to a travel ban and an assets freeze, would instil fear in potential witnesses and thus prevent them from testifying, the Defence moved the Trial Chamber to request the Security Council to suspend the resolutions for the duration of the trial. The Trial Chamber dismissed the motion on 31 October 2007 on a procedural technicality.<sup>15655</sup>

(g) Agreed Facts

7018. On 26 April 2007, the Prosecution and the Defence filed a joint statement of admitted and undisputed facts and law.<sup>15656</sup>

3. Trial Proceedings(a) Overview

7019. From the commencement of the trial on 4 June 2007 until its closure on 11 March 2011, the Trial Chamber heard evidence on 420 trial days. In total, 115 witnesses testified *viva voce*, of whom two were subpoenaed.<sup>15657</sup> In addition to the *viva voce* witnesses, the Trial Chamber admitted into evidence written statements and/or prior testimony of four witnesses.<sup>15658</sup> 1521 exhibits were admitted into evidence.<sup>15659</sup> The trial record includes 49622 pages of transcripts and 1279 filings and decisions, totalling 38069 pages.

<sup>15655</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-351, Decision on Defence Motion Seeking Special Measures with Regard to Resolutions 1521 and 1532 of the United Nations Security Council, 31 October 2007.

<sup>15656</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-227, Joint Filing by the Prosecution & Defence Admitted Facts & Law, 26 April 2007.

<sup>15657</sup> Moses Blah – see *Prosecutor v. Taylor*, SCSL-03-01-T-432, Decision on Prosecution Motion for a Subpoena ad Testificandum, 3 March 2008 and Naomi Campbell – see *Prosecutor v. Taylor*, SCSL-03-01-T-999, Subpoena ad Testificandum, 1 July 2010.

<sup>15658</sup> The written statements and/or prior testimony of the following witnesses was admitted: Witnesses TF1-021, TF1-083 (both deceased), TF1-081 and Chief Jalloh Loon (DCT-118), see *Prosecutor v. Taylor*, SCSL-03-01-T-720, Decision on Public with Confidential Annexes C to E Prosecution Motion for Admission of the Prior Trial Transcripts of Witnesses TF1-021 and TF1-083 Pursuant to Rule 92*quater*, 5 February 2009; *Prosecutor v. Taylor*, SCSL-03-01-T-642, Decision on Public with Confidential Annexes B to G Prosecution Notice Under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Freetown and the Western Area - TF1-024, TF1-081 and TF1-084, 20 October 2008. The Defence withdrew its objection to the admission of the evidence of witness TF1-081 pursuant to Rule 92*bis* and therefore agreed that there was no need for the witness to be brought for cross-examination. See Transcript 17 October 2008, p. 18660. *Prosecutor v. Taylor*, SCSL-03-01-T-978, Decision on Defence Application for Admission of Affidavit by DCT-118 Pursuant to Rule 92*bis*, 11 June 2010. The Prosecution advised that “in light of the advanced age and alleged fragile health of the witness”, it did not object to the admission of the affidavit in lieu of oral testimony. See *Prosecutor v. Taylor*, SCSL-03-01-T-967, Prosecution Response to the Public, with Confidential Annex A Defence Application for Admission of

7020. The proceedings were held in the premises of the International Criminal Court, The Hague, from July 2006 until the proceedings were moved to the premises of the Special Tribunal for Lebanon, Leidschendam, on 17 May 2010.

(b) Withdrawal of Counsel and Postponement of the Trial

7021. At the commencement of the trial on 4 June 2007, Mr Khan informed the Trial Chamber that the Accused had terminated his services as Defence Counsel and that the Accused intended to represent himself.<sup>15660</sup> The Accused himself refused to appear before the Court and therefore was not present. Duty Counsel Charles Jalloh was directed to replace Mr Khan as Defence counsel for the day's proceedings and until the assignment of new Defence Counsel. The Principal Defender formally accepted the withdrawal of Mr Khan as assigned counsel.<sup>15661</sup>

7022. On 12 June 2007, the Registrar requested that the Trial Chamber deny the Accused's request to represent himself and instead assign him court appointed Counsel.<sup>15662</sup> At a hearing on 25 June 2007, the Trial Chamber directed the Principal Defender to appoint new Defence counsel.<sup>15663</sup> On 17 July 2007, Mr Courtenay Griffiths Q.C. was assigned as Lead Counsel, and Andrew Cayley and Terry Munyard as Co-Counsel to the Defence legal team.<sup>15664</sup> The Defence was later joined by Morris Anyah, Silas Chekera and James Supuwood as co-counsel and Logan Hambrick as a legal assistant.

7023. On 28 June 2007, the Trial Chamber granted a joint motion from the Prosecution and Defence to postpone the resumption of the Prosecution's case until 20 August 2007.<sup>15665</sup>

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Affidavit by DCT-118 Pursuant to Rule 92bis, 26 May 2010, para. 3.

<sup>15659</sup> The Trial Chamber dismissed a motion on 30 March 2007 by the Prosecution requesting that witnesses falling within certain categories be allowed to testify via video link on the grounds that it did not feel it was in the interests of justice. *Prosecutor v. Taylor*, SCSL-03-01-PT-217, Decision on Prosecution Motion to Allow Witnesses to Give Testimony by Video Link, 30 March 2007.

<sup>15660</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 4 June 2007, pp. 250-251.

<sup>15661</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-293, Principal Defender's Decision Accepting the Withdrawal of Mr Karim Khan as Assigned Counsel to Mr Charles Ghankay Taylor, 14 June 2007.

<sup>15662</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-290, Registrar's Submission in Response to the Order of Expedited Filing, 12 June 2007.

<sup>15663</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, 25 June 2007, p. 384.

<sup>15664</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-320, Principal Defender's Decision Assigning New Counsel to Charles Ghankay Taylor, 17 July 2007.

<sup>15665</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-310, Order on Urgent and Public Joint Submissions by the Office of the Principal Defender and the Prosecution in Relation to the Re-Commencement of the Trial on 3 July 2007, 28 June 2007.





During a status conference on 20 August 2007, the Trial Chamber granted a further adjournment of the proceedings until 7 January 2008 in order to allow the new Defence counsel adequate time to prepare.<sup>15666</sup>

(c) Defects in the Form of the Indictment

7024. On 27 February 2009, by a majority, the Trial Chamber dismissed a Defence motion challenging the adequacy of the Prosecution's pleading of joint criminal enterprise (JCE) in the Second Amended Indictment. The Trial Chamber held that the Prosecution had provided sufficient details to put the Accused on notice of the case against him.<sup>15667</sup> Justice Richard Lussick dissented.<sup>15668</sup> On 1 May 2009, the Appeals Chamber upheld the Trial Chamber's decision, reaffirming, *inter alia*, that common purpose comprises both the objective of the JCE and the means contemplated to achieve that objective.<sup>15669</sup>

(d) Judicial Notice

7025. On 7 December 2007, the Trial Chamber took judicial notice of 33 facts agreed upon by the parties.<sup>15670</sup> On 29 March 2009, the Trial Chamber took judicial notice of 13 further facts, as well as adjudicated facts from the AFRC Trial Judgement. Judge Doherty dissented as to the admission of Fact 15.<sup>15671</sup> On 17 June 2010, however, the Trial Chamber declined to take judicial notice of facts adjudicated in the *Prosecutor v. Sesay, Kallon and Gbao* case ("RUF Judgement"). The Trial Chamber found that both the Defence's motion and the Prosecution's motion, if accepted, would disadvantage the other party and, moreover, that judicial economy would not be served by taking judicial notice at this late stage in the trial. Justice Sebutinde dissented in part with the decision.<sup>15672</sup>

<sup>15666</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 20 August 2007, pp. 435-436.

<sup>15667</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-752, Decision on Urgent Defence Motion Regarding a Fatal Defect in the Prosecution's Second Amended Indictment Relating to the Pleading of JCE, 27 February 2009.

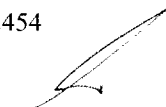
<sup>15668</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-751, Decision on Urgent Defence Motion Regarding a Fatal Defect in the Prosecution's Second Amended Indictment Relating to the Pleading of JCE - Dissenting Opinion of Justice Richard Lussick, 27 February 2009.

<sup>15669</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-775, Decision on "Defence Notice of Appeal and Submissions Regarding the Majority Decision Concerning the Pleadings of JCE in the Second Amended Indictment", 1 May 2009.

<sup>15670</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-370, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007.

<sup>15671</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-765, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the AFRC Trial Judgement Pursuant to Rule 94(B), 23 March 2009.

<sup>15672</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-987, Decision on Defence Application for Judicial Notice of





#### 4. Prosecution Case

##### Overview

7026. After delivering an opening statement on 4 June 2007, the Prosecution called its first witness on 7 January 2008 and rested its case 13 months later on 27 February 2009. During the Defence case, the Prosecution was granted leave to re-open its case to call three additional witnesses,<sup>15673</sup> who testified on 5, 9 and 10 August 2010. Overall, 94 witnesses testified *viva voce* for the Prosecution, including three expert witnesses.<sup>15674</sup> The prior testimony of one witness, who had testified in other cases before the Special Court, was admitted pursuant to Rule 92*bis* without any cross-examination by the Defence<sup>15675</sup> and the prior evidence of two deceased witnesses was admitted into evidence pursuant to Rule 92*quater*.<sup>15676</sup> The Prosecution tendered five expert reports into evidence,<sup>15677</sup> two of which were uncontested.<sup>15678</sup> A total of 782 documents were admitted as Prosecution exhibits,<sup>15679</sup> including the five expert reports.

7027. Following the conclusion of the Prosecution's case, the Accused filed a motion for judgement of acquittal pursuant to Rule 98 of the Rules; the Trial Chamber dismissed the

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Adjudicated Facts from the RUF Trial Judgement Pursuant to Rule 94(B) and Prosecution Motion for Judicial Notice of Adjudicated Facts from the RUF Judgement, 17 June 2010.

<sup>15673</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-993, Decision on Public with Confidential Annexes A and B Prosecution Motion to Call Three Additional Witnesses, 29 June 2010.

<sup>15674</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection", Report by Ian Smillie, 21 April 2007; Exhibit P-031, "Charles Taylor and the War in Sierra Leone", Report by Stephen Ellis and Corrigenda, 5 December 2006; Exhibit P-077 (confidential).

<sup>15675</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-642, Decision on Public with Confidential Annexes B to G Prosecution Notice Under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Freetown and the Western Area- TF1-024, TF1-081 and TF1-084, 20 October 2008. The Defence withdrew its objection to the admission of the evidence of witness TF1-081 pursuant to Rule 92*bis* and therefore agreed that there was no need for the witness to be brought for cross-examination. See Transcript 17 October 2008, p. 18660.

<sup>15676</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-720, Decision on Public with Confidential Annexes C to E Prosecution Motion for Admission of the Prior Trial Transcripts of Witnesses TF1-021 and TF1-083 Pursuant to Rule 92*quater*, 5 February 2009.

<sup>15677</sup> Exhibit P-019, "Diamonds, the RUF and the Liberian Connection", Report by Ian Smillie, 21 April 2007; Exhibit P-031, "Charles Taylor and the War in Sierra Leone", Report by Stephen Ellis and Corrigenda, 5 December 2006; Exhibit P-043, "Children Associated with Fighting Forces in the Conflict in Sierra Leone", Report by Jessica Alexander, 4 May 2007; Exhibit P-077 (confidential); Exhibit P-073, "Conflict-Related Sexual Violence in Sierra Leone", Report by Beth Vann, 14 May 2007.

<sup>15678</sup> Exhibit P-043, "Children Associated with Fighting Forces in the Conflict in Sierra Leone", Report by Jessica Alexander, 4 May 2007; Exhibit P-073, "Conflict-Related Sexual Violence in Sierra Leone", Report by Beth Vann, p. 31550, 14 May 2007.

<sup>15679</sup> When admitting documents, the Trial Chamber grouped similar documents together and admitted these documents with the same exhibit number, but with a distinct exhibit letter or sub-number. Therefore, while the Trial Chamber admitted a total of 615 Prosecution exhibits, the total number of Prosecution documents admitted was 782.

motion on 4 May 2009, ruling that the Prosecution had adduced evidence that was capable of sustaining a conviction on all 11 counts of the Indictment.<sup>15680</sup>

(a) Witness Issues

(i) Protective Measures

7028. During the trial, the Trial Chamber ordered additional protective measures for ten Prosecution witnesses.<sup>15681</sup> These additional measures included image and/or voice distortion, screens, and holding partially private or closed sessions for portions of the testimony. The Prosecution was also granted leave to withhold the identity of nine further witnesses until 42 days before their scheduled testimony.<sup>15682</sup> The Prosecution moved for permission to have eight witnesses testify in entirely closed sessions, but the Trial Chamber denied these motions, holding the Prosecution had failed to give full and exhaustive consideration to the use of less restrictive witness protection measures available under Rule 75(B)(i).<sup>15683</sup> The Trial Chamber rescinded the protective measures, in whole or in part, of nine witnesses at their own request.<sup>15684</sup>

<sup>15680</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 4 May 2009, pp. 24193-24211.

<sup>15681</sup> These witnesses include TF1-515, TF1-385, TF1-539, TF1-516, TF1-388, TF1-567, TF1-390, TF1-338, TF1-579, and TF1-358. *Prosecutor v. Taylor*, SCSL-03-01-T-437, Decision on Confidential Prosecution Motion for Additional Protective Measures for the Trial Proceedings of Witnesses TF1-515, TF1-516, TF1-385, TF1-539, TF1-567, TF1-388 and TF1-390, 13 March 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-455, Corrigendum on Decision on Confidential Prosecution Motion for Additional Protective Measures for the Trial Proceedings of Witnesses TF1-515, TF1-516, TF1-385, TF1-539, TF1-567, TF1-388 and TF1-390, 4 April 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-515, Decision on Confidential Urgent Prosecution Motion for Additional Protective Measures for Witnesses TF1-338 and TF1-579, 22 May 2008; & *Prosecutor v. Taylor*, SCSL-03-01-T-654, Decision on Confidential Prosecution Motion for Protective Measures for Witness TF1-358, 3 November 2008.

<sup>15682</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-368, Decision on Confidential Urgent Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure, 7 December 2007 & *Prosecutor v. Taylor*, SCSL-03-01-T-383, Decision on Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure, 10 January 2008.

<sup>15683</sup> These witnesses include TF1-338, TF1-339, TF1-532, TF1-542, TF1-548, TF1-555, TF1-561, and TF1-395. *Prosecutor v. Taylor*, SCSL-03-01-T-427, Decision on Confidential Prosecution Motion SCSL-03-01-T-372 and SCSL-03-01-T-385 for the Testimonies of Witnesses to Be Held in Closed Session, 26 February 2008; & *Prosecutor v. Taylor*, SCSL-03-01-T-615, Decision on Confidential Prosecution Motion for Additional Protective Measures for Witness TF1-395, 3 October 2008.

<sup>15684</sup> These included witnesses TF1-015, TF1-276, TF1-326, TF1-092, TF1-406, TF1-275, TF1-334, TF1-366, TF1-577. *Prosecutor v. Taylor*, SCSL-03-01-T-313, Decision on Prosecution Motion to Rescind Protective Measures for Witnesses, 6 July 2007; *Prosecutor v. Taylor*, SCSL-03-01-T-348, Decision on Prosecution Motion to Rescind Protective Measures for Witnesses, 3 October 2007; *Prosecutor v. Taylor*, SCSL-03-01-T-405, Decision on Prosecution Motion to Rescind Protective Measures for Witness TF1-275, 31 January 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-472, Decision on Confidential and Urgent Defence Motion to Rescind or Vary Protective Measures for Prosecution Witness TF1-334, 14 April 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-551, Decision on Defence Motion Pursuant to Rule 75(G) to Rescind Closed Session Protective Measures Granted Orally in Other Proceedings for Witness TF1-366, 2 July 2008; *Prosecutor v. Taylor*, SCSL-03-01-T,

7029. The Appeals Chamber overturned the Trial Chamber in two instances with respect to protective measures: Witness TF1-168 was permitted to testify in closed session<sup>15685</sup> and the Appeals Chamber found the Trial Chamber erred in law in adopting an incorrect construction of the “RUF Protective Measures Decision” when deciding on a protective measures motion relating to TF1-062,<sup>15686</sup> who had previously testified with protective measures in the RUF, CDF and AFRC trials.

7030. The following witnesses testified entirely in closed session: TF1-371,<sup>15687</sup> TF1-168<sup>15688</sup>, TF1-362<sup>15689</sup> and expert witness TF1-150.<sup>15690</sup>

(ii) Subpoena for Moses Blah (TF1-561)

7031. On 3 March 2008, the Trial Chamber issued a subpoena for witness TF1-561 and ordered the Registrar to transmit copies to the responsible authorities in Liberia so that it could be properly served.<sup>15691</sup> On 14 May 2008, the former interim President of Liberia, Moses Blah (TF1-561), began his testimony in open session.

(iii) Reclassification of Witness Corinne Dufka

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Transcript 3 June 2008, p. 10861 and *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript, 18 June 2008, p. 12144-12145.

<sup>15685</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-636, Decision on Prosecution Appeal Regarding the Decision Concerning Protective Measures of Witness TF1-168, 17 October 2008.

<sup>15686</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-666, Decision on Prosecution Appeal Regarding the Decision Concerning Protective Measures of Witness TF1-062, 13 November 2008.

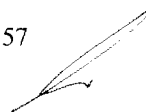
<sup>15687</sup> The provision that TF1-371’s testimony be heard entirely in closed session was ordered by Trial Chamber I in *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T-577, Decision on Prosecution Motion for the Testimony of Witnesses TF1-367, TF1-369 and TF1-371 to be Held in Closed Session and for Other Relief for Witness TF1-369, 14 June 2006; see *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 24 January 2008, pp. 2170-2171, where the Trial Chamber found that it continued to be bound by this order.

<sup>15688</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-636, Decision on Prosecution Appeal Regarding the Decision Concerning Protective Measures of Witness TF1-168, 17 October 2008.

<sup>15689</sup> The provision that TF1-362’s testimony be heard entirely in closed session was ordered by Trial Chamber I in *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T-377, Ruling on the Prosecution’s Application for the Entire Testimony of Witness TF1-362 to be Heard in Closed Session, 11 May 2005; see *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 27 February 2008, pp. 4792-4797, where the Trial Chamber found that it continued to be bound by this order.

<sup>15690</sup> The provision that TF1-150’s testimony be heard entirely in closed session was ordered by Trial Chamber I in *Prosecutor v. Norman, Fofana and Kondewa*, SCSL-04-14-T-432, Decision on Prosecution Application for Closed Session for Witness TF2-218, 15 June 2005, see *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 18 February 2008, pp. 4000-4002, where the Trial Chamber found that it continued to be bound by this order.

<sup>15691</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-432, Decision on Prosecution Motion for a Subpoena ad Testificandum, 3 March 2008.





7032. On 19 June 2008, the Trial Chamber partially granted the Defence motion to exclude the evidence of Corinne Dufka.<sup>15692</sup> The Trial Chamber reclassified Dufka as a witness of fact and admitted as exhibits certain materials referred to during her testimony.<sup>15693</sup>

(b) Disclosure

(i) Disclosure of Confidential Information Obtained from a Witness

7033. On 2 November 2007, the Trial Chamber granted a Prosecution motion requesting special measures for the disclosure of exculpatory information falling under Rule 68 which was obtained during a confidential telephone interview with a witness who invoked Rule 70(B) protections. The Trial Chamber prohibited disclosure of the information to any person other than the Accused and the Defence without prior written approval.<sup>15694</sup>

(ii) Disclosure of Evidence Supporting Chief Prosecutor's Statements

7034. The Trial Chamber denied a Defence request for disclosure of the underlying evidence for the Chief Prosecutor's public statements about the Accused's hidden assets, finding the assets were irrelevant to the indictment.<sup>15695</sup>

(iii) Confidential Source Issue Relating to Witness TF1-355

7035. On 6 March 2009, the Trial Chamber denied the Defence Motion for disclosure of the identity of a confidential source raised during the cross-examination of TF1-355.<sup>15696</sup> On 9 February 2009, the Trial Chamber denied leave to certain organisations to file an *amicus curiae* brief on confidential source issues raised during the cross-examination of witness TF1-355.<sup>15697</sup>

<sup>15692</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-543, Decision on Defence Application to Exclude the Evidence of Proposed Prosecution Expert Witness Corinne Dufka or, in the Alternative, to Limit its Scope and on Urgent Prosecution Request for Decision, 19 June 2008.

<sup>15693</sup> *Ibid.*, p. 11.

<sup>15694</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-354, Public Version of the Confidential Decision on Prosecution Motion Requesting Special Measures for Disclosure of Rule 70 Material, 2 November 2007.

<sup>15695</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-722, Decision on Motion for Disclosure of Evidence Underlying Prejudicial Statements Made by the Chief Prosecutor, Mr Stephen Rapp, to the Media, 6 February 2009.

<sup>15696</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-759, Decision on Defence Motion for the Disclosure of the Identity of a Confidential 'Source' Raised During Cross-Examination of TF1-355, 6 March 2009.

<sup>15697</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-725, Decision on Application for Leave to File an Amicus Brief on Confidential Source Issues Raised During the Cross-Examination of Witness TF1-355, 9 February 2009.



(iv) Contradictory Testimony of TF1-371 and Disclosure Under Rule 68

7036. On 22 May 2008, the Trial Chamber found that the in-court testimony of TF1-371 contradicted the Declaration of the Chief of Investigations, giving rise under Rule 68 to an obligation on the Prosecution to disclose the existence of evidence which may affect the credibility of the Prosecution's evidence. The Trial Chamber granted the Defence Motion in part and ordered the disclosure to the Defence of the name and contact details of the "confidential source" who contacted TF1-371 on or prior to 3 November 2005 on behalf of the Prosecution.<sup>15698</sup>

(c) Documents(i) Personal Archives of the Accused

7037. The Prosecution's *ex parte* motion requesting access to documents from personal archives of the Accused was denied on 5 November 2007. The Prosecution's failure to adequately identify the information meant the motion had "the hallmarks of a fishing expedition", and it therefore failed to meet the requirements of Rule 54.<sup>15699</sup>

(ii) Admission of Documents Under Rule 92bis, 92ter and 92quater

7038. On 21 August 2008, the Trial Chamber orally decided that documentary evidence not tendered through a witness must be tendered pursuant to Rule 92bis and not 89(C).<sup>15700</sup> A Prosecution request for leave to appeal the oral decision was dismissed.<sup>15701</sup>

7039. The Trial Chamber admitted into evidence prior trial transcripts and related exhibits from the testimony of 22 witnesses, as well as the statements of six witnesses, pursuant to Rule 92bis. Admission of the evidence was contingent upon the Prosecution making the witnesses available for cross-examination by the Defence. The Trial Chamber dismissed the

<sup>15698</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-516, Decision on Confidential Defence Motion for the Disclosure of Exculpatory Material Pursuant to Rule 68 of the Rules of Procedure and Evidence, 22 May 2008.

<sup>15699</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-355, Decision on *Ex Parte* and Confidential Prosecution Motion for an Order to Provide to the Prosecution Non-Privileged Documents Recently Obtained from the Accused's Personal Archive, 5 November 2007, p. 5. The Motion was subsequently reclassified as public on 3 December 2007. *Prosecutor v. Taylor*, SCSL-03-01-T-364, Decision on Prosecution Motion for Leave to Reclassify as "Public" a Motion Previously Filed on an *Ex Parte* and Confidential Basis, 3 December 2007.

<sup>15700</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 21 August 2008, p. 14253.

<sup>15701</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-721, Decision on "Prosecution Notice of Appeal and Submissions





Defence application for rescission of protective measures with respect to 13 of these witnesses.<sup>15702</sup>

7040. The Trial Chamber also admitted into evidence the following categories of documents pursuant to Rule 92*bis*: (i) Liberia Search documents;<sup>15703</sup> (ii) extracts of the Report of the Truth and Reconciliation Commission for Sierra Leone;<sup>15704</sup> (iii) documents of United Nations and United Nations Bodies;<sup>15705</sup> (iv) documents of certain non-governmental organisations and Associated Press releases;<sup>15706</sup> (v) BBC Radio broadcasts;<sup>15707</sup> (vi) documents seized from Foday Sankoh's house;<sup>15708</sup> (vii) documents seized from RUF Kono Office, Kono District;<sup>15709</sup> (viii) newspaper articles obtained from the Catholic Justice and

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Concerning the Decision Regarding the Tender of Documents", 6 February 2009.

<sup>15702</sup> The prior trial transcripts of witnesses TF1-036, TF1-060, TF1-062, TF1-122, TF1-125, TF1-072, TF1-076, TF1-077, TF1-218, TF1-304, TF1-195, TF1-197, TF1-198, TF1-206, TF1-023, TF1-029, TF1-024, TF1-084, TF1-081, TF1-098, TF1-104, and TF1-227 were admitted. The witness statements of TF1-198, TF1-206, TF1-084, TF1-098, TF1-104 and TF1-227 were admitted. The Defence application for rescission of protective measures was dismissed with regard to witnesses TF1-036, TF1-060, TF1-125, TF1-072, TF1-076, TF1-077, TF1-195, TF1-197, TF1-198, TF1-206, TF1-023, TF1-029, and TF1-104. *Prosecutor v. Taylor*, SCSL-03-01-T-556, Decision on Prosecution Notice under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Kenema District and on Prosecution Notice Under Rule 92*bis* for the Admission of the Prior Testimony of TF1-036 into Evidence, 15 July 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-623, Decision on Prosecution Notice Under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Kono District, 8 October 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-633, Decision on Prosecution Notice Under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Kono District- TF1-218 and TF1-304, 14 October 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-634, Decision on Public with Confidential Annexes A to G Prosecution Notice Under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Kono District- TF1-195, TF1-197, TF1-198 and TF1-206, 15 October 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-635, Decision on Public with Confidential Annexes A to C Prosecution Notice Under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Freetown and the Western Area- TF1-023 & TF1-029, 16 October 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-642, Decision on Public with Confidential Annexes B to G Prosecution Notice Under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Freetown and the Western Area- TF1-024, TF1-081 and TF1-084, 20 October 2008; & *Prosecutor v. Taylor*, SCSL-03-01-T-644, Decision on Public with Confidential Annexes A to D and F to G Prosecution Notice Under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Freetown & Western Area- TF1-098, TF1-104 and TF1-227, 21 October 2008.

<sup>15703</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-736, Decision on Prosecution Motion for Admission of Liberia Search Documents, 18 February 2009.

<sup>15704</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-737, Decision on Prosecution Motion for Admission of Extracts of the Report of the Truth and Reconciliation Commission of Sierra Leone, 19 February 2009.

<sup>15705</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-739, Decision on Prosecution Motion for Admission of Documents of the United Nations and United Nations Bodies, 20 February 2009.

<sup>15706</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-742, Decision on Prosecution Motion for Admission of Documents of Certain Non-Governmental Organisations and Associated Press Releases, 23 February 2009.

<sup>15707</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-745, Decision on Prosecution Motion for Admission of BBC Radio Broadcasts, 25 February 2009.

<sup>15708</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-747, Decision on Prosecution Motion for Admission of Documents Seized from Foday Sankoh's House, 26 February 2009.

<sup>15709</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-749, Decision on Prosecution Motion for Admission of Documents Seized from RUF Kono Office, Kono District, 27 February 2009.





Peace Commission Archive in Monrovia, Liberia.<sup>15710</sup> In addition, the Trial Chamber admitted into evidence Security Council Resolution 1315 (2000) pursuant to Rule 92bis.<sup>15711</sup>

7041. On 25 January 2008, the Trial Chamber denied the Prosecution's request to admit prior evidence from Witnesses TF1-362 and TF1-371 pursuant to Rule 92ter.<sup>15712</sup>

7042. On 5 February 2009, the Trial Chamber admitted the prior trial transcripts and related exhibits of two deceased witnesses pursuant to Rule 92quater.<sup>15713</sup>

(iii) Access to Documents from the RUF Trial

7043. On 28 October 2008, the Trial Chamber ordered the modification of the Kallon and Gbao Defence Protective Measures Decisions of 19 March 2007 and 1 March 2007, granting the Defence access to unredacted transcripts and witness statements procured in preparation for trial.<sup>15714</sup>

(iv) Reclassification of Documents as Confidential

7044. On 16 December 2010, the Trial Chamber dismissed the Prosecution's request that three filings and decisions be reclassified as "confidential" in order to protect the identity of Witness TF1-375.<sup>15715</sup>

(d) Re-Opening of Prosecution Case

7045. On 29 June 2010, the Trial Chamber granted the Prosecution leave to re-open its case to call three additional witnesses.<sup>15716</sup> On 1 July 2010, the Trial Chamber issued a subpoena

<sup>15710</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-750, Decision on Prosecution Motion for Admission of Newspaper Articles Obtained from the Catholic Justice & Peace Commission Archive in Monrovia, Liberia, 27 February 2009.

<sup>15711</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-744, Decision on Prosecution Motion for Admission of Document Pursuant to Rule 89(C) and 92bis, 25 February 2009.

<sup>15712</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-399, Decision on Prosecution Motion for Admission of Part of the Prior Evidence of TF1-362 and TF1-371 Pursuant to Rule 92ter, 25 January 2008.

<sup>15713</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-720, Decision on Public with Confidential Annexes C to E Prosecution Motion for Admission of the Prior Trial Transcripts of Witnesses TF1-021 and TF1-083 Pursuant to Rule 92quater, 5 February 2009.

<sup>15714</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-649, Decision on Defence Motion Pursuant to Rule 75(G) to Modify Kallon and Gbao Defence Protective Measures Decisions of 19 March 2007 and 1 March 2007 for Access to Closed Session Defence Witness Testimony & Limited Disclosure of Defence Witness Names and Related Exculpatory Material, 28 October 2008.

<sup>15715</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1140, Decision on Confidential with Confidential Annex A Urgent Prosecution Motion to Classify as "Confidential" Certain Public Filings and Decisions in Violation of Protective

for one of these witnesses, Naomi Campbell.<sup>15717</sup> The Trial Chamber granted right of appearance to the legal representatives of Naomi Campbell and Carole White and in the case of Ms. Campbell's representative, a limited right of audience. The Trial Chamber granted limited protective measures to Ms. Campbell.<sup>15718</sup> A Defence motion to stay the proceedings until the Prosecution disclosed any witness statements or "will-say" statements of Ms. Campbell was found to be without merit and denied as no such statement existed.<sup>15719</sup> The witnesses testified on 5, 9 and 10 August 2010.

## 5. Defence Case

### Overview

7046. The Defence opened its case on 13 July 2009 and closed on 12 November 2010. In total, the Defence called 21 *viva voce* witnesses, including the Accused who testified pursuant to Rule 85(C), and the statement of one witness was admitted pursuant to Rule 92*bis*.<sup>15720</sup> The Accused testified for seven months, from 14 July 2009 until 18 February 2010. The Defence did not tender any expert reports. A total of 740 documents were admitted as Defence exhibits.<sup>15721</sup>

### (a) Witness Issues

#### (i) Protective Measures

7047. On 27 May 2009, the Trial Chamber granted protective measures to Defence witnesses falling into two categories: (i) insider witnesses and (ii) former or current political or other high-ranking officials, allowing the Defence, *inter alia*, to withhold identifying

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Measures, 16 December 2010.

<sup>15716</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-993, Decision on Public with Confidential Annexes A and B Prosecution Motion to Call Three Additional Witnesses, 29 June 2010.

<sup>15717</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-999, Subpoena ad Testificandum, 1 July 2010.

<sup>15718</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1035, Decision on Confidential Request for Protective Measures for Naomi Campbell's Testimony, 3 August 2010; *Prosecutor v. Taylor*, SCSL-03-01-T-1042, Decision on Motion for Right to Appear as Counsel to a Witness, 5 August 2010.

<sup>15719</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1040, Decision on Urgent Defence Motion for Stay of Evidence Pending Disclosure of the Statement of Naomi Campbell, 4 August 2010.

<sup>15720</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-978, Decision on Defence Application for Admission of Affidavit by DCT-118 Pursuant to Rule 92*bis*, 11 June 2010.

<sup>15721</sup> When admitting documents, the Trial Chamber grouped similar documents together and admitted these documents with the same exhibit number, but with a distinct exhibit letter or number. Therefore, while the Trial Chamber admitted a total of 482 Defence exhibits, the total number of documents admitted was 740.

information of witnesses until 21 days before the witness was scheduled to testify at trial.<sup>15722</sup> During the Defence case, the Trial Chamber also ordered additional protective measures for one Defence witness.<sup>15723</sup>

(ii) Contact Between the Accused and Defence Counsel and Witnesses

7048. The Trial Chamber dismissed a Prosecution motion to restrict the Accused's access to Defence Counsel for the duration of his cross-examination, finding that it violated the fair trial rights of the Accused under Article 17 and that there was no suggestion that Defence Counsel had acted unethically or inappropriately in their communications with the Accused during the course of his examination-in-chief.<sup>15724</sup> The Trial Chamber also dismissed a Prosecution motion seeking to prohibit direct contact between the Accused and Defence witnesses, finding that the Prosecution had not established that there was any threat to the integrity of the proceedings and had not proved that the Accused attempted to influence potential witnesses or otherwise contaminate potential witness testimony.<sup>15725</sup>

(b) Disclosure

7049. On 23 September 2010, the Trial Chamber ordered the Prosecution to disclose to the Defence all payments made to DCT-097, pursuant to Rule 68.<sup>15726</sup> The Trial Chamber also ordered the Prosecution to disclose to the Defence various exculpatory materials relating to DCT-032, finding that the Prosecution had breached its obligations pursuant to Rule 68 in not disclosing this material earlier.<sup>15727</sup> The Trial Chamber dismissed a Defence request that

<sup>15722</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-782, Decision on Urgent Defence Application for Protective Measures for Witnesses and for Non-Public Materials, 27 May 2009.

<sup>15723</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-887, Decision on Confidential with *Ex Parte* Annex A Urgent Defence Motion for Additional Protective Measures for Witness DCT-125, 22 January 2010. The Trial Chamber also granted additional protective measures for another witness on the Defence witness list who was not called. See *Prosecutor v. Taylor*, SCSL-03-01-T-1047, Decision on Public with Confidential Annex A Defence Motion for Additional Protective Measures in Relation to Witness DCT-192, 13 August 2010.

<sup>15724</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-861, Decision on Prosecution Motion for an Order Restricting Contact Between the Accused and Defence Counsel during Cross-Examination, 20 November 2009.

<sup>15725</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-832, Decision on Prosecution Motion for an Order Prohibiting Contact between the Accused and Defence Witnesses or Alternative Relief, 14 August 2009.

<sup>15726</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1084, Decision on Defence Motion for Disclosure of Statement and Prosecution Payments Made to DCT-097, 23 September 2010.

<sup>15727</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1104, Decision on Public with Confidential Annexes A-D Defence Motion for Disclosure of Exculpatory Information Relating to DCT-032, 20 October 2010 ("Disclosure Decision").

it draw an adverse inference from this violation.<sup>15728</sup> It later granted the Defence request for leave to appeal this decision.<sup>15729</sup>

7050. During the Defence case, the Prosecution requested the Trial Chamber to order the Defence to disclose the statements of certain witnesses. The Trial Chamber granted two such requests in relation to DCT-179 and DCT-190,<sup>15730</sup> and denied four other such requests, although it granted other remedies, such as allowing the Prosecution additional time to prepare for cross-examination in three instances.<sup>15731</sup> The Trial Chamber denied the Prosecution leave to appeal one of its oral decisions denying such a request.<sup>15732</sup>

(c) Documents

(i) Use of Fresh Evidence in Cross-Examination

7051. In the Trial Chamber's decision of 30 November 2009, it determined the legal standards applicable to the use and admission of documents in cross-examination of the Accused. The Trial Chamber held that the Prosecution may use documents containing fresh evidence in order to impeach the credibility of the Accused. The Trial Chamber held that there was no statutory or procedural obligation upon the Prosecution to disclose such documents beforehand.<sup>15733</sup>

<sup>15728</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1119, Decision on Public with Confidential Annexes A-D Defence Motion for Admission of Documents and Drawing of an Adverse Inference Relating to the Alleged Death of Johnny Paul Koroma, 11 November 2010. The Trial Chamber dismissed a Prosecution Motion requesting that this decision, the Disclosure Decision and the Defence reply to the disclosure motion be re-classified as confidential, on the basis that these decisions and filing did not disclose information that could reveal the identity of a protected witness. See *Prosecutor v. Taylor*, SCSL-03-01-T-1140, Decision on Confidential with Confidential Annex A Urgent Prosecution Motion to Classify as "Confidential" Certain Public Filings and Decisions in Violation of Protective Measures, 16 December 2010.

<sup>15729</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1131, Decision on Defence Motion Seeking Leave to Appeal the Decision on the Defence Motion for Admission of Documents and Drawing of an Adverse Inference Relating to the Alleged Death of Johnny Paul Koroma, 2 December 2010.

<sup>15730</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 25 February 2010, p. 36119 (re: DCT-179); *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 8 June 2010, p. 42365 (re: DCT-190).

<sup>15731</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 3 March 2010, p. 36925 (re: DCT-125); *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 24 March 2010, p. 37950 (re: DCT-146), *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 16 April 2010, pp. 39250-39251 (re: DCT-306); *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 3 November 2010, pp. 48624-48625 (re: DCT-102).

<sup>15732</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-953, Decision on Urgent Prosecution Application for Leave to Appeal Decision of 16 April 2010, 5 May 2010.

<sup>15733</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-865, Decision on Prosecution Motion in Relation to the Applicable Legal Standards Governing the Use and Admission of Documents by the Prosecution During Cross-Examination, 30 November 2009, para. 27.

7052. In respect of a document containing fresh evidence that was probative of the guilt of the Accused, the Trial Chamber held that such document was subject to disclosure and could not be used during cross-examination unless (a) it was in the interest of justice; and (b) it did not violate the fair trial rights of the Accused. Furthermore, such a document would not be admitted into evidence unless the Prosecution could establish “exceptional circumstances”. In considering whether exceptional circumstances had been established, the Trial Chamber would take into consideration (i) when and by which means the Prosecution obtained the document; ii) when the Prosecution disclosed it to the Defence; and (iii) why the document was only being offered only after the conclusion of the Prosecution case.<sup>15734</sup>

7053. The Trial Chamber denied Prosecution requests for leave to appeal a number of oral decisions made by the Trial Chamber disallowing the use of documents during the cross-examination of the Accused.<sup>15735</sup>

7054. The Trial Chamber also applied the principles set out in the “Decision on Prosecution Motion in Relation to the Applicable Legal Standards Governing the Use and Admission of Documents by the Prosecution During Cross-Examination” of 30 November 2009 in prohibiting the Prosecution from using a custodial interview of Defence Witness Issa Hassan Sesay (DCT-172) for the purposes of impeaching his evidence-in-chief. The Trial Chamber that held since the information was involuntarily obtained and went to proof of the guilt of the Accused, the use of this document would not be in the interests of justice or the fair trial rights of the Accused.<sup>15736</sup> A Prosecution application seeking leave to appeal this decision was dismissed.<sup>15737</sup>

(ii) Admission of Documents Under Rule 92bis, 92ter and 92quater

7055. The Trial Chamber admitted into evidence various documents pursuant to Rule 92bis, including (i) the affidavit of Witness DCT-118 (Chief Jalloh Loon);<sup>15738</sup> (ii) two code-

<sup>15734</sup> *Ibid.*

<sup>15735</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-898, Decision on Public with Annex A and Confidential Annex B Urgent Application for Leave to Appeal Oral Decisions of 14 January 2010 on Use of Documents in Cross-Examination, 29 January 2010; *Prosecutor v. Taylor*, SCSL-03-01-T-905, Decision on Urgent Applications for Leave to Appeal Oral Decisions of 18, 21, 25 and 26 January 2010 on Use of Documents in Cross-Examination, 9 February 2010.

<sup>15736</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 13 August 2010, pp. 46255-46256.

<sup>15737</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1062, Decision on Urgent Application for Leave to Appeal Decision Excluding the Use of Custodial Statement of Issa Sesay, 25 August 2010.

<sup>15738</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-978, Decision on Defence Application for Admission of Affidavit by





cables;<sup>15739</sup> (iii) 12 documents relating to the Special Task Force;<sup>15740</sup> (iv) four “contemporaneous” documents;<sup>15741</sup> and (v) four documents relating to Defence investigators Prince Taylor and Solomon Jusu Moriba.<sup>15742</sup> The Trial Chamber denied the following Defence motions for the admission of documents pursuant to Rule 92bis. It held that an application for the admission of the autopsy report of Enoch Dogolea was in effect an application for the admission of an expert report, and that the Defence had failed to make out a case for the admission of the document pursuant to Rule 92bis as it was opinion evidence, and had not followed the procedure laid down in Rule 94bis.<sup>15743</sup> The Trial Chamber also held that a newspaper report sought to be admitted went to the acts and conduct of the Accused and was therefore inadmissible pursuant to Rule 92bis,<sup>15744</sup> and that excerpts of a report by the International Centre for Transitional Justice on the Liberian TRC report were “opinion” evidence and thus inadmissible pursuant to Rule 92bis.<sup>15745</sup> It also held that certain forensic and autopsy reports were opinion evidence and thus inadmissible pursuant to Rule 92bis.<sup>15746</sup> The Trial Chamber also dismissed a Defence request to admit exculpatory material relating to DCT-032, on the basis that it went to the acts and conduct of the Accused. The Trial Chamber later granted leave to the Defence to appeal this decision,<sup>15747</sup> and the Appeals Chamber upheld the Trial Chamber’s decision in part,

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DCT-118 Pursuant to Rule 92bis, 11 June 2010. The Prosecution advised that “in light of the advanced age and alleged fragile health of the witness”, it did not object to the admission of the affidavit in lieu of oral testimony. See *Prosecutor v. Taylor*, SCSL-03-01-T-967, Prosecution Response to the Public, with Confidential Annex A Defence Application for Admission of Affidavit by DCT-118 Pursuant to Rule 92bis, 26 May 2010, para. 3.

<sup>15739</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1064, Decision on Public with Annexes A and B Defence Motion for Admission of Documents Pursuant to Rule 92bis, 27 August 2010.

<sup>15740</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1079, Decision on Public with Annexes A-J and Confidential Annex K-L Defence Motion for Admission of Documents Pursuant to Rule 92bis – Special Task Force, 17 September 2010, admitting Defence Exhibits 454 to 456. See also *Prosecutor v. Taylor*, SCSL-03-01-T-1083, Corrigendum to Decision on Public with Annexes A-J and Confidential Annex K-L Defence Motion for Admission of Documents Pursuant to Rule 92bis – Special Task Force, 22 September 2010.

<sup>15741</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1082, Decision on Public with Annexes A to D Defence Motion for Admission of Documents Pursuant to Rule 92bis – Contemporaneous Documentation, 22 September 2010.

<sup>15742</sup> *Prosecutor v. Taylor*, Transcript 12 November 2010, pp. 49112-49114.

<sup>15743</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1070, Decision on Public with Confidential Annexes A, B, C and D Defence Motion for Admission of Documents Pursuant to Rule 92bis – Autopsy Report, 9 September 2010.

<sup>15744</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1099, Decision on Public with Annex A Defence Motion for Admission of Documents Pursuant to Rule 92bis – Newspaper Article, 5 October 2010.

<sup>15745</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1077, Decision on Public with Annex A Defence Motion for Admission of Document Pursuant to Rule 92bis - ICTJ Report on Liberian Truth and Reconciliation Commission, 16 September 2010.

<sup>15746</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1119, Decision on Public with Confidential Annexes A-D Defence Motion for Admission of Documents and Drawing of an Adverse Inference Relating to the Alleged Death of Johnny Paul Koroma, 12 November 2010, para. 30.

<sup>15747</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1131, Decision on Defence Motion Seeking Leave to Appeal the Decision on the Defence Motion for Admission of Documents and Drawing of an Adverse Inference Relating to



affirming the exclusion of the proffered affidavit, but admitting the two other documents.<sup>15748</sup>

(d) Other

7056. The Trial Chamber dismissed a Prosecution motion for an order to direct the Registry to disclose non-privileged information relating to certain communications made by the Accused from the Detention Centre.<sup>15749</sup>

7057. The Trial Chamber dismissed as premature a Defence motion requesting it to exclude or limit the scope to be given to evidence falling outside of the temporal and/or geographical scope of the Indictment and/or the jurisdiction of the Court.<sup>15750</sup>

(e) Defence Requests to Recall Witnesses and to Re-open the Defence Case

7058. On 24 January 2011, the Trial Chamber dismissed a Defence request to recall four witnesses for further cross-examination in relation to the circumstances of their relocations, and for the Trial Chamber to order the Chief of the Witnesses and Victims Section to testify regarding the same.<sup>15751</sup>

7059. On 27 January 2011, the Trial Chamber granted a Defence request to re-open its case to admit into evidence pursuant to Rule 92bis two United States Government (“USG”) cables which were published by the Guardian newspaper on 17 December 2010, but refused to admit a newspaper article related to the same.<sup>15752</sup> On 28 January 2011, the Trial Chamber

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the Alleged Death of Johnny Paul Koroma, 2 December 2010.

<sup>15748</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1168, Decision on Defence Appeal Regarding the Decision on the Defence Motion for Admission of Documents and Drawing of an Adverse Inference Relating to the Alleged Death of Johnny Paul Koroma, 25 January 2011.

<sup>15749</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-886, Decision on Public with Annex A and B and Confidential Annex C Urgent Prosecution Request for an Order to Direct the Registry to Disclose Non-Privileged Information, 22 January 2010.

<sup>15750</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1101, Decision on Defence Motion to Exclude Evidence Falling Outside the Scope of the Indictment and/or the Jurisdiction of the Special Court for Sierra Leone, 6 October 2010.

<sup>15751</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1167, Decision on Public with Annexes A-H and Confidential Annexes I-J Defence Motion to Recall Four Prosecution Witnesses and to Hear Evidence from the Chief of WVS Regarding Relocation of Prosecution Witnesses, 24 January 2011. The Trial Chamber later denied a Defence request for leave to appeal this decision. *Prosecutor v. Taylor*, SCSL-03-01-T-1188, Decision on Defence Motion Seeking Leave to Appeal the Decision on Defence Motion to Recall Four Prosecution Witnesses and to Hear Evidence from the Chief of WVS Regarding Relocation of Prosecution Witnesses, 4 February 2011.

<sup>15752</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1171, Decision on the Urgent and Public with Annexes A-C Defence



dismissed the Defence request for disclosure and/or investigation into the organs of the Court in relation to the two leaked USG cables and the newspaper article.<sup>15753</sup>

(f) Contempt Motions

7060. On 19 September 2008, the Trial Chamber dismissed four Prosecution motions requesting investigations into contempt, which alleged that the Defence had breached the protective measures of witnesses in violation of Rule 77(A).<sup>15754</sup>

7061. On 18 December 2008, the Trial Chamber granted a Prosecution motion in part, and directed the Registrar to appoint experienced independent counsel to investigate allegations of contempt made by Witness TF1-579 during the proceedings before the Trial Chamber.<sup>15755</sup> The Trial Chamber subsequently determined, on the basis of the conclusions and recommendations of the independent counsel, that there were insufficient grounds for instigating contempt proceedings.<sup>15756</sup>

7062. On 12 November 2010, the Trial Chamber dismissed a Defence motion requesting that it order a contempt investigation into Prosecution conduct pursuant to Rule 77, alleging that the Prosecution and its investigators knowingly and wilfully interfered with the administration of justice by, *inter alia*, threatening, intimidating, causing injury or offering bribes to or otherwise interfering with witnesses or potential witnesses.<sup>15757</sup> On 3 December

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Motion to Re-Open its Case in Order to Seek Admission of Documents Relating to the Relationship between the United States Government and the Prosecution of Charles Taylor, 27 January 2011.

<sup>15753</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1174, Decision on Urgent and Public with Annexes A-N Defence Motion for Disclosure and/or Investigation of United States Government Sources Within the Trial Chamber, the Prosecution and the Registry Based on the Leaked USG Cables, 28 January 2011. The Trial Chamber later denied the Defence request for leave to appeal this decision. *Prosecutor v. Taylor*, SCSL-03-01-T-1193, Decision on Defence Motion Seeking Leave to Appeal the Decision on Urgent and Public with Annexes A-N Defence Motion for Disclosure and/or Investigation of United States Government Sources Within the Trial Chamber, the Prosecution and the Registry Based on Leaked USG Cables, 7 February 2011.

<sup>15754</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-600, Decision on Prosecution Motions for Investigations into Contempt of the Special Court for Sierra Leone ( SCSL-03-01-451; SCSL-03-01-452; SCSL-03-01-457; SCSL-03-01-513), 19 September 2008.

<sup>15755</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-690, Confidential Decision on Confidential Prosecution Motion for an Investigation by Independent Counsel into Contempt of the Special Court for Sierra Leone and for Urgent Interim Measures, 8 December 2008.

<sup>15756</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-774, Decision on Contempt Investigation Report by Independent Counsel, 8 April 2009.

<sup>15757</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1118, Decision on Public with Confidential Annexes A-J and Public Annexes K-O Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators, 11 November 2010.

2010, the Trial Chamber granted a Defence motion seeking leave to appeal this decision,<sup>15758</sup> which in addition rendered moot the Defence motion requesting that the Trial Chamber reconsider the same decision.<sup>15759</sup> The Appeals Chamber dismissed the appeal in its entirety on the basis that it did not have the jurisdiction to consider appeals from preliminary decisions made by the Trial Chamber pursuant to Rule 77.<sup>15760</sup>

7063. On 25 February 2011, the Trial Chamber granted in part two Prosecution motions requesting that it order a contempt investigation pursuant to Rule 77, and directed the Registrar to appoint independent experienced counsel to investigate allegations that certain persons had disclosed information in knowing violation of an order of the Trial Chamber, offered a bribe to and/or otherwise interfered with Prosecution witnesses.<sup>15761</sup> On 17 March 2011, the Trial Chamber ordered that the Registrar further direct the same counsel to investigate an additional allegation of contempt pursuant to Rule 77, and to provide him with certain supplementary materials.<sup>15762</sup> On the basis of the report of the independent counsel,<sup>15763</sup> on 24 May 2011, the Trial Chamber found that there were sufficient grounds to proceed against Eric Senessie for contempt of court, ordered that an order in lieu of an indictment be issued charging Eric Senessie with nine counts of contemptuous conduct, directed independent counsel to prosecute Senessie in accordance with the order in lieu of indictment and assigned the contempt proceedings to Justice Doherty.<sup>15764</sup>

<sup>15758</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1130, Decision on Defence Motion Seeking Leave to Appeal the Decision on the Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators, 3 December 2010.

<sup>15759</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1132, Decision on Public with Annex A Defence Motion for Reconsideration of Decision on Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and Its Investigators, 3 December 2010.

<sup>15760</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1166, Decision on Public Defence Notice of Appeal and Submissions Regarding the Decision on the Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators, 21 January 2011, para. 44.

<sup>15761</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1218, Decision on Public with confidential Annexes A to E and Public Annex F Urgent Prosecution Motion for an Investigation into Contempt of the Special Court for Sierra Leone and Public with Confidential Annexes A and B Urgent Prosecution Motion for an Investigation into Contempt of the Special Court for Sierra Leone, 25 February 2011.

<sup>15762</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1231, Decision on Public with Confidential Annexes A and B Urgent Prosecution Motion for an Investigation into Contempt of the Special Court for Sierra Leone and on Prosecution Supplementary Requests, 17 March 2011.

<sup>15763</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1240, Confidential and Under Seal Submission of Confidential Report of Independent Counsel, 12 April 2011.

<sup>15764</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1249, Decision on the Report of the Independent Counsel, 24 May 2011.





7064. The Prosecution requested that the Trial Chamber summarily deal with a possible contempt of court by Lead Defence Counsel for disclosing information about protected witnesses.<sup>15765</sup> On 24 March 2011, the Trial Chamber granted several interim measures, but, Justice Sebutinde partially dissenting, held that in the interests of a fair and expeditious trial, a decision on the merits of the motion should be postponed until the trial was completed.<sup>15766</sup>

(g) Filing of the Final Trial Briefs and Oral Arguments

7065. On 22 October 2010, the Trial Chamber issued orders relating to the filing schedule for the final trial briefs and responses, the length of the briefs and responses and dates for the closing arguments.<sup>15767</sup>

7066. On 12 January 2011, the Trial Chamber refused a Defence request for a status conference and for a stay of proceedings or an extension of time for the filing of the final trial briefs.<sup>15768</sup> On 14 January 2011, the Prosecution filed its final brief in accordance with the deadline set out in the scheduling order,<sup>15769</sup> but the Defence did not. A status conference was held on 20 January 2011 to allow the Defence to explain why it had not filed its final

<sup>15765</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1208, Confidential with Confidential Annexes A-E Prosecution Motion for the Trial Chamber to Summarily Deal with Contempt of the Special Court for Sierra Leone and for Urgent Interim Measures, 17 February 2011.

<sup>15766</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1235, Decision on Confidential with Confidential Annexes A-E Prosecution Motion for the Trial Chamber to Summarily Deal with Contempt of the Special Court for Sierra Leone and for Urgent Interim Measures, 24 March 2011.

<sup>15767</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1105, Order Setting a Date for the Closure of the Defence Case and Dates for Filing of Final Trial Briefs and the Presentation of Closing Arguments, 22 October 2010.

<sup>15768</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1154, Decision on Defence Request for a Status Conference Pursuant to Rule 65bis and Defence Motion for Stay of Proceedings Pending Resolution of Outstanding Issues, 12 January 2011. The Trial Chamber later denied a Defence request for leave to appeal this decision. *Prosecutor v. Taylor*, SCSL-03-01-T-1180, Decision on Public with Annex A Defence Motion Seeking Leave to Appeal the Decision on Defence Request for a Status Conference Pursuant to Rule 65Bis and Defence Motion for Stay of Proceedings Pending Resolution of Outstanding Issues, 2 February 2011.

<sup>15769</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1156, Confidential Prosecution Final Trial Brief, 14 January 2011. The Defence refused to accept service of this brief. On 3 February 2011, the Trial Chamber granted the Prosecution request for leave to file a corrigendum to its final brief. *Prosecutor v. Taylor*, SCSL-03-01-1183, Decision on Prosecution Corrigendum and Motion for Leave to Substitute Pages of the Prosecution Final Trial Brief, 3 February 2011. At a status conference held on 7 March 2011, the Trial Chamber granted the Prosecution Motion to substitute its final trial brief with a "revised and refined" version of the brief. See *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 7 March 2011, p. 49334. It was filed as Annex A to *Prosecutor v. Taylor*, SCSL-03-01-T-1189, Public with Confidential Annex Motion to Substitute Final Trial Brief, 4 February 2011. See also *Prosecutor v. Taylor*, SCSL-03-01-T-1233, Order re: Prosecution Public with Confidential Annex Motion to Substitute Prosecution Final Trial Brief, 18 March 2011. On 7 March 2011, the Trial Chamber ordered the parties to file public versions of their brief within one month. See *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 7 March 2011, p. 49341. The Prosecution filed the public version of its brief on 8 April 2011. See *Prosecutor v. Taylor*, SCSL-03-01-T-1239, Public Prosecution Final Trial Brief, 8 April 2011. The Trial Chamber accepted the brief despite its late filing.

trial brief by this date.<sup>15770</sup> On 3 February 2011, the Defence attempted to file its final brief,<sup>15771</sup> but the Trial Chamber refused to accept the late filing.<sup>15772</sup>

7067. The Prosecution made its oral closing arguments on 8 and 9 February 2011. On 8 February 2011, Lead Counsel for the Accused withdrew from the hearing, despite being directed to stay by the Trial Chamber.<sup>15773</sup> A hearing in relation to Lead Counsel's conduct was scheduled for 25 February 2011,<sup>15774</sup> but was adjourned as the Trial Chamber held that the court was not properly constituted in the absence of Judge Sebutinde.<sup>15775</sup> The Defence filed a motion seeking the termination of the disciplinary proceedings or leave to appeal the decision to adjourn,<sup>15776</sup> but this was dismissed as moot<sup>15777</sup> after Lead Counsel apologized in court on 11 March 2011.<sup>15778</sup>

7068. The Trial Chamber granted the Defence request for leave to appeal its decision not to accept the Defence final brief,<sup>15779</sup> and on 3 March 2011, the Appeals Chamber ordered the Trial Chamber to accept the Defence final trial brief, and to set a date for the Defence closing arguments and for the rebuttal arguments.<sup>15780</sup> On 7 March 2011, the Trial Chamber held a status conference to address these issues.<sup>15781</sup>

<sup>15770</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1162, Scheduling Order for Status Conference on 20 January 2011, 18 January 2011.

<sup>15771</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1186, Confidential with Annexes A-C Defence Final Trial Brief, 3 February 2011.

<sup>15772</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1191, Decision on Late Filing of Defence Final Trial Brief, 7 February 2011.

<sup>15773</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 8 February 2011, p. 49145. The Accused waived his right to be present after the morning break, and for the subsequent hearings on 9 and 11 February 2011. *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 8 February 2011, pp. 49187-49188; *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 9 February 2011, pp. 49285-49286; *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 11 February 2011, p. 49295.

<sup>15774</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 11 February 2011, pp. 49303-49304.

<sup>15775</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 25 February 2011, pp. 49316-49318.

<sup>15776</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1220, Defence Motion Seeking Termination of the Disciplinary Hearing for Failure to Properly Constitute the Trial Chamber and/or Leave to Appeal the Remaining Judges' Decision to Adjourn the Disciplinary Hearing, 28 February 2011.

<sup>15777</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1234, Order re: Defence Motion Seeking Termination of the Disciplinary Hearing for Failure to Properly Constitute the Trial Chamber and/or Leave to Appeal the Remaining Judges' Decision to Adjourn the Disciplinary Hearing, 18 March 2011.

<sup>15778</sup> *Prosecutor v. Taylor*, Transcript 11 March 2011, pp. 49621-49622.

<sup>15779</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1202, Decision on Defence Motion Seeking Leave to Appeal the Decision on Late Filing of Defence Final Trial Brief, 11 February 2011.

<sup>15780</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1223, Decision on Defence Notice of Appeal and Submissions Regarding the Decision on Late Filing of Defence Final Trial Brief, 3 March 2011.

<sup>15781</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 7 March 2011, p. 49319.

7069. The final version of the Defence Final Trial Brief was filed on 9 March 2011.<sup>15782</sup> On 9 March 2011, the Prosecution made its oral response to the Defence's final trial brief,<sup>15783</sup> and on 10 March 2011 the Defence filed a written response to the Prosecution's final trial brief.<sup>15784</sup>

7070. The Defence delivered its oral closing arguments on 9 and 10 March 2011,<sup>15785</sup> and on 11 March 2011, both parties made oral arguments in rebuttal.<sup>15786</sup>

## 6. Final Judgement

7071. The Final Judgement was delivered in open court on 26 April 2012.

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<sup>15782</sup> The Defence filed its initial version of its brief on 3 February 2011. *Prosecutor v. Taylor*, SCSL-03-01-T-1186, Confidential with Annexes A-C Defence Final Trial Brief, 3 February 2011. The Defence filed a corrigendum to its final trial brief on 8 February 2011, noting that it did so despite the refusal of the majority to accept the final trial brief. See *Prosecutor v. Taylor*, SCSL-03-01-T-1194, Public with Annex A and Confidential Annex B Corrigendum to Defence Final Trial Brief as Filed on 3 February 2011, 8 February 2011. The Prosecution objected that Annex A to this Corrigendum, which was filed publicly, revealed the names of protected witnesses, and the Trial Chamber reclassified it as confidential pending the outcome of its decision relating to allegations of contempt against the Defence. See *Prosecutor v. Taylor*, SCSL-03-01-T-1210, Order for Expedited Filing, 17 February 2011. During the status conference on 7 March 2011, the Trial Chamber held that the corrected final trial brief should be accepted. However, it found that the Defence had improperly included material which amounted to factual argument in its Annex, and that therefore the brief exceeded the page limit of 600 pages set out in the Scheduling Order. It therefore ordered the Defence to file a revised version of the brief limited to 600 pages by 9 March 2011. See *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 7 March 2011, pp. 49335-49336. This was filed as *Prosecutor v. Taylor*, SCSL-03-01-T-1229, Public with Confidential Annex Defence Corrected and Amended Final Trial Brief, 9 March 2011. On 7 March 2011, the Trial Chamber ordered the parties to file public versions of their briefs within one month. See *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 7 March 2011, p. 49341. The Defence filed a public version of its brief on 7 April 2011. *Prosecutor v. Taylor*, SCSL-03-01-T-1237, Public Version Defence Final Trial Brief, 7 April 2011. However, in response to a Prosecution motion objecting that the public version of the brief revealed the identities of certain protected witnesses, the Trial Chamber rejected the brief and ordered the Defence to submit a revised public version by 20 May 2011. *Prosecutor v. Taylor*, SCSL-03-01-T-1246, Decision on Public with Confidential Annexes A to E Confidential Prosecution Motion for the Re-Filing of the 'Public Version Defence Final Trial Brief' and 'Public Version Defence Response to Prosecution Final Trial Brief', 11 May 2011. The Trial Chamber later permitted the Defence an extension until 23 May 2011 to file its brief. The Defence filed the final public version of its brief on 23 May 2011. *Prosecutor v. Taylor*, SCSL-03-01-T-1248, Public Version Defence Final Trial Brief, 23 May 2011.

<sup>15783</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 9 March 2011, pp. 49343-49387.

<sup>15784</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1230, Confidential Defence Response to Prosecution Final Trial Brief, 10 March 2011. The Defence filed a public version of its response on 7 April 2011. *Prosecutor v. Taylor*, SCSL-03-01-T-1238, Public Version Defence Response to Prosecution Final Trial Brief, 7 April 2011. However, in response to a Prosecution motion objecting that the public version of the response revealed the identities of certain protected witnesses, the Trial Chamber rejected this response and ordered the Defence to submit a revised public version by 20 May 2011. *Prosecutor v. Taylor*, SCSL-03-01-T-1246, Decision on Public with Confidential Annexes A to E Confidential Prosecution Motion for the Re-Filing of the 'Public Version Defence Final Trial Brief' and 'Public Version Defence Response to Prosecution Final Trial Brief', 11 May 2011. The Defence filed the final public version of its response on 20 May 2011. *Prosecutor v. Taylor*, SCSL-03-01-T-1247, Public Version Defence Response to Prosecution Final Trial Brief, 20 May 2011.

<sup>15785</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 9-10 March 2011, pp. 49387-49522.

<sup>15786</sup> *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 11 March 2011, pp. 49523-49622.

**XIV. ANNEX C: TABLE OF AUTHORITIES**

1. Judgements and Decisions

(a) Special Court for Sierra Leone

**AFRC Case**

<b>Kamara Decision on Motion to Exclude Evidence</b>	<i>Prosecutor v. Brima, Kamara and Kanu</i> , SCSL-04-16-T-280, Decision on Joint Defence Motion to Exclude all Evidence from Witness TF1-277 pursuant to Rule 89 (C) and/or Rule 95, 24 May 2005
<b>Kamara Decision on Form of Indictment</b>	<i>Prosecutor v. Brima, Kamara and Kanu</i> , SCSL-04-16-PT-046, Decision and Order on Defence Preliminary Motion on Defects in the Form of the Indictment (TC), 1 April 2004
<b>AFRC Trial Judgement</b>	<i>Prosecutor v. Brima, Kamara and Kanu</i> , SCSL-04-16-T-628, Judgement (TC), 20 June 2007
<b>AFRC Appeal Judgement</b>	<i>Prosecutor v. Brima, Kamara and Kanu</i> , SCSL-04-16-A-675, Judgement (AC), 22 February 2008
<b>Kanu Decision on Form of Indictment</b>	<i>Prosecutor v. Kanu</i> , SCSL-2003-13-PT, Decision and Order on Defence Preliminary Motion for Defects in the Form of the Indictment, 19 November 2003

**CDF Case**

<b>Fofana Appeal Decision on Judicial Notice and Admission of Evidence</b>	<i>Prosecutor v. Moinina Fofana</i> , SCSL-04-14-AR73-398, Fofana – Decision on Appeal Against “Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence”, Separate Opinion of Justice Robertson, 16 May 2005
<b>CDF Appeal Decision on Nature of Armed Conflict</b>	<i>Prosecutor v. Norman, Fofana and Kondewa</i> , SCSL-04-14-PT-101, Decision on Preliminary Motion on Lack of Jurisdiction <i>Materiae</i> : Nature of the Armed Conflict (AC), 25 May 2004
<b>CDF Appeal Decision on Child Recruitment</b>	<i>Prosecutor v. Norman</i> , SCSL-04-14-AR72(E)-131-7384/7398/7413/7430, Decision on Preliminary Motion Based on Lack of Jurisdiction (Child Recruitment) (AC), 31 May 2004
<b>Dissenting Opinion of Justice Robertson<sup>10</sup> CDF Appeal Chamber Decision on Child Recruitment</b>	<i>Prosecutor v. Norman</i> , SCSL-04-14-AR72(E)-131-7413/7430, Dissenting Opinion of Justice Robertson to Appeals Chamber Decision on Child Recruitment, 31 May 2004
<b>Fofana Appeal Decision Refusing Bail</b>	<i>Prosecutor v. Norman, Fofana and Kondewa</i> , SCSL-04-14-T-371, Fofana – Appeal Against Decision Refusing Bail (AC), 11 March 2005

<b>CDF Decision on Closed Session for Witness TF2-218</b>	<i>Prosecutor v. Norman, Fofana and Kondewa</i> , SCSL-04-14-T-432, Decision on Prosecution Application for Closed Session for Witness TF2-218, 15 June 2005
<b>CDF Trial Judgement</b>	<i>Prosecutor v. Fofana and Kondewa</i> , SCSL-04-14-T-785, Judgement (TC), 2 August 2007
<b>CDF Appeal Judgement</b>	<i>Prosecutor v. Fofana and Kondewa</i> , SCSL-04-14-A-829, Judgement (AC), 28 May 2008

#### RUF Case

<b>RUF Trial Judgement</b>	<i>Prosecutor v. Sesay, Kallon and Gbao</i> , SCSL-04-15-T-1234, Judgement (TC), 2 March 2009
<b>RUF Appeal Judgement</b>	<i>Prosecutor v. Sesay, Kallon and Gbao</i> , SCSL-04-15-A-1321, Judgement (AC), 26 October 2009

#### Taylor Case

<b>Indictment</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-PT-263, Prosecution's Second Amended Indictment, 29 May 2007
<b>Taylor Decision on Exclusion of Evidence of Corinne Dufka</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-543, Decision on Defence Application to Exclude the Evidence of Proposed Prosecution Expert Witness Corinne Dufka, or, in the Alternative, to Limit its Scope and on Urgent Prosecution Request for Decision, 19 June 2008
<b>Taylor Admission of Documents Decision</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T, Decision on Public with Annexes A and B Defence Motion for Admission into Evidence of 301 Documents and Photographs Marked for Identification During the Cross-Examination of the Accused <u>and</u> on Prosecution List of Documents Marked for Identification During the Testimony of Charles Taylor Sought to be Admitted into Evidence, 18 March 2010
<b>Taylor Decision on Exclusion of Evidence of Corinne Dufka</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-543, Decision on Defence Application to Exclude the Evidence of Proposed Prosecution Expert Witness Corinne Dufka or, in the Alternative, to Limit its Scope and on Urgent Prosecution Request for Decision, 19 June 2008
<b>Taylor Decision on Judicial Notice of AFRC Adjudicated Facts</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-765, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the AFRC Trial Judgement pursuant to Rule 94(B), 23 March 2009
<b>Taylor Decision on Judicial Notice of RUF Adjudicated Facts</b>	<i>Prosecutor v. Taylor</i> , SCSL-04-01-T-987, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the RUF Trial Judgement Pursuant to Rule 94(B) <u>and</u> Prosecution Motion for Judicial Notice of Adjudicated Facts from the RUF Judgement, 17 June 2010
<b>Taylor Appeal</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-775, Decision on



<b>Chamber Decision on JCE</b>	Defence Notice of Appeal and Submissions regarding the Majority Decision Concerning the Pleading of JCE in the Second Amended Indictment, 1 May 2009
<b>Taylor Trial Chamber Decision on JCE</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-752, Decision on Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, 27 February 2009
<b>Taylor Decision on Admission of BBC Radio Broadcasts</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-745, Decision on Prosecution Motion for Admission of BBC Radio Broadcasts, 25 February 2009
<b>Taylor Decision on Admission of Documents from NGOs and Associated Press Releases</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-742, Decision on Prosecution Motion for Admission of Documents of Certain Non-Governmental Organisations and Associated Press Releases, 23 February 2009
<b>Taylor Decision on Admission of Document pursuant to Rules 89(C) and 92bis</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-744, Decision on Prosecution Motion for Admission of Document pursuant to Rules 89(C) and 92bis, 25 February 2009
<b>Taylor Decision on Admission of Seized Documents from Foday Sankoh's House</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-747, Decision on Prosecution Motion for Admission of Documents Seized from Foday Sankoh's House, 26 February 2009
<b>Taylor Decision on Admission of Documents Seized from RUF Kono Office</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-749, Decision on Prosecution Motion for Admission of Documents Seized from RUF Kono Office, Kono District, 27 February 2009
<b>Taylor Decision on Admission of Extracts of Report of the Truth and Reconciliation Commission of Sierra Leone</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-737, Decision on Prosecution Motion for Admission of Extracts of the Report of the Truth and Reconciliation Commission of Sierra Leone, 19 February 2009
<b>Taylor Decision on Admission of Liberia Search Documents</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-736, Decision on Prosecution Motion for Admission of Liberia Search Documents, 18 February 2009
<b>Taylor Decision on Judicial Notice</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-370, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007
<b>Taylor Decision on Admission of Newspaper Articles Obtained in Monrovia</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-750, Decision on Prosecution Motion for Admission of Newspaper Articles Obtained from the Catholic Justice and Peace Commission Archive in Monrovia, Liberia, 27 February 2009
<b>Taylor Decision on Admission of Documents from UN</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-739, Decision on Prosecution Motion for Admission of Documents of the United Nations and United Nations Bodies, 20 February

2009

**Taylor Decision on Use and Admission of Prosecution Documents during Cross Examination**

*Prosecutor v. Taylor*, SCSL-03-01-T-865, Decision on Prosecution Motion in relation to the Applicable Legal Standards Governing the Use and Admission of Documents by the Prosecution during Cross-Examination, 30 November 2009

**Taylor Decision on Prosecution Notice under Rule 92bis for Admission of Evidence Related to *inter alia* Kono District (2)**

*Prosecutor v. Taylor*, SCSL-03-01-T-623, Decision on Prosecution Notice under Rule 92bis for Admission of Evidence Related to *Inter Alia* Kono District, 8 October 2008

**Taylor Decision on Admission of Evidence related to, *inter alia*, Kono District (1)**

*Prosecutor v. Taylor*, SCSL-03-01-T-633, Decision on Prosecution Notice under Rule 92bis for the Admission of Evidence related to *Inter Alia* Kono District- TF1-218 and TF1-304, 14 October 2008

**Taylor Decision on Prosecution Notice under Rule 92bis of Admission of Prior Testimony into Evidence**

*Prosecutor v. Taylor*, SCSL-03-01-T-556, Decision on Prosecution Notice under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Kenema District and on Prosecution Notice under Rule 92bis for the Admission of the Prior Testimony of TF1-036 into Evidence, 15 July 2008

**Taylor Decision on Public with Confidential Annexes for Admission of Evidence Related to Freetown and the Western Area**

*Prosecutor v. Taylor*, SCSL-03-01-T-635, Decision on Public with Confidential Annexes A to C Prosecution Notice under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Freetown and the Western Area-TF1-023 & TF1-029, 16 October 2008

**Taylor Decision on 92bis Admission of Evidence Related to Freetown and the Western Africa**

*Prosecutor v. Taylor*, SCSL-03-01-T-644, Decision on Public with Confidential Annexes A to D and F to G Prosecution Notice under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Freetown & Western Area-TF1-098, TF1-104 and TF1-227, 21 October 2008

**Taylor Decision on Admission of Evidence Related to Kono District**

*Prosecutor v. Taylor*, SCSL-03-01-T-634, Decision on Public with Confidential Annexes A to G Prosecution Notice under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Kono District-TF1-195, TF1-197, TF1-198 and TF1-206, 15 October 2008

**Taylor Decision on Admission of Evidence under Rule 92bis**

*Prosecutor v. Taylor*, SCSL-03-01-T-642, Decision on Public with Confidential Annexes B to G Prosecution Notice under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Freetown and the Western Area-TF1-024, TF1-081 and TF1-084, 20 October 2008

**Taylor Decision on Admission of Prior**

*Prosecutor v. Taylor*, SCSL-03-01-T-720, Decision on Public with Confidential Annexes C to E Prosecution

<b>Trial Transcripts under Rule 92quater</b>	Motion for Admission of the Prior Trial Transcripts of Witnesses TF1-021 and TF1-083 pursuant to Rule 92quater, 5 February 2009
<b>Taylor Agreed Facts and Law</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-PT-227, Joint Filing by the Prosecution and Defence: Agreed Facts and Law, 26 April 2007
<b>Taylor Rule 98 Decision</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T, Rule 98 Decision, Transcript 4 May 2009
<b>Taylor Decision on Admission of Documents</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1064, Decision on Public with Annexes A and B Defence Motion for Admission of Documents Pursuant to Rule 92bis, 27 August 2010
<b>Taylor 92bis Decision on Special Task Force</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1079, Decision on Public with Annexes A-J and Confidential Annexes K-L Defence Motion for Admission of Documents Pursuant to Rule 92bis – Special Task Force, 17 September 2010
<b>Taylor 92bis Decision on Contemporaneous Documentation</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1082, Decision on Public with Annexes A-D Defence Motion for Admission of Documents Pursuant to Rule 92bis – Contemporaneous Document, 22 September 2010
<b>Taylor Decision on Payments to DCT-097</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1084, Decision on Defence Motion for Disclosure of Statement and Prosecution Payments made to DCT-097, 23 September 2010
<b>Taylor Decision on Exculpatory Information</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-1104, Decision on Public with Confidential Annexes A—D Defence Motion for Disclosure of Exculpatory Information Relating to DCT-032, 20 October 2010
<b>Taylor Appeal Decision on the Tender of Documents</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-AR73, Decision on “Prosecution Notice of Appeal and Submissions Concerning the Decision Regarding the Tender of Documents”, 6 February 2009
<b>Taylor Decision on the Evidence Falling Outside of the Indictment</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1101, Decision on Defence Motion to Exclude Evidence Falling Outside the Scope of the Indictment and/or the Jurisdiction of the Special Court for Sierra Leone, 6 October, 2010
<b>Taylor Decision of Contempt Case</b>	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1118, Decision on Public with Confidential Annexes A-J and Public Annexes K-O Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators, 12 November 2010

(b) International Criminal Tribunal for Rwanda

**Prosecutor v. Akayesu**

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Case No.: SCSL-03-01-T

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**Akayesu Trial Judgement** *Prosecutor v. Akayesu*, ICTR-96-4-T, Judgement (TC), 2 September 1998

**Prosecutor v. Bagilishema**

**Bagilishema Trial Judgement** *Prosecutor v. Bagilishema*, ICTR-95-1A-T, Judgement (TC), 7 June 2001

**Bagilishema Appeal Judgement** *Prosecutor v. Bagilishema*, ICTR-95-1A-A, Judgement (Reasons) (AC), 3 July 2002

**Prosecutor v. Bagosora**

**Bagosora Trial Judgement** *Prosecutor v. Bagosora*, ICTR-98-41-T, Judgement (TC), 18 December 2008

**Bagosora Decision of Witness DBY** *Prosecutor v. Bagosora*, ICTR-98-41-T, Decision on Admissibility of Proposed Testimony of Witness DBY, 18 September 2003

**Bagosora Appeal Decision on Exclusion of Evidence** *Prosecutor v. Bagosora*, ICTR-98-41-AR93 & ICTR-98-41-AR93.2, Decision on Prosecutor’s Interlocutory Appeals Regarding Exclusion of Evidence, 19 December 2003

**Prosecutor v. Bizimungu et al**

**Bizimungu et al. Decision on Expert Witness** *Prosecutor v. Bizimungu et al.*, ICTR-99-50-T, Decision on Defence Motion for Exclusion of Portions of Testimony of Expert Witness Alison Des Forges, 2 September 2005

**Prosecutor v. Gacumbitsi**

**Gacumbitsi Appeal Judgement** *Gacumbitsi v. Prosecutor*, ICTR-01-64-A, Judgement (AC), 7 July 2006

**Prosecutor v. Kajelijeli**

**Kajelijeli Appeal Judgement** *Kajelijeli v. Prosecutor*, ICTR-98-44A-A, Judgement (AC), 23 May 2005

**Prosecutor v. Kalimanzira**

**Kalimanzira Appeal Judgement** *Prosecutor v. Kalimanzira*, ICTR-05-88-A, Judgement(AC), 20 October 2010

**Prosecutor v. Karera**

**Karera Appeal Judgement** *Karera v. Prosecutor*, ICTR-01-74-A, Judgement(AC), 2 February 2009

**Prosecutor v. Karemera**



<b>Karemera Decision on Count Seven of the Amended Indictment</b>	<i>Prosecutor v Karemera et al.</i> , ICTR-98-44-A4(a), Decision on Count Seven of the Amended Indictment – Violence to Life, Health and Physical or Mental Well-Being of Persons (TC), 5 August 2005
<b>Karemera Decision on Disclosure of Payments</b>	<i>Prosecutor v. Karemera et al.</i> , ICTR-98-44-PT, Decision on Defence Motion for Full Disclosure of Payments to Witnesses and to Exclude Testimony from Paid Witnesses, 23 August 2005
<b>Karemera Decision on Abuse of Process</b>	<i>Prosecutor v. Karemera et al.</i> , ICTR-98-44-T, Decision on Joseph Nzirorera’s Motion to Dismiss for Abuse of Process: Payments to Prosecution Witnesses and “Requete de Mathieu Ngirumpatse en Retrait de L’Acte D’Accusation”, 27 October 2008
<b>Karemera Decision on Admission of Documents During Cross-Examination</b>	<i>Prosecutor v. Karemera</i> , ICTR-98-44-T, Decision on Admission of Documents Used in Cross-Examination of Edouard Karemera and Witness 6, 11 November 2009

#### **Prosecutor v. Kayishema and Ruzindana**

<b>Kayishema and Ruzindana Trial Judgement</b>	<i>Prosecutor v. Kayishema and Ruzindana</i> , ICTR-95-1-T, Judgement (TC), 21 May 1999
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#### **Prosecutor v. Muhimana**

<b>Muhimana Appeal Judgement</b>	<i>Muhimana v. Prosecutor</i> , ICTR-95-1B-A, Judgement (AC), 21 May 2007
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#### **Prosecutor v. Musema**

<b>Musema Trial Judgement</b>	<i>Prosecutor v. Musema</i> , ICTR-96-13-T, Judgement and Sentence (TC), 27 January 2000
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#### **Prosecutor v. Muvunyi**

<b>Muvunyi Appeal Judgement</b>	<i>Muvunyi v. Prosecutor</i> , ICTR-00-55A-A, Judgement (AC), 29 August 2008
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### XV. ANNEX D – MAPS OF SIERRA LEONE AND LIBERIA

